

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2001

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE TRANSITION PERIOD FROM _____ TO _____

NU SKIN ENTERPRISES, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

001-12421

(Commission File No.)

87-0565309

(IRS Employer Identification No.)

75 West Center Street

Provo, UT 84601

(Address of registrant as specified in its charter)

Registrant's telephone number, including area code: (801) 345-6100

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

As of August 1, 2001, 33,491,792 shares of the Company's Class A Common Stock, \$.001 par value per share, and 49,669,955 shares of the Company's Class B Common stock, \$.001 par value per share, were outstanding.

NU SKIN ENTERPRISES, INC.

2001 FORM 10-Q QUARTERLY REPORT – SECOND QUARTER

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Nu Skin, Pharmanex, Big Planet, Nu Skin 180° and LifePak are trademarks of Nu Skin Enterprises, Inc. or its subsidiaries.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

NU SKIN ENTERPRISES, INC.

Consolidated Balance Sheets

(in thousands, except share amounts)

	(Unaudited) June 30, 2001	December 31, 2000
	-----	-----
ASSETS		
Current assets		
Cash and cash equivalents	\$ 61,314	\$ 63,996
Accounts receivable	21,282	18,191
Related parties receivable	12,380	13,176
Inventories, net	83,852	82,015
Prepaid expenses and other	38,161	44,513
	-----	-----
	216,989	221,891
Property and equipment, net	60,950	60,562
Other assets, net	298,136	308,350
	-----	-----
Total assets	\$ 576,075	\$ 590,803
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable	\$ 15,885	\$ 15,837
Accrued expenses	68,888	74,199
Related parties payable	6,887	9,020
	-----	-----
	91,660	99,056
Long-term debt	77,826	84,884
Other liabilities	41,441	40,130
	-----	-----
Total liabilities	210,927	224,070
	-----	-----
Stockholders' equity		
Class A common stock - 500,000,000 shares authorized, \$.001 par value, 33,353,392 and 31,338,676 shares issued and outstanding	33	31
Class B common stock - 100,000,000 shares authorized, \$.001 par value, 49,969,955 and 53,408,951 shares issued and outstanding	50	54
Additional paid-in capital	95,574	106,284
Retained earnings	322,474	306,458
Deferred compensation	(78)	(747)
Accumulated other comprehensive income	(52,905)	(45,347)
	-----	-----
	365,148	366,733
	-----	-----

The accompanying notes are an integral part of these consolidated financial statements.

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NU SKIN ENTERPRISES, INC.

Consolidated Statements of Income (Unaudited)

(in thousands, except per share amounts)

	Three Months Ended June 30, 2001	Three Months Ended June 30, 2000	Six Months Ended June 30, 2001	Six Months Ended June 30, 2000
	-----	-----	-----	-----
Revenue	\$ 218,617	\$ 226,959	\$ 428,876	\$ 440,584
Cost of sales	43,312	38,605	85,827	72,896
	-----	-----	-----	-----
Gross profit	175,305	188,354	343,049	367,688
	-----	-----	-----	-----
Operating expenses				
Distributor incentives	86,542	88,468	168,376	171,263
Selling, general and administrative	68,569	74,539	141,467	149,536
	-----	-----	-----	-----
Total operating expenses	155,111	163,007	309,843	320,799
	-----	-----	-----	-----
Operating income	20,194	25,347	33,206	46,889
Other income (expense), net	(1,805)	(868)	5,154	821
	-----	-----	-----	-----
Income before provision for income taxes	18,389	24,479	38,360	47,710
Provision for income taxes	6,804	8,812	14,193	17,175
	-----	-----	-----	-----
Net income	\$ 11,585	\$ 15,667	\$ 24,167	\$ 30,535
	=====	=====	=====	=====
Net income per share (Note 2):				
Basic	\$.14	\$.18	\$.29	\$.35
Diluted	\$.14	\$.18	\$.29	\$.35
Weighted average common shares outstanding:				
Basic	83,403	85,865	83,773	86,044
Diluted	84,231	86,192	84,596	86,370

The accompanying notes are an integral part of these consolidated financial statements.

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NU SKIN ENTERPRISES, INC.

Consolidated Statements of Cash Flows (Unaudited)

(in thousands)

	Six Months Ended June 30, 2001	Six Months Ended June 30, 2000
	-----	-----
Cash flows from operating activities:		
Net income	\$ 24,167	\$ 30,535
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	15,491	15,170
Amortization of deferred compensation	669	3,259

Changes in operating assets and liabilities:		
Accounts receivable	(3,091)	(930)
Related parties receivable	796	2,590
Inventories, net	(1,837)	(6,284)
Prepaid expenses and other	(2,626)	(9,493)
Other assets, net	2,632	(5,282)
Accounts payable	48	(10,592)
Accrued expenses	(5,311)	(10,077)
Related parties payable	(2,133)	(3,678)
Other liabilities	1,311	--
	-----	-----
Net cash provided by operating activities	30,116	5,218
	-----	-----
Cash flows from investing activities:		
Purchase of property and equipment	(7,725)	(9,032)
Payments for lease deposits	--	(24)
Receipt of refundable lease deposits	--	725
	-----	-----
Net cash used in investing activities	(7,725)	(8,331)
	-----	-----
Cash flows from financing activities:		
Exercise of distributor and employee stock options	24	43
Payments on long-term debt	--	(55,678)
Dividend	(8,151)	--
Repurchase of shares of common stock (Note 5)	(10,736)	(4,987)
	-----	-----
Net cash used in financing activities	(18,863)	(60,622)
	-----	-----
Effect of exchange rate changes on cash	(6,210)	1,587
	-----	-----
Net decrease in cash and cash equivalents	(2,682)	(62,148)
	-----	-----
Cash and cash equivalents, beginning of period	63,996	110,162
	-----	-----
Cash and cash equivalents, end of period	\$ 61,314	\$ 48,014
	=====	=====

The accompanying notes are an integral part of these consolidated financial statements.

NU SKIN ENTERPRISES, INC.
Notes to Consolidated Financial Statements

1. THE COMPANY

Nu Skin Enterprises, Inc. (the "Company") is a leading, global direct selling company that develops and distributes premium-quality, innovative personal care products and nutritional supplements. The Company also distributes technology and telecommunications products and services. The Company's operations are divided into four segments: North Asia, which consists of Japan and South Korea; North America, which consists of the United States and Canada; Southeast Asia, which consists of Australia, Hong Kong (including Macau), New Zealand, the PRC (China), the Philippines, Singapore, Taiwan and Thailand; and Other Markets, which consists of the Company's markets in Brazil, Europe, Guatemala and Mexico (the Company's subsidiaries operating in these countries are collectively referred to as the "Subsidiaries"). The Company was incorporated on September 4, 1996 as a holding company.

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. The unaudited consolidated financial statements include the accounts of the Company and the Subsidiaries. All significant intercompany accounts and transactions are eliminated in consolidation. In the opinion of management, the accompanying unaudited consolidated financial statements contain all adjustments, consisting of normal recurring adjustments, considered necessary for a fair statement of the Company's financial information as of June 30, 2001 and for the three and six-month periods ended June 30, 2001 and 2000. The results of operations of any interim period are not necessarily indicative of the results of operations to be expected for the fiscal year. For further information, refer to the consolidated financial statements and accompanying footnotes included in the Company's annual report on Form 10-K for the year ended December 31, 2000.

2. NET INCOME PER SHARE

Net income per share is computed based on the weighted average number of common shares outstanding during the periods presented. Additionally, diluted earnings per share data give effect to all dilutive potential common shares that were outstanding during the periods presented.

3. DIVIDENDS PER SHARE

In May 2001, the board of directors declared a quarterly cash dividend of \$0.05 per share for all classes of common stock. This quarterly cash dividend of approximately \$4.2 million was paid on June 27, 2001, to stockholders of record on June 11, 2001.

4. DERIVATIVE FINANCIAL INSTRUMENTS

The Company has adopted Statement of Financial Accounting Standards No. 133 ("SFAS 133"), *Accounting for Derivative Instruments and Hedging Activities*. The statement requires companies to recognize all derivatives as either assets or liabilities, with the instruments measured at fair value. Changes in the fair value of derivatives are recorded each period in current earnings or other comprehensive income, depending on the intended use of the derivative and its resulting designation. The adoption of SFAS 133 did not have a significant impact on the Company's consolidated financial statements.

NU SKIN ENTERPRISES, INC. Notes to Consolidated Financial Statements

The Company's Subsidiaries enter into significant transactions with each other and third parties which may not be denominated in the respective Subsidiaries' functional currencies. The Company seeks to reduce its exposure to fluctuations in foreign exchange rates through the use of foreign currency exchange contracts and through certain intercompany loans of foreign currency. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results. Gains and losses on certain intercompany loans of foreign currency are recorded as other income and expense in the consolidated statements of income.

At June 30, 2001 and December 31, 2000, the Company held forward contracts designated as foreign currency cash flow hedges with notional amounts totaling approximately \$54.9 million and \$28.9 million, respectively, to hedge foreign currency intercompany items. The net gains on foreign currency cash flow hedges recorded in current earnings were \$2.0 million and \$3.6 million for the three and six-month periods ended June 30, 2001, respectively. Prior to the adoption of SFAS 133, the Company held foreign currency forward contracts which were marked to market and recorded net gains in other income of \$0.8 million and \$1.9 million, respectively, for the three and six-month periods ended June 30, 2000. Those contracts held at June 30, 2001 have maturities through February 2002 and accordingly, all unrealized gains on foreign currency cash flow hedges included in other comprehensive income at June 30, 2001 will be recognized in current earnings over the next twelve-month period.

5. REPURCHASE OF COMMON STOCK

During the three-month periods ended June 30, 2001 and 2000, the Company repurchased approximately 650,000 and 392,000 shares, respectively, of Class A common stock for approximately \$4.8 million and \$2.5 million, respectively. During the six-month periods ended June 30, 2001 and 2000, the Company repurchased approximately 1,497,000 and 679,000 shares, respectively, of Class A common stock for approximately \$10.7 million and \$5.0 million, respectively.

6. COMPREHENSIVE INCOME

The components of comprehensive income, net of related tax, for the three and six-month periods ended June 30, 2001 and 2000, were as follows (in thousands):

	Three Months Ended June 30, 2001 -----	Three Months Ended June 30, 2000 -----	Six Months Ended June 30, 2001 -----	Six Months Ended June 30, 2000 -----
Net Income	\$ 11,585	\$ 15,667	\$ 24,167	\$ 30,535
Other comprehensive income, net of tax:				
Foreign currency translation adjustments	(2,188)	1,606	(9,718)	1,690
Net unrealized gains on foreign				

currency cash flow hedges	458	--	4,450	--
Net gain reclassified into current earnings	(1,271)	--	(2,290)	--
Comprehensive income	<u>\$ 8,584</u>	<u>\$ 17,273</u>	<u>\$ 16,609</u>	<u>\$ 32,225</u>

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NU SKIN ENTERPRISES, INC.
Notes to Consolidated Financial Statements

7. SEGMENT INFORMATION

As described in Note 1, the Company's operations throughout the world are divided into four reportable segments: North Asia, Southeast Asia, North America and Other Markets. Segment data includes intersegment revenue, intersegment profit and operating expenses and intersegment receivables and payables. The Company evaluates the performance of its segments based on operating income. Information as to the operations of the Company in each of the four segments is set forth below (in thousands):

	Three Months Ended June 30, 2001	Three Months Ended June 30, 2000	Six Months Ended June 30, 2001	Six Months Ended June 30, 2000
Revenue				
North Asia	\$ 137,210	\$ 149,805	\$ 267,169	\$ 290,178
Southeast Asia	83,813	66,517	149,472	143,238
North America	109,743	95,710	212,899	197,886
Other	6,254	4,615	12,329	9,102
Eliminations	(118,403)	(89,688)	(212,993)	(199,820)
Totals	<u>\$ 218,617</u>	<u>\$ 226,959</u>	<u>\$ 428,876</u>	<u>\$ 440,584</u>
Operating Income				
North Asia	\$ 10,309	\$ 10,286	\$ 20,798	\$ 17,505
Southeast Asia	6,321	8,157	12,116	16,665
North America	8,368	3,460	5,845	12,821
Other	(1,804)	(1,593)	(3,160)	(3,513)
Eliminations	(3,000)	5,037	(2,393)	3,411
Totals	<u>\$ 20,194</u>	<u>\$ 25,347</u>	<u>\$ 33,206</u>	<u>\$ 46,889</u>
Total Assets				
North Asia			\$ 79,698	\$ 83,941
Southeast Asia			87,423	76,279
North America			454,822	471,221
Other Markets			13,852	13,039
Eliminations			(59,720)	(53,677)
Totals			<u>\$ 576,075</u>	<u>\$ 590,803</u>

Information as to the Company's operations in different geographical areas is set forth below (in thousands):

Revenue

Revenue from the Company's operations in Japan totaled \$126,717 and \$142,408 for the three-month periods ended June 30, 2001 and 2000, respectively, and totaled \$248,558 and \$277,021 for the six-month periods ended June 30, 2001 and 2000, respectively. Revenue from the

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Company's operations in Taiwan totaled \$17,971 and \$21,395 for the three-month periods ended June 30, 2001 and 2000, respectively and totaled \$35,547 and \$43,613 for the six-month periods ended June 30, 2001 and 2000, respectively. Revenue from the Company's operations in the United States (which includes intercompany revenue) totaled \$107,920 and \$94,144 for the three-month periods ended June 30, 2001 and 2000, respectively, and totaled \$209,405 and \$195,629 for the six-month periods ended June 30, 2001 and 2000, respectively.

Long-lived assets

Long-lived assets in Japan were \$20,588 and \$23,782 as of June 30, 2001 and December 31, 2000, respectively. Long-lived assets in Taiwan were \$2,283 and \$3,235 as of June 30, 2001 and December 31, 2000, respectively. Long-lived assets in the United States were \$308,097 and \$313,415 as of June 30, 2001 and December 31, 2000, respectively.

8. REVOLVING CREDIT AGREEMENT

On May 10, 2001, the Company entered into a \$60.0 million revolving credit agreement (the "Revolving Credit Facility") with Bank of America, N.A. and Bank One, N.A. for which Bank of America, N.A. acted as agent. The proceeds may be used for working capital, capital expenditures and other purposes including repurchases of the Company's outstanding shares of Class A common stock. There were no outstanding balances relating to the Revolving Credit Facility as of June 30, 2001.

The Revolving Credit Facility bears interest at a rate equal to the London Inter-Bank Offer Rate (LIBOR) or the Japanese yen LIBOR, plus an applicable margin. The maturity date for the Revolving Credit Facility is three years from the borrowing date and will be reduced by \$15.0 million on each of the first two anniversaries of the closing. The Revolving Credit Facility contains other terms and conditions and affirmative and negative financial covenants customary for similar credit facilities.

9. NEW PRONOUNCEMENTS

In July 2001, the Financial Accounting Standards Board issued Statements of Financial Accounting Standards No. 141 (FAS 141), *Business Combinations*, and No. 142 (FAS 142), *Goodwill and Other Intangible Assets*. FAS 141 is effective for all business combinations initiated after June 30, 2001 and for all business combinations accounted for by the purchase method for which the date of acquisition is after June 30, 2001. The provisions of FAS 142 will be effective for fiscal years beginning after December 15, 2001. Accordingly, the Company will adopt FAS 142 during the first quarter of 2002. The Company is currently evaluating the impact the adoption of FAS 141 and FAS 142 will have on the Company's consolidated financial statements.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

2001 compared to 2000

Revenue decreased 3.7% and 2.7% to \$218.6 million and \$428.9 million for the three and six-month periods ended June 30, 2001 from \$227.0 million and \$440.6 million for the same periods in 2000, respectively, primarily due to a weakening in foreign currencies. On a constant currency basis, however, the Company experienced revenue growth in each of its operating regions other than North America, which resulted in overall constant currency growth of 6.4% and 6.0% for the second quarter and first half of 2001 compared to the same prior-year periods, respectively.

Revenue in North Asia decreased 8.4% and 7.9% to \$137.2 million and \$267.2 million for the three and six-month periods ended June 30, 2001 from \$149.8 million and \$290.2 million for the same periods in 2000, respectively. This decrease in revenue was due to revenue in Japan decreasing 11.0% and 10.3% to \$126.7 million and \$248.6 million for the three and six-month periods ended June 30, 2001 from \$142.4 million and \$277.0 million for the same periods in 2000, respectively. This decrease is directly attributable to a 14.9% and 12.7% weakening in the Japanese yen for the second quarter and first half of 2001 compared to the same prior-year periods, respectively. In local currency, revenue in Japan increased 2.6% and 1.3% for the second quarter and first half of 2001 compared to the same prior-year periods, respectively, due to the strength of the products launched in the past 18 months, the success of the automatic repurchasing programs and the personalized web sites the Company offers its distributor force. The decline in revenue in Japan in U.S. dollar terms was partially offset by an increase in revenue in South Korea of 41.9% and 40.9% to \$10.5 million and \$18.6 million for the three and six-month periods ended June 30, 2001 from \$7.4 million and \$13.2 million for the same periods in 2000, respectively. In local currency terms, revenue in South Korea was 66.2% and 62.9% higher in the second quarter and first half of 2001 versus the same prior-year periods, respectively. The revenue increase in South Korea is primarily due to continued improvement in the South Korean economy and the effective execution of a revised product introduction strategy in South Korea over the past 18 months, including the launch of Pharmanex's weight management products and Nu Skin 180° skin therapy system.

Revenue in Southeast Asia increased 22.5% and 11.8% to \$36.5 million and \$67.3 million for the three and six-month periods ended June 30, 2001 from \$29.8 million and \$60.2 million for the same periods in 2000, respectively. In local currency terms, revenue in Southeast Asia increased 30.3% and 18.2% for the second quarter and first half of 2001 compared to the same prior-year periods, respectively. The increase in revenue resulted primarily from operations in Singapore which generated \$8.6 million and \$13.3 million for the three and six-month periods ended June 30, 2001, respectively, following the opening of the market in Singapore late in 2000. The success from the opening of the operations in Singapore has also contributed to modest growth in other markets in the Southeast Asia region, such as Hong Kong, Thailand and Australia. The increase in revenue from the operations in Singapore were somewhat offset by the results in Taiwan, which decreased 15.9% and 18.6% to \$18.0 million and \$35.5 million for the three and six-month periods ended June 30, 2001 from \$21.4 million and \$43.6 million for the same prior-year periods, respectively. In local currency, revenue in Taiwan declined 8.4% and 12.5% during the second quarter and first half of 2001 compared to the same prior-year periods, respectively. Revenue in Taiwan on a local currency basis increased 5.1% during the second quarter of 2001 compared to the first quarter of 2001 due in part to seasonal trends. Management believes that the Company's operations in Taiwan have stabilized. Over the last several years, the Company's operations have suffered the impact of increased competition, an overall decline in sales in the direct selling industry in Taiwan and challenges relating to direct selling as a distribution channel significantly penetrating the Taiwanese market. In addition, since the Company's business model for distributors encourages top leaders to assist in opening new markets, management believes the decline in revenue in Taiwan compared to the prior-year period was also in part due to top leaders from that market focusing on Singapore in early 2001.

Revenue in North America, consisting of the United States and Canada, decreased 9.6% to \$38.6 million for the three-month period ended June 30, 2001 from \$42.7 million for the same period in 2000, respectively, and increased 1.2% to \$82.1 million for the six-month period ended June 30, 2001 from

\$81.1 million for the same period in 2000, respectively. This revenue decrease for the second quarter is related primarily to the revenue declines in the United States. Management believes that the Company's operations in the United States have been negatively impacted by distributor uncertainty relating to the Company's divisional strategies, which have recently been reorganized to simplify the Company's business and to focus on renewed growth in the United States. The slight increase in revenue for the six-month period in 2001 was a result of the international convention held in the United States in February 2001, which generated approximately \$5.0 million in revenue from sales to international distributors attending the convention, as well as additional revenue from new business development efforts which provided an additional \$9.6 million in revenue. The new business development efforts recorded in the Big Planet division is a small business related to outsourcing personnel and benefits for small businesses. Without the impact of this additional revenue, revenue in the North America region would have decreased approximately 16.8% during the first half of 2001 versus the same prior-year period.

Revenue in the Company's other markets, which include its European and Latin American operations, increased 37.0% and 35.2% to \$6.3 million and \$12.3 million for the three and six-month periods ended June 30, 2001 from \$4.6 million and \$9.1 million for the same periods in 2000, respectively. This increase in revenue is due to a 37.9% and 39.7% increase for the second quarter and first half of 2001 in revenue in Europe in U.S. dollar terms compared with the same prior-year periods, respectively. In local currency terms, revenue in Europe increased approximately 47.0% during the second quarter of 2001 versus the same prior-year period.

Gross profit as a percentage of revenue decreased to 80.2% and 80.0% for the three and six-month periods ended June 30, 2001 compared to 83.0% and 83.5% for the same periods in the prior year, respectively. The decrease in gross profit percentages resulted from the weakening of the Japanese yen and other currencies relative to the U.S. dollar and the increased revenue, which is expected to continue, relating to the new business development efforts recorded in the Big Planet division as described above that carry a lower gross margin. In addition, the results for the six-month period in 2001 include the negative impact of logo merchandise which have lower gross margins and were sold as part of the first quarter 2001 U.S. convention. The Company purchases a significant majority of goods in U.S. dollars and recognizes revenue in local currencies. Consequently, the Company is subject to exchange rate risks in its gross margins.

Distributor incentives as a percentage of revenue increased to 39.6% and 39.3% for the three and six-month periods ended June 30, 2001 compared to 39.0% and 38.9% for the same prior-year periods, respectively. In the later part of 1999, the Company restructured a portion of its compensation plan for distributors, adding short-term, division-focused incentives, which increased compensation to the Company's distributors.

Selling, general and administrative expenses as a percentage of revenue decreased to 31.4% and 33.0% for the three and six-month periods ended June 30, 2001 compared to 32.8% and 33.9% for the same prior-year periods, respectively. In U.S. dollar terms, selling, general and administrative expenses decreased to \$68.6 million and \$141.5 million for the three and six-month periods ended June 30, 2001 compared to \$74.5 million and \$149.5 million for the same periods in the prior year, respectively. The decreases resulted primarily from a weaker Japanese yen in 2001 as well as the Company's cost-saving initiatives such as lower headcount and occupancy costs. Offsetting these lower expenses were the costs incurred during the first quarter in 2001 for the Company's convention in the United States which added approximately \$5.0 million in selling, general and administrative expenses.

Other income (expense), net decreased \$0.9 million for the three-month period ended June 30, 2001 resulting in net other expenses of \$1.8 million compared to the same prior-year period. This decrease related primarily to losses resulting from the exchange of intercompany payables and receivables as well as the exchange of yen based bank debt into U.S. dollars for financial reporting purposes. Other income (expense), net increased \$4.3 million for the six-month period ended June 30, 2001 resulting in net other income of \$5.2 million compared to the same period in the prior year. This increase related primarily to foreign currency gains resulting from the strength of the U.S. dollar.

Provision for income taxes decreased to \$6.8 million and \$14.2 million for the three and six-month periods ended June 30, 2001 from \$8.8 million and \$17.2 million for the same prior-year periods. This decrease is largely due to the decreases in operating income as compared to the same prior-year periods, offset by an increase in the effective tax rate from 36.0% in the second quarter of 2000 to 37.0% in the second quarter of 2001.

Net income decreased to \$11.6 million and \$24.2 million for the three and six-month periods ended June 30, 2001 from \$15.7 million and \$30.5 million for the same prior-year periods, respectively. Net income decreased primarily because of the factors noted above in "revenue" and "gross profit" and was somewhat offset by the factors noted in "selling, general and administrative" and "provision for income taxes" above. The decrease in net income for the six-month period ended June 30, 2001 was also offset by the factors noted above in "Other income (expense), net".

Liquidity and Capital Resources

Historically, the Company's principal needs for funds have been for distributor incentives, working capital (principally inventory purchases), operating expenses, capital expenditures and the development of operations in new markets. The Company has generally relied on cash flow from operations to meet its business objectives without incurring long-term debt to unrelated third parties to fund operating activities.

The Company typically generates positive cash flow from operations due to favorable gross margins, the variable nature of distributor commissions which comprise a significant percentage of operating expenses and minimal capital requirements. During the first and third quarters of each year, however, the Company pays significant accrued income taxes in many foreign jurisdictions including Japan. These large cash payments often more than offset significant cash generated in these quarters. During the six-month period ended June 30, 2001, the Company generated \$30.1 million from operations compared to \$5.2 million during the six-month period ended June 30, 2000. This increase in cash generated from operations in 2001 compared to the same prior-year period is primarily related to reduced cash payments to vendors for purchases of inventory resulting from increased efficiencies in the Company's management of inventory as well as reduced foreign taxes paid in 2001 versus 2000.

As of June 30, 2001, working capital was \$125.3 million compared to \$122.8 million as of December 31, 2000. Cash and cash equivalents at June 30, 2001 and December 31, 2000 were \$61.3 million and \$64.0 million, respectively. In addition to factors such as cash flow from operations, capital expenditures,

dividends and stock repurchases, the Company's U.S. dollar reported cash position was negatively impacted during the six-month period from the strength of the U.S. dollar relative to other currencies, particularly the Japanese yen.

Capital expenditures, primarily for equipment, computer systems and software, office furniture and leasehold improvements, were \$7.7 million for the six-month period ended June 30, 2001. In addition, the Company anticipates additional capital expenditures in 2001 of approximately \$15.0 million to further enhance its infrastructure, including enhancements to computer systems and Internet related software in order to expand the Company's Internet capabilities.

In March 1998, the Company completed the acquisition of Nu Skin International, Inc. (the "NSI Acquisition"). Pursuant to the terms of the NSI Acquisition, Nu Skin International, Inc. ("NSI") and the Company are required to pay certain contingent payments if specific earnings growth targets are met. The Company and NSI did not meet specific earning growth targets for the years ended December 31, 1999 and 2000. Contingent upon NSI and the Company meeting specific earnings growth targets during 2001, the Company may pay up to \$75.0 million in cash over the next year to the stockholders of NSI. However, management believes it is unlikely that such contingency payments will be made.

On October 12, 2000, the Company refinanced the \$87.1 million balance of its existing credit facility with the proceeds of a private placement of 9.7 billion Japanese yen of ten-year senior notes (the "Notes") to The Prudential Insurance Company of America. The Notes bear interest at an effective rate of

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3.03% annually and become due October 2010 with principal payments beginning October 2004. As of June 30, 2001, the outstanding balance on the Notes remained at 9.7 billion Japanese yen, or \$77.8 million.

On May 10, 2001, the Company entered into a \$60.0 million revolving credit agreement (the "Revolving Credit Facility") with Bank of America, N.A. and Bank One, N.A. for which Bank of America, N.A. acted as agent. The proceeds may be used for working capital, capital expenditures and other purposes including repurchases of the Company's outstanding shares of Class A common stock. There were no outstanding balances relating to the Revolving Credit Facility as of June 30, 2001.

Since August 1998, the board of directors has authorized the Company to repurchase up to \$70.0 million of the Company's outstanding shares of Class A common stock. The repurchases are used primarily to fund the Company's equity incentive plans. During the three and six-month periods ended June 30, 2001, the Company repurchased approximately 650,000 and 1,500,000 shares for an aggregate price of approximately \$4.8 million and \$10.7 million, respectively. As of June 30, 2001, the Company had repurchased a total of approximately 5.7 million shares for an aggregate price of approximately \$51.0 million.

In May 2001, the board of directors authorized the Company to declare a quarterly cash dividend of \$0.05 per share for all classes of common stock. This quarterly cash dividend of approximately \$4.2 million was paid on June 27, 2001, to stockholders of record on June 11, 2001. Management believes that cash flows from operations will be sufficient to fund future dividend payments.

The Company had related party payables of \$6.9 million and \$9.0 million at June 30, 2001 and December 31, 2000, respectively. In addition, the Company had related party receivables of \$12.4 million and \$13.2 million, respectively, at those dates. These balances are largely related to the acquisition of Big Planet, Inc. and the Nu Skin USA, Inc. transactions completed during 1999, as well as a loan to a significant stockholder.

Management considers the Company to be sufficiently liquid to be able to meet its obligations on both a short- and long-term basis. Management currently believes existing cash balances together with future cash flows from operations will be adequate to fund cash needs relating to the implementation of the Company's strategic plans.

Seasonality

In addition to general economic factors, the direct selling industry is impacted by seasonal factors and trends such as major cultural events and vacation patterns. For example, Japan, Taiwan, Hong Kong, South Korea and Thailand celebrate their respective local New Year in the first quarter, which generally has a negative impact on such quarter. Management believes that direct selling in Japan, the United States and Europe is also generally negatively impacted during the month of August, which is in the Company's third quarter, when many individuals traditionally take vacations.

Distributor Information

The following table provides information concerning the number of active and executive distributors as of the dates indicated. Active distributors are those distributors who were resident in the countries in which the Company operated and purchased products during the three months ended as of the date indicated. An executive distributor is an active distributor who has achieved required personal and group sales volumes.

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	As of June 30, 2001		As of June 30, 2000	
	Active(1)	Executive	Active(1)	Executive
North Asia	299,000	15,997	301,000	14,119
Southeast Asia	113,000	3,593	96,000	2,929
North America	52,000	2,434	54,000	3,014
Other	23,000	880	18,000	586
Total	487,000	22,904	469,000	20,648

(1) The Big Planet representatives do not necessarily place product orders with the Company for resale to retail customers. Big Planet representatives sign up retail customers for Internet, telecommunications and other services with the Company or its service providers for all products. Therefore, the active distributors for 2001 and 2000 do not include approximately 41,000 and 29,000 Big Planet representatives who have residual sales volume on a three-month rolling basis, respectively, for service provided by the Company or its service providers.

Currency Risk and Exchange Rate Information

A majority of the Company's revenue and many of the Company's expenses are recognized primarily outside of the United States except for inventory purchases which are primarily transacted in U.S. dollars from vendors in the United States. Each subsidiary's local currency is considered the functional currency. All revenue and expenses are translated at weighted average exchange rates for the periods reported. Therefore, the Company's reported sales and earnings will be positively impacted by a weakening of the U.S. dollar and will be negatively impacted by a strengthening of the U.S. dollar.

Given the uncertainty of exchange rate fluctuations, the Company cannot estimate the effect of these fluctuations on the Company's future business, product pricing, results of operations or financial condition. However, because a majority of the Company's revenue is realized in local currencies and the majority of the Company's cost of sales is denominated in U.S. dollars, the Company's gross profits will be positively affected by a weakening in the U.S. dollar and will be negatively affected by strengthening in the U.S. dollar. The Company seeks to reduce its exposure to fluctuations in foreign exchange rates through the use of foreign currency exchange contracts, through intercompany loans of foreign currency and through its Japanese yen denominated debt. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results.

The Company's foreign currency derivatives are comprised of over-the-counter forward contracts with major international financial institutions. As of June 30, 2001, the primary currency for which the Company had net underlying foreign currency exchange rate exposure was the Japanese yen. Based on the Company's foreign exchange contracts at June 30, 2001 as discussed in Note 4 of the Notes to the Consolidated Financial Statements, the impact of a 10% appreciation or 10% depreciation of the U.S. dollar against the Japanese yen would not represent a material potential loss in fair value, earnings or cash flows against such contracts. This potential loss does not consider the underlying foreign currency transaction or translation exposures of the Company.

Note Regarding Forward-Looking Statements

With the exception of historical facts, the statements contained in Management's Discussion and Analysis of Financial Condition and Results of Operations, are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 (the "Reform Act") which reflect the Company's current expectations and beliefs regarding the future results of operations, performance and achievements of the Company. These statements are subject to risks and uncertainties and are based upon assumptions and beliefs that may not materialize. These forward-looking statements include, but are not limited to, statements concerning:

- the belief that operations in Taiwan have stabilized;

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- the Company's belief that existing cash and cash flow from operations will be adequate to fund cash needs;
- the expectation that the Company will spend \$15 million for capital expenditures during the remainder of 2001; and
- the anticipation that cash will be sufficient to pay future dividends.

In addition, when used in this report, the words or phrases, "will likely result," "expects," "anticipates," "will continue," "intends," "plans," "believes," "the Company or management believes," and similar expressions are intended to help identify forward-looking statements.

The Company wishes to caution readers that the risks and uncertainties set forth below, and the other risks and factors described herein and in the Company's other filings with the Securities and Exchange Commission (which contain a more detailed discussion of the risks and uncertainties related to the Company's business) could cause (and in some cases in the past have caused) the Company's actual results and outcomes to differ materially from those discussed or anticipated. The Company also wishes to advise readers not to place any undue reliance on such forward-looking statements, which reflect the Company's beliefs and expectations only as of the date of this report. The Company assumes no obligation to update or revise these forward-looking statements to reflect new events or circumstances or any changes in its beliefs or expectations. Important factors, risks and uncertainties that might cause actual results to differ from those anticipated include, but are not limited to, the following:

(a) Because a substantial majority of the Company's sales are generated from the Asian regions, particularly from Japan and Taiwan, significant variations in operating results including revenue, gross margin and earnings from those expected could be caused by

- renewed or sustained weakness of Asian economies or consumer confidence, or
- weakening of foreign currencies, particularly the Japanese yen in light of current economic and political conditions in Japan.

(b) Many of the initiatives and strategies that have helped stabilize revenue in Japan, and which the Company believes have helped stabilize revenue in Taiwan, have only been recently introduced and there is still uncertainty concerning the long-term effect of these initiatives. There can be no assurance that such initiatives will continue to be successful or that planned initiatives for future periods will have a similar impact. In addition, there is a risk that the continued refinement and implementation of the Company's divisional strategy, Internet initiatives and promotions could create renewed confusion or uncertainty among distributors and not increase distributor productivity. In addition, costs associated with these initiatives, particularly the Internet and related technology initiatives, may be greater than anticipated.

(c) The ability of the Company to retain its key and executive level distributors or to sponsor new executive distributors is critical to the Company's success. Because the Company's products are distributed exclusively through its distributors, the Company's operating results could be adversely affected if the Company's existing and new business opportunities and products do not generate sufficient economic incentive to retain its existing distributors or to sponsor new distributors on a sustained basis, or if the Company receives adverse publicity.

(d) Risks associated with the Company's new product offerings and initiatives planned for the remainder of 2001, including:

- the risk that such products will not gain market acceptance or meet the Company's expectations,

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- the risk that sales from such product offerings could reduce sales of existing products and not generate significant incremental revenue growth or help increase distributor numbers and productivity,
- technological problems could delay or adversely affect the Company's Internet and technology initiatives; and
- any legal or regulatory restrictions that might delay or prevent the Company from offering its new products into all of its markets or limit the ability of the Company to effectively market such products.

(e) Risks associated with efforts to renew growth in the United States, including:

- the risk that the Company's efforts to harmonize and simplify its divisional approach in the United States will not be sufficient to generate sustained and renewed sponsoring and sales activities in the United States by its distributors, and
- uncertainties concerning the actual impact that the new initiatives and enhancements to distributor incentives will have on revenue and distributor incentives as a percentage of revenue.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The information required by Item 3 of Part I of Form 10-Q is incorporated herein by reference from the section entitled "Currency Risk and Exchange Rate Information" in "Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations" of Part I and also in Note 4 to the Financial Statements contained in Item 1 of Part I.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Reference is made to the Company's Annual Report on Form 10-K for the year ended December 31, 2000 and the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001 for information concerning legal proceedings.

ITEM 2. CHANGES IN SECURITIES

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The Company's Annual Meeting of Stockholders was held on May 10, 2001. At the Annual Meeting, Blake M. Roney, Steven J. Lund, Sandra N. Tillotson, Brooke B. Roney, Max L. Pinegar, E.J. "Jake" Garn, Paula F. Hawkins, Daniel W. Campbell and Andrew D. Lipman were elected to serve as directors of the Company until the next annual meeting of stockholders or until their successors are duly elected. Each director was elected by a plurality of votes in accordance with the Delaware General Corporation Law. There was no solicitation in opposition to management's director nominees. The following chart reflects the vote tabulation with respect to each direct nominee. The figures reported reflect votes cast by holders of the Company's Class A common stock and Class B common stock. Each

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share of Class A common stock entitles its holder to one vote, and each share of Class B common stock entitles its holder to ten votes.

Name of Director Nominee - - - - -	Votes For - - - - -	Votes Withheld - - - - -
Blake M. Roney	477,370,172	592,760
Steven J. Lund	477,831,727	131,205
Sandra N. Tillotson	477,831,727	131,205
Brooke B. Roney	477,630,327	332,605
Max L. Pinegar	477,831,717	131,215
E.J. "Jake" Garn	477,884,067	78,865
Paula F. Hawkins	477,884,067	78,865
Daniel W. Campbell	477,884,067	78,865
Andrew D. Lipman	477,849,994	112,938

The stockholders also ratified the appointment of PricewaterhouseCoopers LLP as the Company's independent public accountants, with 477,934,077 votes being cast for, 23,978 votes being cast against, and 4,875 abstentions.

ITEM 5. OTHER INFORMATION

None.

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ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits
Regulation S-K
Number

Description

10.1 Amendment to Employment Agreement by and between Pharmanex and Joseph Chang.

10.2 Promissory Note dated July 5, 2001 between the Company and Joseph Chang

10.3 Utah Deed of Trust dated July 5, 2001 executed by Joseph Chang in favor of the Company

10.4 Credit Agreement dated as of May 10, 2001 among Nu Skin Enterprises, Inc., Various Financial Institutions, and Bank of America, N.A., as Administrative Agent

10.5 Amendment to Collateral Agency and Intercreditor Agreement among State Street Bank and Trust Company of California, N.A., as Collateral Agent, The Prudential Insurance Company of America, as Senior Noteholder and ABN AMRO Bank N.V., as Senior Lender.

(b) Reports on Form 8-K. No current Reports on Form 8-K were filed during the quarter ended June 30, 2001.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on this 14th day of August, 2001.

NU SKIN ENTERPRISES, INC.

By: /s/ Corey B. Lindley
Corey B. Lindley

Its: Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT INDEX

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April 23, 2001

Mr. Joseph Chang
President
Pharmanex

RE: Amendment to Employment Terms

Dear Joe:

This letter, when executed by you in the space provided below, will constitute an amendment to your Employment Agreement with Nu Skin Enterprises, Inc. and its Pharmanex division (together the "Company"), dated as of April 1, 2000 (the "Employment Agreement").

Section 3.1 of the Employment Agreement is hereby amended to provide for a minimum annual cash bonus of 10% of your base salary. For 2001, the minimum cash bonus of \$30,000 will be paid as soon as practicable following the execution of this letter agreement. This guaranteed minimum bonus will be paid for at least 3 years, as long as you remain employed by the Company.

The Company also agrees to make a loan to you for the purpose of purchasing a home along the Wasatch front of Utah. The principal loan amount will be for any amount up to \$500,000, assuming that the home you purchase has a purchase price of at least \$500,000. The loan will bear interest at the lowest rate allowable under applicable IRS regulations. The term of the loan will be the earlier of (a) five years, or (b) six months from the date of termination of your employment, with accrued interest paid annually. The loan will be secured by a first mortgage position in the home you choose to purchase.

In the event you choose to relocate from the Wasatch front, at your option, the Company will purchase your home for the original purchase price. This election must be made within 6 months of the later of (a) termination of your employment for any reason, or (b) your move away from the Wasatch front.

All other provisions of the Employment Agreement remain in full force and effect.

Please indicate your acceptance of the terms of this letter by signing the space provided below.

Very truly yours,

/s/Truman Hunt

Truman Hunt
Executive Vice President
General Counsel

Agreed to this ____ day of April, 2001.

/s/ Joseph Y. Chang

Joseph Y. Chang

PROMISSORY NOTE

\$500,000

July 5, 2001

FOR VALUE RECEIVED, the undersigned, JOSEPH Y. CHANG and WAN PING CHANG, jointly and severally agree to pay to the order of NU SKIN ENTERPRISES, INC., a Delaware corporation, at 75 West Center Street, Provo, Utah 84601, or at such other place as the holder (the "Holder") of this Note may from time to time designate in writing, without setoff, in lawful money of the United States of America, the principal sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) together with interest on such principal sum and any other amounts due under this Note.

1. Interest. Commencing on the date of this Note and continuing until all principal and interest due under this Note are paid in full, the outstanding principal balance of this Note shall bear interest at the rate of 5.06% percent per annum. Interest shall accrue daily and be calculated on the basis of a three hundred sixty (360) day year and the actual number of days elapsed in any partial calendar month.

2. Payment. Accrued interest shall be due and payable in semi-annual installments due on the 15th day of April and October each year, commencing on October 15, 2001. Except as otherwise provided in this Note or the Deed of Trust (as defined in paragraph 5) in the case of a default in payment or other breach, the entire principal balance of this Note, together with any accrued and unpaid interest thereon and any other fees, costs or expenses payable hereunder, shall be due and payable on the earlier to occur of the following: (i) July 1, 2006, and (ii) the 180th day following the date of the undersigned's termination of employment with the Holder or any affiliate thereof. Unless the Holder shall otherwise elect, each payment made under this Note shall be applied first to costs and expenses incurred in connection with the enforcement of this Note and interest due under this Note, and any balance shall be applied to reduce the principal balance of this Note.

3. Late or Partial Payments. Any payment required under this Note or under any other agreement entered into in connection with this Note that is not made when due, shall bear interest payable on demand, both before and after judgment, at the rate of fifteen percent (15.0%) per annum (the "Default Rate"). The acceptance by the Holder of any payment that is less than the entire amount then due under this Note shall be on account only and shall not constitute a waiver of the obligation of the undersigned to pay such entire amount. The failure of the undersigned to pay the entire amount then due under this Note shall be and continue to be an event of default under this Note, notwithstanding the acceptance by the Holder of less than such entire amount on account, and the Holder shall thereafter, until such entire amount is paid (and notwithstanding acceptance by the Holder thereafter of further sums on account or otherwise), be entitled to exercise all rights and remedies provided for in this Note and under any other agreement entered into in connection with this Note. The acceptance by the Holder of any amount due under this Note after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due under this Note or to declare that an event of default has occurred under this Note with respect to any other amount not paid when due.

4. Default. If any payment required under this Note is not made when due or if a material breach under any the Deed of Trust or any other agreement entered into in connection with this Note occurs, the entire unpaid principal balance of this Note, together with all accrued but unpaid interest and any late charges due under this Note, shall, at the option of the Holder, become due and payable without presentment, demand, protest or notice of any kind, all of which are expressly waived by the undersigned and all endorsers, guarantors, sureties, accommodation parties and other persons at any time liable for all or any portion of the indebtedness evidenced by this Note, and shall thereafter earn interest, both before and after judgment, at the Default Rate. Any forbearance, failure or delay by the Holder in exercising any right or remedy under this Note or otherwise available to the Holder shall not be deemed to be a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy. The undersigned shall pay all reasonable costs and expenses incurred by the Holder in connection with the enforcement of this Note (regardless of the particular nature of such costs and expenses and whether incurred before or after the initiation of suit or before or after judgment), including, without limitation, court costs and attorneys' fees and costs.

5. Security. This Note shall be secured by a Utah Deed of Trust (the "Deed of Trust") on the undersigned's primary residential property owned by the undersigned.

6. Miscellaneous. The undersigned and all endorsers, guarantors, sureties, accommodation parties and other persons at any time liable for all or any portion of the indebtedness evidenced by this Note consent to all extensions of time, renewals, waivers or modifications that may be granted by the Holder with respect to the payment or other provisions of this Note, the release of all or any portion of any security given in connection with this Note, with or without substitution, and the release of any party liable under this Note. If this Note is executed by more than one person, each of such persons shall be jointly and severally liable for all of the obligations evidenced by this Note. Time is of the essence with respect to all obligations of the undersigned under this Note. The unenforceability or invalidity of any provision of this Note shall not affect the enforceability or validity of any other provision of this Note. The terms of this Note shall bind the undersigned and inure to the benefit of the Holder and its respective heirs, successors, assigns and legal representatives. The Holder may, in its sole discretion, assign part or all of its interest under this Note at any time or from time to time. This Note shall be governed by Utah law. This Note, the Deed of Trust and any other written agreement entered into in connection with this Note are a final expression of the agreement between the Holder and the undersigned and may not be contradicted by evidence of any alleged oral agreement.

THE UNDERSIGNED has executed and delivered this Note on the date set forth below.

Date: July 5, 2001

/s/Joseph Y. Chang
Joseph Y. Chang

Date: July 5, 2001

/s/Wan Ping Chang
Wan Ping Chang

D. Matthew Dorny
Nu Skin Enterprises, Inc.
75 West Center Street
Provo, Utah 84601

UTAH DEED OF TRUST

THIS TRUST DEED (this "Trust Deed") is executed as of the 5th day of July, 2001, by JOSEPH Y. CHANG and WAN PING CHANG (collectively, the "Trustors"), in favor of METRO NATIONAL TITLE ("Trustee"), and NU SKIN ENTERPRISES, INC., a Delaware corporation ("Beneficiary"), whose address is 75 West Center Street, Provo, Utah 84601.

FOR good and valuable consideration, and in order to secure for the benefit of Beneficiary the following obligations (collectively, the "Obligations"): (i) the timely payment and performance of the obligations of Trustor under this Trust Deed, under the promissory note (the "Note") of even date with this Trust Deed, executed by Trustors, as maker, in favor of Beneficiary, as payee, in the principal amount of Five Hundred Thousand Dollars (\$500,000.00), payable with interest as set forth in the Note, and under any other instruments given to further evidence or secure such obligations, as this Trust Deed, the Note or such other instruments may be extended, renewed, modified, amended or replaced from time to time; and (ii) the payment of any loans or advances made after the date of this Trust Deed for any purpose by Beneficiary to Trustors,

TRUSTORS CONVEY, WARRANT AND TRANSFER TO TRUSTEE, IN TRUST, WITH POWER OF SALE, the following:

The land (the "Land") located in Salt Lake County, Utah, more particularly described as follows:

Parcel 1:

All of Lot 747, contained within PEPPERWOOD PHASE 7B, as said Lot is identified in the Plat of said Development, recorded in Salt Lake County, Utah, as Entry No. 5739632, in Book 94-2, at Page 43, and in the Declaration of Covenants, Conditions and Restrictions, recorded in Salt Lake County, Utah, on February 15, 1994, as Entry No. 5739633, in Book 6873, at Page 663. TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Covenants, Conditions, and Restrictions, which include, without limitation, an easement for vehicular ingress and egress over and across said Common Areas to and from said Lot and Pepperwood Drive, a physically open and legally dedicated public street,

which Parcel 1 has the address of 7 South Courtside Lane, Sandy, Utah 84092.

Parcel 1A:

TOGETHER WITH a perpetual right of way to use and enjoy those portions of PEPPERWOOD SUBDIVISION, any and all Phases, which are identified and will be identified as Lot "A", being the streets within the subdivision.

TOGETHER WITH all buildings, structures and other improvements on or after the date of this Trust Deed located on the Land (collectively, the "Improvements"), and all air and water rights, water stock, rights-of-way, easements, tenements, hereditaments, possessory rights, claims (including mining claims), privileges, appurtenances and fixtures belonging to, or used or enjoyed with, all or any part of the Land, including, without limitation, all right, title and interest of Trustors, now owned or acquired after the date of this Trust Deed. The Land, the Improvements and all of the foregoing are collectively referred to in this Trust Deed as the "Property."

TRUSTORS AGREE WITH TRUSTEE AND BENEFICIARY AS FOLLOWS:

1. Obligations; Certain Proceedings. Trustors shall timely pay and perform the Obligations and all obligations under any other encumbrance or lien on the Property. Trustors shall maintain this Trust Deed as a valid lien on, and security interest in, the Property of equal priority to that created by this Trust Deed, shall preserve and protect Trustors' interests in the Property and the interests of Trustee and Beneficiary under this Trust Deed, and shall appear in and defend any action or proceeding which may affect the Property or the obligations of Trustors or the interests of Trustee or Beneficiary under this Trust Deed.

2. Maintenance and Use. Trustors shall occupy, establish and use the Property as Trustors' principal residence within sixty days after this execution of this Trust Deed. Trustors shall (a) maintain the Property in good condition and repair, (b) comply with all laws, ordinances, rules, regulations, covenants, conditions and restrictions relating to the Property, (c) not permit nuisances to exist or commit or permit waste in or on the Property, (d) promptly complete in a good and workmanlike manner any Improvements which may be constructed, and promptly restore and repair in like manner any Improvements which may be damaged or destroyed, (e) preserve and extend all rights, licenses and permits (including, without limitation, zoning variances, special exceptions, special permits and non-conforming uses) which are applicable to the Property, and (f) immediately on discovery, clean up all hazardous substances, hazardous wastes, pollutants and contaminants located on the Property. Trustors shall do or refrain from doing any act which, from the character or use of the Property, is reasonably necessary to protect and preserve the fair market value of the Property, any specific enumerations in this Trust Deed not limiting such general obligation. Trustors shall indemnify, defend and hold harmless Trustee and Beneficiary from and against all liabilities, claims, losses, damages, costs and expenses (including, without limitation, cleanup costs and attorneys' fees) directly or indirectly arising out of, related to or connected with any hazardous substances, hazardous wastes, pollutants or contaminants located on the Property. The liability of Trustors under the indemnity set forth in the preceding sentence shall arise on the discovery of an unacceptable environmental condition and shall survive the exercise of the power of sale, foreclosure of this Trust Deed as a mortgage or any other event. (As used in this Trust Deed, the terms "hazardous substances," "hazardous wastes," "pollutants" and "contaminants" mean any substances, wastes, pollutants or contaminants included within those respective terms under any law, ordinance, rule or regulation, whether now existing or enacted or amended after the date of this Trust Deed.)

3. Development. Without Beneficiary's prior written consent, Trustors shall not do any of the following: (a) make any material change to the Property or to the use of the Property; (c) initiate or support any zoning reclassification of the Property, seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in a manner which would be a nonconforming use under applicable zoning ordinances; (d) impose any covenants, conditions, restrictions, easements or rights-of-way on the Property, execute or file any subdivision plat affecting the Property or consent to the annexation of the Property to any municipality; or (e) permit the Property to be used by any person in such manner as might make possible a claim of adverse usage or possession or of implied dedication or easement.

4. Payment of Certain Impositions. Trustors shall pay when due all taxes, assessments and charges relating to or levied against the Property, including, without limitation, real and personal property taxes, general and special assessments, utility charges, mechanics' and materialmen's charges, and charges arising from any covenants, conditions or restrictions relating to the Property. Trustors shall also pay to Beneficiary the amount of all taxes, assessments and charges which may be levied by any governmental authority on this Trust Deed, the Obligations or Beneficiary by reason of the interest of Beneficiary under this Trust Deed. Upon the request of Beneficiary, Trustors shall deliver to Beneficiary official receipts of the appropriate taxing or other authority or other proof satisfactory to Beneficiary within ten (10) days after the date any such taxes, assessments or charges are due and payable, evidencing the payment of such taxes, assessments or charges. Trustors may contest in good faith the validity of any mechanic's or materialman's lien.

5. Insurance. Trustors shall maintain insurance policies (collectively, the "Policies") with respect to the Property, in amounts and forms and with deductibles acceptable to Beneficiary, providing hazard insurance insuring against fire, extended coverage risks and such other risks as Beneficiary may require, including, without limitation, the risk of damage caused by earthquake and flooding, with replacement cost coverage and agreed value endorsement. The hazard insurance policy shall contain a standard lender's loss payable endorsement, in favor of and in a form acceptable to Beneficiary. Beneficiary shall be named as an additional insured under the liability insurance policy, and such insurance shall be primary and non-contributing in the event of loss with any other insurance Beneficiary may carry. The insurers concerned shall agree that the coverage under the Policies will not be modified or canceled unless at least thirty (30) days advance written notice of the proposed modification or cancellation has been given to Beneficiary. Beneficiary may review the Policies from time to time and require that the same be modified so as to protect Beneficiary's interests. Such insurance shall be carried with companies approved by Beneficiary. Trustors shall deliver to Beneficiary (at the option of Beneficiary) either the originals of the Policies or certificates duly executed by the insurers evidencing such insurance coverage. All renewal and replacement policies must be delivered to Beneficiary at least fifteen (15) days before the expiration of the old policies.

6. Reserve. On written notice by Beneficiary to Trustors, Trustors shall pay to Beneficiary on the first day of each month an amount equal to one-twelfth (1/12) of all taxes, assessments and insurance premiums required to be paid under this Trust Deed by Trustors, in such manner as to provide Beneficiary with sufficient funds to pay such taxes, assessments and premiums at least thirty (30) days prior to their respective due dates. Such funds may be commingled with other funds of Beneficiary, shall not bear interest and shall periodically be used by Beneficiary for the payment of such taxes, assessments and premiums. Nothing contained in this Trust Deed shall cause Beneficiary to be deemed a trustee of such funds or to be obligated to pay any amounts in excess of such funds. If such funds are insufficient to pay all of such taxes, assessments and premiums, Trustors shall immediately pay the deficiency to Beneficiary.

7. Condemnation or Damage. Trustors shall immediately give written notice to Beneficiary of the institution of any proceedings for the taking of the Property or of the occurrence of any damage to the Property, and Beneficiary shall receive all compensation, awards and insurance and other proceeds (collectively, the "Proceeds") distributed in connection with such taking or damage. Each person concerned is authorized and directed to make payments for such taking or damage directly to Beneficiary, instead of to Beneficiary and Trustors jointly. Beneficiary may, but shall not be obligated to, commence, appear in and prosecute in its own name any action or proceeding and make any compromise or settlement in connection with such taking or damage. After deducting from the Proceeds all costs and expenses (including attorneys' fees) incurred by Beneficiary in connection with such action, proceeding, compromise or settlement, Beneficiary may use the Proceeds to reduce the Obligations (whether or not then due) or to restore or repair the Property damaged. If Beneficiary determines to use the Proceeds for restoration and repair of the Property, the Proceeds shall be made available to Trustors for use in restoring or repairing the Property in accordance with plans and specifications and construction arrangements approved by Beneficiary. Beneficiary or its nominee shall hold the Proceeds and from time to time shall, on compliance with such conditions or requirements as may be imposed by Beneficiary, disburse portions of the Proceeds to Trustors or to those entitled to the Proceeds as progress is made on such restoration and repair. If any of the Proceeds remain after the entire costs of such restoration and repair have been paid, Beneficiary may use such remaining Proceeds to reduce the Obligations (whether or not then due) or may remit the same to Trustors.

8. Assignment of Leases and Rents. In the event Beneficiary consents to Trustors leasing or renting the Property in the future, Trustors absolutely, irrevocably and unconditionally assign to Beneficiary all future leases, subleases and rental agreements covering the Property (collectively, the "Leases"), and all rents, issues, profits and income (including security deposits) arising from the Property (collectively, the "Rents"), together with the right, power and authority to enforce the Leases, collect the Rents and apply the Rents to any of the Obligations. Notwithstanding anything contained in this Trust Deed to the contrary, the assignment set forth in the preceding sentence is an absolute, irrevocable and unconditional present assignment from Trustors to Beneficiary and not merely the passing of a security interest. Trustors may, on behalf of Beneficiary, enforce the Leases and collect the Rents (but not more than one (1) month in advance) at any time a default does not exist under this Trust Deed and an event or condition does not exist which with the giving of notice or lapse of time or both would result in a default under this Trust Deed. Trustors shall hold the Rents so collected in trust for Beneficiary and shall use so much of the Rents as is required for the satisfaction of the Obligations. On the occurrence of a default under this Trust Deed or an event or condition which with the giving of notice or lapse of time or both would result in a default under this Trust Deed, the right of Trustors to enforce the Leases and collect the Rents shall automatically terminate, and Trustors shall immediately pay to Beneficiary all of the Rents then held by Trustors. All tenants, lessees and other persons having any obligation to make any payment in connection with the Property are authorized and directed to make such payment directly to Beneficiary on the demand of Beneficiary. The receipt by Beneficiary of such payment shall be a good and sufficient discharge of the obligation of the tenant, lessee or other person concerned to make the payment connected with the amount so received by Beneficiary. Nothing contained in this Paragraph shall be construed to make Beneficiary a mortgagee in possession or make Beneficiary responsible for any matters relating to the Property or the Leases.

9. Transfers and Encumbrances. Without the prior written consent of Beneficiary, which may be withheld by Beneficiary in its sole discretion, Trustors shall not, directly or indirectly, do any of the following: (a) sell, convey, assign or transfer the Property, the Leases or the Rents, or contract to do so, voluntarily, involuntarily or by operation of law; or (b) lease, rent or otherwise surrender possession of the Property, or contract to do so, voluntarily, involuntarily, or by operation of law. Beneficiary's consent to one or more of such transactions shall not be a waiver of the right to require such consent with respect to any subsequent or successive transactions. Such consent of Beneficiary may be conditioned on satisfaction of such requirements as Beneficiary may impose.

10. Mortgagee Title Insurance. At the request of Beneficiary, Trustors shall provide to Beneficiary a policy of title insurance insuring the lien of this Trust Deed, in form and amount, and issued by a company, acceptable to Beneficiary.

11. Representations and Warranties. Trustors covenant with, and represent and warrant to, Trustee and Beneficiary that all of the following statements are true as of the date of this Trust Deed and will remain true: (a) Trustors are lawfully seized of indefeasible fee simple marketable title to the Property; (b) this Trust Deed has been duly executed by Trustors, and the Property has been duly conveyed to Trustee under this Trust Deed; (c) the Property is free and clear of all liens, encumbrances and interests of third parties not approved in writing by Beneficiary; (d) Trustors will defend title to the Property against all claims and demands; (e) all of the Personal Property has been paid for in full, is owned solely by Trustors and is not used and was not bought for personal, family or household purposes; and (f) all obligations incurred by Trustors in connection with or which relate to the Property are current and without default.

12. Default. Trustors shall be in default under this Trust Deed on the occurrence of any of the following: (a) Trustors fail to timely pay or perform any of the Obligations; (b) an event of default occurs under any lien or encumbrance affecting the Property; (c) Trustors or any guarantor of the Obligations (i) files a voluntary petition in bankruptcy or files a petition or answer seeking or acquiescing in a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation relating to bankruptcy, insolvency or other relief for debtors, (ii) consents to or acquiesces in the appointment of a trustee, receiver or liquidator of Trustors or such guarantor, the Property or the Rents, (iii) makes a general assignment for the

benefit of creditors, or (iv) admits in writing its inability to pay its debts generally as they become due; (d) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Trustors or such guarantor seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation relating to bankruptcy, insolvency or other relief for debtors; (e) a trustee, receiver or liquidator of Trustors, such guarantor, the Property or the Rents is appointed without the consent or acquiescence of Trustors or such guarantor; (f) a writ of execution, attachment or similar process is issued or levied against the Property or the Rents or a judgment involving monetary damages is entered against Trustors which becomes a lien on the Property or the Rents; (g) any representation or warranty contained in this Trust Deed or in any other instrument executed by Trustors is or becomes untrue; or (h) a change occurs in the condition or affairs (financial or otherwise) of Trustors or such guarantor which materially impairs Beneficiary's security or increases its risks.

13. **Remedies.** On a default under this Trust Deed, Trustee or Beneficiary may (but is not obligated to) do any one or more of the following: (a) without notice or demand on Trustors and without releasing Trustors from any of the Obligations, pay or perform a portion or all of the Obligations that Trustors have failed to pay or perform, and Trustors shall immediately reimburse Trustee and Beneficiary for all costs and expenses (including attorneys' fees) incurred in connection with such payment or performance, with interest on such costs and expenses at fifteen percent (15%) per annum (the "Default Rate"), both before and after judgment; (b) declare all of the Obligations immediately due and payable and charge interest on the Obligations then outstanding at the Default Rate, both before and after judgment; (c) exercise the power of sale under applicable law; (d) foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property; (e) exercise all of the rights and remedies of a secured party under the UCC (whether now existing or created after the date of this Trust Deed); (f) take possession or appoint a receiver to take possession of and (without liability or obligation) (i) hold, occupy, operate, use, maintain, repair and conserve the value of the Property, (ii) make, modify, enforce and terminate the Leases, (iii) collect the Rents and (after deducting from the Rents maintenance and operating expenses, including reasonable management fees) apply the same to the Obligations, and (iv) exercise such other powers as may be fixed by the court; (g) offset the Obligations against any amounts owed by Beneficiary to Trustors and apply toward the Obligations all funds of Trustors which Beneficiary may have in its possession or under its control; (h) if permitted by applicable law, sue on the Note; or (i) exercise any other rights and remedies available at law or in equity. A receiver appointed pursuant to this Paragraph may be appointed without notice to Trustors, and without regard to whether the Property is in danger of being lost, removed or materially injured, whether the Property or any other security is sufficient to discharge the Obligations or whether Beneficiary forecloses this Trust Deed judicially or nonjudicially, it being the intention of Trustors to authorize the appointment of a receiver when Trustors are in default under this Trust Deed and Beneficiary has requested the appointment of a receiver. Trustors consent to the appointment of the particular person (including an officer, director, partner or employee, as the case may be, of Beneficiary) designated by Beneficiary as "receiver" and waive any right to suggest or nominate any person as receiver in opposition to the person designated by Beneficiary. Neither the entering on and taking possession of the Property nor the collection and application of the Rents as aforesaid shall cure or waive any default or notice of default under this Trust Deed, invalidate any act done pursuant to such notice of default or operate to postpone or suspend any of the Obligations. No remedy provided in this Trust Deed shall be exclusive of any other remedy at law or in equity (whether now existing or created after the date of this Trust Deed), and all remedies under this Trust Deed may be exercised concurrently, independently or successively from time to time. The failure on the part of Trustee or Beneficiary to promptly enforce any right under this Trust Deed shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

14. **Power of Sale; Foreclosure.** The procedures relating to the exercise of the power of sale or foreclosure of this Trust Deed as a mortgage shall be governed by then existing law, or to the extent such procedures are not covered by then existing law, by law existing as of the date of this Trust Deed. Following foreclosure of this Trust Deed as a mortgage, the purchaser at the sale held pursuant to judicial decree shall be entitled to possession of the Property during any period of redemption. If a deficiency remains after application of the proceeds of sale following default under this Trust Deed (whether such sale is held pursuant to the exercise of the power of sale or judicial decree), Trustors shall pay the same to Beneficiary immediately on determination of the amount of such deficiency. Such deficiency shall bear interest at the Default Rate, both before and after judgment.

15. **Security Agreement; Fixture Filing.** This Trust Deed constitutes a security agreement with respect to all personal property and fixtures in which Beneficiary is granted a security interest under this Trust Deed, and Beneficiary shall have all of the rights and remedies of a secured party under the UCC (whether now existing or created after the date of this Trust Deed), as well as any other rights and remedies available at law or in equity. This Trust Deed, with Trustors, as debtor, and Beneficiary, as secured party, also constitutes a fixture filing with respect to any part of the Property which is or may become a fixture. The record owners of the Property are the Trustors. Beneficiary is not a seller or purchase money lender of the Personal Property. Trustors shall immediately notify Beneficiary if the name or identity of Trustors are changed, or if the address of Trustors is changed to an address different from the address for Trustors set forth in the first paragraph of this Trust Deed. With respect to any instrument or chattel paper covered by this Trust Deed, neither Trustee nor Beneficiary need take any steps to preserve rights against prior parties. A carbon, photographic or other reproduction of a financing statement is sufficient as a financing statement.

16. **Waiver.** Trustors waive, to the fullest extent permitted by law, any right (a) to obtain a partial release of the Property from the lien of this Trust Deed by paying less than all of the Obligations, (b) to partially redeem the Property by paying less than the amount necessary to effect redemption in full, (c) to have the Property or any other property securing the Note marshalled on the foreclosure of the lien of this Trust Deed, and agrees that any court having jurisdiction to foreclose such lien may order the Property and such other property sold as an entirety, (d) to direct the order of the sale of the Property or any other property securing the Note, and agrees that Beneficiary may exhaust the security given for the Note in any order, and (e) relating to procedural or substantive limitations on the recovery of any deficiency, such as those set forth in Section 57-1-32 of the Utah Code Ann. (1953), as amended, including, without limitation, any requirement that Trustee or Beneficiary establish a deficiency in connection with the indebtedness secured by this Trust Deed prior to the time that all of the security given for payment of the Note has been exhausted. Trustors further waive and relinquish all exemptions and homestead rights which may exist with respect to the Property, and agrees not to file a declaration of homestead with respect to the Property.

17. **Expenses and Fees.** Trustors shall pay all costs, expenses and fees (including, without limitation, trustee's and attorneys' fees) which are incurred by Trustee or Beneficiary in connection with the Obligations, this Trust Deed, the servicing of the indebtedness secured by this Trust Deed and the enforcement or protection of the rights and interests of Trustee or Beneficiary under this Trust Deed, including, without limitation, the monitoring of any insolvency or bankruptcy proceedings, with interest on such costs, expenses and fees at the Default Rate, both before and after judgment.

18. **Further Assurances.** Trustors shall at any time and from time to time, on request of Beneficiary, take or cause to be taken any action, and execute, acknowledge, deliver or record any further instruments, which Beneficiary deems necessary or appropriate to carry out the purposes of this Trust Deed and to perfect and preserve the lien and security interest intended to be created and preserved in the Property.

19. **Request for Notices.** Trustors request that a copy of any notice of default and a copy of any notice of sale under this Trust Deed be mailed to Trustors at the address of Trustors set forth in the first paragraph of this Trust Deed.

20. **Miscellaneous.** Time is of the essence of this Trust Deed. This Trust Deed shall be binding on Trustors and shall inure to the benefit of Trustee and Beneficiary and their respective successors and assigns. The liability of each person executing this Trust Deed as Trustors shall be joint and several. The invalidity or unenforceability of any provision of this Trust Deed shall in no way affect the validity or enforceability of any other provision. This Trust Deed shall be governed by and construed in accordance with the laws of the State of Utah. Paragraph captions and defined terms in this Trust Deed are for convenience of

reference only and shall not affect the construction of any provision of this Trust Deed. All pronouns shall be deemed to refer to the masculine, feminine or neuter or singular or plural, as the identity of the parties may require.

BY SIGNING BELOW, TRUSTORS accept and agree to the terms and covenants contained in this Trust Deed and in any rider(s) executed by Trustors and recorded with it.

TRUSTORS:

/s/ Joseph Y. Chang
Joseph Y. Chang

/s/ Wan Ping Chang
Wan Ping Chang

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

On this 5th day of July, 2001, personally appeared before me, Joseph Y. Chang and Wan Ping Chang, the signers of the above instrument, who duly acknowledged to me that they executed the same.

_____ My Commission expires: _____
Notary Public

REQUEST FOR RECONVEYANCE

To Trustee:

The undersigned is the holder to the note or notes secured by this Trust Deed. Said note or notes, together with all other indebtedness secured by this Trust Deed, have been paid in full. You are hereby directed to cancel said note or notes and this Trust Deed, which are delivered hereby, and to reconvey, without warranty, all of the estate now held by you under this Trust Deed to the person or persons legally entitled thereto.

Dated: _____
By: _____

Mail Reconveyance to: _____

CREDIT AGREEMENT

dated as of May 10, 2001

among

NU SKIN ENTERPRISES, INC.,

VARIOUS FINANCIAL INSTITUTIONS,

and

BANK OF AMERICA, N.A.,

as Administrative Agent

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CREDIT AGREEMENT

This CREDIT AGREEMENT dated as of May 10, 2001 (this “Agreement”) is among NU SKIN ENTERPRISES, INC., a Delaware corporation (the “Company”), the various financial institutions that are or may from time to time become parties hereto (together with their respective successors and assigns, the “Lenders”), and BANK OF AMERICA, N.A. (in its individual capacity, “Bank of America”), as administrative agent for the Lenders.

WHEREAS, the Company has requested that the Lenders provide a revolving credit facility to the Company; and

WHEREAS, the Lenders are willing to extend commitments to make Loans to the Company hereunder for the purposes provided herein and on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

SECTION 1 DEFINITIONS.

1.1 Definitions. When used herein the following terms shall have the following meanings:

ABN Amro Facility means the \$10,000,000 credit facility evidenced by that certain Grid Note dated as of May 24, 2000 executed by the Company in favor of ABN Amro Bank N.V., as amended, supplemented or modified prior to the date hereof.

Administrative Agent means Bank of America in its capacity as administrative agent for the Lenders hereunder and any successor thereto in such capacity.

Affected Lender means any Lender that has given notice to the Company (which has not been rescinded) of (a) any obligation by the Company to pay any amount pursuant to Section 7.6 or 8.1 or (b) the occurrence of any circumstance of the nature described in Section 8.2 or 8.3.

Affiliate means, at any time, (a) with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and (b) with respect to the Company and its Subsidiaries, any Person beneficially owning or holding, directly or indirectly, 5% or more of any class of voting or equity interests of the Company or any of its Subsidiaries or any corporation of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 5% or more of any class of voting or equity interests. As used in this definition, “Control” means the possession, directly or indirectly, of the power to direct or cause the

direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Company.

Agent-Related Persons means the Administrative Agent and any successor administrative agent arising under Section 13.9, together with their respective Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

Agreement - see the Preamble.

Assignee - see Section 14.9.1.

Assignment Agreement - see Section 14.9.1.

Base Rate means at any time the greater of (a) the Federal Funds Rate plus 0.5% and (b) the Prime Rate.

Bank of America - see the Preamble.

Business Day means any day other than a Saturday, a Sunday or a day on which commercial banks in Charlotte, North Carolina and New York, New York are required or authorized to be closed and (a) with respect to any borrowing, payment or rate determination of Yen LIBOR Loans, any day other than a Saturday, a Sunday or a day on which commercial banks in Tokyo, Japan and London, England are required or authorized to be closed and (b) with respect to any borrowing, payment or rate determination of Eurodollar Loans, any day other than a Saturday, a Sunday or day on which commercial banks in London, England are required or authorized to be closed.

Capital Lease means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

Change of Control means an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any (i) Specified Person and (ii) employee benefit plan of such Person or its subsidiaries, or any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person shall be deemed to have "beneficial ownership" of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of (x) 25% or more of the equity interests of the Company and (y) more

voting equity interests of the Company than the aggregate amount of such voting equity interests beneficially owned by the Specified Persons; or

(b) during any period of 12 consecutive months, a majority of the members of the Board of Directors or other equivalent governing body of the Company cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

Closing Date means the date of the making of the initial Loans, or the issuance of the initial Letter of Credit, hereunder (whichever occurs first).

Codem means the Internal Revenue Code of 1986.

Collateral Agency and Intercreditor Agreement means the Collateral Agency and Intercreditor Agreement, a copy of which is attached as Exhibit E-1, by and among the Company, the Collateral Agent, the Administrative Agent and each of the other Senior Secured Creditors, and acknowledged by the Company and the Subsidiary Guarantors.

Collateral Agent means State Street Bank and Trust Company of California, N.A., acting in its capacity as collateral agent under the Collateral Agency and Intercreditor Agreement, together with its successors and assigns.

Collateral Documents means the Pledge Agreement, the Subsidiary Guaranty, the Collateral Agency and Intercreditor Agreement and all other documents evidencing, securing or relating to the Loans, the payment of the indebtedness evidenced by the Notes and all other amounts due from the Company or any other Restricted Subsidiary evidenced or secured by this Agreement, the Notes or the Collateral Documents.

Commitment means, as to any Lender, such Lender's commitment to make Loans, and to issue or participate in Letters of Credit, under this Agreement.

Commitment Amount means \$60,000,000, as reduced from time to time pursuant to Section 6.1.

Commitment Fee Rate - see Schedule 1.1.

Company - see the Preamble.

Computation Period means each period of four consecutive quarterly fiscal periods ending on the last day of a quarterly fiscal period.

Consolidated Income Available for Fixed Charges means, with respect to any period, Consolidated Net Income for such period plus all amounts deducted in the computation thereof on account of (a) Fixed Charges, and (b) taxes imposed on or measured by income or excess profits of the Company and the Restricted Subsidiaries.

Consolidated Net Income means, with respect to any period, the net income (or loss) of the Company and the Restricted Subsidiaries for such period (taken as a cumulative whole), as determined in accordance with GAAP, after eliminating all offsetting debits and credits between the Company and the Restricted Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and the Restricted Subsidiaries in accordance with GAAP.

Consolidated Net Worth means, at any time, (a) the consolidated stockholders' equity of the Company and the Restricted Subsidiaries, as defined according to GAAP, less (b) the sum of (i) to the extent included in clause (a), all amounts attributable to minority interests, if any, in the securities of Restricted Subsidiaries, and (ii) the amount by which Restricted Investments exceed 20% of the amount determined in clause (a).

Consolidated Total Assets means, at any date of determination, on a consolidated basis for the Company and the Restricted Subsidiaries, total assets, determined in accordance with GAAP.

Credit Facility means any credit facility providing for the borrowing of money or the issuance of letters of credit (a) for the Company or (b) for any Restricted Subsidiary, if its obligations under such Credit Facility are guaranteed by the Company.

Dollar and the sign “\$” mean the lawful money of the United States of America.

Dollar Equivalent means, with respect to a specified amount of any currency, the amount of Dollars into which such amount of such currency would be converted, based on the applicable Spot Rate of Exchange.

Domestic Subsidiary means, at any time, each Subsidiary of the Company (a) which is created, organized or domesticated in the United States or under the laws of the United States or any state or territory thereof, (b) which was included as a member of the Company's affiliated group in the Company's most recent consolidated United States federal income tax return, or (c) the earnings of which were includable in the taxable income of the Company or any other Domestic Subsidiary (to the extent of the Company's and/or such other Domestic Subsidiary's ownership interest of such Subsidiary) in the Company's most recent consolidated United States federal income tax return.

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EBITDA means, with respect to any period, the sum of (i) Consolidated Net Income for such period without giving effect to extraordinary gains and losses, gains and losses resulting from changes in GAAP and one time non-recurring income and expenses resulting from acquisitions and similar events, plus (ii) to the extent deducted in the calculation of Consolidated Net Income, the amount of all interest expense, depreciation expense, amortization expense, and income tax expense; provided that EBITDA will include or exclude, as applicable, acquisitions and divestitures of Restricted Subsidiaries or other business units on a pro forma basis as if such acquisitions or divestitures occurred on the first day of the applicable period.

Effective Date - see Section 11.1.

Environmental Laws means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

ERISA means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder from time to time in effect.

ERISA Affiliate means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under Section 414 of the Code.

Eurocurrency Reserve Percentage means, with respect to any Eurodollar Loan for any Interest Period, a percentage (expressed as a decimal) equal to the daily average during such Interest Period of the percentage in effect on each day of such Interest Period, as prescribed by the FRB (or any successor), for determining the aggregate maximum reserve requirements applicable to “Eurocurrency Liabilities” pursuant to Regulation D or any other then applicable regulation of the FRB which prescribes reserve requirements applicable to “Eurocurrency Liabilities” as presently defined in Regulation D.

Eurodollar Loan means any Loan which bears interest at a rate determined by reference to the Eurodollar Rate (Reserve Adjusted).

Eurodollar/Yen LIBOR Margin - see Schedule 1.1.

Eurodollar Office means with respect to any Lender the office or offices of such Lender which shall be making or maintaining the Eurodollar Loans of such Lender hereunder or, if applicable, such other office or offices through which such Lender determines the Eurodollar Rate. A Eurodollar Office of any Lender may be, at the option of such Lender, either a domestic or foreign office.

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Eurodollar Rate means, with respect to any Eurodollar Loan for any Interest Period, (i) the rate per annum (rounded upward, if necessary, to the nearest 1/100 of 1%) equal to the rate determined by the Administrative Agent to be the offered rate which appears on the page of the Telerate Screen which displays an average British Bankers Association Interest Settlement Rate (such page currently being page number 3750) for deposits (for delivery two Business Days prior to the beginning of such Interest Period) with a term equivalent to the applicable Interest Period, determined as of approximately 11:00 A.M. (London, England time) on such date of determination, or (ii) if the rate referenced in the preceding clause (i) does not appear on such page or service or if such page or service shall cease to be available, the rate per annum (rounded upward, if necessary, to the nearest five decimal places) equal to the rate determined by the Administrative Agent to be the offered rate on such other page or other service which displays an average British Bankers Association Interest Settlement Rate for deposits (for

delivery two Business Days prior to the beginning of such Interest Period) with a term equivalent to such Interest Period determined as of approximately 11:00 A.M. (London, England time) on such date of determination, or (iii) if the rates referenced in the preceding clauses (i) and (ii) are not available, the rate per annum equal to the offered quotation rate (rounded upward, if necessary, to the nearest five decimal places) to first class banks in the London interbank market by the Administrative Agent for deposits (for delivery two Business Days prior to the beginning of such Interest Period) of amounts in same day funds comparable to the principal amount of the Eurodollar Loan of Bank of America included in the Eurodollar borrowing for which the Eurodollar Rate is then being determined with a maturity comparable to such Interest Period as of approximately 11:00 A.M. (London, England time) on such date of determination.

Eurodollar Rate (Reserve Adjusted) means, with respect to any Eurodollar Loan for any Interest Period, a rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined pursuant to the following formula:

$$\begin{array}{lcl} \text{Eurodollar Rate} & = & \frac{\text{Eurodollar Rate}}{1 - \text{Eurocurrency}} \\ \text{(Reserve Adjusted)} & & \text{Reserve Percentage} \end{array}$$

Event of Default means any of the events described in Section 12.1.

Exchange Act means the Securities Exchange Act of 1934.

Existing Letters of Credit means the letters of credit described by date of issuance, letter of credit number, undrawn amount, name of beneficiary and the date of expiry on Schedule 1 hereto.

Exemption Representation - see Section 7.6.

Federal Funds Rate means, for any day, the rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Bank of

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New York (including any such successor publication, "H.15(519)") on the preceding Business Day opposite the caption "Federal Funds (Effective)"; or, if for any relevant day such rate is not so published on any such preceding Business Day, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of Federal funds transactions in New York City selected by the Administrative Agent.

Fixed Charges means, with respect to any period, the sum of (i) Interest Expense for such period, and (ii) Lease Rentals for such period.

Floating Rate Loan means any Loan which bears interest at or by reference to the Base Rate.

Floating Rate Margin - see Schedule 1.1.

Foreign Subsidiary means, at any time, each Subsidiary of the Company that is not a Domestic Subsidiary.

FRB means the Board of Governors of the Federal Reserve System.

GAAP means generally accepted accounting principles as in effect from time to time in the United States of America.

Group - see Section 2.2.1.

Governmental Authority means (a) the government of (i) the United States of America or any state or other political subdivision thereof, or (ii) Japan or any political subdivision thereof, or (iii) any jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

Guaranty means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person (a) to purchase such indebtedness or obligation or any property constituting security therefor, (b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation, (c) to lease properties or to purchase properties or

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services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation, or (d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof. In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

Hazardous Material means any and all pollutants, toxic or hazardous wastes or any other substances that might pose a hazard to health or safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage, or filtration of which is or shall be restricted, prohibited or penalized by any applicable law (including asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls).

Indebtedness with respect to any Person means, at any time, without duplication, (a) its liabilities for borrowed money and its redemption obligations in respect of mandatorily redeemable Preferred Stock, (b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property), (c) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases, (d) all liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities), (e) Securitization Debt and (f) any Guaranty (other than the Subsidiary Guaranty) of such Person with respect to liabilities of a type described in any of clauses (a) through (e) hereof. Indebtedness of any Person shall include all obligations of such Person of the character described in clauses (a) through (f) to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is deemed to be extinguished under GAAP.

Interest Expense means, with respect to the Company and the Restricted Subsidiaries for any period, the sum, determined on a consolidated basis in accordance with GAAP, of (a) all interest paid, accrued or scheduled for payment on the Indebtedness of the Company and the Restricted Subsidiaries during such period (including interest attributable to Capital Leases), plus (b) all fees in respect of outstanding letters of credit paid, accrued or scheduled for payment by the Company and the Restricted Subsidiaries during such period.

Interest Period means, as to any Yen LIBOR Loan or Eurodollar Loan, the period commencing on the date such Loan is borrowed or continued as a Yen LIBOR Loan or Eurodollar Loan or converted into a Eurodollar Loan and ending on the date one, two, three or six months thereafter, as selected by the Company pursuant to Section 2.2.3; provided that:

(a) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the following Business Day unless the

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result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day;

(b) any Interest Period for a Yen LIBOR Loan or Eurodollar Loan that begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) the Company may not select any Interest Period for any Loan which would extend beyond the scheduled Termination Date or which would cause the aggregate principal amount of all Yen LIBOR Loans and Eurodollar Loans having Interest Periods ending after the date on which the Commitment Amount is scheduled to be reduced pursuant to Section 6.1(d), plus the Stated Amount of all Letters of Credit scheduled to be outstanding after such date, to exceed the Commitment Amount scheduled to be in effect at the close of business on such date.

Investment means any investment, made in cash or by delivery of property, by the Company or any Restricted Subsidiary (a) in any Person, whether by acquisition of stock, Indebtedness or other obligation or Security, or by loan, Guaranty, advance, capital contribution or otherwise; or (b) in any property.

Issuing Lender means Bank of America in its capacity as an issuer of Letters of Credit hereunder and any other Lender which, with the written consent of the Company and the Administrative Agent, is the issuer of one or more Letters of Credit hereunder.

L/C Application means, with respect to any request for the issuance of a Letter of Credit, a letter of credit application in the form being used by the applicable Issuing Lender at the time of such request for the type of letter of credit requested.

Lease Rentals means, with respect to any period, the sum of the rental and other obligations required to be paid during such period by the Company or any Restricted Subsidiary as lessee under all leases of real or personal property (other than Capital Leases) as determined on a consolidated basis for the Company and the Restricted Subsidiaries in accordance with GAAP.

Lender - see the Preamble. References to the "Lenders" shall include the Issuing Lender; for purposes of clarification only, to the extent that Bank of America (or any successor Issuing Lender) may have any rights or obligations in addition to those of the other Lenders due to its status as Issuing Lender, its status as such will be specifically referenced.

Letter of Credit - see Section 2.1.2.

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Leverage Ratio means, as of any date, the ratio of Total Indebtedness as of such date to EBITDA for the most recently ended period of four consecutive fiscal quarters.

Lien means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, stockholder agreements, voting trust agreements and all similar arrangements).

Loan Documents means this Agreement, the Notes, the Guaranties, the L/C Applications and the Collateral Documents.

Loans - see Section 2.1.1.

Material or Materially means material or materially, as the case may be, in relation to the business, operations, affairs, financial condition, assets, properties or prospects of the Company and the Restricted Subsidiaries taken as a whole.

Material Adverse Effect means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and the Restricted Subsidiaries taken as a whole, or (b) the ability of the Company and the Restricted Subsidiaries, taken as a whole, to perform their obligations

under this Agreement, the Collateral Documents or any other Loan Document, or (c) the validity or enforceability of this Agreement, the Collateral Documents or any other Loan Document.

Material Domestic Subsidiary means each Domestic Subsidiary of the Company that also is a Material Subsidiary.

Material Foreign Subsidiary means each Foreign Subsidiary of the Company that also is a Material Subsidiary.

Material Subsidiaries means, at any time, (a) Nu Skin Japan Co., Ltd., a Japanese corporation, Nu Skin International, Inc., a Utah corporation, NSE Hong Kong, Inc., a Utah corporation, Nu Skin Taiwan, Inc., a Utah corporation, and Nu Skin United States, Inc., a Delaware corporation, and (b) each other Subsidiary of the Company which (i) had revenues during the four most recently ended fiscal quarters equal to or greater than 5.0% of the consolidated total revenues of the Company and its Subsidiaries during such period or (ii) is an obligor under any Guaranty with respect to the Indebtedness of the Company under any Significant Credit Facility; provided that no Subsidiary shall be a "Material Subsidiary" unless at least a majority of the voting securities of such Subsidiary are owned by the Company and/or one or more Wholly-Owned Restricted Subsidiaries.

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Multiemployer Plan means any Plan that is a "multiemployer plan" (as such term is defined in Section 4001(a)(3) of ERISA).

Note - see Section 3.1.

Officer's Certificate means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

PBGC means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

Percentage means, with respect to any Lender, the percentage specified opposite such Lender's name on Schedule 2.1, as adjusted by any assignment pursuant to Section 14.9.1.

Permitted Liens - see Section 10.12.

Permitted Securitization Program means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey or otherwise transfer to (a) a Securitization Entity (in the case of a transfer by the Company or any Restricted Subsidiary) and (b) any other Person (in the case of a transfer by a Securitization Entity), or may grant a security interest in, any receivables (whether now existing or arising or acquired in the future) of the Company or any Restricted Subsidiary, and any assets related thereto including (i) all collateral securing such receivables, (ii) all contracts and contract rights and all guarantees or other obligations in respect of such receivables, (iii) proceeds of such receivables, and (iv) other assets (including contract rights) that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving receivables; provided that the resultant Securitization Debt, together with all other Priority Indebtedness then outstanding, shall not exceed the amount of Priority Indebtedness permitted by Section 10.11(a)(ii).

Person means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization or government (or an agency or political subdivision thereof).

Plan means an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

Pledge Agreement means the Pledge Agreement executed by the Company in favor of State Street Bank and Trust Company of California, N.A., as collateral agent, a copy of which is attached as Exhibit C.

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Pledged Securities means, in respect of each Pledgor, (a) the Equity Securities owned by such Pledgor described in Schedule I attached to, or otherwise pledged pursuant to, the Pledge Agreement and the Equity Securities owned by such Pledgor of each Person that becomes a Material Foreign Subsidiary, including all securities convertible into, and rights, warrants, options and other rights to purchase or otherwise acquire, any of the foregoing now or hereafter owned by such Pledgor, and the certificates or other instruments representing any of the foregoing and any interest of such Pledgor in the entries on the books of any securities intermediary pertaining thereto (the "Pledged Shares"), and all dividends, distributions, returns of capital, cash, warrants, option, rights, instruments, right to vote or manage the business of the respective issuer pursuant to organizational documents governing the rights and obligations of the stockholders, and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Shares; provided that the Pledged Shares shall not include any Equity Securities of such issuer in excess of the number of shares or other equity interests of such issuer possessing up to but not exceeding 65% of the voting power of all classes of Equity Securities entitled to vote of such issuer, and all dividends, cash, warrants, rights, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Securities, and (b) to the extent not covered by clause (a) above, all proceeds of any or all of the foregoing.

Pledgor means each Person who pledges Pledged Securities under the Pledge Agreement.

Preferred Stock means any class of capital stock of a corporation that is preferred over any other class of capital stock of such corporation as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such corporation.

Prime Rate means, for any day, the rate of interest in effect for such day as publicly announced from time to time by Bank of America in Charlotte as its "prime rate." (The "prime rate" is a rate set by Bank of America based upon various factors, including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate.) Any

change in the prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

Priority Indebtedness means (without duplication) the sum of (a) any unsecured Indebtedness of the Restricted Subsidiaries other than (i) guarantees under the Subsidiary Guaranty, (ii) Indebtedness of a Restricted Subsidiary if (x) the Company has guaranteed such Indebtedness or is a primary obligor of such Indebtedness, and (y) the holder of such Indebtedness becomes a party to the Collateral Agency and Intercreditor Agreement (provided that until the holder of such Indebtedness becomes a party to the Collateral Agency and Intercreditor Agreement, such Indebtedness will be considered Priority Indebtedness), and (iii) Indebtedness owed to the Company or any other Restricted Subsidiary, and (b) Indebtedness of

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the Company and its Restricted Subsidiaries secured by a Lien not permitted by clauses (a) through (m) of Section 10.12, and (c) Securitization Debt.

Property or properties means and includes each and every interest in any property or asset, whether tangible or intangible and whether real, personal or mixed.

QPAM Exemption means Prohibited Transaction Class Exemption 84-14 issued by the United States Department of Labor.

Required Lenders means Lenders having Percentages aggregating 51% or more.

Responsible Officer means any Senior Financial Officer and any other officer of the Company or its Subsidiaries with responsibility for the administration of the relevant portion of this Agreement or any Loan Document.

Restricted Investments means all Investments except any of the following: (a) property to be used in the ordinary course of business; (b) assets arising from the sale of goods and services in the ordinary course of business; (c) Investments in one or more Restricted Subsidiaries or any Person that immediately becomes a Restricted Subsidiary; (d) Investments existing on the Signing Date; (e) Investments in obligations, maturing within one year, issued by or guaranteed by the United States of America, or an agency thereof, or Canada, or any province thereof; (f) Investments in tax-exempt obligations, maturing within one year, which are rated in one of the top two rating classifications by at least one national rating agency; (g) Investments in certificates of deposit or banker's acceptances maturing within one year issued by Bank of America or other commercial banks which are rated in one of the top two rating classifications by at least one national rating agency; (h) Investments in commercial paper, maturing within 270 days, rated in one of the top two rating classifications by at least one national rating agency; (i) Investments in repurchase agreements; (j) treasury stock; (k) Investments in money market instrument programs which are classified as current assets in accordance with GAAP; (l) Investments in foreign currency risk hedging contracts used in the ordinary course of business; and (m) Investments in Securitization Entities.

Restricted Subsidiary means any Subsidiary (a) at least a majority of the voting securities of which are owned by the Company and/or one or more Wholly-Owned Restricted Subsidiaries, and (b) which the Company has not designated as an Unrestricted Subsidiary in accordance with Section 10.18; provided that upon any Unrestricted Subsidiary becoming a Material Subsidiary, it shall immediately be deemed to be a Restricted Subsidiary.

Securities Act means the Securities Act of 1933.

Security has the meaning set forth in Section 2(l) of the Securities Act.

Securitization Debt for the Company and the Restricted Subsidiaries shall mean, in

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connection with any Permitted Securitization Program, (a) any amount as to which any Securitization Entity or other Person has recourse to the Company or any Restricted Subsidiary with respect to such Permitted Securitization Program by way of a Guaranty and (b) the amount of any reserve account or similar account or asset shown as an asset of the Company or a Restricted Subsidiary under GAAP that has been pledged to any Securitization Entity or any other Person in connection with such Permitted Securitization Program.

Securitization Entity means a wholly-owned Subsidiary (other than a Restricted Subsidiary) of the Company (or another Person in which the Company or any of its Subsidiaries makes an investment and to which the Company or any of its Subsidiaries transfers receivables and related assets) that engages in no activities other than in connection with the financing of receivables and that is designated by the Board of Directors of the Company (as provided below) as a Securitization Entity (a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Company or any of its Subsidiaries (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Company or any of its Subsidiaries in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of the Company or any other Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (b) with which neither the Company nor any of its Subsidiaries has any material contract, agreement, arrangement or understanding other than on terms no less favorable to the Company or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Company, other than fees payable in the ordinary course of business in connection with servicing receivables of such entity, and (c) to which neither the Company nor any of its Subsidiaries has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results.

Senior Financial Officer means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

Senior Notes means the 3.03% Senior Notes due October 12, 2010 issued by the Company.

Senior Note Purchase Agreement means the Note Purchase Agreement dated October 12, 2000 between the Company and The Prudential Insurance Company of America.

Senior Secured Creditor means (a) each Lender, (b) each holder of a Senior Note, and (c) each lender under a Significant Credit Facility.

Significant Credit Facility means (a) any Credit Facility that has at least \$7,500,000 available to be borrowed and/or outstanding at any time, and (b) any Credit Facility if the aggregate amount available to be borrowed and/or outstanding under all of the Credit Facilities exceeds \$25,000,000 at any time; provided that the term “Significant Credit Facility” shall not

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include any Priority Indebtedness to the extent that such Priority Indebtedness is permitted by Section 10.11(a)(ii), any Indebtedness secured by a Lien permitted by Section 10.12(h), or any Indebtedness secured by a Lien renewing, extending or replacing Liens as described in Section 10.12(m).

Signing Date means the date on which the Agreement has been executed and delivered by all of the parties hereto.

Specified Person means each of (a) Blake M. Roney, Steven J. Lund, Sandra N. Tillotson, Brooke B. Roney, Nedra Roney, Craig Bryson or Craig Tillotson and (b) the immediate family members and trusts established for the immediate family members of, and other entities 67% or more of the equity interests of which are owned by, any of the foregoing individuals.

Spot Rate of Exchange means, as of any date for any amount denominated in any currency other than Dollars, the applicable quoted spot rate as reported on the appropriate page of the Reuters Screen at 11:00 A.M. (London, England time) two Business Days preceding the day such determination is requested to be made.

Standard Securitization Undertakings means representations, warranties, covenants and indemnities entered into by the Company or any of its Subsidiaries that are reasonably customary in a receivables securitization transaction.

Stated Amount means, with respect to any Letter of Credit at any date of determination, the maximum aggregate amount available for drawing thereunder at any time during the then ensuing term of such Letter of Credit under any and all circumstances, plus the aggregate amount of all unreimbursed payments and disbursements under such Letter of Credit.

Subsidiary means, as to any Person, (a) any corporation of which more than 50% of the issued and outstanding Equity Securities having ordinary voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its Subsidiaries or by one or more of such Person’s other Subsidiaries, (b) any partnership, joint venture, limited liability company or other association of which more than 50% of the equity interest having the power to vote, direct or control the management of such partnership, joint venture, limited liability company or other association is at the time owned and controlled by such Person, by such Person and one or more of its Subsidiaries or by one or more of such Person’s other Subsidiaries, or (c) any other Person included in the financial statements of such Person on a consolidated basis. Unless the context otherwise clearly requires, any reference to a “Subsidiary” is a reference to a Subsidiary of the Company.

Subsidiary Guarantors means all current and future Material Domestic Subsidiaries of the

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Company.

Subsidiary Guaranty means the Subsidiary Guaranty, substantially in the form of Exhibit B.

Swap Agreement means (a) any and all rate swap transactions, basis swaps, forward rate transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing); provided that any such transaction is governed by or subject to a Master Agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., or any other master agreement published by any successor organization thereto (any such master agreement, together with any related schedules, as amended, restated, extended, supplemented or otherwise modified in writing from time to time, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

Taxes - see Section 7.6.

Term Debt means any Indebtedness of the Company or any Restricted Subsidiary other than (a) Credit Facilities providing for the borrowing of money or the issuance of letters of credit on a revolving basis or for working capital, (b) Priority Indebtedness, and (c) Indebtedness secured by Liens permitted by clauses (a) through (m) of Section 10.12.

Termination Date means the earlier to occur of (a) May 10, 2004 or (b) such other date on which the Commitments shall terminate pursuant to Section 6 or 12.

Total Indebtedness means, at any date of determination, the sum of (i) the total of all Indebtedness of the Company and the Restricted Subsidiaries outstanding on such date, after eliminating all offsetting debits and credits between the Company and the Restricted Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and the Restricted Subsidiaries in accordance with GAAP, plus (ii) the aggregate amount of Indebtedness of the Company to any of its Restricted Subsidiaries that is not subordinated to the Indebtedness hereunder pursuant to a subordination agreement substantially in the form of Exhibit F.

Total Outstandings means at any time the sum of (a) the aggregate Dollar Equivalent principal amount of all outstanding Loans plus (b) the Stated Amount of all Letters of Credit.

Type of Loan or Borrowing - see Section 2.2.1. The types of Loans or borrowings under this Agreement are as follows: Floating Rate Loans or borrowings, Yen LIBOR Loans or borrowings, and Eurodollar Loans or borrowings.

Unmatured Event of Default means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

Unrestricted Subsidiary means any Subsidiary which is designated as an Unrestricted Subsidiary on Schedule 9.8 or is designated as such in writing by the Company to each Lender pursuant to Section 10.18; provided that no Material Subsidiary shall be an Unrestricted Subsidiary.

Wholly-Owned Restricted Subsidiary means, at any time, (a) with respect to Domestic Subsidiaries, any Restricted Subsidiary one hundred percent (100%) of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company's other wholly-owned Restricted Subsidiaries at such time, and (b) with respect to Foreign Subsidiaries, any Restricted Subsidiary ninety-five percent (95%) or more of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company's other Wholly-Owned Restricted Subsidiaries at such time.

Yen and ¥ mean the lawful currency of Japan.

Yen LIBOR means, for any Yen LIBOR Loan for any Interest Period, the per annum rate (reserve adjusted as provided below) of interest, rounded upwards, if necessary, to the nearest one-sixteenth of one percent (0.0625%), at which Japanese Yen deposits in immediately available funds are offered in the interbank eurodollar market as presented on Telerate Page 3750 as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period, for delivery on the first day of such Interest Period for a period approximately equal to such Interest Period and in an amount equal or comparable to the Yen LIBOR Loan of Bank of America to which such Interest Period relates. The foregoing rate of interest shall be reserve adjusted by dividing Yen LIBOR by one minus the Yen LIBOR Reserve Percentage, with such quotient to be rounded upward to the nearest whole multiple of one-hundredth of one percent (0.01%). All references in this Agreement or other Loan Documents to Yen LIBOR shall mean and include the aforesaid reserve adjustment. "Telerate Page 3750" means the display designated as "Page 3750" (or such other page as may replace Page 3750) on the Associated Press-Dow Jones Telerate Service or such other service as may be nominated by the British Bankers' Association as the information vendor for the purpose of displaying British Bankers' Association interest settlement rates for Japanese Yen deposits or, in the absence of such availability, by reference to the average (rounded upwards, if necessary, to the nearest one-sixteenth of one percent (0.0625%)) of the rates at which three major banks designated by the Administrative Agent are offered Japanese Yen deposits at or about 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market.

Yen LIBOR Loan means a Loan bearing interest, at all times during an Interest Period applicable to such Loan, at a fixed rate of interest determined by reference to Yen LIBOR.

Yen LIBOR Office means, with respect to any Lender, the office or offices of such Lender which shall be making or maintaining the Yen LIBOR Loans of such Lender hereunder. A Yen LIBOR Office of any Lender may be, at the option of such Lender, either a domestic or foreign office.

Yen LIBOR Reserve Percentage means, relative to any Yen LIBOR Loan for any Interest Period, the maximum reserve percentage (expressed as a decimal, rounded upward to the nearest 1/100th of 1%) in effect on the date Yen LIBOR for such Interest Period is determined under regulations issued from time to time by the FRB, the Japanese Ministry of Finance or the Bank of Japan (or any successor regulatory body) for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities") having a term comparable to such Interest Period.

(a) Other Interpretive Provisions . The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) Section, clause, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) (i) The term "including" is not limiting and means "including without limitation."

(ii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding", and the word "through" means "to and including."

(d) Unless otherwise expressly provided herein, (i) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

(e) This Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their terms.

(f) This Agreement and the other Loan Documents are the result of negotiations among and have been reviewed by counsel to the Administrative Agent, the Company, the Lenders and the other parties thereto and are the products of all parties. Accordingly, they shall not be construed against the Administrative Agent or the Lenders merely because of the Administrative Agent's or Lenders' involvement in their preparation.

2.1 Commitments. On and subject to the terms and conditions of this Agreement, each of the Lenders, severally and for itself alone, agrees to make loans to, and to issue or participate in the issuance of letters of credit for the account of, the Company as follows:

2.1.1 Loans. Each Lender will make loans on a revolving basis (“Loans”) from time to time before the Termination Date in such Lender’s Percentage of such aggregate amounts as the Company may from time to time request from all Lenders; provided that the Total Outstandings will not at any time exceed the Commitment Amount.

2.1.2 L/C Commitment. (a) The Issuing Lenders will issue letters of credit, in each case containing such terms and conditions as are permitted by this Agreement and are reasonably satisfactory to the applicable Issuing Lender and the Company (each a “Letter of Credit”), at the request of and for the account of the Company or any Subsidiary from time to time before the Termination Date and (b) as more fully set forth in Section 2.3.5, each Lender agrees to purchase a participation in each such Letter of Credit; provided that the aggregate Stated Amount of all Letters of Credit shall not at any time exceed the lesser of (i) \$5,000,000 and (ii) the excess, if any, of the Commitment Amount over the aggregate principal amount of all outstanding Loans.

2.2 Loan Procedures.

2.2.1 Various Types of Loans. Each Loan shall be either a Floating Rate Loan, a Yen LIBOR Loan or a Eurodollar Loan (each a “type” of Loan), as the Company shall specify in the related notice of borrowing or conversion pursuant to Section 2.2.2 or 2.2.3. Yen LIBOR Loans or Eurodollar Loans having the same Interest Period are sometimes called a “Group” or collectively “Groups”. Floating Rate Loans, Yen LIBOR Loans and Eurodollar Loans may be outstanding at the same time; provided that (i) not more than five different Groups of Yen LIBOR Loans shall be outstanding at any one time, (ii) the aggregate principal amount of each Group of Yen LIBOR Loans shall at all times be at least ¥600,000,000 and an integral multiple of ¥100,000,000, (iii) not more than five different Groups of Eurodollar Loans shall be outstanding at any one time and (iv) the aggregate principal amount of each Group of Eurodollar Loans shall at all times be at least \$5,000,000 and an integral multiple of \$1,000,000. All borrowings, conversions and repayments of Loans shall be effected so that each Lender will have a pro rata share (according to its Percentage) of all types and Groups of Loans.

2.2.2 Borrowing Procedures. The Company shall give written or telephonic (followed promptly by written confirmation thereof) notice to the Administrative Agent of each proposed borrowing not later than (a) in the case of a Floating Rate borrowing, noon, New York time, on the proposed date of such borrowing, (b) in the case of a Yen LIBOR borrowing, 10:00 A.M., New York time, at least five Business Days prior to the proposed date of such borrowing, and (c) in the case of a Eurodollar borrowing, 10:00 A.M., New York time, at least three Business Days

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prior to the proposed date of such borrowing. Each such notice shall be effective upon receipt by the Administrative Agent, shall be irrevocable, and shall specify the date, amount and type of borrowing and, in the case of a Yen LIBOR or Eurodollar borrowing, the initial Interest Period therefor. Promptly upon receipt of such notice, the Administrative Agent shall advise each Lender thereof. Not later than 2:00 p.m., New York time, on the date of a proposed borrowing, each Lender shall provide the Administrative Agent at the office specified by the Administrative Agent with (a) in the case of a Yen LIBOR borrowing, Yen in immediately available funds, or (b) in the case of a Floating Rate borrowing or a Eurodollar borrowing, Dollars in immediately available funds, in each case covering such Lender’s Percentage of such borrowing and, so long as the Administrative Agent has not received written notice that the conditions precedent set forth in Section 11 with respect to such borrowing have not been satisfied, the Administrative Agent shall pay over the requested amount to the Company on the requested borrowing date. Each borrowing shall be on a Business Day. Each Floating Rate borrowing shall be in an aggregate amount of \$1,000,000 or an integral multiple thereof. Each other borrowing shall be in the applicable amount required for a Group pursuant to Section 2.2.1.

2.2.3 Conversion and Continuation Procedures. (a) Subject to the provisions of Section 2.2.1, the Company may, upon irrevocable written notice to the Administrative Agent in accordance with clause (b) below:

(i) elect, as of any Business Day, to convert any outstanding Floating Rate Loan into a Eurodollar Loan or any outstanding Eurodollar Loan to a Floating Rate Loan; or

(ii) elect, as of the last day of the applicable Interest Period, to continue any Group of Yen LIBOR Loans or Eurodollar Loans having an Interest Period expiring on such day (or any part thereof in the applicable amount required for a Group pursuant to Section 2.2.1) for a new Interest Period.

(b) The Company shall give written or telephonic (followed promptly by written confirmation thereof) notice to the Administrative Agent of each proposed conversion or continuation not later than (i) in the case of conversion of Eurodollar Loans into Floating Rate Loans, 11:00 a.m., New York time, on the proposed date of such conversion, (ii) in the case of continuation of Yen LIBOR Loans, 11:00 a.m., New York time, at least five Business Days prior to the proposed date of such continuation, and (iii) in the case of a conversion of Floating Rate Loans into or continuation of Eurodollar Loans, 11:00 a.m., New York time, at least three Business Days prior to the proposed date of such conversion or continuation, specifying in each case:

- (1) the proposed date of conversion or continuation;
- (2) the aggregate amount and currency of the Loans to be converted or continued;

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- (3) the type of Loans resulting from the proposed conversion or continuation; and

(4) in the case of continuation of Yen LIBOR Loans or conversion into, or continuation of, Eurodollar Loans, the duration of the requested Interest Period therefor.

(c) If upon expiration of any Interest Period applicable to Yen LIBOR Loans, the Company has failed to select timely a new Interest Period to be applicable to such Yen LIBOR Loans, the Company shall be deemed to have elected to continue such Yen LIBOR Loans for a one-month Interest Period.

(d) If upon expiration of any Interest Period applicable to Eurodollar Loans, the Company has failed to select timely a new Interest Period to be applicable to such Eurodollar Loans, the Company shall be deemed to have elected to convert such Eurodollar Loans into Floating Rate Loans effective on the last day of

such Interest Period.

(e) The Administrative Agent will promptly notify each Lender of its receipt of a notice of conversion or continuation pursuant to this Section 2.2.3 or, if no timely notice is provided by the Company, of the details of any automatic continuation or conversion.

(f) Unless the Required Lenders otherwise consent, during the existence of any Event of Default or Unmatured Event of Default, the Company may not elect to have a Floating Rate Loan converted into or continued as a Eurodollar Loan.

2.3 Letter of Credit Procedures.

2.3.1 L/C Applications. The Company shall give notice to the Administrative Agent and the applicable Issuing Lender of the proposed issuance of each Letter of Credit on a Business Day which is at least three Business Days (or such lesser number of days as the Administrative Agent and such Issuing Lender shall agree in any particular instance) prior to the proposed date of issuance of such Letter of Credit. Each such notice shall be accompanied by an L/C Application, duly executed by the Company (together with any Subsidiary for the account of which the related Letter of Credit is to be issued) and in all respects satisfactory to the Administrative Agent and the applicable Issuing Lender, together with such other documentation as the Administrative Agent or such Issuing Lender may reasonably request in support thereof, it being understood that each L/C Application shall specify, among other things, the date on which the proposed Letter of Credit is to be issued, whether such Letter of Credit is to be transferable in whole or in part and the expiration date of such Letter of Credit (which shall not be later than the Termination Date and shall not result in the aggregate Stated Amount of all Letters of Credit scheduled to be outstanding after any date on which the Commitment Amount is scheduled to be reduced pursuant to Section 6.1(d), plus the aggregate principal amount of all Yen LIBOR Loans and Eurodollar Loans having Interest Periods ending after such date, to exceed the Commitment Amount scheduled to be in effect at the close of business on such date). So long as the applicable Issuing Lender has not received written notice that the conditions precedent set forth

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in Section 11 with respect to the issuance of such Letter of Credit have not been satisfied, such Issuing Lender shall issue such Letter of Credit on the requested issuance date. Each Issuing Lender shall promptly advise the Administrative Agent of the issuance of each Letter of Credit by such Issuing Lender and of any amendment thereto, extension thereof or event or circumstance changing the amount available for drawing thereunder.

2.3.2 Participations in Letters of Credit. Concurrently with the issuance of each Letter of Credit, the applicable Issuing Lender shall be deemed to have sold and transferred to each other Lender, and each other Lender shall be deemed irrevocably and unconditionally to have purchased and received from such Issuing Lender, without recourse or warranty, an undivided interest and participation, to the extent of such other Lender's Percentage, in such Letter of Credit and the Company's reimbursement obligations with respect thereto. For the purposes of this Agreement, the unparticipated portion of each Letter of Credit shall be deemed to be the applicable Issuing Lender's "participation" therein. Each Issuing Lender hereby agrees, upon request of the Administrative Agent or any Lender, to deliver to such Lender a list of all outstanding Letters of Credit issued by such Issuing Lender, together with such information related thereto as such Lender may reasonably request.

2.3.3 Reimbursement Obligations. The Company hereby unconditionally and irrevocably agrees to reimburse the applicable Issuing Lender for each payment or disbursement made by such Issuing Lender under any Letter of Credit honoring any demand for payment made by the beneficiary thereunder, in each case on the date that such payment or disbursement is made. Any amount not reimbursed on the date of such payment or disbursement shall bear interest from the date of such payment or disbursement to the date that such Issuing Lender is reimbursed by the Company therefor, payable on demand, at a rate per annum equal to the Base Rate from time to time in effect plus the Floating Rate Margin from time to time in effect plus, beginning on the third Business Day after receipt of notice from the Issuing Lender of such payment or disbursement, 2%. The applicable Issuing Lender shall notify the Company and the Administrative Agent whenever any demand for payment is made under any Letter of Credit by the beneficiary thereunder; provided, that the failure of such Issuing Lender to so notify the Company shall not affect the rights of such Issuing Lender or the Lenders in any manner whatsoever.

2.3.4 Limitation on Obligations of Issuing Lenders. In determining whether to pay under any Letter of Credit, no Issuing Lender shall have any obligation to the Company or any Lender other than to confirm that any documents required to be delivered under such Letter of Credit appear to have been delivered and appear to comply on their face with the requirements of such Letter of Credit. Any action taken or omitted by an Issuing Lender under or in connection with any Letter of Credit, if taken or omitted in the absence of gross negligence and willful misconduct, shall not impose upon such Issuing Lender any liability to the Company or any Lender and shall not reduce or impair the Company's reimbursement obligations set forth in Section 2.3.3 or the obligations of the Lenders pursuant to Section 2.3.5.

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2.3.5 Funding by Lenders to Issuing Lenders. If an Issuing Lender makes any payment or disbursement under any Letter of Credit and the Company has not reimbursed such Issuing Lender in full for such payment or disbursement by noon, New York time, on the date of such payment or disbursement, or if any reimbursement received by such Issuing Lender from the Company is or must be returned or rescinded upon or during any bankruptcy or reorganization of the Company or otherwise, each other Lender shall be obligated to pay to the Administrative Agent for the account of such Issuing Lender, in full or partial payment of the purchase price of its participation in such Letter of Credit, its pro rata share (according to its Percentage) of such payment or disbursement (but no such payment shall diminish the obligations of the Company under Section 2.3.3), and upon notice from the applicable Issuing Lender, the Administrative Agent shall promptly notify each other Lender thereof. Each other Lender irrevocably and unconditionally agrees to so pay to the Administrative Agent in immediately available funds for the applicable Issuing Lender's account the amount of such other Lender's Percentage of such payment or disbursement. If and to the extent any Lender shall not have made such amount available to the Administrative Agent by 2:00 P.M., New York time, on the Business Day on which such Lender receives notice from the Administrative Agent of such payment or disbursement (it being understood that any such notice received after 1:00 P.M., New York time, on any Business Day shall be deemed to have been received on the next following Business Day), such Lender agrees to pay interest on such amount to the Administrative Agent for the applicable Issuing Lender's account forthwith on demand for each day from the date such amount was to have been delivered to the Administrative Agent to the date such amount is paid, at a rate per annum equal to (a) for the first three days after demand, the Federal Funds Rate from time to time in effect and (b) thereafter, the Base Rate from time to time in effect. Any Lender's failure to make available to the Administrative Agent its Percentage of any such payment or disbursement shall not relieve any other Lender of its obligation hereunder to make available to the Administrative Agent such other Lender's Percentage of such payment, but no Lender shall be responsible for the failure of any other Lender to make available to the Administrative Agent such other Lender's Percentage of any such payment or disbursement.

2.4 Commitments Several. The failure of any Lender to make a requested Loan on any date shall not relieve any other Lender of its obligation (if any) to make a Loan on such date, but no Lender shall be responsible for the failure of any other Lender to make any Loan to be made by such other Lender.

2.5 Certain Conditions. Notwithstanding any other provision of this Agreement, no Lender shall have an obligation to make any Loan, to permit the continuation of any Yen LIBOR Loan or to permit the continuation of or any conversion into any Eurodollar Loan, and no Issuing Lender shall have any obligation to issue any Letter of Credit, if an Event of Default or Unmatured Event of Default exists.

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SECTION 3 NOTES EVIDENCING LOANS.

3.1 Notes. The Loans of each Lender shall be evidenced by a promissory note (each a “Note”) payable to the order of such Lender substantially in the form set forth in Exhibit A.

3.2 Recordkeeping. Each Lender shall record in its records, or at its option on the schedule attached to its Note, the date and amount of each Loan made by such Lender, each repayment or conversion thereof and, in the case of each Yen LIBOR Loan or Eurodollar Loan, the dates on which each Interest Period for such Loan shall begin and end. The aggregate unpaid principal amount so recorded shall be rebuttable presumptive evidence of the principal amount owing and unpaid on such Note. The failure to so record any such amount or any error in so recording any such amount shall not, however, limit or otherwise affect the obligations of the Company hereunder or under any Note to repay the principal amount of the Loans evidenced by such Note together with all interest accruing thereon.

SECTION 4 INTEREST.

4.1 Interest Rates. The Company promises to pay interest on the unpaid principal amount of each Loan for the period commencing on the date of such Loan until such Loan is paid in full as follows:

(a) in the case of a Loan in Dollars, (i) at all times while such Loan is a Floating Rate Loan, at a rate per annum equal to the sum of the Base Rate from time to time in effect plus the Floating Rate Margin from time to time in effect; and (ii) at all times while such Loan is a Eurodollar Loan, at a rate per annum equal to the sum of the Eurodollar Rate (Reserve Adjusted) applicable to each Interest Period for such Loan plus the Eurodollar/Yen LIBOR Margin from time to time in effect; and

(b) in the case of a Yen LIBOR Loan, at a rate per annum equal to the sum of the Yen LIBOR applicable to each Interest Period for such Loan plus the Eurodollar/Yen LIBOR Margin in effect;

provided that upon request of the Required Lenders at any time an Event of Default exists, the interest rate applicable to each Loan shall be increased by 2%.

4.2 Interest Payment Dates. Accrued interest on each Floating Rate Loan shall be payable in arrears on the last Business Day of each calendar quarter and at maturity. Accrued interest on each Yen LIBOR Loan and Eurodollar Loan shall be payable on the last day of each Interest Period relating to such Loan (and, in the case of a Yen LIBOR Loan or Eurodollar Loan with a six-month Interest Period, on the three-month anniversary of the first day of such Interest Period) and at maturity. After maturity, accrued interest on all Loans shall be payable on demand.

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4.3 Setting and Notice of Rates. (a) The applicable Yen LIBOR for each Interest Period shall be determined by the Administrative Agent, and notice thereof shall be given by the Administrative Agent promptly to the Company and each Lender.

(b) The applicable Eurodollar Rate for each Interest Period shall be determined by the Administrative Agent, and notice thereof shall be given by the Administrative Agent promptly to the Company and each Lender.

(c) Each determination of the applicable Yen LIBOR or Eurodollar Rate by the Administrative Agent shall be conclusive and binding upon the parties hereto, in the absence of demonstrable error. The Administrative Agent shall, upon written request of the Company or any Lender, deliver to the Company or such Lender a statement showing the computations used by the Administrative Agent in determining any applicable Yen LIBOR or Eurodollar Rate hereunder.

4.4 Computation of Interest. All computations of interest for Floating Rate Loans when the Base Rate is determined by the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and for the actual number of days elapsed. All other computations of interest shall be made on the basis of a year of 360 days and for the actual number of days elapsed. The applicable interest rate for each Floating Rate Loan shall change simultaneously with each change in the Base Rate.

4.4 SECTION 5 FEES.

5.1 Commitment Fee. The Company agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, for the period from the Signing Date to the Termination Date, at a rate per annum equal to the Commitment Fee Rate in effect from time to time of the actual amount of the unused Dollar Equivalent amount of such Lender’s Percentage of the Commitment Amount as of the end of each day in such period. For purposes of calculating usage under this Section, the Commitment Amount shall be deemed used to the extent of the aggregate principal amount of all outstanding Loans plus the Stated Amount of all Letters of Credit. Such commitment fee shall be payable in arrears on the last Business Day of each calendar quarter and on the Termination Date for any period then ending for which such commitment fee shall not have theretofore been paid. The commitment fee shall be computed for the actual number of days elapsed on the basis of a year of 360 days.

5.2 Closing Fee. The Company agrees to pay to the Administrative Agent for the account of the Lenders pro rata according to their respective Percentages on the Closing Date a closing fee equal to \$480,000 (less any portion of such fee previously paid to the Lenders by the Company).

5.3 Letter of Credit Fees. The Company agrees to pay to the Administrative Agent for the account of the Lenders pro rata according to their respective Percentages a letter of

credit fee for each standby Letter of Credit in an amount equal to the rate per annum in effect from time to time pursuant to Schedule 1.1 of the undrawn amount of such standby Letter of Credit (computed for the actual number of days elapsed on the basis of a year of 360 days); provided that upon request of the Required Lenders at any time an Event of Default exists, the rate applicable to each standby Letter of Credit shall be increased by 2%. Such letter of credit fee shall be payable in arrears on the last Business Day of each calendar quarter and on the Termination Date for the period from the date of the issuance of each standby Letter of Credit to the date such payment is due or, if earlier, the date on which such standby Letter of Credit expired or was terminated. After the Termination Date, such letter of credit fee shall be payable on demand.

(b) The Company agrees to pay to the Administrative Agent for the account of the Lenders pro rata according to their respective Percentages a letter of credit fee for each commercial Letter of Credit in an amount equal to the greater of 0.125% of the face amount of such Letter of Credit and \$100. Such letter of credit fee shall be payable for each commercial Letter of Credit on the earlier of the last Business Day of the calendar quarter in which such Letter of Credit is issued and the Termination Date.

(c) The Company agrees to pay each Issuing Lender a fronting fee for each Letter of Credit issued by such Issuing Lender in an amount separately agreed to between the Company and such Issuing Lender.

(d) In addition, with respect to each Letter of Credit, the Company agrees to pay to the applicable Issuing Lender, for its own account, such fees and expenses as such Issuing Lender customarily requires in connection with the issuance, negotiation, processing and/or administration of letters of credit in similar situations.

5.4 Administrative Agents Fees. The Company agrees to pay to the Administrative Agent such administrative agent's fees as are mutually agreed to from time to time by the Company and the Administrative Agent.

SECTION 6 REDUCTION IN THE COMMITMENT AMOUNT; PREPAYMENTS.

6.1 Reductions in the Commitment Amount.

6.1.1 Voluntary Reductions of the Commitment Amount. The Company may from time to time on at least five Business Days' prior written notice received by the Administrative Agent (which shall promptly advise each Lender thereof) permanently reduce the Commitment Amount to an amount not less than the Total Outstandings. Any such reduction shall be in an amount not less than \$5,000,000 or a higher integral multiple of \$1,000,000. The Company may at any time on like notice terminate the Commitments upon payment in full of all Loans and all other obligations of the Company hereunder and cash collateralization in full, pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent, of all

obligations arising with respect to Letters of Credit. All reductions of the Commitment Amount shall reduce the amounts of the Commitments of the Lenders pro rata according to their respective Percentages.

6.1.2 Mandatory Reductions in the Commitment Amount. The Commitment Amount shall be reduced by \$15,000,000 on each anniversary of the Signing Date.

6.2 Prepayments.

(a) Voluntary Prepayments. The Company may from time to time prepay the Loans in whole or in part; provided that the Company shall give the Administrative Agent (which shall promptly advise each Lender) notice thereof not later than 11:00 A.M., New York time, on the day of such prepayment (which shall be a Business Day), specifying the Loans to be prepaid and the date and amount of prepayment. Each partial prepayment of Floating Rate Loans and Eurodollar Loans shall be in an aggregate principal amount of \$1,000,000 or an integral multiple thereof and each partial prepayment of Yen LIBOR Loans shall be in an aggregate principal amount of ¥100,000,000 or an integral multiple thereof. After giving effect to any partial prepayment, each borrowing of Yen LIBOR Loans and Eurodollar Loans shall be in the applicable amount required for a Group pursuant to Section 2.2.1.

(b) Mandatory Prepayments. On each date on which the Commitment Amount is reduced pursuant to Section 6.1.2, the Company shall prepay Loans in the amount, if any, by which the Total Outstandings exceed the Commitments after giving effect to such reduction.

(c) All Prepayments. All prepayments shall be applied to prepay the Loans of the Banks pro rata according to their respective Percentages. Any prepayment of a Yen LIBOR Loan or Eurodollar Loan on a day other than the last day of an Interest Period therefor shall include interest on the principal amount being repaid and shall be subject to Section 8.4

SECTION 7 MAKING AND PRORATION OF PAYMENTS; SETOFF; TAXES.

7.1 Making of Payments. All payments of principal of or interest on the Notes, and of all fees, shall be made by the Company to the Administrative Agent in immediately available funds at the office specified by the Administrative Agent not later than 1:00 P.M., New York time, on the date due; and funds received after that hour shall be deemed to have been received by the Administrative Agent on the next following Business Day. The Administrative Agent shall promptly remit to each Lender its share of all such payments received in collected funds by the Administrative Agent for the account of such Lender.

All payments under Section 8.1 shall be made by the Company directly to the Lender entitled thereto.

7.2 Application of Certain Payments. Each payment of principal shall be applied to such Loans as the Company shall direct by notice to be received by the Administrative Agent on or before the date of such payment or, in the absence of such notice, as the Administrative Agent shall determine in its discretion. Concurrently with each remittance to any Lender of its share of any such payment, the Administrative Agent shall advise such Lender as to the application of such payment.

7.3 Due Date Extension. If any payment of principal or interest with respect to any of the Loans, or of any fees, falls due on a day which is not a Business Day, then such due date shall be extended to the immediately following Business Day (unless, in the case of a Yen LIBOR Loan or Eurodollar Loan, such immediately following Business Day is the first Business Day of a calendar month, in which case such date shall be the immediately preceding Business Day) and, in the case of principal, additional interest shall accrue and be payable for the period of any such extension.

7.4 Setoff. The Company agrees that the Administrative Agent and each Lender have all rights of set-off and bankers' lien provided by applicable law, and in addition thereto, the Company agrees that at any time any Event of Default exists, the Administrative Agent and each Lender may apply to the payment of any obligations of the Company hereunder, whether or not then due, any and all balances, credits, deposits, accounts or moneys of the Company then or thereafter with the Administrative Agent or such Lender.

7.5 Proration of Payments. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of offset or otherwise, but excluding any payment pursuant to Section 8.7 or 14.9) on account of principal of or interest on any Loan (or on account of its participation in any Letter of Credit) in excess of its pro rata share of payments and other recoveries obtained by all Lenders on account of principal of and interest on Loans (or such participation) then held by them, such Lender shall purchase from the other Lenders such participation in the Loans (or sub-participation in Letters of Credit) held by them as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably with each of them; provided that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery.

7.6 Taxes. (a) All payments of principal of, and interest on, the Loans and all other amounts payable hereunder shall be made free and clear of and without deduction for any present or future income, excise, stamp or franchise taxes and other taxes, fees, duties, withholdings or other charges of any nature whatsoever imposed by any taxing authority, but excluding franchise taxes and taxes imposed on or measured by any Lender's net income or receipts (all non-excluded items being called "Taxes"). If any withholding or deduction from any payment to be made by the Company hereunder is required in respect of any Taxes pursuant to any applicable law, rule or regulation, then the Company will:

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(i) pay directly to the relevant authority the full amount required to be so withheld or deducted;

(ii) promptly forward to the Administrative Agent an official receipt or other documentation satisfactory to the Administrative Agent evidencing such payment to such authority; and

(iii) (except to the extent such withholding or deduction would not be required if such Lender's Exemption Representation were true) pay to the Administrative Agent for the account of the Lenders such additional amount or amounts as is necessary to ensure that the net amount actually received by each Lender will equal the full amount such Lender would have received had no such withholding or deduction been required.

Moreover, if any Taxes are directly asserted against the Administrative Agent or any Lender with respect to any payment received by the Administrative Agent or such Lender hereunder, the Administrative Agent or such Lender may pay such Taxes and the Company will (except to the extent such Taxes are payable by a Lender and would not have been payable if such Lender's Exemption Representation were true) promptly pay such additional amounts (including any penalty, interest and expense) as is necessary in order that the net amount received by such Person after the payment of such Taxes (including any Taxes on such additional amount) shall equal the amount such Person would have received had such Taxes not been asserted.

(b) If the Company fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to the Administrative Agent, for the account of the respective Lenders, the required receipts or other required documentary evidence, the Company shall indemnify the Lenders for any incremental Taxes, interest or penalties that may become payable by any Lender as a result of any such failure. For purposes of this Section 7.6, a distribution hereunder by the Administrative Agent or any Lender to or for the account of any Lender shall be deemed a payment by the Company.

(c) Each Lender represents and warrants (such Lender's "Exemption Representation") to the Company and the Administrative Agent that, as of the date of this Agreement (or, in the case of an Assignee, the date it becomes a party hereto), it is entitled to receive payments hereunder without any deduction or withholding for or on account of any Taxes imposed by the United States of America or any political subdivision or taxing authority thereof.

(d) Upon the request from time to time of the Company or the Administrative Agent, each Lender that is organized under the laws of a jurisdiction other than the United States of America shall execute and deliver to the Company and the Administrative Agent one or more (as the Company or the Administrative Agent may reasonably request) United States Internal Revenue Service Forms W-8ECI or W-8BEN or such other forms or documents, appropriately completed, as may be applicable to establish the extent, if any, to which a payment to such Lender is exempt from withholding or deduction of Taxes.

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(e) If, and to the extent that, any Lender shall obtain a credit, relief or remission for, or repayment of, any Taxes indemnified or paid by the Company pursuant to this Section 7.6, such Lender agrees to promptly notify the Company thereof and thereupon enter into negotiations in good faith with the Company to determine the basis on which an equitable reimbursement of such Taxes can be made to the Company.

(f) All obligations of the Company and the Lenders under this Section 7.6 shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit and any termination of this Agreement.

(g) Notwithstanding the foregoing provisions of this Section 7.6 if any Lender fails to notify the Company of any event or circumstance which will entitle such Lender to compensation pursuant to this Section 7.6 within 180 days after such Lender obtains knowledge of such event or circumstance, then such Lender

shall not be entitled to compensation from the Company for any amount arising prior to the date which is 180 days before the date on which such Lender notifies the Company of such event or circumstance.

SECTION 8 INCREASED COSTS; SPECIAL PROVISIONS FOR YEN LIBOR LOANS AND EURODOLLAR LOANS.

8.1 Increased Costs. (a) If, after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or any Yen LIBOR Office or Eurodollar Office of such Lender) with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency

(i) shall subject any Lender (or any Yen LIBOR Office or Eurodollar Office of such Lender) to any tax, duty or other charge with respect to its Yen LIBOR Loans or Eurodollar Loans, its Note or its obligation to make Yen LIBOR Loans or Eurodollar Loans, or shall change the basis of taxation of payments to any Lender of the principal of or interest on its Yen LIBOR Loans or Eurodollar Loans or any other amounts due under this Agreement in respect of its Yen LIBOR Loans or Eurodollar Loans or its obligation to make Yen LIBOR Loans or Eurodollar Loans (except for changes in the rate of tax on the overall net income of such Lender or its Yen LIBOR Office or Eurodollar Office imposed by the jurisdiction in which such Lender's principal executive office, Yen LIBOR Office or Eurodollar Office is located); or

(ii) shall impose, modify or deem applicable any reserve (including any reserve imposed by the FRB, but excluding any reserve included in the determination of interest rates pursuant to Section 4), special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by any Lender (or any Yen LIBOR Office or Eurodollar Office of such Lender); or

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(iii) shall impose on any Lender (or its Yen LIBOR Office or Eurodollar Office) any other condition affecting its Yen LIBOR Loans or Eurodollar Loans, its Note or its obligation to make Yen LIBOR Loans or Eurodollar Loans;

and the result of any of the foregoing is to increase the cost to (or in the case of Regulation D of the FRB, to impose a cost on) such Lender (or any Yen LIBOR Office or Eurodollar Office of such Lender) of making or maintaining any Yen LIBOR Loan or Eurodollar Loan, or to reduce the amount of any sum received or receivable by such Lender (or its Yen LIBOR Office or Eurodollar Office) under this Agreement or under its Note with respect thereto, then within 10 days after demand by such Lender (which demand shall be accompanied by a statement setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to the Administrative Agent), the Company shall pay directly to such Lender such additional amount as will compensate such Lender for such increased cost or such reduction.

(b) If any Lender shall reasonably determine that the adoption or phase-in of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender or any Person controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder or under any Letter of Credit to a level below that which such Lender or such controlling Person could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) by an amount deemed by such Lender or such controlling Person to be material, then from time to time, within 10 days after demand by such Lender (which demand shall be accompanied by a statement setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to the Administrative Agent), the Company shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling Person for such reduction.

(c) Notwithstanding the foregoing provisions of this Section 8.1, if any Lender fails to notify the Company of any event or circumstance which will entitle such Lender to compensation pursuant to this Section 8.1 within 180 days after such Lender obtains knowledge of such event or circumstance, then such Lender shall not be entitled to compensation from the Company for any amount arising prior to the date which is 180 days before the date on which such Lender notifies the Company of such event or circumstance.

8.2 Basis for Determining Interest Rate Inadequate or Unfair. If with respect to the relevant Loan for any Interest Period:

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(a) deposits in Yen or Dollars, as applicable, in the relevant amounts are not being offered to the Administrative Agent in the interbank eurodollar market for such Interest Period, or the Administrative Agent otherwise reasonably determines (which determination shall be binding and conclusive on the Company) that by reason of circumstances affecting the interbank eurodollar market adequate and reasonable means do not exist for ascertaining the applicable Yen LIBOR or Eurodollar Rate; or

(b) Lenders having an aggregate Percentage of 40% or more advise the Administrative Agent that Yen LIBOR or the Eurodollar Rate (Reserve Adjusted) as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Lenders of maintaining or funding Yen LIBOR Loans or Eurodollar Loans, as the case may be, for such Interest Period (taking into account any amount to which such Lenders may be entitled under Section 8.1) or that the making or funding of Yen LIBOR Loans or Eurodollar Loans has become impracticable as a result of an event occurring after the date of this Agreement which in the opinion of such Lenders materially affects such Loans;

then the Administrative Agent shall promptly notify the other parties thereof and, so long as such circumstances shall continue, (x) no Lender shall be under any obligation to make or convert into Eurodollar Loans or Yen LIBOR Loans, as applicable, (y) on the last day of the current Interest Period for each Yen LIBOR Loan, such Loan shall be repaid in full, and (z) on the last day of the current Interest Period for each Eurodollar Loan, such Loan shall (unless then repaid) automatically convert to a Floating Rate Loan.

8.3 Changes in Law Rendering Loans Unlawful. If any change in (including the adoption of any new) applicable laws or regulations, or any change in the interpretation of applicable laws or regulations by any governmental or other regulatory body charged with the administration thereof, should make it (or in the

good faith judgment of any Lender cause a substantial question as to whether it is) unlawful for any Lender to make, maintain or fund Eurodollar Loans or Yen LIBOR Loans, then such Lender shall promptly notify the Company and the Administrative Agent and, so long as such circumstances shall continue:

(a) In the case of Eurodollar Loans, (i) such Lender shall have no obligation to make or convert into Eurodollar Loans (but shall make Floating Rate Loans concurrently with the making of or conversion into Eurodollar Loans by the Lenders which are not so affected, in each case in an amount equal to such Lender's pro rata share of all Eurodollar Loans which would be made or converted into at such time in the absence of such circumstances) and (ii) on the last day of the current Interest Period for each Eurodollar Loan of such Lender (or, in any event, on such earlier date as may be required by the relevant law, regulation or interpretation), such Eurodollar Loan shall, unless then repaid in full, automatically convert to a Floating Rate Loan. Each Floating Rate Loan made by a Lender which, but for the circumstances described in the foregoing sentence, would be a Eurodollar Loan (an "Affected Loan") shall remain outstanding for the

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same period as the Group of Eurodollar Loans of which such Affected Loan would be a part absent such circumstances.

(b) In the case of Yen LIBOR Loans, (i) no Lender shall have any obligation to make or continue any Yen LIBOR Loans and (ii) on the last day of the current Interest Period for each borrowing of Yen LIBOR Loans, such Yen LIBOR Loans shall be paid in full.

8.4 Funding Losses. The Company hereby agrees that upon demand by any Lender (which demand shall be accompanied by a statement setting forth the basis for the amount being claimed, a copy of which shall be furnished to the Administrative Agent), the Company will indemnify such Lender against any net loss or expense which such Lender may sustain or incur (including any net loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund or maintain any Yen LIBOR Loan or Eurodollar Loan), as reasonably determined by such Lender, as a result of (a) any payment, prepayment or conversion of any Yen LIBOR Loan or Eurodollar Loan of such Lender on a date other than the last day of an Interest Period for such Loan (including any prepayment or conversion pursuant to Section 8.3) or (b) any failure of the Company to borrow, continue or convert any Loan on a date specified therefor in a notice of borrowing or conversion pursuant to this Agreement. For this purpose, all notices to the Administrative Agent pursuant to this Agreement shall be deemed to be irrevocable.

8.5 Right of Lenders to Fund through Other Offices. Each Lender may, if it so elects, fulfill its commitment as to any Yen LIBOR Loan or Eurodollar Loan by causing a foreign branch or affiliate of such Lender to make such Loan; provided that in such event for the purposes of this Agreement such Loan shall be deemed to have been made by such Lender and the obligation of the Company to repay such Loan shall nevertheless be to such Lender and shall be deemed held by it, to the extent of such Loan, for the account of such branch or affiliate.

8.6 Discretion of Lenders as to Manner of Funding. Notwithstanding any provision of this Agreement to the contrary, each Lender shall be entitled to fund and maintain its funding of all or any part of its Loans in any manner it sees fit, it being understood, however, that for the purposes of this Agreement all determinations hereunder shall be made as if such Lender had actually funded and maintained each Yen LIBOR Loan and Eurodollar Loan during each Interest Period for such Loan through the purchase of deposits having a maturity corresponding to such Interest Period and bearing an interest rate equal to the Yen LIBOR (prior to adjustment for reserves) or the Eurodollar Rate for such Interest Period, as the case may be.

8.7 Mitigation of Circumstances; Replacement of Affected Lender. (a) Each Lender shall promptly notify the Company and the Administrative Agent of any event of which it has knowledge which will result in, and will use reasonable commercial efforts available to it (and not, in such Lender's good faith judgment, otherwise disadvantageous to such Lender) to mitigate or avoid, (i) any obligation by the Company to pay any amount pursuant to Section 7.6 or 8.1 or (ii) the occurrence of any circumstance of the nature described in Section 8.2 or 8.3

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(and, if any Lender has given notice of any such event described in clause (i) or (ii) above and thereafter such event ceases to exist, such Lender shall promptly so notify the Company and the Administrative Agent). Without limiting the foregoing, each Lender will designate a different funding office if such designation will avoid (or reduce the cost to the Company of) any event described in clause (i) or (ii) of the preceding sentence and such designation will not, in such Lender's sole good faith judgment, be otherwise disadvantageous to such Lender.

(b) At any time any Lender is an Affected Lender, the Company may replace such Affected Lender as a party to this Agreement with one or more other banks or financial institutions reasonably satisfactory to the Administrative Agent (and upon notice from the Company such Affected Lender shall assign pursuant to an Assignment Agreement, and without recourse or warranty, its Commitment, its Loans, its Note, its participation in Letters of Credit, and all of its other rights and obligations hereunder to such replacement bank(s) or other financial institution(s) for a purchase price equal to the sum of the principal amount of the Loans so assigned, all accrued and unpaid interest thereon, its ratable share of all accrued and unpaid fees, any amounts payable under Section 8.4 as a result of such Lender receiving payment of any Yen LIBOR Loan or Eurodollar Loan prior to the end of an Interest Period therefor and all other obligations owed to such Affected Lender hereunder).

8.8 Conclusiveness of Statements; Survival of Provisions. Determinations and statements of any Lender pursuant to Section 8.1, 8.2, 8.3 or 8.4 shall be conclusive absent demonstrable error. Lenders may use reasonable averaging and attribution methods in determining compensation under Sections 8.1 and 8.4, and the provisions of such Sections shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit and any termination of this Agreement.

SECTION 9 WARRANTIES.

To induce the Administrative Agent and the Lenders to enter into this Agreement and to induce the Lenders to make Loans and issue or purchase participations in Letters of Credit hereunder, the Company warrants to the Administrative Agent and the Lenders that:

9.1 Organization, etc. The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to

transact the business it transacts and proposes to transact, to execute and deliver this Agreement, the Collateral Documents to which it is a party and the Notes, and to perform the provisions hereof and thereof.

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9.2 Authorization; No Conflict. This Agreement, the Notes and the Collateral Documents to which the Company is a party have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement and each of the Collateral Documents to which it is a party constitutes, and upon execution and delivery thereof each Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). The execution, delivery and performance by the Company of this Agreement, the Notes and each other Loan Document to which it is a party will not (i) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, note purchase or credit agreement, corporate charter or bylaws, or any other Material agreement, lease or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary, or (iii) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary.

9.3 Financial Condition. The audited consolidated financial statements of the Company and its Restricted Subsidiaries for the fiscal years ending December 31, 1998 and December 31, 1999 and the audited consolidated and consolidating financial statements of the Company and its Subsidiaries for the fiscal year ending December 31, 2000, copies of which in each case have been furnished prior to the Signing Date to each Lender which is a party hereto on the Signing Date (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and the Restricted Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments).

9.4 No Material Adverse Change. Since December 31, 2000, except as disclosed in Schedule 9.4 and in publicly available SEC filings prior to the date hereof, there has been no Material adverse change in the financial condition, operations, assets, business, properties or prospects of the Company and its Subsidiaries taken as a whole.

9.5 Governmental Authorizations; etc. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company or any of its Restricted Subsidiaries of this Agreement or the other Loan Documents.

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9.6 Title to Property; Leases. The Company and the Restricted Subsidiaries have good and sufficient title to their respective properties that individually or in the aggregate are Material, including all such properties reflected in the most recent audited balance sheet referred to in Section 9.4 or purported to have been acquired by the Company or any Restricted Subsidiary after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement or the Collateral Documents. All leases that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all material respects.

9.7 Subsidiaries. (a) Schedule 9.7 contains (except as noted therein) complete and correct lists (i) of the Company's Subsidiaries, showing, as to each Subsidiary, the correct name thereof, the jurisdiction of its organization, the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary and whether such Subsidiary is a Restricted Subsidiary or an Unrestricted Subsidiary, and whether such Subsidiary is a Material Subsidiary, (ii) of the Company's Affiliates, other than Subsidiaries, and (iii) of the Company's directors and senior officers.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 9.7 as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or another Subsidiary free and clear of any Lien (except for Permitted Liens, directors' qualifying shares, shares required to be owned by Persons pursuant to applicable foreign laws regarding foreign ownership, or as otherwise disclosed in Schedule 9.7).

(c) Each Subsidiary identified in Schedule 9.7 is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign corporation or other legal entity and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact.

(d) No Material Subsidiary, is a party to, or otherwise subject to any legal restriction or any agreement (other than this Agreement, the agreements listed on Schedule 9.7 and customary limitations imposed by corporate law statutes) restricting the ability of such Material Subsidiary to pay dividends out of profits or make any other similar distributions of profits to the Company or any of its Subsidiaries that owns outstanding shares of capital stock or similar equity interests of such Material Subsidiary.

9.8 Compliance with ERISA. (a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such

instances of noncompliance as have not resulted in and could not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans (as defined in Section 3 of ERISA), and no event, transaction or condition has occurred or exists that could reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to such penalty or excise tax provisions or to Section 401(a)(29) or 412 of the Code, other than such liabilities or Liens as would not be, individually or in the aggregate, Material.

(b) Neither the Company nor any ERISA Affiliate maintains a "single employer plan" or a Multiemployer Plan that is subject to Title IV of ERISA.

(c) The Company and its ERISA Affiliates have not incurred withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under Section 4201 or 4204 of ERISA in respect of Multiemployer Plans other than such liabilities that individually or in the aggregate are not material.

(d) The expected postretirement benefit obligation (determined as of the last day of the Company's most recently ended fiscal year in accordance with Financial Accounting Standards Board Statement No. 106, without regard to liabilities attributable to continuation coverage mandated by Section 4980B of the Code) of the Company and its Subsidiaries is not Material or has otherwise been disclosed in the most recent consolidated financial statements of the Company and its Subsidiaries referenced in Section 9.4 of this Agreement.

(e) The execution and delivery of this Agreement and the other Loan Documents and the making of Loans and issuance of Letters of Credit hereunder will not involve any transaction that is subject to the prohibitions of Section 406 of ERISA or in connection with which a tax could be imposed pursuant to Section 4975(c)(1)(A)-(D) of the Code.

9.9 Litigation; Observance of Agreements, Statutes and Orders. (a) Except as disclosed in Schedule 9.9, there are no actions, suits or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Restricted Subsidiary is in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including Environmental Laws) of any

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Governmental Authority, which default or violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

9.10 Other Statutes. Neither the Company nor any Restricted Subsidiary is subject to regulation under the Investment Company Act of 1940, the Public Utility Holding Company Act of 1935, the Interstate Commerce Act, or the Federal Power Act.

9.11 Licenses, Permits, etc. Except as disclosed in Schedule 9.11, (a) the Company and the Restricted Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are Material, without any known Material conflict with the rights of others, (b) to the best knowledge of the Company, no product of the Company infringes in any Material respect any license, permit, franchise, authorization, patent, copyright, service mark, trademark, trade name or other right owned by any other Person; and (c) to the best knowledge of the Company, there is no Material violation by any Person of any right of the Company or any Restricted Subsidiary with respect to any patent, copyright, service mark, trademark, trade name or other right owned or used by the Company or any Restricted Subsidiary.

9.12 Use of Proceeds; Margin Regulations. The Company will apply the proceeds of the Loans for general corporate purposes (including repurchases of stock of the Company); provided that no part of the proceeds from the making of Loans or issuance of Letters of Credit hereunder will be used, directly or indirectly, so as to involve the Company or any Lender in a violation of Regulation U of the FRB (12 CFR 221) or Regulation X of the FRB (12 CFR 224), or to involve any broker or dealer in a violation of Regulation T of the FRB (12 CFR 220). Margin stock does not constitute more than 5% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the term "margin stock" shall have the meaning assigned to it in said Regulation U.

9.13 Taxes. The Company and its Subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction (other than those tax returns which individually or collectively are not Material), and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which is not individually or in the aggregate Material, or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The Company knows of no basis for any other tax or assessment that could reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of federal, state or other taxes for all fiscal periods are adequate in accordance with GAAP. The federal income tax liabilities of the Company and its Subsidiaries have been resolved with the Internal Revenue

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Service and paid for all fiscal years up to and including the fiscal year ending on December 31, 1996.

9.14 Existing Indebtedness; Future Liens. (a) Except as described therein, Schedule 9.14 sets forth a complete and correct list of all outstanding Indebtedness, separately listed for each such item of Indebtedness of \$2,000,000 or more, of the Company and the Restricted Subsidiaries as of the Signing Date.

(b) (i) Neither the Company nor any Restricted Subsidiary is in default in the payment of any principal or interest on any Indebtedness of the Company or such Restricted Subsidiary, and (ii) no event or condition exists with respect to any Indebtedness of the Company or any Restricted Subsidiary that would permit (or that with notice or the lapse of time, or both, would permit) one or more Persons to cause such Indebtedness to become due and payable before its stated

maturity or before its regularly scheduled dates of payment, except for Indebtedness described in clauses (i) and (ii) which, in aggregate principal amount, does not exceed \$5,000,000.

(c) Neither the Company nor any Restricted Subsidiary has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien not permitted by ection 10.12.

9.15 Environmental Matters. Neither the Company nor any of its Subsidiaries has knowledge of any claim or has received any notice of any claim, and no proceeding has been instituted raising any claim against the Company or any of its Subsidiaries or any of their respective real properties now or formerly owned, leased or operated by any of them or other assets, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect. Except as otherwise disclosed to the Lenders in writing,

(a) neither the Company nor any of its Subsidiaries has knowledge of any facts which would give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect;

(b) neither the Company nor any of its Subsidiaries has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner contrary to any Environmental Laws and has not disposed of any Hazardous Materials in a manner contrary to any Environmental Laws, in each case in any manner that could reasonably be expected to result in a Material Adverse Effect; and

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(c) all buildings on all real properties now owned, leased or operated by the Company or any of its Subsidiaries are in compliance with all applicable Environmental Laws, except where failure to comply could not reasonably be expected to result in a Material Adverse Effect.

9.16 Information. As of the Signing Date, the Closing Date and each other date on which the representation and warranty in this Section 9.16 is made, all information previously or contemporaneously furnished in writing by the Company or any Subsidiary to any Lender for purposes of or in connection with this Agreement and the transactions contemplated hereby is, taken as a whole, true and accurate in every material respect on the date as of which such information is dated or certified, and none of such information is incomplete by omitting to state any material fact necessary to make such information not misleading in light of the circumstances under which made (it being recognized by the Administrative Agent and the Lenders that (a) any projections and forecasts provided by the Company are based on good faith estimates and assumptions believed by the Company to be reasonable as of the date of the applicable projections or assumptions and that actual results during the period or periods covered by any such projections and forecasts will likely differ from projected or forecasted results and (b) any information provided by the Company or any Subsidiary with respect to any Person or assets acquired or to be acquired by the Company or any Subsidiary shall, for all periods prior to the date of such acquisition, be limited to the knowledge of the Company or the acquiring Subsidiary after reasonable inquiry).

SECTION 10 COVENANTS.

Until the expiration or termination of the Commitments and thereafter until all obligations of the Company hereunder and under the other Loan Documents are paid in full and all Letters of Credit have been terminated, the Company agrees that, unless at any time the Required Lenders shall otherwise expressly consent in writing, it will:

10.1 Reports, Certificates and Other Information. Furnish to the Administrative Agent (with sufficient copies to provide one to each Lender):

10.1.1 Audit Report. Promptly when available and in any event within 120 days (or if sooner, on the date consolidated statements are required to be delivered to any other creditor of the Company) after the end of each fiscal year of the Company, duplicate copies of, a consolidated and a consolidating balance sheet of the Company and its Subsidiaries, as at the end of such year, and consolidated and consolidating statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, which consolidated financial statements shall be accompanied by an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that such consolidated financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such consolidated financial statements has

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been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, and which consolidating financial statements shall be certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments; provided that the delivery within the time period specified above of the Company's Annual Report on Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 10.1.1 to provide consolidated financial statements so long as such Annual Report on Form 10-K includes the consolidated financial statements identified in clauses (i) and (ii) above; provided further that such consolidating financial statements shall show the elimination of all Unrestricted Subsidiaries and the resultant consolidated financial statements of the Company and its Restricted Subsidiaries.

10.1.2 Quarterly Reports. Promptly when available and in any event within 60 days (or if sooner, on the date consolidated statements are required to be delivered to any other creditor of the Company) after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of a consolidated and a consolidating balance sheet of the Company and its Subsidiaries as at the end of such quarter, and consolidated and consolidating statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter, setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments; provided that delivery within the time period

specified above of copies of the Company's Quarterly Report on Form 10-Q prepared in compliance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 10.1.2 to provide consolidated financial statements so long as such Quarterly Report on Form 10-Q includes the consolidated financial statements identified in clauses (i) and (ii) above; provided further, that such consolidating financial statements shall show the elimination of all Unrestricted Subsidiaries and the resultant consolidated financial statements of the Company and its Restricted Subsidiaries;

10.1.3 Compliance Certificates. Together with each set of financial statements delivered to a Lender pursuant to Sections 10.1.1 and 10.1.2, a certificate of a Senior Financial Officer setting forth (a) the information (including detailed calculations) required in order to establish whether the Company was in compliance with the requirements of Sections 10.10 and 10.11 during the quarterly or annual period covered by the statements then being furnished (including with respect to each such Section, where applicable, the calculations of the maximum or

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minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Sections, and the calculation of the amount, ratio or percentage then in existence) and (b) a statement that such officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes an Event of Default or an Unmatured Event of Default or, if any such condition or event existed or exists (including any such event or condition resulting from the failure of the Company or any Subsidiary to comply with any Environmental Law), specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

10.1.4 SEC and Other Reports. Promptly upon their becoming available, one copy of (i) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to public securities holders generally, and (ii) each regular or periodic report, each registration statement (without exhibits except as expressly requested by such Lender), and each prospectus and all amendments thereto filed by the Company or any Subsidiary with the Securities and Exchange Commission and of all press releases and other statements made available generally by the Company or any Material Domestic Subsidiary to the public concerning developments that are Material.

10.1.5 Notice of Default. Promptly, and in any event within five days, after a Responsible Officer becoming aware of the existence of any Event of Default or Unmatured Event of Default or that any Person has given any notice or taken any action with respect to a claimed default hereunder or that any Person has given any notice or taken any action with respect to a claimed default of the type referred to in Section 12.1.5, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto.

10.1.6 Notice of ERISA Matters. Promptly, and in any event within fifteen days after a Responsible Officer becoming aware of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take with respect thereto, with respect to any Plan, (i) any reportable event, as defined in Section 4043(b) of ERISA and the regulations thereunder, for which notice thereof has not been waived pursuant to such regulations as in effect on the date hereof, which could reasonably be expected to have a Material Adverse Effect, (ii) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan, which could reasonably be expected to have a Material Adverse Effect, or (iii) any event, transaction or condition that could result in the incurrence of any liability by the Company or any ERISA Affiliate pursuant to Title I

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or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such liability or Lien, taken together with any other such liabilities or Liens then existing, could reasonably be expected to have a Material Adverse Effect.

10.1.7 Notices from Governmental Authority. Promptly, and in any event within 30 days of receipt thereof, copies of any notice to the Company or any Subsidiary from any federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that could reasonably be expected to have a Material Adverse Effect.

10.1.8 Management Reports. With reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries or relating to the ability of the Company to perform its obligations hereunder and under the other Loan Documents as from time to time may be reasonably requested by any Lender.

10.2 Inspections. Permit the representatives of each Lender to (a) if no Event of Default or Unmatured Event of Default then exists, at the expense of such Lender and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and (with the consent of the Company, which consent will not be unreasonably withheld) its independent public accountants, and (with the consent of the Company, which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Restricted Subsidiary, all at such reasonable times during business hours and as often as may be reasonably requested in writing and (b) if an Event of Default or Unmatured Event of Default then exists, at the expense of the Company to visit and inspect any of the offices or properties of the Company or any Subsidiary, to examine all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the Company and its Subsidiaries), all at such reasonable times and as often as may be requested.

10.3 Insurance. Maintain, and will cause each of the Restricted Subsidiaries to maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated.

10.4 Compliance with Laws. Comply, and cause each of its Subsidiaries to comply with all laws, ordinances or governmental rules or regulations to which each of them is subject,

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including Environmental Laws, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

10.5 Maintenance of Existence, etc. Preserve and keep in full force and effect its corporate existence. Subject to Section 10.13, the Company will at all times preserve and keep in full force and effect the corporate existence of each Restricted Subsidiary (unless merged into the Company or a Restricted Subsidiary) and all rights and franchises of the Company and the Restricted Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise could not, individually or in the aggregate, have a Material Adverse Effect.

10.6 Maintenance of Properties. Maintain and keep, and cause each of the Restricted Subsidiaries to maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times; provided that this Section shall not prevent the Company or any Restricted Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

10.7 Payment of Taxes and Claims. File, and cause each of its Subsidiaries to file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on properties or assets of the Company or any Subsidiary; provided that neither the Company nor any Subsidiary need pay any such tax or assessment or claims if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or such Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary, or (ii) the nonpayment of all such taxes and assessments and claims in the aggregate could not reasonably be expected to have a Material Adverse Effect.

10.8 Security; Execution of Pledge Agreement and Subsidiary Guaranty. (a) Within five days after the Company or any of its Restricted Subsidiaries acquires a Material Foreign Subsidiary or within five days after the Company delivers consolidating financial statements pursuant to Section 10.1 showing that any of Company's existing Subsidiaries has become a

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Material Foreign Subsidiary, cause the Pledged Securities of such Material Foreign Subsidiary to be pledged pursuant to a supplement to the Pledge Agreement (unless a pledge of such Pledged Securities (x) is legally unobtainable or (y) the consent of a Governmental Authority is required in order to obtain such pledge and such consent has not been obtained after the Company's commercially reasonable efforts to obtain such consent, and Company delivers an opinion of outside counsel, in form and substance reasonably satisfactory to the Administrative Agent and its counsel, to the effect that such pledge was not legally obtainable or such consent was not obtained). The Company shall promptly take all actions as may be necessary or desirable to give to the Collateral Agent, for the ratable benefit of the Lenders and the other Senior Secured Creditors, a valid and perfected first priority Lien on and security interest in the Pledged Securities of such Material Foreign Subsidiary and shall promptly deliver to the Collateral Agent (i) a supplement to the Pledge Agreement executed by each Pledgor of the Pledged Securities of such Material Foreign Subsidiary, (ii) a certificate executed by the secretary or an assistant secretary of each Pledgor as to (a) the incumbency and signatures of the officers of such Pledgor executing the supplement to the Pledge Agreement, and (b) the fact that the attached resolutions of the Board of Directors of such Pledgor authorizing the execution, delivery and performance of the supplement to the Pledge Agreement are in full force and effect and have not been modified or rescinded, (iii) at the request of the Administrative Agent, a favorable opinion of counsel, in form and substance reasonably satisfactory to the Administrative Agent and its counsel, as to (a) the due organization and good standing of such Pledgor, (b) the due authorization, execution and delivery by such Pledgor of the supplement to the Pledge Agreement, (c) the enforceability of the supplement to the Pledge Agreement, and (d) such other matters as the Required Lenders may reasonably request, all of the foregoing to be satisfactory in form and substance to the Administrative Agent and its counsel; provided that the opinion described in this clause (iii) may be given by the Company's in-house counsel and may contain reasonable assumptions, if necessary, relating to the fact that such counsel may not be admitted to practice law in the applicable jurisdiction, and (iv) such other assurances, certificates, documents, consents or opinions as the Required Lenders reasonably may require.

(b) Within five days after the Company or any of its Restricted Subsidiaries acquires a Material Domestic Subsidiary or within five days after the Company delivers consolidating financial statements pursuant to Section 10.1 showing that any of Company's existing Subsidiaries has become a Material Domestic Subsidiary (but not later than the time when such Material Domestic Subsidiary provides a Guaranty or co-obligor agreement to the lenders party to any Significant Credit Facility) (x) cause such Material Domestic Subsidiary to execute and deliver to the Administrative Agent a counterpart of the Subsidiary Guaranty, and (y) if the lenders party to such Significant Credit Facility are not then party to the Collateral Agency and Intercreditor Agreement (either directly or through their agent) cause such lenders (either directly or through their agent) to become party to the Collateral Agency and Intercreditor Agreement. The Company shall promptly deliver to the Administrative Agent, together with such counterpart of the Subsidiary Guaranty (i) certified copies of such Material Domestic Subsidiary's Articles or Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the jurisdiction of its incorporation, each to be dated a recent date prior to their delivery to the

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Administrative Agent, (ii) a copy of such Material Domestic Subsidiary's Bylaws, certified by its corporate secretary or an assistant corporate secretary as of a recent date prior to their delivery to the Administrative Agent, (iii) a certificate executed by the secretary or an assistant secretary of such Material Domestic Subsidiary as to (a) the incumbency and signatures of the officers of such Material Domestic Subsidiary executing the counterpart of the Subsidiary Guaranty, and

(b) the fact that the attached resolutions of the Board of Directors of such Material Domestic Subsidiary authorizing the execution, delivery and performance of the counterpart of the Subsidiary Guaranty are in full force and effect and have not been modified or rescinded, (iv) at the request of the Administrative Agent, a favorable opinion of counsel to the Company and such Material Domestic Subsidiary, in form and substance reasonably satisfactory to the Administrative Agent and its counsel, as to (a) the due organization and good standing of such Material Domestic Subsidiary, (b) the due authorization, execution and delivery by such Material Domestic Subsidiary of the counterpart of the Subsidiary Guaranty, (c) the enforceability of the counterpart of the Material Domestic Subsidiary, and (d) such other matters as the Required Lenders may reasonably request, all of the foregoing to be satisfactory in form and substance to the Administrative Agent and its counsel; provided, that the opinion described in clause (iv) above may be given by the Company's in-house counsel and may contain reasonable assumptions, if necessary, relating to the fact that counsel to the Company and such Material Domestic Subsidiary may not be admitted to practice law in the applicable jurisdiction, and (v) such other assurances, certificates, documents, consents or opinions as the Required Lenders reasonably may require.

10.9 Nature of the Business. Not, and not permit any Restricted Subsidiary, to engage in any business if, as a result, the general nature of the business of the Company and the Restricted Subsidiaries, taken as a whole, which would then be engaged in by the Company and the Restricted Subsidiaries would be substantially changed from the general nature of the business engaged in by the Company and the Restricted Subsidiaries, taken as a whole, on the Signing Date.

10.10 Financial Covenants.

10.10.1 Minimum Consolidated Net Worth. Not, at any time, permit Consolidated Net Worth to be less than the sum of (i) \$271,935,200, (ii) an aggregate amount equal to 60% of Consolidated Net Income (but, in each case, only if a positive number) earned in (a) the six months ended December 31, 2000, and (b) each complete fiscal year thereafter, and (iii) 50% of the net proceeds realized by the Company and its Restricted Subsidiaries from the sale of Equity Securities subsequent to June 30, 2000, excluding issuances of Equity Securities upon exercise of employee stock options or rights under any employee benefit plans (excluding such exercise by any Person who owns greater than 5% of the Equity Securities of the Company), issuances of Equity Securities in connection with acquisitions by the Company and its Restricted Subsidiaries, and reissuances of up to \$60,000,000 of treasury securities purchased by the Company after the Signing Date.

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10.10.2 Minimum Fixed Charges Coverage. Not permit, as of the end of each fiscal quarter of the Company, the ratio of Consolidated Income Available for Fixed Charges to Fixed Charges, for the period consisting of such fiscal quarter and the preceding three fiscal quarters, to be less than 2.75 to 1.0.

10.11 Limitations on Indebtedness. (a) Not permit at any time (i) the Leverage Ratio to be greater than 1.85 to 1.0, or (ii) Priority Indebtedness to exceed 13% of Consolidated Net Worth.

(b) Not, and not permit any Restricted Subsidiary to, incur, assume or create any Indebtedness under any Significant Credit Facility unless each of the lenders under such Significant Credit Facility immediately becomes a party to the Collateral Agency and Intercreditor Agreement.

10.12 Liens. Not, and not permit any of the Restricted Subsidiaries to directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including any document or instrument in respect of goods or accounts receivable) of the Company or any Restricted Subsidiary, whether now owned or hereafter acquired, or any income or profits therefrom (unless the Company makes, or causes to be made, effective provision whereby the Notes will be equally and ratably secured with any and all other obligations thereby secured, such security to be pursuant to an agreement reasonably satisfactory to the Required Lenders and, in any such case, the Notes shall have the benefit, to the fullest extent that, and with such priority as, the Administrative Agent and the Lenders may be entitled under applicable law, of any equitable Lien on such property), except for the following (which are collectively referred to as "Permitted Liens"):

(a) Liens for taxes, assessments or other governmental charges which are not yet delinquent or that are being contested in good faith;

(b) Liens incidental to the conduct of business or the ownership of properties and assets (including landlords', carriers', warehousemen's, mechanics' materialmen's, and other similar Liens) and Liens to secure the performance of bids, tenders, leases or trade contracts, or to secure statutory obligations (including obligations under workers compensation, unemployment insurance and other social security legislation), surety or appeal bonds or other Liens incurred in the ordinary course of business and not in connection with the borrowing of money;

(c) Liens resulting from judgments, unless such judgments are not, within 60 days, discharged or stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

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(d) Liens securing Indebtedness of a Restricted Subsidiary owed to the Company or to a Wholly-Owned Restricted Subsidiary;

(e) Liens in existence on the Signing Date and reflected in Schedule 10.12;

(f) minor survey exceptions and the like which do not Materially detract from the value of such property;

(g) leases, subleases, easements, rights of way, restrictions and other similar charges or encumbrances incidental to the ownership of property or assets or the ordinary conduct of the Company's or any of the Restricted Subsidiaries' businesses; provided that the aggregate of such Liens do not Materially detract from the value of such property;

(h) Liens (i) existing on property at the time of its acquisition or construction by the Company or a Restricted Subsidiary and not created in contemplation thereof; (ii) on property created contemporaneously with its acquisition or within 180 days of the acquisition or completion of construction or improvement thereof to secure the purchase price or cost of construction or improvement thereof, including such Liens arising under Capital Leases; or (iii) existing on property of a Person at the time such Person is acquired by, consolidated with, or merged into the Company or a Restricted Subsidiary and not created in contemplation thereof; provided that such Liens shall attach solely to the property acquired or constructed and the principal amount of the Indebtedness secured by the Lien shall not exceed the principal amount of such Indebtedness just prior to the time such Person is consolidated with or merged into the Company or a Restricted Subsidiary;

(i) Liens on receivables of the Company or a Restricted Subsidiary and the related assets of the type specified in clauses (i) through (iv) in the definition of "Permitted Securitization Program" in connection with any Permitted Securitization Program;

(j) Liens in favor of the Lenders and the other Senior Secured Creditors party to the Collateral Agency and Intercreditor Agreement in connection with the pledge of the Pledged Securities of each Material Foreign Subsidiary;

(k) banker's Liens and similar Liens (including set-off rights) in respect of bank deposits; provided that any such Liens held by parties to the Collateral Agency and Intercreditor Agreement will be governed by and subject to the Collateral Agency and Intercreditor Agreement;

(l) Liens in favor of customs and revenue authorities as a matter of law to secure payment of custom duties and in connection with the importation of goods in the ordinary course of the Company's and its Subsidiaries' business;

(m) any Lien renewing, extending or replacing Liens permitted by clauses (e), (h), and

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(i) of this Section 10.12; provided that (i) the principal amount of the Indebtedness secured is neither increased nor the maturity thereof changed to an earlier date, (ii) such Lien is not extended to any other property, and (iii) immediately after such extension, renewal or refunding, no Event of Default or Unmatured Event of Default would exist; and

(n) other Liens securing Indebtedness not otherwise permitted by clauses (a) through (m) of this Section 10.12; provided that Priority Indebtedness shall not, at any time, exceed an amount equal to 13% of Consolidated Net Worth.

Any Lien originally incurred in compliance with clause (n) of this Section 10.12 may be renewed, extended or replaced so long as the conditions set forth in clauses (i), (ii) and (iii) of clause (m) of this Section 10.12 are satisfied.

10.13 Mergers, Consolidations, Sales. (a) Not, and not permit any Restricted Subsidiary to consolidate with or merge with any other Person unless immediately after giving effect to any consolidation or merger no Event of Default or Unmatured Event of Default would exist and:

(i) in the case of a consolidation or merger of a Restricted Subsidiary, (x) the Company or another Restricted Subsidiary is the surviving or continuing corporation, (y) the surviving or continuing corporation is or immediately becomes a Restricted Subsidiary, or (z) such consolidation or merger, if considered as the sale of the assets of such Restricted Subsidiary to such other Person, would be permitted by Section 10.11(b); and

(ii) in the case of a consolidation or merger of the Company, the successor corporation or surviving corporation which results from such consolidation or merger (the "surviving corporation"), if not the Company, (A) is a solvent United States corporation, (B) executes and delivers to each Lender its assumption of (x) the due and punctual payment of the principal of and premium, if any, and interest on the Loans, and (y) the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and each other Loan Document to be performed or observed by the Company, and (C) furnishes to each Lender an opinion of counsel, reasonably satisfactory to the Required Lenders, to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of the surviving corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(b) Not sell, lease (as lessor) or otherwise transfer all or substantially all of its assets in a single transaction or series of transactions to any Person unless immediately after giving effect thereto no Event of Default or Unmatured Event of Default would exist and:

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(i) the successor corporation to which all or substantially all of the Company's assets have been sold, leased or transferred (the "successor corporation") is a solvent United States corporation, and

(ii) the successor corporation executes and delivers to each Lender its assumption of the due and punctual payment of the principal of and premium, if any, and interest on the Loans, and the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and each other Loan Document to be performed or observed by the Company and shall furnish to the Administrative Agent an opinion of counsel, reasonably satisfactory to the Required Lenders, to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of such successor corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

No such conveyance, transfer or lease of all or substantially all of the assets of the Company shall have the effect of releasing the Company or any successor corporation that shall theretofore have become such in the manner prescribed in this Section 10.13 from its liability under this Agreement or the other Loan Documents.

(c) Not, and not permit any Restricted Subsidiary to, sell, lease (as lessor), transfer, abandon or otherwise dispose of assets to any Person; provided that the foregoing restrictions do not apply to:

(i) the sale, lease, transfer or other disposition of assets of the Company to a Restricted Subsidiary or of a Restricted Subsidiary to the Company or another Restricted Subsidiary;

(ii) the sale in the ordinary course of business of inventory held for sale, or equipment, fixtures, supplies or materials that are no longer required in the operation of the business of the Company or any Restricted Subsidiary or are obsolete;

(iii) the sale of property of the Company or any Restricted Subsidiary and the Company's or any Restricted Subsidiary's subsequent lease, as lessee, of the same property, within 270 days following the acquisition or construction of such property;

(iv) the sale of assets of the Company or any Restricted Subsidiary for cash or other property to a Person or Persons (other than an Affiliate) if (A) such assets (valued at net book value) do not constitute a “substantial part” of the assets of the Company and the Restricted Subsidiaries, (B) in the opinion of a Responsible Officer of the Company, the sale is for fair value and is in the best interests of the Company, and (C) immediately after giving effect to the transaction, no Event of Default or Unmatured Event of Default would exist; or

PART 2
CREDIT AGREEMENT
dated as of May 10, 2001
among
MU SKIN ENTERPRISES, INC.
VARIOUS FINANCIAL INSTITUTIONS,
and
BANK OF AMERICA, N.A.
as Administrative Agent

(i) the successor corporation to which all or substantially all of the Company's assets have been sold, leased or transferred (the "successor corporation") is a solvent United States corporation, and

(ii) the successor corporation executes and delivers to each Lender its assumption of the due and punctual payment of the principal of and premium, if any, and interest on the Loans, and the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and each other Loan Document to be performed or observed by the Company and shall furnish to the Administrative Agent an opinion of counsel, reasonably satisfactory to the Required Lenders, to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of such successor corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

No such conveyance, transfer or lease of all or substantially all of the assets of the Company shall have the effect of releasing the Company or any successor corporation that shall theretofore have become such in the manner prescribed in this Section 10.13 from its liability under this Agreement or the other Loan Documents.

(c) Not, and not permit any Restricted Subsidiary to, sell, lease (as lessor), transfer, abandon or otherwise dispose of assets to any Person; provided that the foregoing restrictions do not apply to:

(i) the sale, lease, transfer or other disposition of assets of the Company to a Restricted Subsidiary or of a Restricted Subsidiary to the Company or another Restricted Subsidiary;

(ii) the sale in the ordinary course of business of inventory held for sale, or equipment, fixtures, supplies or materials that are no longer required in the operation of the business of the Company or any Restricted Subsidiary or are obsolete;

(iii) the sale of property of the Company or any Restricted Subsidiary and the Company's or any Restricted Subsidiary's subsequent lease, as lessee, of the same property, within 270 days following the acquisition or construction of such property;

(iv) the sale of assets of the Company or any Restricted Subsidiary for cash or other property to a Person or Persons (other than an Affiliate) if (A) such assets (valued at net book value) do not constitute a "substantial part" of the assets of the Company and the Restricted Subsidiaries, (B) in the opinion of a Responsible Officer of the Company, the sale is for fair value and is in the best interests of the Company, and (C) immediately after

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giving effect to the transaction, no Event of Default or Unmatured Event of Default would exist; or

(v) the sale of assets meeting the conditions set forth in clauses (B) and (C) of clause (iv) above, as long as the net proceeds from such sale in excess of a substantial part of the assets of the Company and the Restricted Subsidiaries are (x) applied within 270 days of the date of receipt to the acquisition of productive assets useful and intended to be used in the operation of the business of the Company or the Restricted Subsidiaries, or (y) used to repay any Indebtedness of the Company or the Restricted Subsidiaries (other than Indebtedness that is in any manner subordinated in right of payment or security in any respect to Indebtedness hereunder, Indebtedness owing to the Company, any of its Subsidiaries or any Affiliate and Indebtedness in respect of any revolving credit or similar credit facility providing the Company or any of the Restricted Subsidiaries with the right to obtain loans or other extensions of credit from time to time, except to the extent that in connection with such payment of Indebtedness the availability of credit under such credit facility is permanently reduced not later than 270 days after the date of receipt of such proceeds by an amount not less than the amount of such proceeds applied to the payment of such Indebtedness).

(d) For purposes of Section 10.13(c), a sale of assets will be deemed to involve a "substantial part" of the assets of the Company and the Restricted Subsidiaries if the book value of such assets, together with all other assets sold during such fiscal year (except those assets sold pursuant to clauses (i) through (iii) of Section 10.13(c)), exceeds 10% of the Consolidated Total Assets of the Company and the Restricted Subsidiaries determined as of the end of the immediately preceding fiscal year.

(e) Not, and not permit any Restricted Subsidiary to, issue shares of stock (or any options or warrants to purchase stock or other Securities exchangeable for or convertible into stock) of any Restricted Subsidiary except (i) to the Company, (ii) to a Wholly-Owned Restricted Subsidiary, (iii) to any Restricted Subsidiary that owns equity in the Restricted Subsidiary issuing such equity, or (iv) with respect to a Restricted Subsidiary that is a partnership or joint venture, to any other Person who is a partner or equity owner if such issuance is made pursuant to the terms of the Joint Venture Agreement or Partnership Agreement entered into in connection with the formation of such partnership or joint venture; provided that Restricted Subsidiaries may issue directors' qualifying shares and shares required to be issued by any applicable foreign law regarding foreign ownership requirements. The Company will not, and will not permit any Restricted Subsidiary to sell, transfer or otherwise dispose of its interest in any stock (or any options or warrants to purchase stock or other Securities exchangeable for or convertible into stock) of any Restricted Subsidiary (except to the Company or a Wholly-Owned Restricted Subsidiary) unless such sale, transfer or disposition would be permitted under Section 10.11(c).

10.14 Transactions with Affiliates. Not, and not permit any Restricted Subsidiary to enter into, directly or indirectly, any Material transaction or Material group of related transactions

(including the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Restricted Subsidiary), except as approved by a majority of the disinterested directors of the Company, and upon fair and reasonable terms no less favorable to the Company or such Restricted Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate; provided that the foregoing restrictions shall not apply to Standard Securitization Undertakings effected as part of a Permitted Securitization Program.

10.15 Restricted Payments . Not, and not permit any Restricted Subsidiary to, do any of the following if an Event of Default or Unmatured Event of Default exists or would exist immediately after giving effect thereto, (a) declare or pay any dividends, either in cash or property, on any shares of capital stock of any class of the Company or any Restricted Subsidiary (except (i) dividends or other distributions payable solely in shares of common stock, and (ii) dividends and distributions paid by a Restricted Subsidiary solely to the Company or a Wholly-Owned Restricted Subsidiary); (b) directly or indirectly, or through any Restricted Subsidiary, purchase, redeem or retire any shares of capital stock of any class of the Company or any Restricted Subsidiary or any warrants, rights or options to purchase or acquire any shares of capital stock of the Company or any Restricted Subsidiary; or (c) make any other payment or distribution, either directly or indirectly or through any Restricted Subsidiary, in respect of capital stock of any class of the Company or any Restricted Subsidiary (except payments and distributions made by a Restricted Subsidiary solely to the Company or a Wholly-Owned Restricted Subsidiary).

10.16 Limitation on Swap Agreements . Not, and not permit any Restricted Subsidiary to, have any obligations (contingent or otherwise) existing or arising under any Swap Agreement, unless such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of mitigating risks associated with liabilities, commitments or assets held by such Person, and not for purposes of speculation.

10.17 Limitation on Margin Stock . Not permit margin stock (as defined in Regulation U of the FRB (12 CFR 221)) to constitute 25% or more of the value of the assets of the Company and its Subsidiaries which are subject to any limitation on sale or pledge hereunder.

10.18 Designation of Restricted and Unrestricted Subsidiaries . At its option, designate in writing to the Administrative Agent any Unrestricted Subsidiary as a Restricted Subsidiary and may designate in writing to the Administrative Agent any Restricted Subsidiary as an Unrestricted Subsidiary; provided that (i) no such designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be effective unless (A) such designation is treated as a transfer under Section 10.13 and such designation is permitted by Section 10.13, and (B) such Subsidiary does not own any stock, other equity interest or Indebtedness of the Company or a Restricted Subsidiary; and (ii) no such designation shall be effective unless, immediately after giving effect thereto no Event of Default or Unmatured Event of Default would exist; provided, further, that any Subsidiary that has been designated as a Restricted Subsidiary or an Unrestricted Subsidiary

may not thereafter be redesignated as a Restricted Subsidiary or an Unrestricted Subsidiary, as the case may be, more than once; and provided, further, that no Securitization Entity shall be a Restricted Subsidiary unless designated as such by the Company. Notwithstanding anything to the contrary in this Agreement, upon any Unrestricted Subsidiary becoming a Material Subsidiary, it shall immediately be deemed to be a Restricted Subsidiary.

10.19 Existing Letters of Credit . (a) Use reasonable commercial efforts to terminate all Existing Letters of Credit (by replacing them with Letters of Credit or otherwise), other than the Existing Letters of Credit listed on Schedule 10.19, not later than May 31, 2001 and (b) not renew or extend any Existing Letter of Credit listed on Schedule 10.19.

SECTION 11 CONDITIONS OF LENDING, ETC.

The obligation of each Lender to make its Loans and of any Issuing Lender to issue Letters of Credit is subject to the following conditions precedent:

11.1 Initial Credit Extension . The obligation of each Lender to make its initial Loan or of any Issuing Lender to issue the initial Letter of Credit hereunder (whichever first occurs) is subject to the conditions precedent that (a) each of the conditions precedent specified in Section 11.2 shall have been satisfied and (b) the Administrative Agent shall have received (i) all amounts which are then due and payable pursuant to Section 5 and (to the extent billed) Section 14.5, (ii) evidence, satisfactory to the Administrative Agent that all obligations of the Company under the ABN Facility (other than obligations with respect to Existing Letters of Credit) have been (or concurrently with the initial credit extension hereunder will be) paid in full; and (iii) all of the following, each duly executed and dated the Closing Date (or such earlier date as shall be satisfactory to the Administrative Agent), in form and substance satisfactory to the Administrative Agent, and each (except for the Notes, of which only the originals shall be signed) in sufficient number of signed counterparts to provide one for each Lender:

11.1.1 Notes. The Notes.

11.1.2 Resolutions. Certified copies of resolutions of the Board of Directors of the Company authorizing or ratifying the execution, delivery and performance by the Company of this Agreement, the Notes and the other Loan Documents to which the Company is a party; and certified copies of resolutions of the Board of Directors of each Subsidiary authorizing or ratifying the execution, delivery and performance by such Subsidiary of each Loan Document to which such Subsidiary is a party.

11.1.3 Consents, etc. Certified copies of all documents evidencing any necessary corporate action, consents and governmental approvals (if any) required for the execution, delivery and performance by the Company and each Subsidiary of the documents referred to in this Section 11.

11.1.4 Incumbency and Signature Certificates . A certificate of the Secretary or an Assistant Secretary of the Company and each Subsidiary certifying the names of the officer or officers of such entity authorized to sign the Loan Documents to which such entity is a party, together with a sample of the true signature

of each such officer (it being understood that the Administrative Agent and each Lender may conclusively rely on each such certificate until formally advised by a like certificate of any changes therein).

11.1.5 Subsidiary Guaranty. The Subsidiary Guaranty executed by the Subsidiary Guarantors.

11.1.6 Pledge Agreement . Copies of all stock certificates, stock powers and other items delivered under the Pledge Agreement.

11.1.7 Subordination Agreement. The Subordination Agreement executed by the Company and the Material Subsidiaries.

11.1.8 Amendment to Collateral Agency and Intercreditor Agreement. An executed amendment to the Collateral Agency and Intercreditor Agreement substantially in the form of Exhibit E-2.

11.1.9 Opinion of Counsel for the Company and the Subsidiary Guarantors. The opinion of (i) Matthew Dorny, assistant general counsel of the Company and the Subsidiary Guarantors, and (ii) Shearman & Sterling, counsel to the Company and the Subsidiary Guarantors.

11.1.10 Closing Certificate . A certificate of the Chief Executive Officer, the President or any Vice President of the Company to the effect that (i) all representations and warranties of the Company and the Subsidiary Guarantors in this Agreement and the other Loan Documents are true and correct in all material respects on the Closing Date; and (ii) no Event of Default or Unmatured Event of Default exists or will result from the transactions contemplated to occur on the proposed Closing Date.

11.1.11 Other . Such other documents as the Administrative Agent or any Lender may reasonably request.

11.2 Conditions. The obligation (a) of each Lender to make each Loan and (b) of each Issuing Lender to issue each Letter of Credit is subject to the following further conditions precedent that:

11.2.1 Compliance with Warranties, No Default, etc. Both before and after giving effect to any borrowing and the issuance of any Letter of Credit (but, if any Event of Default of the nature referred to in Section 12.1.4 shall have occurred with respect to any other Indebtedness, without giving effect to the application, directly or indirectly, of the proceeds thereof) the following statements shall be true and correct:

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(a) the representations and warranties of the Company and the Subsidiary Guarantors set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects with the same effect as if then made (except to the extent stated to relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date);

(b) except as disclosed by the Company to the Administrative Agent and the Lenders pursuant to Section 9.9,

(i) no litigation (including derivative actions), arbitration proceeding, labor controversy or governmental investigation or proceeding shall be pending or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries which might reasonably be expected to have a Material Adverse Effect or which purports to affect the legality, validity or enforceability of this Agreement, the Notes or any other Loan Document; and

(ii) no development shall have occurred in any litigation (including derivative actions), arbitration proceeding, labor controversy or governmental investigation or proceeding disclosed pursuant to Section 9.9 which might reasonably be expected to have a Material Adverse Effect; and

(c) no Event of Default or Unmatured Event of Default shall have then occurred and be continuing, and neither the Company nor any of its Subsidiaries shall be in violation of any law or governmental regulation or court order or decree where such violation or violations singly or in the aggregate might reasonably be expected to have a Material Adverse Effect.

11.2.2 Confirmatory Certificate. If requested by the Administrative Agent or any Lender (acting through the Administrative Agent), the Administrative Agent shall have received (in sufficient counterparts to provide one to each Lender) a certificate dated the date of such requested Loan or Letter of Credit and signed by a duly authorized representative of the Company as to the matters set out in Section 11.2.1 (it being understood that each request by the Company for the making of a Loan or the issuance of a Letter of Credit shall be deemed to constitute a warranty by the Company that the conditions precedent set forth in Section 11.2.1 will be satisfied at the time of the making of such Loan or the issuance of such Letter of Credit), together with such other documents as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request in support thereof.

SECTION 12 EVENTS OF DEFAULT AND THEIR EFFECT.

12.1 Events of Default. Each of the following shall constitute an Event of Default under this Agreement:

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12.1.1 Non-Payment of the Loans, etc. Default in the payment of the principal of any Loan when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; default and continuance thereof for five days after notice from the Administrative Agent, in the payment when due of any reimbursement obligation with respect to any Letter of Credit; or default in the payment of any interest on any Loan or any fee payable hereunder for more than five Business Days after the same becomes due and payable.

12.1.2 Non-Compliance with Section 10 . The Company defaults in the performance of or compliance with any term contained in Section 10.10, 10.11, 10.12, 10.13, 10.14, 10.15, 10.16 or 10.17.

12.1.3 Non-Compliance with Provisions of This Agreement. The Company default in the performance of or compliance with any term contained herein (other than those referred to in Sections 12.1.1 and 12.1.2) or in any other Loan Document and such default is not remedied within 30 days after the earlier of (i) a

Responsible Officer obtaining actual knowledge of such default, and (ii) the Company or such Subsidiary receiving written notice of such default from any Lender (any such written notice to be identified as a “notice of default” and to refer specifically to this [Section 12.1.3](#)).

12.1.4 Default in Payment of Other Indebtedness. (a) The Company or any Restricted Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest on any Indebtedness beyond any period of grace provided with respect thereto, or (b) the Company or any Restricted Subsidiary is in default for more than 20 Business Days in the performance of or compliance with any term of any evidence of any Indebtedness or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition (x) such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be) due and payable before its stated maturity or before its regularly scheduled dates of payment, or (y) one or more Persons have the right to require the Company or any Restricted Subsidiary to purchase or repay such Indebtedness, or (iii) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Indebtedness to convert such Indebtedness into equity interests), (x) the Company or any Restricted Subsidiary has become obligated to purchase or repay any Indebtedness before its regular maturity or before its regularly scheduled dates of payment, or (y) one or more Persons have exercised any right to require the Company or any Restricted Subsidiary to purchase or repay such Indebtedness; provided that the aggregate amount of all foregoing Indebtedness with respect to which a payment, performance or compliance default shall have occurred or a failure or other event causing or permitting the purchase or repayment by the Company or any Restricted Subsidiary shall have occurred exceeds \$7,500,000.

12.1.5 Bankruptcy, Insolvency, etc. (a) The Company or any Material Subsidiary (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take

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advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing, or (b) a court or Governmental Authority of competent jurisdiction enters an order appointing, without consent by the Company or any Material Subsidiary, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company or any Material Subsidiary, or any such petition shall be filed against the Company or any Material Subsidiary and such petition shall not be dismissed within 60 days.

12.1.6 Warranties. Any representation or warranty made in writing by or on behalf of the Company or any Subsidiary Guarantor or by any officer of the Company or any Subsidiary Guarantor in this Agreement, any Loan Document or in any writing furnished in connection with the transactions contemplated hereby or thereby proves to have been false or incorrect in any material respect on the date as of which made.

12.1.7 Judgments. A final judgment or judgments for the payment of money aggregating in excess of \$10,000,000 are rendered against one or more of the Company and any Restricted Subsidiary and such judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay.

12.1.8 Pension Plans. (i) Any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under Section 412 of the Code, (ii) a notice of intent to terminate any Plan shall have been or is reasonably expected to be filed with the PBGC or the PBGC shall have instituted proceedings under ERISA Section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan may become a subject of any such proceedings, (iii) the aggregate “amount of unfunded benefit liabilities” (within the meaning of Section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed 5% of Consolidated Net Worth as of the end of the most recently ended fiscal quarter of the Company, (iv) the Company or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (v) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan, or (vi) the Company or any of its Subsidiaries establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that would increase the liability of the Company or any of its Subsidiaries thereunder; and any such event or events described in [clauses \(i\) through \(vi\)](#) above, either individually or together with any other such event or events, could reasonably be expected to have a Material Adverse Effect.

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As used in this [Section 12.1.8](#), the terms “[employee benefit plan](#)” and “[employee welfare benefit plan](#)” shall have the respective meanings assigned to such terms in Section 3 of ERISA.

12.1.9 Invalidity of Guaranty, etc. The Subsidiary Guaranty ceases to be in full force and effect with respect to any Material Domestic Subsidiary, or any Material Domestic Subsidiary contests the validity thereof.

12.1.10 Invalidity of Collateral Documents, etc. The Pledge Agreement ceases to be in full force and effect with respect to any Material Foreign Subsidiary, any Pledgor contests the validity of the Pledge Agreement, or the Administrative Agent shall fail to have a valid, perfected and enforceable first priority security interest in the Pledged Securities.

12.1.11 Change of Control. A Change of Control shall occur.

12.2 Effect of Event of Default. If any Event of Default described in [Section 12.1.5](#) shall occur, the Commitments (if they have not theretofore terminated) shall immediately terminate and the Notes and all other obligations hereunder shall become immediately due and payable and the Company shall become immediately obligated to deliver to the Administrative Agent cash collateral in an amount equal to the outstanding face amount of all Letters of Credit, all without presentment, demand, protest or notice of any kind; and, if any other Event of Default shall occur and be continuing, the Administrative Agent (upon written request of the Required Lenders) shall declare the Commitments (if they have not theretofore terminated) to be terminated and/or declare all Notes and all other obligations hereunder to be due and payable and/or demand that the Company immediately deliver to the Administrative Agent cash collateral in amount equal to the outstanding face amount of all Letters of Credit, whereupon the Commitments (if they have not theretofore terminated) shall immediately terminate

and/or all Notes and all other obligations hereunder shall become immediately due and payable and/or the Company shall immediately become obligated to deliver to the Administrative Agent cash collateral in an amount equal to the face amount of all Letters of Credit, all without presentment, demand, protest or notice of any kind. The Administrative Agent shall promptly advise the Company of any such declaration, but failure to do so shall not impair the effect of such declaration. Notwithstanding the foregoing, the effect as an Event of Default of any event described in Section 12.1.1 or Section 12.1.5 may be waived by the written concurrence of all of the Lenders, and the effect as an Event of Default of any other event described in this Section 12 may be waived by the written concurrence of the Required Lenders. Any cash collateral delivered hereunder shall be held by the Administrative Agent (without liability for interest thereon) and applied to obligations arising in connection with any drawing under a Letter of Credit (subject to the right thereto of any other creditor of the Company arising under the Collateral Agency or Intercreditor Agreement). After the expiration or termination of all Letters of Credit, such cash collateral shall be applied by the Administrative Agent to any remaining obligations hereunder and any excess shall be delivered to the Company or as a court of competent jurisdiction may elect.

SECTION 13 THE ADMINISTRATIVE AGENT.

13.1 Appointment and Authorization. (a) Each Lender hereby irrevocably (subject to Section 13.9) appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Administrative Agent shall not have any duties or responsibilities except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

(b) Each Issuing Lender shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith. Each Issuing Lender shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Section 13 with respect to any acts taken or omissions suffered by such Issuing Lender in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term "Administrative Agent", as used in this Section 13, included such Issuing Lender with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to the Issuing Lenders.

13.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

13.3 Liability of Administrative Agent. None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by the Company or any Subsidiary or Affiliate of the Company, or any officer thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of the Company or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of the Company or any of the Company's Subsidiaries or Affiliates.

13.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Company), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, confirmation from the Lenders of their obligation to indemnify the Administrative Agent against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

13.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Event of Default or Unmatured Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Company referring to this Agreement, describing such Event of Default or Unmatured Event of Default and stating that such notice is a "notice of default". The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Event of Default or Unmatured Event of Default as may be requested by the Required Lenders in accordance with Section 12; provided, however, that unless and until the Administrative Agent has received any such request, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default or Unmatured Event of Default as it shall deem advisable or in the best interest of the Lenders.

13.6 Credit Decision. Each Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Company and its Subsidiaries, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Company and its Subsidiaries, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Company hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and

decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Company. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Administrative Agent, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial or other condition or creditworthiness of the Company which may come into the possession of any of the Agent-Related Persons.

13.7 Indemnification. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Company and without limiting the obligation of the Company to do so), pro rata, from and against any and all Indemnified Liabilities; provided, however, that no Lender shall be liable for any payment to the Agent-Related Person of any portion of the Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including reasonable fees of attorneys for the Administrative Agent (including the allocable costs of internal legal services and all disbursements of internal counsel)) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Company. The undertaking in this Section shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit, any foreclosure under, or any modification, release or discharge of, any or all of the Collateral Documents, any termination of this Agreement and the resignation or replacement of the Administrative Agent.

For the purposes of this Section 13.7, "Indemnified Liabilities" shall mean: any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including reasonable fees of attorneys for the Administrative Agent (including the allocable costs of internal legal services and all disbursements of internal counsel)) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Loans and the termination, resignation or replacement of the Administrative Agent or the replacement of any Lender) be imposed on, incurred by or asserted against any Agent-Related Person in any way relating to or arising out of this Agreement or any document contemplated by or referred to herein, or the transactions contemplated hereby, or any action taken or omitted by any such Person under or in connection with any of the foregoing, including with respect to any investigation, litigation or proceeding (including (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial

portion of its creditors; undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code, and including any appellate proceeding) related to or arising out of this Agreement or the Commitments or the use of the proceeds thereof, whether or not any Agent-Related Person, any Lender or any of their respective officers, directors, employees, counsel, agents or attorneys-in-fact is a party thereto.

13.8 Administrative Agent in Individual Capacity. Bank of America and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Company and its Subsidiaries and Affiliates as though Bank of America were not the Administrative Agent, the Issuing Lender hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, Bank of America or its Affiliates may receive information regarding the Company or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Company or such Subsidiary) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to their Loans, Bank of America and its Affiliates shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though Lender of America were not the Administrative Agent and the Issuing Lender, and the terms "Lender" and "Lenders" include Bank of America and its Affiliates, to the extent applicable, in their individual capacities.

13.9 Successor Administrative Agent. The Administrative Agent may, and at the request of the Required Lenders shall, resign as Administrative Agent upon 30 days' notice to the Lenders. If the Administrative Agent resigns under this Agreement, the Required Lenders shall, with (so long as no Event of Default exists) the consent of the Company (which shall not be unreasonably withheld or delayed), appoint from among the Lenders a successor administrative agent for the Lenders. If no successor administrative agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Company, a successor administrative agent from among the Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor administrative agent, and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Section 13 and Sections 14.6 and 14.13 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor administrative agent as provided for above. Notwithstanding the foregoing, however, Bank of America may not be removed as the Administrative Agent at the request of the Required Lenders unless Bank of America shall also simultaneously be replaced as an "Issuing Lender" hereunder pursuant to documentation in form and substance reasonably satisfactory to Bank of America.

13.10 Withholding Tax.

(a) If any Lender is a "foreign corporation, partnership or trust" within the meaning of the Code and such Lender claims exemption from, or a reduction of, U.S. withholding tax under Sections 1441 or 1442 of the Code, such Lender agrees to deliver to the Administrative Agent:

(i) if such Lender claims an exemption from, or a reduction of, withholding tax under a United States tax treaty, properly completed Internal Revenue Service (“IRS”) Forms W-8ECI before the payment of any interest in the first calendar year and before the payment of any interest in each third succeeding calendar year during which interest may be paid under this Agreement;

(ii) if such Lender claims that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, two properly completed and executed copies of IRS Form W-8BEN before the payment of any interest is due in the first taxable year of such Lender and in each succeeding taxable year of such Lender during which interest may be paid under this Agreement, and IRS Form W-9; and

(iii) such other form or forms as may be required under the Code or other laws of the United States as a condition to exemption from, or reduction of, United States withholding tax.

Such Lender agrees to promptly notify the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(b) If any Lender claims exemption from, or reduction of, withholding tax under a United States tax treaty by providing IRS Form W-8ECI and such Lender sells, assigns, grants a participation in, or otherwise transfers all or part of the obligations of the Company to such Lender, such Lender agrees to notify the Administrative Agent of the percentage amount in which it is no longer the beneficial owner of such obligations of the Company hereunder. To the extent of such percentage amount, the Administrative Agent will treat such Lender’s IRS Form W-8ECI as no longer valid.

(c) If any Lender claiming exemption from United States withholding tax by filing IRS Form W-8BEN with the Administrative Agent sells, assigns, grants a participation in, or otherwise transfers all or part of the obligations of the Company to such Lender hereunder, such Lender agrees to undertake sole responsibility for complying with the withholding tax requirements imposed by Sections 1441 and 1442 of the Code.

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(d) If any Lender is entitled to a reduction in the applicable withholding tax, the Administrative Agent may withhold from any interest payment to such Lender an amount equivalent to the applicable withholding tax after taking into account such reduction. If the forms or other documentation required by clause (a) of this Section are not delivered to the Administrative Agent, then the Administrative Agent may withhold from any interest payment to such Lender not providing such forms or other documentation an amount equivalent to the applicable withholding tax.

(e) If the IRS or any other Governmental Authority of the United States or any other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered or was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to the Administrative Agent under this Section, together with all costs and expenses (including reasonable fees of attorneys for the Administrative Agent (including the allocable costs of internal legal services and all disbursements of internal counsel)). The obligation of the Lenders under this Section shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit, any termination of this Agreement and the resignation or replacement of the Administrative Agent.

13.11 Collateral Matters. The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion, (a) to release any Lien on any property granted to or held by the Administrative Agent under any Collateral Document (i) upon termination of the Commitments and payment in full of all Loans and all other obligations of the Company hereunder and the expiration or termination of all Letters of Credit; (ii) which is sold or to be sold or disposed of as part of or in connection with any disposition permitted hereunder; or (iii) subject to Section 14.1, if approved, authorized or ratified in writing by the Required Lenders; (b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Collateral Document to the holder of any Lien on such property which is permitted by Section 10.12(h); and (c) to release any Subsidiary from its obligations under the Guaranty if such entity ceases to be a Subsidiary as a result of a transaction permitted hereunder. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s authority to release or subordinate its interest in particular types or items of property, or to release any Subsidiary from its obligations under the Guaranty, pursuant to this Section 13.11.

13.12 Non-Receipt of Funds by the Administrative Agent. Unless the Company or a Lender, as the case may be, notifies the Administrative Agent prior to the date on which it is scheduled to make payment to the Administrative Agent of (a) in the case of a Lender, the proceeds of a Loan or (b) in the case of the Company, a payment of principal, interest or fees for the account of the Lenders, that it does not intend to make such payment, the Administrative Agent may assume that such payment has been made. The Administrative Agent may, but shall

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not be obligated to, make the amount of such payment available to the intended recipient in reliance upon such assumption. If such Lender or the Company, as the case may be, has not in fact made such payment to the Administrative Agent, the recipient of such payment shall, on demand by the Administrative Agent, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to (i) in the case of payment by a Lender, the Federal Funds Rate for such day for the first three days and, thereafter, the interest rate applicable to the relevant Loan or (ii) in the case of payment by the Company, the interest rate applicable to the relevant Loan (or, to the extent permitted by applicable law (x) in the case of interest payable in Dollars and fees, the Base Rate plus the Floating Rate Margin, and (y) in the case of interest payable in Yen, the Administrative Agent’s cost of funds, as reasonably determined by the Administrative Agent, plus the Eurodollar/Yen LIBOR Margin).

SECTION 14 GENERAL.

Waiver; Amendments. No delay on the part of the Administrative Agent or any Lender in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by any of them of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy. No amendment, modification or waiver of, or consent with respect to, any provision of this Agreement or the Notes shall in any

event be effective unless the same shall be in writing and signed and delivered by Lenders having an aggregate Percentage of not less than the aggregate Percentage expressly designated herein with respect thereto or, in the absence of such designation as to any provision of this Agreement or the Notes, by the Required Lenders, and then any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No amendment, modification, waiver or consent shall change the Percentage of any Lender without the consent of such Lender. No amendment, modification, waiver or consent shall (i) extend or increase the amount of the Commitments, (ii) extend the date for payment of any principal or interest on the Loans or any fees payable hereunder, (iii) reduce the principal amount of any Loan, the rate of interest thereon or any fees payable hereunder, (iv) release any Subsidiary Guarantor from such Subsidiary Guarantor's obligations under the applicable Guaranty or all or substantially all of the collateral granted under the Collateral Documents or (v) reduce the aggregate Percentage required to effect an amendment, modification, waiver or consent without, in each case, the consent of all Lenders. No provisions of Section 13 or other provision of this Agreement affecting the Administrative Agent in its capacity as such shall be amended, modified or waived without the consent of the Administrative Agent. No provision of this Agreement relating to the rights or duties of an Issuing Lender in its capacity as such shall be amended, modified or waived without the consent of such Issuing Lender.

14.2 Confirmations. The Company and each Lender agree from time to time, upon written request received by it from the other, to confirm to the other in writing (with a copy of each such confirmation to the Administrative Agent) the aggregate unpaid principal amount of the Loans held by such Lender.

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14.3 Notices. Except as otherwise provided in Sections 2.2, 2.4 and 4.3, all notices hereunder shall be in writing (including facsimile transmission) and shall be sent to the applicable party at its address shown on Schedule 14.3 or at such other address as such party may, by written notice received by the other parties, have designated as its address for such purpose. Notices sent by facsimile transmission shall be deemed to have been given when sent; notices sent by mail shall be deemed to have been given three Business Days after the date when sent by registered or certified mail, postage prepaid; and notices sent by hand delivery or overnight courier service shall be deemed to have been given when received. For purposes of Sections 2.2, 2.4 and 4.3, the Administrative Agent shall be entitled to rely on telephonic instructions from any person that the Administrative Agent in good faith believes is an authorized officer or employee of the Company, and the Company shall hold the Administrative Agent and each other Lender harmless from any loss, cost or expense resulting from any such reliance.

14.4 Computations. Where the character or amount of any asset or liability or item of income or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Agreement, such determination or calculation shall, to the extent applicable and except as otherwise specified in this Agreement, be made in accordance with GAAP, consistently applied; provided that if the Company notifies the Administrative Agent that the Company wishes to amend any covenant in Section 10 to eliminate or to take into account the effect of any change in GAAP on the operation of such covenant (or if the Administrative Agent notifies the Company that the Required Lenders wish to amend Section 10 for such purpose), then the Company's compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Company and the Required Lenders.

14.5 Regulations U. Each Lender represents that it in good faith is not relying, either directly or indirectly, upon any margin stock as collateral security for the extension or maintenance by it of any credit provided for in this Agreement.

14.6 Costs, Expenses and Taxes. The Company agrees to pay on demand all reasonable out-of-pocket costs and expenses of the Administrative Agent (including the reasonable fees and charges of counsel for the Administrative Agent and of local counsel, if any, who may be retained by said counsel) in connection with the preparation, execution, delivery and administration of this Agreement, the other Loan Documents and all other documents provided for herein or delivered or to be delivered hereunder or in connection herewith (including any amendments, supplements or waivers to any Loan Documents), and all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees, court costs and other legal expenses and allocated costs of internal counsel) incurred by the Administrative Agent and each Lender after an Event of Default in connection with the enforcement of this Agreement, the other Loan

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Documents or any such other documents. Each Lender agrees to reimburse the Administrative Agent for such Lender's pro rata share (based on its respective Percentage) of any such costs and expenses of the Administrative Agent not paid by the Company. In addition, the Company agrees to pay, and to save the Administrative Agent and the Lenders harmless from all liability for, (a) any stamp or other taxes (excluding income taxes and franchise taxes based on net income) which may be payable in connection with the execution and delivery of this Agreement, the borrowings hereunder, the issuance of the Notes or the execution and delivery of any other Loan Document or any other document provided for herein or delivered or to be delivered hereunder or in connection herewith and (b) any fees of the Company's auditors in connection with any reasonable exercise by the Administrative Agent and the Lenders of their rights pursuant to Section 10.2. All obligations provided for in this Section 14.6 shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit and any termination of Agreement.

14.7 Subsidiary References. The provisions of this Agreement relating to Subsidiaries shall apply only during such times as the Company has one or more Subsidiaries.

14.8 Captions. Section captions used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

14.9 Assignments; Participations.

14.9.1 Assignments. Any Lender may, with the prior written consents of the Company (so long as no Event of Default or Unmatured Event of Default exists) and the Administrative Agent (which consents shall not be unreasonably delayed or withheld and shall not be required in the case of an assignment by a Lender to one of its affiliates or to another existing Lender), at any time assign and delegate to one or more commercial banks or other Persons (any Person to whom such an assignment and delegation is to be made being herein called an "Assignee"), all or any fraction of such Lender's Loans and Commitment (which assignment and delegation shall be of a constant, and not a varying, percentage of all the assigning Lender's Loans and Commitment) in a minimum aggregate amount equal to the lesser of (a) the amount of the assigning Lender's remaining Commitment and (ii) \$2,500,000; provided that (i) no assignment and delegation may be made to any Person if, at the time of such assignment and delegation, the Company would be obligated to pay any greater amount under Section 7.6 or Section 8 to the Assignee than the Company is then obligated to pay to the assigning Lender under such Sections (and if any assignment is made in violation of the foregoing, the Company will not be required to pay the incremental amounts) and (ii) the Company and the Administrative Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned and delegated to an Assignee until the date when all of the following conditions shall have been met:

(x) five Business Days (or such lesser period of time as the Administrative Agent and the assigning Lender shall agree) shall have passed after written notice of such assignment and delegation, together with payment instructions, addresses and related

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information with respect to such Assignee, shall have been given to the Company and the Administrative Agent by such assigning Lender and the Assignee;

(y) the assigning Lender and the Assignee shall have executed and delivered to the Company and the Administrative Agent an assignment agreement substantially in the form of Exhibit D (an “Assignment Agreement”), together with any documents required to be delivered thereunder, which Assignment Agreement shall have been consented to by the Company and the Administrative Agent (to the extent applicable) and accepted by the Administrative Agent; and

(z) the assigning Lender or the Assignee shall have paid the Administrative Agent a processing fee of \$3,500.

From and after the date on which the conditions described above have been met, (a) such Assignee shall be deemed automatically to have become a party hereto and, to the extent that rights and obligations hereunder have been assigned and delegated to such Assignee pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder, and (b) the assigning Lender, to the extent that rights and obligations hereunder have been assigned and delegated by it pursuant to such Assignment Agreement, shall be released from its obligations hereunder. If the Assignee was not previously a party hereto, then within five Business Days after effectiveness of any Assignment Agreement, the Company shall execute and deliver to the Administrative Agent (for delivery to the Assignee) a new Note in favor of the Assignee. Any attempted assignment and delegation not made in accordance with this Section 14.9.1 shall be null and void.

Notwithstanding the foregoing provisions of this Section 14.9.1 or any other provision of this Agreement, any Lender may at any time assign all or any portion of its Loans and its Note to a Federal Reserve Bank (but no such assignment shall release any Lender from any of its obligations hereunder).

14.9.2 Participations. Any Lender may at any time sell to one or more commercial banks or other Persons participating interests in any Loan owing to such Lender, the Note held by such Lender, the Commitment of such Lender, the direct or participation interest of such Lender in any Letter of Credit or any other interest of such Lender hereunder (any Person purchasing any such participating interest being herein called a “Participant”); provided that any Lender selling any such participating interest shall give notice thereof to the Company. In the event of a sale by a Lender of a participating interest to a Participant, (x) such Lender shall remain the holder of its Note for all purposes of this Agreement, (y) the Company and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations hereunder and (z) all amounts payable by the Company shall be determined as if such Lender had not sold such participation and shall be paid directly to such Lender. No Participant shall have any direct or indirect voting rights hereunder except with respect to any of the events (excluding the events described in clause (y) thereof) described in the fourth sentence of Section 14.1, and each Lender agrees that no participation agreement which such Lender enters

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into with any Participant shall grant such Participant any such rights. The Company agrees that if amounts outstanding under this Agreement and the Notes are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement, any Note and with respect to any Letter of Credit to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement or such Note; provided that such right of setoff shall be subject to the obligation of each Participant to share with the Lenders, and the Lenders agree to share with each Participant, as provided in Section 7.5. The Company also agrees that each Participant shall be entitled to the benefits of Section 7.6 and Section 8 as if it were a Lender (provided that no Participant shall receive any greater compensation pursuant to Section 7.6 or Section 8 than would have been paid to the participating Lender if no participation had been sold).

14.10 Governing Law. This Agreement and each Note shall be a contract made under and governed by the internal laws of the State of New York. Whenever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All obligations of the Company and rights of the Administrative Agent and the Lenders expressed herein or in any other Loan Document shall be in addition to and not in limitation of those provided by applicable law.

14.11 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

14.12 Successors and Assigns. This Agreement shall be binding upon the Company, the Lenders and the Administrative Agent and their respective successors and assigns, and shall inure to the benefit of the Company, the Lenders and the Administrative Agent and the successors and assigns of the Lenders and the Administrative Agent.

14.13 Indemnification by the Company. In consideration of the execution and delivery of this Agreement by the Administrative Agent and the Lenders and the agreement to extend the Commitments provided hereunder, the Company hereby agrees to indemnify, exonerate and hold the Administrative Agent, each Lender, each of their respective Affiliates and each officer, director, employee and agent of any of the foregoing (each a “Lender Party”) free and harmless from and against any and all actions, causes of action, suits, losses, liabilities, damages and expenses, including reasonable attorneys’ fees and charges and, without duplication, allocated costs of staff counsel (collectively, for purposes of this Section 14.13, the “Indemnified Liabilities”), incurred by any Lender Party as a result of, or arising out of, or relating to (i) any tender offer, merger, purchase of stock, purchase of assets or other similar transaction financed or proposed to be financed in whole or in part, directly or indirectly, with the

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proceeds of any Loan, (ii) the use, handling, release, emission, discharge, transportation, storage, treatment or disposal of any hazardous substance at any property owned, leased or operated by the Company or any Subsidiary, (iii) any violation of any Environmental Law with respect to conditions at any property owned,

leased or operated by the Company or any Subsidiary or the operations conducted thereon, (iv) the investigation, cleanup or remediation of offsite locations at which the Company or any Subsidiary or their respective predecessors are alleged to have directly or indirectly disposed of hazardous substances or (v) the execution, delivery, performance or enforcement of this Agreement or any other Loan Document by any of the Lender Parties, except for any Indemnified Liabilities arising on account of any such Lender Party's gross negligence or willful misconduct. If and to the extent that the foregoing undertaking may be unenforceable for any reason, the Company hereby agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. Nothing set forth above shall be construed to relieve any Lender Party from any obligation it may have under this Agreement.

(b) All obligations provided for in this Section 14.13 shall survive repayment of the Loans, cancellation of the Notes, cancellation or expiration of the Letters of Credit, any foreclosure under, or any modification, release or discharge of, any or all of the Collateral Documents and any termination of this Agreement.

14.14 Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT THE ADMINISTRATIVE AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. THE COMPANY HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE. THE COMPANY FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK. THE COMPANY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE COMPANY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR

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OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE COMPANY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

14.15 Waiver of Jury Trial. EACH OF THE COMPANY, THE ADMINISTRATIVE AGENT AND EACH BANK HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT, ANY NOTE, ANY OTHER LOAN DOCUMENT AND ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR THEREWITH OR ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

14.16 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Company in respect of any such sum due from it to the Administrative Agent hereunder or under any other Loan Document shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent in the Agreement Currency, the Company agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the applicable Company (or to any other Person who may be entitled thereto under applicable law).

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Delivered as of the day and year first above written.

NU SKIN ENTERPRISES, INC.

By:
Title:

BANK OF AMERICA, N.A., as Administrative
Agent

By:
Title:

BANK OF AMERICA, N.A., as Issuing Lender and

as a Lender

By:
Title:

BANK ONE, UTAH, NA, as a Lender

By:
Title:

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SCHEDULE 1.1

PRICING SCHEDULE

The Floating Rate Margin, the Eurodollar/Yen LIBOR Margin, the Commitment Fee Rate and the rate per annum applicable for Letter of Credit fees, respectively, shall be determined in accordance with the table below and the other provisions of this Schedule 1.1.

	Level I -----	Level II -----	Level III -----
Eurodollar/Yen LIBOR Margin and fee for standby Letters of Credit of Credit	1.50%	1.75%	2.00%
Floating Rate Margin	0.50%	0.75%	1.00%
Commitment Fee Rate	0.375%	0.500%	0.625%

Level I applies when the Leverage Ratio is less than 1.00 to 1.0.

Level II applies when the Leverage Ratio is equal to or greater than 1.00 to 1.0 but less than 1.50 to 1.0.

Level III applies when the Leverage Ratio is equal to or greater than 1.50 to 1.0.

Initially, the applicable Level shall be based on the Leverage Ratio as of March 31, 2001. The applicable Level shall be adjusted, to the extent applicable, 45 days (or, in the case of the last quarterly fiscal period of any fiscal year, 90 days) after the end of each quarterly fiscal period, beginning with the quarterly fiscal period ending June 30, 2001, based on the Leverage Ratio as of the last day of such quarterly fiscal period; provided that if the Company fails to deliver the financial statements required by Section 10.1.1 or 10.1.2, as applicable, and the related certificate required by Section 10.1.3 by the 45th day (or, if applicable, the 90th day) after any quarterly fiscal period, Level III shall apply until such financial statements are delivered.

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SCHEDULE 2.1

LENDERS AND PERCENTAGES

Bank -----	Amount of Commitment -----	Percentage -----
Bank of America, N.A.	\$ 30,000,000	50%
Bank One, Utah, NA	\$ 30,000,000	50%
TOTALS	\$ 60,000,000	100%

SCHEDULE 14.3

ADDRESSES FOR NOTICES

NU SKIN ENTERPRISES, INC.

75 West Center Street
One Nu Skin PlazaM
Provo, Utah 54601
Attention: Brian Lords
Telephone: (801) 345-6014
Facsimile: (801) 345-6099

BANK OF AMERICA, N.A., as Administrative
Agent, Issuing Lender and Lender

231 South LaSalle Street
Chicago, Illinois 6069
Attention: Paula Z. Kramp
Telephone: (312) 828-3898
Facsimile: (312) 987-0303

BANK ONE, UTAH, NA,
as a Lender

80 West Broadway, Suite 200
Salt Lake City, Utah 84101
Attention: Mark F. Nelson
Telephone: (801) 481-5041
Facsimile: (801) 481-5351

FIRST AMENDMENT

THIS FIRST AMENDMENT dated as of May 10, 2001 (this "Amendment") amends the Collateral Agency and Intercreditor Agreement dated as of October 12, 2000 (the "Intercreditor Agreement") among STATE STREET BANK AND TRUST COMPANY OF CALIFORNIA, N.A., as Collateral Agent, THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, as Senior Noteholder, and ABN AMRO BANK N.V., as Senior Lender. Unless otherwise defined herein, capitalized terms used herein have the respective meanings assigned to them in the Intercreditor Agreement.

WHEREAS, the parties hereto have entered into the Intercreditor Agreement with respect to certain obligations of Nu Skin Enterprises, Inc. and certain of its Subsidiaries; and

WHEREAS, in anticipation of Bank of America, N.A. and Bank One, NA becoming parties to the Intercreditor Agreement, the parties hereto desire to amend the Intercreditor Agreement as set forth below,

NOW, THEREFORE, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

SECTION 1 AMENDMENTS. The Intercreditor Agreement is amended as follows:

1.2 Recitals E and F are amended in their entirety to read as follows:

"E. The Company may enter into additional note purchase agreements and/or credit agreements with investors and/or lenders which become parties to this Agreement, may enter into one or more interest rate swaps or collars, foreign currency exchange agreements, equity swap agreements, commodity price protection agreements or interest rate, currency exchange, equity price or commodity price hedging arrangements (any such agreement or arrangement, a "**Hedging Agreement**") with persons or entities which become parties to this Agreement and may incur obligations ("**Cash Management Obligations**") in respect of overdrafts or related liabilities or in connection with treasury, depository or cash management services, including in connection with automated clearing house transfers of funds, to persons or entities which become parties to this Agreement (any such investor, lender or other party, together with the lenders and other parties referred to in the next sentence, the "**Additional Creditors**"; and the obligations of the Company under any such agreement or arrangement or in respect of any such overdrafts or related liabilities or any such services, the "**Additional Company Obligations**"), and such Additional Company Obligations may be guaranteed by one or more of the Subsidiary Guarantors pursuant to one or more guaranties (the "**Additional Subsidiary Guaranties**"). In addition, one or more Subsidiary Guarantors may become direct obligors (in respect of loans, reimbursement obligations relating to Letters of Credit, Hedging Agreements and/or Cash Management Obligations) to persons or entities which become parties to this Agreement and therefore are Additional Creditors, and the obligations of such Subsidiary Guarantors to such lenders or other parties (the "**Direct Subsidiary Obligations**" and, together with the Additional Company Obligations, the "**Additional Obligations**") may be guaranteed by the Company and the other Subsidiary Guarantors.

F. The Bank Obligation Guaranty, the Note Obligation Guaranty, any Additional Subsidiary Guaranty and any Direct Subsidiary Obligation are hereinafter referred to as a "**Subsidiary Guaranty**." The Credit Documents, the Note Purchase Agreement and any additional credit agreement, note purchase agreement, Hedging Agreement or agreement relating to Cash Management Obligations entered into in favor of any Additional Creditor are hereinafter referred to, collectively, as the "**Senior Loan Documents**."

1.3 Clause (b) of Section 1(a) is amended in its entirety to read as follows:

"(b) the Collateral Agent's receipt of a written notice that the unpaid principal amount of any of the Obligations has not been paid at the stated maturity thereof or has been declared to be then due and payable by the holder or holders thereof prior to the due date as a result of an event of default".

1.4 The first sentence of Section 3(b) is amended by deleting the following words:

"computed on the amount to be returned from the date of the recovery".

1.5 The first parenthetical clause in the second sentence of Section 3(b) is amended by deleting the word "involuntary" therein and substituting the word "involuntarily" therefor.

1.6 The last portion of the last sentence of Section 4(e), beginning with the word "Contingent", is amended in its entirety to read as follows:

"Contingent L/C Obligations or interest on such Obligations) for purposes of calculating distributions pursuant to Section 2(c)."

1.7 The third sentence of Section 5(a) is amended in its entirety to read as follows:

"For purposes of this Agreement, the term "**Required Creditors**" shall mean (a) the Required Lenders as defined in the Credit Agreement dated as of May 10, 2001 among the Company, various financial institutions and Bank of America, N.A., as Administrative Agent (as amended or otherwise modified from time to time, the "**Credit Agreement**"), and (b) Senior Noteholders holding a majority in principal amount of the Senior Noteholder Notes, each, in the case of both clause (a) and clause (b) above, voting as a class; provided that if at any time (i) the aggregate outstanding principal amount of Obligations (including the face amount of any undrawn Letters of Credit) owed to the Banks under and as defined in the Credit Agreement referred to in clause (a) above (the "**Banks**") or (ii) the aggregate outstanding principal amount of the Senior Notes represents, in either case, less than 10% of the sum of the aggregate amounts referred to in clauses (i) and (ii) above, then "**Required Creditors**" shall mean Benefitted Parties, considered as a single class, holding more than 50% of the sum of (A) the face amount of any undrawn Letters of Credit plus (B) the outstanding funded principal amount of the Obligations (it being understood that all amounts referred to in this sentence shall be determined by assuming that such amounts are denominated in U.S. Dollars based upon the Applicable Exchange Rate)."

SECTION 2 MISCELLANEOUS.

2.1 Continuing Effectiveness, etc. As herein amended, the Collateral Agency and Intercreditor Agreement shall remain in full force and effect and is hereby ratified and confirmed in all respects.

2.2 Counterparts. This Amendment may be executed in any number of counterparts and by the different parties on separate counterparts, and each such counterpart shall be deemed to be an original but all such counterparts shall together constitute one and the same Amendment.

2.3 Governing Law. This Amendment shall be governed by and construed in accordance with the law of the State of New York applicable to contracts made and performed entirely within such state.

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

STATE STREET BANK AND TRUST
COMPANY OF CALIFORNIA, N.A., as
Collateral Agent

By: /s/Stephen Rivero
Name: Stephen Rivero
Title: Vice President

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA, as Senior Noteholder

By: /s/ Joseph Y. Alouf
Name: Joseph Y. Alouf
Title: Senior Vice President

ABN AMRO BANK N.V., as Senior Lender

By: /s/Clay Jackson
Name: Clay Jackson
Title: Senior Vice President

By: /s/Gina M. Brusatori
Name: Gina M. Brusatori
Title: Senior Vice President

Each of the undersigned hereby acknowledges and consents to the foregoing First Amendment to the Collateral Agency and Intercreditor Agreement:

NU SKIN ENTERPRISES, INC.

By: /s/Corey B. Lindley
Name: Corey B. Lindley
Title: Vice President

NU SKIN INTERNATIONAL, INC.
NSE HONG KONG, INC.
NU SKIN TAIWAN, INC.
NU SKIN UNITED STATES, INC.

By: /s/Corey B. Lindley
Name: Corey B. Lindley
Title: Executive Vice President and Chief
Financial Officer