UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 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 SEPTEMBER 30, 2003

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	**011-12421**	**87-0565309**
(State or other jurisdiction of incorporation)	(Commission File No.)	(IRS Employer Identification No.)

75 West Center Street
Provo, UT 84601
(Address of principal executive offices)

(801) 345-1000
(Registrant's telephone number, including area code)

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 ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes ☒ No ☐

As of November 1, 2003, 70,290,821 shares of the Company's Class A common stock, $.001 par value per share, and 6,466 shares of the Company's Class B common stock, $.001 par value per share, were outstanding.

NU SKIN ENTERPRISES, INC.

2003 FORM 10-Q QUARTERLY REPORT – THIRD QUARTER

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

NU SKIN ENTERPRISES, INC.
Consolidated Balance Sheets
(in thousands)

	September 30, 2003	December 31, 2002
	(Unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 144,435	$ 120,341
Accounts receivable	17,189	18,914
Inventories, net	87,059	88,306
Prepaid expenses and other	36,732	48,878
	285,415	276,439
Property and equipment, net	59,664	55,342
Goodwill	118,768	118,768
Other intangible assets, net	67,266	69,181
Other assets	92,439	92,108
Total assets	$ 623,552	$ 611,838
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 18,042	$ 17,992
Accrued expenses	58,304	77,808
	76,346	95,800
Long-term debt	87,077	81,732
Other liabilities	54,480	47,820
Total liabilities	217,903	225,352
Stockholders' equity:		
Class A common stock - 500,000,000 shares authorized, $.001 par value, 37,081,566 and 35,707,785 shares issued and outstanding	37	36
Class B common stock - 100,000,000 shares authorized, $.001 par value, 43,513,613 and 45,362,854 shares issued and outstanding	44	45
Additional paid-in capital	65,274	69,803
Accumulated other comprehensive loss	(70,528)	(68,988)
Retained earnings	413,415	385,590
Deferred compensation (Note 10)	(2,593)	--

	405,649	386,486
Total liabilities and stockholders' equity	$ 623,552	$ 611,838

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

NU SKIN ENTERPRISES, INC.
Consolidated Statements of Income (Unaudited)
(in thousands, except per share amounts)

	Three Months Ended September 30, 2003	Three Months Ended September 30, 2002	Nine Months Ended September 30, 2003	Nine Months Ended September 30, 2002
Revenue	$ 250,185	$ 252,864	$ 710,537	$ 713,867
Cost of sales	43,697	49,689	130,598	142,402
Gross profit	206,488	203,175	579,939	571,465
Operating expenses:				
Selling expenses	105,044	101,942	290,572	281,342
General and administrative expenses	71,395	75,284	213,865	213,276
Restructuring and other charges (Note 11)	5,592	--	5,592	--
Total operating expenses	182,031	177,226	510,029	494,618
Operating income	24,457	25,949	69,910	76,847
Other income (expense), net	(433)	(640)	1,108	(2,449)
Income before provision for income taxes	24,024	25,309	71,018	74,398
Provision for income taxes	8,889	9,364	26,276	27,527
Net income	$ 15,135	$ 15,945	$ 44,742	$ 46,871
Net income per share (Note 3):				
Basic	$ .19	$ .20	$ .56	$ .57
Diluted	$ .19	$ .19	$ .55	$ .56
Weighted average common shares outstanding:				
Basic	80,301	81,459	80,493	81,875
Diluted	81,733	83,028	81,834	83,301

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

NU SKIN ENTERPRISES, INC.
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Nine Months Ended September 30, 2003	Nine Months Ended September 30, 2002
Cash flows from operating activities:		
Net income	$ 44,742	$ 46,871
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	16,543	16,314

Amortization of deferred compensation	520	--
(Gain)/loss on sale of assets	525	(1,328)
Changes in operating assets and liabilities:		
Accounts receivable	1,725	(3,136)
Inventories, net	1,247	(2,848)
Prepaid expenses and other	5,384	4,859
Other assets	(3,368)	(2,414)
Accounts payable	50	371
Accrued expenses	(8,929)	10,706
Other liabilities	4,010	(1,663)
Net cash provided by operating activities	62,449	67,732
Cash flows from investing activities:		
Purchase of property and equipment	(13,181)	(13,295)
Purchase of long-term assets	--	(6,473)
Net cash used in investing activities	(13,181)	(19,768)
Cash flows from financing activities:		
Exercise of distributor and employee stock options	1,184	658
Payments of cash dividends	(16,917)	(14,723)
Repurchase of shares of common stock (Note 6)	(8,419)	(8,709)
Net cash used in financing activities	(24,152)	(22,774)
Effect of exchange rate changes on cash	(1,022)	4,298
Net increase in cash and cash equivalents	24,094	29,488
Cash and cash equivalents, beginning of period	120,341	75,923
Cash and cash equivalents, end of period	$ 144,435	$ 105,411

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

NU SKIN ENTERPRISES, INC.
Notes to Consolidated Financial Statements

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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 through a large network of independent distributors. The Company also distributes technology and telecommunications products and services through its distributors. The Company reports revenue from five geographic regions: North Asia, which consists of Japan and South Korea; North America, which consists of the United States and Canada; Greater China, which consists of Mainland China, Hong Kong (including Macau) and Taiwan; South Asia/Pacific, which consists of Australia, Malaysia, New Zealand, the Philippines, Singapore 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 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 September 30, 2003, and for the three- and nine-month periods ended September 30, 2003 and 2002. 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, 2002.

2. STOCK–BASED COMPENSATION

The Company has chosen to account for stock based compensation using the intrinsic value method prescribed in Accounting Principles Board (“APB”)

Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations. Accordingly, because the grant price equals the market price on the date of grant for options issued by the Company, no compensation expense is recognized for stock options issued to employees. SFAS No. 123, *Accounting for Stock-Based Compensation*, encourages, but does not require, companies to record compensation cost for stock-based employee compensation plans based on the fair market value of options granted.

On December 31, 2002, the Financial Accounting Standards Board ("FASB") issued SFAS No. 148, *Accounting for Stock Based Compensation – Transition and Disclosure*. SFAS No. 148 requires more prominent and frequent disclosures about the effects of stock-based compensation.

The Company will continue to account for its stock based compensation according to the provisions of APB Opinion No. 25. Had compensation cost for the Company's stock

options been recognized based upon the estimated fair value on the grant date under the fair value methodology prescribed by SFAS No. 123, as amended by SFAS No. 148, the Company's net earnings and earnings per share would have been as follows (in thousands, except per share amounts):

	Three Months Ended Sept. 30, 2003	Three Months Ended Sept. 30, 2002	Nine Months Ended Sept. 30, 2003	Nine Months Ended Sept. 30, 2002
Net income, as reported	$ 15,135	$ 15,945	$ 44,742	$ 46,871
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(1,189)	(1,192)	(3,917)	(3,885)
Pro forma net income	$ 13,946	$ 14,753	$ 40,825	$ 42,986
Earnings per share:				
Basic - as reported	$ .19	$ .20	$ .56	$ .57
Basic - pro forma	$ .17	$ .18	$ .51	$ .53
Diluted - as reported	$ .19	$ .19	$ .55	$ .56
Diluted - pro forma	$ .17	$ .18	$ .50	$ .52

3. 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 gives effect to all potentially dilutive common shares that were outstanding during the periods presented. For the three-month periods ended September 30, 2003 and 2002, other stock options totaling 4.1 million and 3.0 million, respectively, were excluded from the calculation of diluted earnings per share because they were anti-dilutive. For the nine-month periods ended September 30, 2003 and 2002, other stock options totaling 4.2 million and 3.1 million, respectively, were excluded from the calculation of diluted earnings per share because they were anti-dilutive.

4. DIVIDENDS PER SHARE

In July 2003, the board of directors declared a quarterly cash dividend of $0.07 per share for all classes of common stock. This quarterly cash dividend of $5.6 million was paid on September 24, 2003, to stockholders of record on September 5, 2003. Quarterly cash dividends for the nine-month period ended September 30, 2003 totaled $16.9 million.

5. DERIVATIVE FINANCIAL INSTRUMENTS

The Company recognizes 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 Company's Subsidiaries enter into significant transactions with each other and third parties that 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 September 30, 2003 and December 31, 2002, the Company held forward contracts designated as foreign currency cash flow hedges with notional amounts totaling approximately $78.0 million and $124.6 million, respectively, to hedge foreign currency intercompany transactions. All such contracts were denominated in Japanese yen. The net impact on foreign currency cash flow hedges recorded in pre-tax earnings were losses of $0.9 million and $3.7 million for the three- and nine-month periods ended September 30, 2003, respectively, and were gains of $0.8 million and $4.6 million for the three- and nine-month periods ended September 30, 2002, respectively. Those contracts held at September 30, 2003 have maturities through September 2004 and accordingly, all unrealized gains on foreign currency cash flow hedges included in other comprehensive income at September 30, 2003 will be recognized in current earnings over the next twelve-month period.

6. REPURCHASE OF COMMON STOCK

During the three-month periods ended September 30, 2003 and 2002, the Company repurchased approximately 17,000 and 150,000 shares of Class A common stock for approximately $0.2 million and $1.7 million, respectively. During the nine-month periods ended September 30, 2003 and 2002, the Company repurchased approximately 811,000 and 752,000 shares of Class A common stock for approximately $8.4 million and $8.7 million, respectively.

7. COMPREHENSIVE INCOME

The components of comprehensive income, net of related tax, for the three- and nine-month periods ended September 30, 2003 and 2002, were as follows (in thousands):

	Three Months Ended Sept. 30, 2003	Three Months Ended Sept. 30, 2002	Nine Months Ended Sept. 30, 2003	Nine Months Ended Sept. 30, 2002
Net income	$ 15,135	$ 15,945	$ 44,742	$ 46,871
Other comprehensive income (loss), net of tax:				
Foreign currency translation adjustments	(3,129)	(1,225)	(1,975)	(8,799)
Net unrealized gains (losses) on foreign currency cash flow hedges	(3,373)	1,586	(1,796)	(4,347)
Net (gains) losses reclassified into current earnings	621	(506)	2,231	(2,861)
Comprehensive income	$ 9,254	$ 15,800	$ 43,202	$ 30,864

8. SEGMENT INFORMATION

The Company operates in a single reportable operating segment by selling products to a global network of independent distributors that operates in a seamless manner from market to market except for our operations in Mainland China. In Mainland China, we utilize an employed sales force to sell our products through fixed retail locations. The Company's largest expense (selling expenses) is the commissions and Mainland China sales employee expenses paid on product sales. The Company manages its business primarily by managing its global sales force. However, the Company does recognize revenue in five geographic regions: North Asia, North America, Greater China, South Asia/Pacific and Other Markets. Revenue generated in each of these regions is set forth below (in thousands):

	Three Months Ended Sept. 30, 2003	Three Months Ended Sept. 30, 2002	Nine Months Ended Sept. 30, 2003	Nine Months Ended Sept. 30, 2002
Region:				

North Asia	$ 158,833	$ 154,383	$ 446,164	$ 439,870
North America	29,141	40,536	92,105	110,109
Greater China	34,783	27,473	91,857	75,761
South Asia/Pacific	19,207	23,772	55,137	67,592
Other Markets	8,221	6,700	25,274	20,535
Totals	$ 250,185	$ 252,864	$ 710,537	$ 713,867

Additional 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 $143,627 and $138,201 for the three-month periods ended September 30, 2003 and 2002, respectively, and totaled

$403,024 and $391,838 for the nine-month periods ended September 30, 2003 and 2002, respectively. Revenue from the Company's operations in the United States totaled $26,774 and $38,156 for the three-month periods ended September 30, 2003 and 2002, respectively, and totaled $85,018 and $103,860 for the nine-month periods ended September 30, 2003 and 2002, respectively.

Long-lived assets
Long-lived assets in Japan were $18,997 and $20,210 as of September 30, 2003 and December 31, 2002, respectively. Long-lived assets in the United States were $277,832 and $276,030 as of September 30, 2003 and December 31, 2002, respectively.

9. NEW PRONOUNCEMENTS

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51*. This accounting standard will become effective beginning with the first quarter of 2004. The Company is currently evaluating this standard, however, it does not believe it will have a significant effect on its financial statements.

10. DEFERRED COMPENSATION

The deferred compensation at September 30, 2003 represents a restricted stock award of 250,000 shares of the Company's Class A common stock granted to the Company's newly appointed Chief Executive Officer and President in 2003, which vests over four years.

11. RESTRUCTURING AND OTHER CHARGES

During the third quarter of 2003, the Company recorded restructuring and other charges of $5.6 million, of which $5.1 million of expenses resulted from an early retirement program and other employee separation charges. As a result, the Company's overall headcount was reduced by approximately 130 employees, the majority of which were related to the elimination of positions at the Company's U.S. headquarters. These restructuring expenses consisted primarily of severance and other compensation charges. In connection with these restructuring charges, the Company also completed the divestiture of its professional employer organization resulting in a charge of approximately $0.5 million. Revenue from the professional employer organization totaled $1.2 million and $9.1 million for the three- and nine-month periods ended September 30, 2003 and totaled $5.1 million and $17.1 million for the same periods in 2002, respectively.

The components of restructuring and other charges are summarized as follows (in thousands):

	Total Incurred During the	Accrued as of September 30, 2003

	Third Quarter 2003	
Severance and other compensation	$ 5,067	$ 1,648
Other	525	200
	$ 5,592	$ 1,848

This amount accrued as of September 30, 2003 is included within accrued liabilities, the majority of which is expected to be paid by March 31, 2004.

12. SUBSEQUENT EVENTS

Cash Dividend

In October 2003, the board of directors declared a quarterly cash dividend of $0.07 per share for all classes of common stock to be paid in December 2003.

Stock Repurchase

In October 2003, the Company repurchased approximately 10.8 million shares of common stock for approximately $140.0 million from certain members of the Company's original shareholder group. These shareholders also sold approximately 6.2 million additional shares of common stock to third-party investors. In addition, the Company negotiated the conversion, on a one-to-one basis, of all shares of super-voting Class B common stock into the publicly traded shares of Class A common stock. Further, as part of this transaction, the Company will have the right for a period of two years to purchase additional shares from the selling shareholders up to 30% of the total number of shares sold to the Company and third-party investors at a similar discount to market as per this transaction, which was approximately 6.0%.

The Company financed its portion of the transaction with $45.0 million from existing cash balances, approximately $20.0 million from the Company's existing revolving credit facility and $75.0 million in new long-term debt. The new long-term debt is part of a $125.0 million multi-currency private uncommitted shelf facility with Prudential Investment Management, Inc. entered into in August 2003. There were no outstanding balances relating to this shelf facility as of September 30, 2003. This long-term debt is U.S. dollar denominated, bears interest of approximately 4.5% per annum and will be amortized in two tranches over five to seven years.

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

The following Management's Discussion and Analysis should be read in conjunction with Management's Discussion and Analysis included in our Annual Report on Form 10-K for the year ended December 31, 2002, filed with the Securities and Exchange Commission ("SEC") on March 4, 2003, and our other filings, including Current Reports on Form 8-K, filed with the SEC through the date of this Report.

Results of Operations

Revenue

Overview. Revenue decreased 1.1% and 0.5% to $250.2 million and $710.5 million for the three- and nine-month periods ended September 30, 2003, from $252.9 million and $713.9 million for the same periods in 2002. Excluding the impact of changes in foreign currency exchange rates, we experienced a revenue decline of 1.9% and 3.9% for the three- and nine-month periods ended September 30, 2003, compared to the same periods in the prior year, respectively. During the first part of the third quarter, we sold our professional employer organization in the United States and transitioned away from certain low-margin Big Planet products, as part of our continued efforts to eliminate low-margin products. Although these actions negatively impacted year-over-year revenue comparisons by $5.4 million, we believe that they will have a positive impact on gross and operating margins going forward.

Revenue was positively impacted by year-over-year growth in the third quarter in Japan after two consecutive quarters of year-over-year declines, significant revenue growth from our operations in Mainland China and favorable foreign currency exchange rates. In addition, strength in our U.S. nutrition business also positively impacted 2003 results. These improvements were largely offset by declines in revenue in South Korea, Singapore and Malaysia, and in Japan for the nine-month period ended September 30, 2003. These year-over-year declines were related in part to the shift of attention of distributor leaders away from their home markets during the first quarter of 2003 to focus on Mainland China, the positive impact on revenue results in 2002 from distributor enthusiasm surrounding our planned expansion of operations in Mainland China, and geo-political conflicts and weak economic conditions.

North Asia. Revenue in North Asia, consisting of Japan and South Korea, increased 2.8% and 1.4% to $158.8 million and $446.2 million for the three- and nine-month periods ended September 30, 2003, from $154.4 million and $439.9 million for the same periods in 2002. Excluding the impact of changes in foreign currency exchange rates, revenue in North Asia increased 1.2% for the three months ended September 30, 2003, compared to the same period in 2002 and decreased 4.5% for the nine-month period ended September 30, 2003, compared to the same period in 2002. In Japan, revenue increased 3.9% and 2.9% to $143.6 million and $403.0 million for the three- and nine-month periods ended September 30, 2003, from $138.2 million and $391.8 million for the same periods in 2002. In local currency, revenue in Japan increased 2.2% for the three months ended September 30, 2003 compared to the same period in 2002 and decreased 3.3% for the nine-month period ended September 30, 2003 compared to the same period in 2002. Local currency revenue in Japan during the third quarter of 2003 was positively impacted by the introduction of new products earlier in 2003, including ReishiMax GLP™, which promotes a healthy immune system, and TruFace™ Essence, an

advanced skin-firming product, as well as distributor incentives implemented to promote executive development. Revenue in Japan for the nine-month period in 2003 was negatively impacted by the factors noted in “Revenue – Overview” above.

In South Korea, revenue decreased 6.2% and 10.2% to $15.2 million and $43.1 million for the three- and nine-month periods ended September 30, 2003, from $16.2 million and $48.0 million for the same periods in 2002. In local currency, revenue in South Korea decreased 7.4% and 14.3% for the three- and nine-month periods ended September 30, 2003 compared to the same periods in 2002. The decrease in South Korea was primarily a result of the factors discussed in “Revenue – Overview” above, as well as regulatory changes requiring a modification to our sales incentive plan earlier in 2003. The decrease in revenue of 7.4% during the third quarter of 2003 is an improvement from the 21.0% decrease reported in the previous quarter of 2003.

North America. Revenue in North America, consisting of the United States and Canada, decreased 28.1% and 16.3% to $29.1 million and $92.1 million for the three- and nine-month periods ended September 30, 2003, from $40.5 million and $110.1 million for the same periods in 2002. Revenue in the United States declined 29.8% and 18.2% to $26.8 million and $85.0 million for the three- and nine-month periods ended September 30, 2003, from $38.2 million and $103.9 million for the same periods in 2002. The decline in revenue in the United States is principally a result of significant declines in Big Planet revenue of $6.6 million and $15.0 million for the three- and nine-month periods ended September 2003. These declines are due primarily to the sale of our professional employer organization and the restructuring of Big Planet telecommunication products both of which transitions are part of our continued efforts to eliminate or modify low-margin products. In addition, the year-over-year comparison is negatively affected by the inclusion of $6.0 million of sales to foreign distributors during the third quarter of 2002 at the global distributor convention held in the United States.

Increasing distributor activity tied to the Pharmanex BioPhotonic Scanner program, the introduction of new weight-management products and implementation of distributor leadership incentives, however, resulted in 21.0% growth in our Pharmanex revenue, with Nu Skin revenue growth of approximately 3.0% during the third quarter of 2003, compared to the same period in 2002, excluding sales to foreign distributors at the 2002 global convention held in the United States. Moreover, we experienced an 8.0% year-over-year increase in our executive distributors in the United States and a 17.8% increase in automatic delivery orders compared to the prior-year period. The FDA has not responded yet to our request to classify the scanner as a non-medical device. In the event the FDA concludes that the scanner requires medical device clearance, which could delay or inhibit our ability to market the scanner, we currently intend to contest any such conclusion.

In Canada, revenue remained level at $2.4 million for the three-month periods ended September 30, 2003 and 2002, respectively, and increased 14.5% to $7.1 million for the nine-month period ended September 30, 2003, from $6.2 million for the same period in 2002. In local currency, revenue in Canada decreased 12.3% for the three-month period ended September 30, 2003, compared to the same period in the prior year and increased 6.9% for the nine-month period ended September 30, 2003, compared to the same period in the prior year. Revenue in Canada during the third quarter of 2002 had been positively impacted by distributor

enthusiasm surrounding our announcement of plans to expand retail operations in Mainland China.

Greater China. Revenue in Greater China, consisting of Mainland China, Hong Kong and Taiwan, increased 26.5% and 21.2% to $34.8 million and $91.9 million for the three- and nine-month periods ended September 30, 2003, from $27.5 million and $75.8 million for the same periods in 2002, primarily as a result of the expansion of operations in Mainland China. Revenue in Mainland China was $10.8 million and $20.5 million for the three- and nine-month periods ended September 30, 2003, following our expansion of retail operations and the introduction of Nu Skin branded products in Mainland China in January 2003. On a sequential basis, revenue in Mainland China increased 84.8%. This growth is attributed to an increased number of preferred customers and employed sales representatives in Mainland China. As our business expands in Mainland China, we continue to experience government scrutiny due to our international reputation as a direct selling company. Although we conduct retail operations and not direct selling operations in Mainland China, we expect the government scrutiny to continue throughout 2004 when new direct selling laws and regulations are anticipated. For a more detailed discussion of the risks and challenges we face in Mainland China, please refer to "Notes Regarding Forward-Looking Statements" below. We anticipate opening stores in four major new cities during the fourth quarter of 2003.

The increase in revenue in Mainland China was somewhat offset by a decline in revenue in Taiwan. Revenue in Taiwan decreased 13.9% and 5.6% to $17.9 million and $54.2 million for the three- and nine-month periods ended September 30, 2003, from $20.8 million and $57.4 million for the same periods in 2002. In local currency, revenue in Taiwan decreased 13.2% and 5.6% for the three- and nine-month periods ended September 30, 2003, compared to the same periods in 2002. Revenue in Hong Kong remained level at $6.2 million for the three-month periods ended September 30, 2003 and 2002 and nearly level at $17.1 million and $16.9 million for the nine-month periods ended September 30, 2003 and 2002, respectively. We believe that the SARS epidemic negatively impacted revenue in Taiwan and Hong Kong earlier in 2003. In addition, revenue in Taiwan and Hong Kong during the second, third and fourth quarters of 2002 was positively impacted by distributor enthusiasm surrounding our planned expansion of operations in Mainland China in 2003.

South Asia/Pacific. Revenue in South Asia/Pacific, consisting of Thailand, the Philippines, Australia/New Zealand, Singapore and Malaysia, decreased 19.3% and 18.5% to $19.2 million and $55.1 million for the three- and nine-month periods ended September 30, 2003, from $23.8 million and $67.6 million for the same periods in 2002. Excluding the impact of changes in foreign currency exchange rates, revenue in South Asia/Pacific decreased 22.0% and 21.4% for the three- and nine-month periods ended September 30, 2003, compared to the same periods in 2002. The decrease in revenue in this region was due primarily to the combined decrease in Singapore and Malaysia of 44.8% and 44.1% to $9.1 million and $27.4 million for the three- and nine-month periods ended September 30, 2003, from $16.5 million and $49.0 million for the same periods in 2002. Both Singapore and Malaysia were opened in the last two years. We often experience a revenue contraction after an initial period of rapid revenue growth following the opening of the market. This revenue contraction occurred later than usual in Singapore and Malaysia and was more pronounced than anticipated. We believe that this was due in part to distributor enthusiasm related to the planned opening of expanded operations in Mainland China in January 2003, which drove revenue growth throughout 2002, and the negative impact on revenue of some distributors in these markets promoting unhealthy business practices. This decrease was somewhat offset by an increase in revenue in both

Thailand and combined Australia/New Zealand. Revenue in Thailand increased 66.7% and 78.4% to $6.0 million and $15.7 million for the three- and nine-month periods ended September 30, 2003, from $3.6 million and $8.8 million for the same periods in 2002. Combined revenue in Australia/New Zealand increased 17.2% and 29.9% to $3.4 million and $10.0 million for the three- and nine- month periods ended September 30, 2003, from $2.9 million and $7.7 million for the same periods in 2002.

Other Markets. Revenue in Other Markets, which includes our European and Latin American operations, increased 22.4% and 23.4% to $8.2 million and $25.3 million for the three- and nine-month periods ended September 30, 2003, from $6.7 million and $20.5 million for the same periods in 2002. This increase was primarily due to a 24.0% and 26.5% increase in revenue in Europe including the favorable impact of currency fluctuations in Europe for the three- and nine-month periods ended September 30, 2003, compared to the same prior-year periods.

Gross profit

Gross profit as a percentage of revenue increased to 82.5% and 81.6% for the three- and nine-month periods ended September 30, 2003, from 80.3% and 80.1% for the same periods in 2002. Our gross profit was positively impacted by the divestiture of our professional employment organization and the decline in low-margin revenue from Big Planet as well as the positive impact of fluctuations in foreign currency in 2003 compared to the same prior-year periods. We purchase a significant majority of our goods in U.S. dollars and recognize revenue in local currencies. Consequently, we are subject to exchange rate risks in our gross margins.

Selling expenses

Selling expenses (previously referred to as distributor incentives), as a percentage of revenue, increased to 42.0% and 40.9% for the three- and nine-month periods ended September 30, 2003, from 40.3% and 39.4% for the same periods in 2002. In U.S. dollars, selling incentives increased to $105.0 million and $290.6 million for the three- and nine-month periods ended September 30, 2003, from $101.9 million and $281.3 million for the same periods in 2002. The increase in selling expenses was due to the increase of sales employee labor and commission expenses in Mainland China. In addition, selling expenses as a percent of revenue increased due to the divestiture of our professional employment organization, which paid no commissions, and by the introduction of leadership incentives in Japan and the United States. The reason for the change in title from distributor incentives to selling expenses is because the sales representatives in Mainland China are employees, as opposed to independent distributors.

General and administrative expenses

General and administrative expenses (previously referred to as selling, general and administrative expenses), as a percentage of revenue, decreased to 28.5% for the three-month period ended September 30, 2003 from 29.8% for the same period in 2002. In U.S. dollars, general and administrative expenses decreased to $71.4 million for the three-month period ended September 30, 2003, from $75.3 million for the same period in 2002. This decrease was due to the additional $5.0 million in expenses for our global distributor convention held in the United States in the third quarter of 2002 and was somewhat offset by the reduction in labor expenses resulting from our restructuring that occurred in the third quarter of 2003.

General and administrative expenses as a percentage of revenue remained nearly constant at 30.1% for the nine-month period ended September 30, 2003, compared to 29.9% for the same period in 2002. In U.S. dollars, general and administrative expenses also remained nearly constant at $213.9 million for the nine-month period ended September 30, 2003 compared to $213.3 million for the same period in 2002. The 2002 global distributor convention expenses of $5.0 million were nearly offset by the first quarter 2003 expenses for the distributor convention held in Japan, which were approximately $4.0 million.

Restructuring and other charges

Restructuring and other charges of $5.6 million recorded in the third quarter of 2003 include $5.1 million of expenses resulting from an early retirement program and other employee separation charges. As a result of these employee terminations, our overall headcount was reduced by approximately 130 employees, the majority of which were employees at our U.S. headquarters. These restructuring expenses consisted primarily of severance and other compensation charges. The savings associated with these reductions in force are expected to be refocused on revenue growth initiatives throughout the company. In connection with these restructuring charges, we also completed the divestiture of our professional employer organization operated through Big Planet resulting in a charge of approximately $0.5 million.

Other income (expense), net

Other income (expense), net increased approximately $0.2 million and $3.6 million for the three- and nine-month periods ended September 30, 2003, compared to the same periods in 2002. Changes in other income (expense), net are primarily impacted by foreign exchange fluctuations to the U.S. dollar on the translation of yen-based bank debt and other foreign denominated intercompany balances into U.S. dollars for financial reporting purposes, as well as interest income and interest expense.

Provision for income taxes

Provision for income taxes decreased to $8.9 million and $26.3 million for the three- and nine-month periods ended September 30, 2003, compared to $9.4 million and $27.5 million for the same periods in 2002. The effective tax rate remained at 37.0% of pre-tax income for 2003 and 2002.

Net income

Net income decreased to $15.1 million and $44.7 million for the three- and nine-month periods ended September 30, 2003, compared to $15.9 million and $46.9 million for the same periods in 2002. Net income decreased primarily because of the factors noted above in “revenue” “selling expenses” and “restructuring and other charges” and was somewhat offset by the factors noted in “gross profit”, “general and administrative” and “other income (expense), net” above.

Liquidity and Capital Resources

Historically, our principal needs for funds have been for operating expenses including selling incentives, working capital (principally inventory purchases), capital expenditures and the development of operations in new markets. We have generally relied on cash flow from operations to meet our cash needs and business objectives without incurring long-term debt to fund operating activities.

We typically generate positive cash flow from operations due to favorable gross margins, the variable nature of selling expenses, which constitute a significant percentage of operating expenses, and minimal capital requirements. We generated $62.4 million in cash from operations during the nine-month period ended September 30, 2003, compared to $67.7 million during the nine-month period ended September 30, 2002. The $5.3 million decrease in cash generated from operations during the nine-month period ended September 30, 2003 is largely related to the timing of payments of a higher amount of accrued expenses, including income taxes and commissions to distributors, during the nine-month period ended September 30, 2003, compared to the same prior-year period. These accrued expenses were substantially higher at December 31, 2002 than the amounts accrued at December 31, 2001, because revenue and profitability were significantly higher in 2002 compared to 2001.

As of September 30, 2003, working capital was $209.1 million compared to $180.6 million as of December 31, 2002. Cash and cash equivalents at September 30, 2003 and December 31, 2002, were $144.4 million and $120.3 million, respectively. The increase in cash balances in 2003 was primarily due to our continued ability to generate cash from operations. Working capital increased due to certain fluctuations of deferred tax assets and liabilities as well as the increase in cash balances.

Capital expenditures, primarily for equipment, including the BioPhotonic Scanner, computer systems and software, office furniture and leasehold improvements, were $13.2 million for the nine-month period ended September 30, 2003. In addition, we anticipate capital expenditures during the remainder of 2003 of approximately $5 million to $10 million to further enhance our infrastructure, including enhancements to computer systems and software, purchases of additional BioPhotonic Scanners, which we lease to our distributors, as well as further expansion of our retail stores, manufacturing and related infrastructure in Mainland China.

Our long-term debt as of September 30, 2003 consisted of 9.7 billion Japanese yen-denominated ten-year senior notes issued to the Prudential Insurance Company of America. The notes bear interest at an effective rate of 3.03% per annum and are due October 2010, with annual principal payments beginning October 2004. As of September 30, 2003, the outstanding balance on the notes was 9.7 billion Japanese yen, or $87.1 million.

We also maintain a $30.0 million revolving credit facility with Bank of America, N.A. and Bank One, N.A. for which Bank of America, N.A. acted as agent. Drawings on this revolving credit facility may be used for working capital, capital expenditures and other purposes including repurchases of our outstanding shares of Class A common stock. The revolving credit facility is set to expire on May 10, 2004. In August 2003, we also entered into a $125.0 million multi-currency private uncommitted shelf facility with the Prudential Investment Management, Inc. There were no outstanding balances relating to the revolving credit facility or this shelf facility as of September 30, 2003. However, subsequent to September 30, 2003, we utilized a portion of

this shelf facility and a portion of the revolving credit facility in a transaction involving the repurchase of our shares of common stock. See “Subsequent Events” below. The Japanese notes and the revolving and shelf credit facilities are secured by guarantees issued by our material Subsidiaries and by a pledge of 65% of the outstanding stock of Nu Skin Japan Company Limited, our operating subsidiary in Japan.

Since August 1998, our board of directors has authorized us to repurchase up to $90.0 million of our outstanding shares of Class A common stock. The repurchases are used primarily to fund our equity incentive plans. During the three- and nine-month periods ended September 30, 2003, we repurchased approximately 17,000 shares and 811,000 shares of Class A common stock for an aggregate amount of approximately $0.2 million and $8.4 million. As of September 30, 2003, we had repurchased a total of approximately 8.7 million shares of Class A common stock for an aggregate price of approximately $81.6 million.

In July 2003, our board of directors declared a quarterly cash dividend of $0.07 per share for all classes of common stock. This quarterly cash dividend of $5.6 million was paid on September 24, 2003, to stockholders of record on September 5, 2003. The board of directors also recently declared a quarterly cash dividend of $0.07 per share for all classes of common stock to be paid in December 2003. We anticipate that our board of directors will continue to declare quarterly cash dividends and that the cash flows from operations will be sufficient to fund our future dividend payments. However, the declaration of dividends is subject to the discretion of our board of directors and will depend upon various factors, including our net earnings, financial condition, cash requirements, future prospects and other factors deemed relevant by our board of directors.

We believe we have sufficient liquidity to be able to meet our obligations on both a short-and long-term basis. We currently believe that existing cash balances together with future cash flows from operations will be adequate to fund the cash needs relating to the implementation of our strategic plans. The majority of our expenses are variable in nature and as such, a potential reduction in the level of revenue would reduce our cash flow needs. However, in the event that our current cash balances, future cash flow from operations and current lines of credit are not sufficient to meet our obligations or strategic needs, we would consider raising additional funds in the debt or equity markets or restructuring our current debt obligations. Additionally, we would consider realigning our strategic plans including a reduction in capital spending and a reduction in the level of stock repurchases or dividend payments.

Subsequent Events

In October 2003, we repurchased approximately 10.8 million shares of common stock for approximately $140.0 million from certain members of our original shareholder group. These shareholders also sold approximately 6.2 million additional shares of common stock to third-party investors. The transaction also included the agreement to convert all shares of outstanding super-voting Class B common stock to Class A common stock. We financed the repurchase with $45.0 million from

existing cash balances, approximately $20.0 million from our revolving credit facility and $75.0 million in new long-term debt under the $125.0 million shelf facility noted above. The long-term debt is U.S. dollar denominated, bears interest of approximately 4.5% per annum and will be amortized in two tranches over five and seven years. The terms and conditions of the repurchase were approved by a special committee of our board of directors comprised solely of independent directors. The special committee engaged its own financial and legal advisors in connection with the repurchase transaction.

Critical Accounting Policies

The following critical accounting policies and estimates should be read in conjunction with our audited consolidated financial statements and related notes thereto. Management considers the most critical accounting policies to be the recognition of revenue, accounting for income taxes, accounting for intangible assets and accounting for the impact of foreign currencies. In each of these areas, management makes estimates based on historical results, current trends and future projections.

Revenue. We recognize revenue when products are shipped, which is when title passes to our independent distributors. We offer a return policy whereby distributors can generally return unopened and unused product for up to 12 months subject to a 10% restocking fee. Reported revenue is net of returns, which have historically been less than 5.0% of gross sales. A reserve for product returns is accrued based on historical experience. In the event that certain expenses, including our selling expenses, were deemed to be reductions of revenue (under the provisions of EITF 01-09) rather than operating expenses, our reported revenue would be reduced as would our operating expenses. However, since our global compensation plan for our distributors does not provide rebates or selling discounts to distributors who purchase our products and services, we believe our current classification is correct and that no adjustment to reported revenue and operating expenses is necessary.

Income Taxes. We account for income taxes in accordance with SFAS No. 109, “Accounting for Income Taxes.” This statement establishes financial accounting and reporting standards for the effects of income taxes that result from an enterprise’s activities during the current and preceding years. It requires an asset and liability approach for financial accounting and reporting of income taxes. We pay income taxes in many foreign jurisdictions based on the profits realized in those jurisdictions, which can be significantly impacted by terms of intercompany transactions between us and our foreign affiliates. Deferred tax assets and liabilities are created in this process. As of September 30, 2003, we had net deferred tax assets of $60.3 million. These net deferred tax assets assume sufficient future earnings will exist for their realization, as well as the continued application of current tax rates. We have considered projected future taxable income and ongoing tax planning strategies in determining that no valuation allowance is required. In the event we were to determine that we would not be able to realize all or part of our net deferred tax asset in the future, an adjustment to the deferred tax asset would be charged to earnings in the period such determination was made.

Intangible Assets. As of September 30, 2003, we had approximately $157.9 million of unamortized goodwill and other indefinite-life intangible assets. Under the provisions of SFAS No. 142, we are required to test these assets for impairment at least annually. The annual impairment tests have been completed for the year ended December 31, 2002 and did not result in an impairment charge. To the extent an impairment is identified in the future, we will record the amount of the impairment as an operating expense in the period in which it is identified.

Foreign Currency Fluctuations. We operate in more than 30 countries and generate the majority of our revenue and income in foreign currencies in international markets. Consequently, significant fluctuations in foreign currencies, particularly the Japanese yen, will have an impact on reported results. We seek to reduce our exposure to fluctuations in foreign currency exchange rates through intercompany loans of foreign currency, our Japanese yen denominated debt, and the use of derivative financial instruments to hedge certain forecasted

transactions as well as receivables and payables denominated in foreign currencies. We currently account for derivative financial instruments in accordance with SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities.” We do not utilize derivatives for trading or speculative purposes. Hedge effectiveness is documented, assessed and monitored.

Seasonality

In addition to general economic factors, we are impacted by seasonal factors and trends such as major cultural events and vacation patterns. For example, most Asian markets

celebrate their respective local New Year in the first quarter, which generally has a negative impact on that quarter. We believe that direct selling in Japan, the United States and Europe is also generally negatively impacted during the month of August, which is in our third quarter, when many individuals, including our distributors, 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 and preferred customers who were resident in the countries in which we operated and purchased products for resale or personal consumption during the three months ended as of the date indicated. An executive distributor is an active distributor who has achieved required monthly personal and group sales volumes.

	As of September 30, 2003		As of September 30, 2002	
	Active	**Executive**	**Active**	**Executive**

Region:				
North Asia	311,000	16,852	315,000	17,388
North America	70,000	2,657	72,000	2,461
Greater China*	131,000	4,508	73,000	2,959
South Asia/Pacific	69,000	2,060	72,000	2,826
Other Markets	29,000	999	26,000	963
Totals	610,000	27,076	558,000	26,597

* Following the opening of 100 retail stores in Mainland China in 2003, active distributors includes 62,000 preferred customers and executive distributors includes 1,832 employed, full-time sales representatives in Mainland China.

Currency Risk and Exchange Rate Information

A majority of our revenue and many of our 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. The local currency of each of our subsidiary's primary markets is considered the functional currency. All revenue and expenses are translated at weighted average exchange rates for the periods reported. Therefore, our reported revenue 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, we cannot estimate the effect of these fluctuations on our future business, product pricing, results of operations or financial condition.

We seek to reduce our exposure to fluctuations in foreign currency exchange rates through the use of foreign currency exchange contracts, through intercompany loans of foreign currency and through our Japanese yen denominated debt. We do not use derivative financial instruments for trading or speculative purposes. We regularly monitor our foreign currency risks and periodically take measures to reduce the impact of foreign exchange fluctuations on our operating results.

Our foreign currency derivatives are comprised of over-the-counter forward contracts with major international financial institutions. As of September 30, 2003, we had $78.0 million of these contracts with expiration dates through September 2004. All of these contracts were denominated in Japanese yen. For the three- and nine-month periods ended September 30, 2003, we recorded losses of $0.9 million and $3.7 million in operating income related to the fair market valuation on our outstanding forward contracts. Based on our foreign exchange contracts at September 30, 2003, 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 these contracts. This potential loss does not consider the underlying foreign currency transaction or translation exposures to which we are subject.

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 our current expectations and beliefs regarding our future results of operations, performance and achievements. 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:

- our belief that strategic initiatives related to the divestiture of our professional employer organization and the transition from low-margin Big Planet products will have a positive impact on gross and operating margins going forward;
- our anticipation that we will be opening stores in new cities in Mainland China during the fourth quarter of 2003;
- our intention to contest any conclusion by the FDA that the Pharmanex BioPhotonic Scanner must be cleared as a medical device;
- our belief that we have sufficient liquidity to meet our obligations on both a short-and long-term basis and that existing cash balances together with future cash flows from operations will be adequate to fund our strategic plans;
- our plans to reinvest savings associated with recent reductions in force on revenue-growing initiatives throughout the Company;
- the expectation that we will spend $5 million to $10 million for capital expenditures during the remainder of 2003; and

- the anticipation that our board of directors will continue to declare cash dividends and that our cash flows from operations will be sufficient to pay future dividends.

In addition, when used in this report, the words or phrases, "will likely result," "expect," "anticipate," "will continue," "intend," "plan," "believe," and similar expressions are intended to help identify forward-looking statements.

We wish to caution readers that our operating results are subject to various risks and uncertainties that could cause our actual results and outcomes to differ materially from those discussed or anticipated. Reference is made to the risks and uncertainties incorporated by reference into Item 5 of this report, which contains a more detailed discussion of the risks and uncertainties related to our business. We also wish to advise readers not to place any undue reliance on the forward-looking statements contained in this report, which reflect our beliefs and expectations only as of the date of this report. We assume no obligation to update or revise these forward-looking statements to reflect new events or circumstances or any changes in our beliefs or expectations. Some of the risks and uncertainties that might cause actual results to differ from those anticipated include, but are not limited to, the following:

(a) Our expansion of operations in Mainland China is subject to risks and uncertainties. We have been subject to significant regulatory scrutiny and have experienced challenges including interruption of sales activities at certain stores. Because of restrictions on direct selling activities, we have implemented a modified business model for this market using retail stores and an employed sales force. We have at times received guidance from local regulators on conducting our operations including limiting the size of our training meetings, controlling the activities of our sales employees, controlling the distribution of product outside of our stores, keeping the number of sales employees at reasonable levels and limiting the involvement of our overseas distributors. While we continuously update our operating model to address these concerns, we believe we could experience similar challenges in the future as we expand operations in Mainland China and continue to work with regulators to help them understand our business model. Our operations in Mainland China may be modified or otherwise harmed by regulatory changes, subjective interpretations of laws or an inability to work effectively with national and local government agencies. In addition, actions by overseas distributors or local sales employees in violation of local laws could harm our efforts.

(b) The Pharmanex BioPhotonic Scanner is still in the final development stages of a large scale production model. As with any new technology, we have experienced delays and technical and production cost issues in developing a final large scale production model. In addition, the FDA has questioned its status as a non-medical device, and we are facing similar uncertainties and regulatory issues in other markets, including Japan, with respect to the status of the scanner as a non-medical device, which could delay or negatively impact our plans for the scanner in these markets. If the full launch or use of this tool is delayed or otherwise inhibited by production or development issues, or if the FDA or other domestic or foreign government agency takes formal action to prevent us from distributing the scanner as a non-medical device, this could delay our distribution of the scanner and harm our business.

(c) Because a substantial majority of our sales are generated from the Asian regions, particularly Japan, 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;
- weakening of foreign currencies, particularly the Japanese yen;
- political unrest or uncertainty;
- failure of planned initiatives to generate continued interest and enthusiasm among distributors in these markets or to attract new distributors; or
- any problems with our expansion of operations in Mainland China into new cities, increasing product offerings and attracting additional sales representatives.

(d) The network marketing and nutritional supplement industries are subject to various laws and regulations throughout our markets, many of which involve a high level of subjectivity and are inherently fact based and subject to interpretation. Recent negative publicity concerning stimulant-based supplements has spurred efforts to change existing regulations or adopt new regulations in order to impose further restrictions and regulatory control over the nutritional supplement industry. If our existing business practices or products, or any new initiatives or products, are challenged or found to contravene any of these laws by any governmental agency or other third party, or if there are any changes in regulations applicable to our business, our revenue and profitability may be harmed.

(e) There is uncertainty whether the SARS epidemic could return this winter, particularly in those Asian markets most affected by the epidemic earlier in 2003. It is difficult to predict the impact, if any, of a recurrence of SARS on our business. Although such an event could generate increased sales of health/immune supplements and personal care products, our direct selling and retail activities and results of operations could be harmed if the fear of SARS causes people to avoid public places and interaction with one another.

(f) Many countries have banned the importation of products that contain bovine materials sourced from locations where Bovine Spongiform Encephalopathy (BSE), commonly referred to as “mad cow disease”, has been identified. We currently source all of our bovine materials, used primarily in the gel capsules of our nutritional supplements, from BSE-free countries. However, if BSE spreads to additional countries where we currently source our bovine materials, this could negatively impact our ability to import products into our markets until we change sources or ingredients.

(g) Our ability to retain key and executive level distributors or to sponsor new executive distributors is critical to our success. Because our products are distributed exclusively through our distributors and we compete with other direct selling companies in attracting distributors, our operating results could be adversely affected if our existing and new business opportunities and products do not generate sufficient enthusiasm

and economic incentive to retain our existing distributors or to sponsor new distributors on a sustained basis.

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 5 to the Financial Statements contained in Item 1 of Part I.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act")). Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective in timely alerting them to the material information relating to us (or our consolidated Subsidiaries) required to be included in the reports we file or submit under the Exchange Act.

Changes in internal control over financial reporting.

During the most recent fiscal quarter covered by this report, there has been no change in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

None.

ITEM 2. CHANGES IN SECURITIES

On July 25, 2003, we issued 250,825 shares of its Class A common stock to the CEO, M. Truman Hunt, pursuant to the exercise of a stock option by Mr. Hunt at an exercise price of $1.87 per share. The shares were issued in reliance on the exemption from registration under Rule 701 of the Securities Act of 1933, as amended. The Rule 701 exemption was available for this issuance because the underlying stock option was granted to Mr. Hunt pursuant to a written compensatory benefit plan at a time when we were not subject to the reporting requirements of section 13 of 15(d) of the Securities Exchange Act of 1934.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

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

None.

ITEM 5. OTHER INFORMATION

Exhibit 99.1 contains updated risk factors related to our business and is incorporated herein by reference.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits

Regulation S-K Number	Description
10.1	Amended and Restated Registration Rights Agreement, dated as of September 18, 2003, by and among Nu Skin Enterprises, Inc., Sandra N. Tillotson, The Sandra N. Tillotson Family Trust and the Purchasers signatory thereto (incorporated by reference to Exhibit No. 4.7 to the Company's Registration Statement on Form S-3 filed October 20, 2003).
10.2	Private Shelf Agreement, dated as of August 26, 2003, between Nu Skin Enterprises, Inc. and Prudential Investment Management, Inc.

10.3	Amended and Restated Collateral Agency and Intercreditor Agreement, dated as of August 26, 2003, by and among Nu Skin Enterprises, Inc. and various of its subsidiaries, U.S. Bank National Association, as Collateral Agent, and various lending institutions.
10.4	Stock Acquisition Agreement, dated as of August 1, 2003, by and among Nu Skin Enterprises, Inc., Orrin T. Colby, III and Cygnus Resources, Inc.
10.5	Amendment No. 1 to the Master Lease Agreement, effective as of July 1, 2003, between Nu Skin International, Inc. and Aspen Country, LLC.
10.6	Amendment No. 1 to the Master Lease Agreement, effective as of July 1, 2003, between Nu Skin International, Inc. and Scrub Oak, LLC.

10.7	Nu Skin Enterprises, Inc. Executive Incentive Plan, last updated July 1, 2003.
31.1	Certification by M. Truman Hunt, President and Chief Executive Officer, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification by Ritch N. Wood, Chief Financial Officer, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification by M. Truman Hunt, President and Chief Executive Officer, pursuant to Section 1350, Chapter 63 of Title 18, United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification by Ritch N. Wood, Chief Financial Officer, pursuant to Section 1350, Chapter 63 of Title 18, United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
99.1	Risk factors.

(b) The Company filed a Current Report on Form 8-K on July 29, 2003, wherein the Company furnished its earnings release for the second quarter of 2003 under Item 12, “Results of Operations and Financial Condition.”

SIGNATURES

Pursuant to the requirements 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.

November 13, 2003

NU SKIN ENTERPRISES, INC.

By: /s/ Ritch N. Wood
Ritch N. Wood
Its: Chief Financial Officer
(Principal Financial and
Accounting Officer)

EXHIBIT INDEX

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99.1	Risk factors.

NU SKIN ENTERPRISES, INC.

$125,000,000

MULTI-CURRENCY

PRIVATE SHELF FACILITY

PRIVATE SHELF AGREEMENT

August 26, 2003

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SCHEDULES

EXHIBITS

NU SKIN ENTERPRISES, INC.
One Nu Skin Plaza
75 West Center Street
Provo, Utah 84601

August 26, 2003

Prudential Investment Management, Inc. ("**Prudential**")
Each Prudential Affiliate (as hereinafter defined) which becomes bound by certain provisions of this Agreement as hereinafter provided (together with Prudential, the "**Purchasers**")

c/o Prudential Capital Group
Four Embarcadero Center
Suite 2700
San Francisco, California 94111

Ladies and Gentlemen:

The undersigned, Nu Skin Enterprises, Inc., a Delaware corporation (the "**Company**"), and each Issuer Subsidiary which from time to time may execute a Confirmation of Acceptance or issue Notes hereunder, hereby agree with the Purchasers as follows:

1. AUTHORIZATION OF ISSUE OF NOTES.

The Company (or in the case of an Issuer Subsidiary, such Issuer Subsidiary) may authorize the issue of its senior promissory notes (the "**Notes**") in the aggregate principal amount of $125,000,000 (including the equivalent in the Available Currencies), to be dated the date of issue thereof, to mature, in the case of each Note so issued, no more than ten years after the date of original issuance thereof, to have an average life of not more than seven years, to bear interest on the unpaid balance thereof from the date thereof at the rate per annum, to rank pari passu with all other outstanding Notes, and to have such other particular terms, as shall be set forth, in the case of each Note so issued, in the Confirmation of Acceptance with respect to such Note delivered pursuant to Section 2B(5), and to be substantially in the form of Exhibit A attached hereto. The terms "**Note**" and **"Notes**" as used herein shall include each Note delivered pursuant to any provision of this Agreement and each Note delivered in substitution or exchange for any such Note pursuant to any such provision. Notes which have (i) the same final maturity, (ii) the same scheduled principal prepayment dates, (iii) the same principal prepayment amounts (as a percentage of the original principal amount of each Note), (iv) the same interest rate, (v) the same interest payment periods, (vi) the same currency specification, (vii) the same issuer, and (viii) the same date of issuance (which, in the case of a Note issued in exchange for another Note, shall be deemed for these purposes the date on which such Note's ultimate predecessor Note was issued), are herein called a "**Series**" of Notes. The Notes shall at all times be

guaranteed by all current and future Material Domestic Subsidiaries of the Company (the **"Subsidiary Guarantors**") pursuant to the Subsidiary Guaranty, and shall at all times, at the option of the Company, either be (x) secured by a pledge of the Pledged Securities of each Material Foreign Subsidiary pursuant to the Pledge Agreement or (y) guaranteed by each Material Foreign Subsidiary pursuant to a Foreign Subsidiary Guaranty. Certain capitalized terms used in this Agreement are defined in Schedule A; references to a "Schedule" or an "Exhibit" are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

2. PURCHASE AND SALE OF NOTES.

2A [**Intentionally Omitted**.]

2B(1). **Facility**. Prudential is willing to consider, in its sole discretion and within limits which may be authorized for purchase by Prudential and Prudential Affiliates from time to time, the purchase of Notes pursuant to this Agreement. The willingness of Prudential to consider such purchase of Notes is herein called the "**Facility**." At any time, the aggregate principal amount of Notes stated in Section 1, minus the aggregate principal amount of Notes purchased and sold pursuant to this Agreement prior to such time, minus the aggregate principal amount of Accepted Notes (as hereinafter defined) which have not yet been purchased and sold hereunder prior to such time, is herein called the "**Available Facility Amount**" at such time. For purposes of the preceding sentence, all aggregate principal amounts of Notes and Accepted Notes shall be calculated in Dollars with the aggregate amount of any Notes denominated or Accepted Notes to be denominated in any Available Currency other than Dollars being converted to Dollars at the rate of exchange used by Prudential to calculate the Dollar equivalent at the time of the applicable Acceptance under Section 2B(5). **NOTWITHSTANDING THE WILLINGNESS OF PRUDENTIAL TO CONSIDER PURCHASES OF NOTES, THIS AGREEMENT IS ENTERED INTO ON THE EXPRESS UNDERSTANDING THAT NEITHER PRUDENTIAL NOR ANY PRUDENTIAL AFFILIATE SHALL BE OBLIGATED TO MAKE OR ACCEPT OFFERS TO PURCHASE NOTES, OR TO QUOTE RATES, SPREADS OR OTHER TERMS WITH RESPECT TO SPECIFIC PURCHASES OF NOTES, AND THE FACILITY SHALL IN NO WAY BE CONSTRUED AS A COMMITMENT BY PRUDENTIAL OR ANY PRUDENTIAL AFFILIATE**.

2B(2). **Issuance Period**. Notes may be issued and sold pursuant to this Agreement until the earlier of (i) the third anniversary of the date of this Agreement (or if such anniversary is not a New York Business Day, the New York Business Day next preceding such anniversary) and (ii) the thirtieth day after Prudential shall have given to the Company, or the Company shall have given to Prudential, written notice stating that it elects to terminate the issuance and sale of Notes pursuant to this

Agreement (or if such thirtieth (30) day is not a New York Business Day, the New York Business Day next preceding such thirtieth (30) day). The period during which Notes may be issued and sold pursuant to this Agreement is herein called the "**Issuance Period**."

2B(3). **Request for Purchase**. The Company may from time to time during the Issuance Period make requests for purchases of Notes (each such request being herein called a "**Request for Purchase**"). Each Request for Purchase shall be made to Prudential by

telefacsimile or overnight delivery service to the applicable address set forth in the Information Schedule, and shall (i) specify the currency (which shall be an Available Currency) of the Notes covered thereby, (ii) specify the aggregate principal amount of Notes covered thereby, which, in the case of the initial draw, shall not be less than $10,000,000 (or its equivalent in another Available Currency) or which, in the case of any subsequent draw, shall not be less than $5,000,000 (or its equivalent in another Available Currency), and not be greater than the Available Facility Amount at the time such Request for Purchase is made, (iii) specify the principal amounts, final maturities, principal prepayment dates and amounts and interest payment periods (quarterly or semi-annually in arrears, with quarterly available only in the case of Notes denominated in Dollars) of the Notes covered thereby, (iv) specify the use of proceeds of such Notes, (v) specify the proposed day for the closing of the purchase and sale of such Notes, which shall be a Business Day during the Issuance Period not less than 6 Business Days (or, if the issuer of such notes will be an Issuer Subsidiary organized in a jurisdiction outside of the United States, not less than 15 Business Days) and not more than 42 days after the making of such Request for Purchase, (vi) specify the number of the account and the name and address of the depository institution to which the purchase prices of such Notes are to be transferred on the Closing Day for such purchase and sale, (vii) certify that the representations and warranties contained in Section 5 are true on and as of the date of such Request for Purchase and that there exists on the date of such Request for Purchase no Event of Default or Default, (viii) specify the issuer of the Notes (which shall be the Company or an Issuer Subsidiary), and (ix) be substantially in the form of Exhibit B attached hereto. Each Request for Purchase shall be deemed made when received by Prudential.

2B(4). **Rate Quotes**. Not later than two (2) Business Days after the Company shall have given Prudential a Request for Purchase pursuant to Section 2B(3), Prudential may, but shall be under no obligation to, provide to the Company by telephone or telefacsimile, in each case between 9:30 a.m. and 1:30 p.m. New York City local time (or such later time as Prudential may elect) interest rate quotes for the several currencies, principal amounts, maturities, principal prepayment schedules, and interest payment periods of Notes specified in such Request for Purchase (each such interest rate quote provided in response to a Request for Purchase herein called a "**Quotation**"). Each Quotation shall represent the interest rate per annum payable on the outstanding principal balance of such Notes at which Prudential or a Prudential Affiliate would be willing to purchase such Notes at 100% of the principal amount thereof.

2B(5). **Acceptance**. Within the Acceptance Window, an Authorized Officer of the Company may, subject to Section 2B(6), elect to accept a Quotation as to the aggregate principal amount of the Notes specified in the related Request for Purchase (each such Note being herein called an "**Accepted Note**" and such acceptance being herein called an "**Acceptance**"). The day the Company notifies an Acceptance with respect to any Accepted Notes is herein called the "**Acceptance Day**" for such Accepted Notes. Any Quotation as to which Prudential does not receive an Acceptance within the Acceptance Window shall expire, and no purchase or sale of Notes hereunder shall be made based on any such expired Quotation. Subject to Section 2B(6) and the other terms and conditions hereof, the Company agrees to sell (or to cause the applicable Issuer Subsidiary to sell) to Prudential or one or more Prudential Affiliates, and Prudential agrees to purchase, or to cause the purchase by one or more Prudential Affiliates of, the Accepted Notes at 100% of the principal amount of such Notes, which purchase

price shall be paid in the currency in which such Notes are to be denominated. As soon as practicable following the Acceptance Day, the Company, the Issuer Subsidiary (if applicable), Prudential and each Prudential Affiliate which is to purchase any such Accepted Notes will execute a confirmation of such Acceptance substantially in the form of Exhibit C attached hereto (herein called a "**Confirmation of Acceptance**"). If the Company and the Issuer Subsidiary (if applicable) should fail to execute and return to Prudential within three Business Days following receipt thereof a Confirmation of Acceptance with respect to any Accepted Notes, Prudential may at its election at any time prior to its receipt thereof cancel the closing with respect to such Accepted Notes by so notifying the Company in writing.

2B(6). **Market Disruption**. Notwithstanding the provisions of Section 2B(5), any Quotation provided pursuant to Section 2B(4) shall expire if prior to the time an Acceptance with respect to such Quotation shall have been notified to Prudential in accordance with Section 2B(5): (i) in the case of any Notes, the domestic market for U.S. Treasury securities or derivatives shall have closed or there shall have occurred a general suspension, material limitation, or significant disruption of trading in securities generally on the New York Stock Exchange or in the domestic market for U.S. Treasury securities or derivatives, or (ii) in the case of Notes to be denominated in a currency other than Dollars, the markets for the relevant government securities (which in the case of the Euro, shall be the German Bund) or the spot and forward currency market, the financial futures market or the interest rate swap market shall have closed or there shall have occurred a general suspension, material limitation, or significant disruption of trading then such interest. No purchase or sale of Notes hereunder shall be made based on such expired Quotation. If the Company thereafter notifies Prudential of the Acceptance of any such Quotation, such Acceptance shall be ineffective for all purposes of this Agreement, and Prudential shall promptly notify the Company that the provisions of this Section 2B(6) are applicable with respect to such Acceptance.

2B(7). **Facility Closings**. Not later than 2:00 p.m. (New York City local time) on the Document Delivery Date for any Accepted Notes, the Company will deliver to each Purchaser listed in the Confirmation of Acceptance relating thereto at the offices of Prudential Capital Group (as set forth in this Agreement or such alternative address as is provided to the Company pursuant to Section 18(a)), the Accepted Notes to be purchased by such Purchaser in the form of one or more Notes in authorized denominations as such Purchaser may request for each Series of Accepted Notes to be purchased on the Closing Day, dated the Closing Day and registered in such Purchaser's name (or in the name of its nominee), against payment on the Closing Day of the purchase price thereof by transfer of immediately available funds for credit to the Company's account specified in the Request for Purchase of such Notes. If the Company fails to timely tender to any Purchaser the Accepted Notes to be purchased by such Purchaser on the applicable Document Delivery Date, or any of the conditions specified in Section 3 shall not have been fulfilled by the time required on the applicable Document Delivery Date, the Company shall, prior to 2:30 p.m., New York City local time, on the applicable Document Delivery Date notify Prudential (which notification shall be deemed received by each Purchaser) in writing whether (i) such closing is to be rescheduled (such rescheduled date to be a Business Day during the Issuance Period not less than one (1) day and not more than ten (10) days after such scheduled Closing Day (the "**Rescheduled Closing Day**")) and certify to Prudential (which certification shall be for the benefit of each Purchaser) that the Company reasonably believes that it will be able to comply with the conditions set forth in Section 3 on the Document Delivery

Date applicable to such Rescheduled Closing Day and that the Company will pay the Delayed Delivery Fee in accordance with Section 2B(8)(iii) or (ii) such closing is to be canceled. If a Rescheduled Closing Day is established in respect of Notes denominated in a currency other than Dollars, such Notes shall have the same maturity date, principal prepayment dates and amounts and interest payment dates as originally scheduled, but such Notes shall be dated the actual date of issuance. In the event that the Company shall fail to give such notice referred to in the second preceding sentence, Prudential (on behalf of each Purchaser) may at its election, at any time after 2:30 p.m., New York City local time, on such Document Delivery Date, notify the Company in writing that such closing is to be canceled. Notwithstanding anything to the contrary appearing in this Agreement, the Company may not elect to reschedule a closing with respect to any given Accepted Notes on more than one occasion, unless Prudential shall have otherwise consented in writing.

2B(8). **Fees**.

2B(8)(i) **Structuring Fee**. In consideration for the time, effort and expense involved in the structuring of this transaction and the preparation, negotiation and execution of this Agreement, at the time of the execution and delivery of this Agreement by the Company and Prudential, the Company will pay to Prudential in immediately available funds a fee (herein called the **"Structuring Fee**") in the amount of $50,000.

2B(8)(ii). **Issuance Fee**. The Company will pay to each Purchaser in immediately available funds a fee (herein called the "**Issuance Fee**") on each Closing Day in an amount equal to 0.10% of the Dollar equivalent of the aggregate principal amount of Notes to be sold to such Purchaser on such Closing Day (calculated for Notes which are to be denominated in an Available Currency other than Dollars using the rate of exchange used by Prudential to calculate the Dollar equivalent at the time of the applicable Acceptance under Section 2B(5)). Such fee shall be payable in Dollars.

2B(8)(iii). **Delayed Delivery Fee**. If the closing of the purchase and sale of any Accepted Note is delayed for any reason beyond the original Closing Day for such Accepted Note, the Company shall pay the Purchaser which shall have agreed to purchase such Accepted Note, on the Cancellation Date or Document Delivery Date applicable to the actual Closing Day of such purchase and sale, an amount (the "**Delayed Delivery Fee**") equal to

(a) in the case of an Accepted Note denominated in Dollars, the product of (1) the amount determined by Prudential to be the amount by which the bond equivalent yield per annum of such Accepted Note exceeds the investment rate per annum on an alternative Dollar investment of the highest quality selected by Prudential and having a maturity date or dates the same as, or closest to, the Rescheduled Closing Day from time to time fixed for the delayed delivery of such Accepted Note, (2) the principal amount of such Accepted Note, and (3) a fraction the numerator of which is equal to the number of actual days elapsed from and including the original Closing Day for such Accepted Note to but excluding the date of such payment, and the denominator of which is 360; and

(b) in the case of an Accepted Note denominated in a currency other than Dollars, the sum of (1) the product of (x) the amount by which the bond equivalent yield per annum of such Accepted Note exceeds the arithmetic average of the Overnight Interest Rates on each day from and including the original Closing Day for such Accepted Note, (y) the principal amount of such Accepted Note, and (z) a fraction the numerator of which is equal to the number of actual days elapsed from and including the original Closing Day for such Accepted Note to but excluding the date of such payment, and the denominator of which is 360 and (2) the costs and expenses (if any) incurred by such Purchaser or its affiliates with respect to any interest rate, currency exchange or similar agreement entered into by the Purchaser or any such affiliate in connection with the delayed closing of such Accepted Notes.

In no case shall the Delayed Delivery Fee be less than zero. The Delayed Delivery Fee described in clause (b), above, shall be paid in the currency in which the Accepted Notes are denominated. Nothing contained herein shall obligate any Purchaser to purchase any Accepted Note on any day other than the Closing Day for such Accepted Note, as the same may be rescheduled from time to time in compliance with Section 2B(7). Notwithstanding the foregoing, no Delayed Delivery Fee shall be due to any Purchaser which shall have failed to purchase an Accepted Note when each of the conditions precedent in Section 3 (other than the condition set forth in Section 3B) has been timely satisfied on the applicable Document Delivery Date.

2B(8)(iv). **Cancellation Fee**. If (a) the Company at any time notifies Prudential in writing that the Company is canceling the closing of the purchase and sale of any Accepted Note, or (b) if Prudential notifies the Company in writing under the circumstances set forth in the penultimate sentence of Section 2B(7) that the closing of the purchase and sale of such Accepted Note is to be canceled, or (c) if the closing of the purchase and sale of such Accepted Note is not consummated on or prior to the last day of the Issuance Period (the date of any such notification, or the last day of the Issuance Period, as the case may be, being herein called the "**Cancellation Date**"), the Company shall pay the Purchaser which shall have agreed to purchase such Accepted Note in immediately available funds on the Cancellation Date an amount (the "**Cancellation Fee**") equal to

(a) in the case of an Accepted Note denominated in Dollars, the product of (1) the principal amount of such Accepted Note and (2) the quotient (expressed in decimals) obtained by dividing (y) the excess of the ask price (as determined by Prudential) of the Hedge Treasury Note(s) on the Cancellation Date over the bid price (as determined by Prudential) of the Hedge Treasury Note(s) on the Acceptance Day for such Accepted Note by (z) such bid price, with the foregoing bid and ask prices as reported on TradeWeb, or if such information ceases to be available on TradeWeb, any publicly available source of such market data selected by Prudential, and rounded to the second decimal place; and

(b) in the case of an Accepted Note denominated in a currency other than Dollars, the sum of (1) the amount described in clause (a) above (calculated with respect to the Dollar principal amount and interest rate utilized by Prudential in providing the Quotation pursuant to Section 2B(4) relevant to such Accepted Note) and (2) aggregate of all unwinding costs incurred by such Purchaser or its affiliates on positions

described in this clause (2) shall be offset against any such unwinding costs described in this clause (2). Such positions include (without limitation) currency and interest rate swaps, futures and forwards, government bond hedges and currency exchange contracts, all of which may be subject to substantial price volatility. Such costs may also include (without limitation) losses incurred by such Purchaser or its affiliates as a result of fluctuations in exchange rates. All unwinding costs incurred by such Purchaser shall be determined by Prudential or its affiliate in accordance with generally accepted financial practice.

In no case shall the Cancellation Fee be less than zero. Notwithstanding the foregoing, no Cancellation Fee shall be due to any Purchaser which shall have failed to purchase an Accepted Note when each of the conditions precedent in Section 3 (other than the condition set forth in Section 3B) has been timely satisfied on the applicable Document Delivery Date.

3. CONDITIONS OF CLOSING.

On the date on which this Agreement is executed and delivered, (i) the Company shall pay to Prudential the Structuring Fee referenced in Section 2B(8)(i), (ii) the Amended and Restated Collateral Agency and Intercreditor Agreement shall have been duly executed and delivered by the parties thereto and shall be in full force and effect and each Purchaser shall have received a copy thereof, (iii) the Subsidiary Guaranty shall have been duly executed and delivered by each Subsidiary Guarantor and shall be in full force and effect and each Purchaser shall have received a copy thereof, and (iv) the Amended and Restated Subordination Agreement shall have been duly executed and delivered by the Company and each Subordinated Creditor named therein and shall be in full force and effect and each Purchaser shall have received a copy thereof. The obligation of any Purchaser to purchase and pay for any Notes is subject to the satisfaction, on or before the applicable Document Delivery Date for such Notes, of the foregoing conditions and the following additional conditions:

3A. **Certain Documents**. Such Purchaser shall have received the following, each dated the date of the applicable Closing Day (except as otherwise noted below):

(i) The Note(s) to be purchased by such Purchaser.

(ii) Certified copies of the resolutions of (a) the Board of Directors of the Company authorizing the execution and delivery of this Agreement (including the provision of the Parent Guaranty), the Collateral Documents and the issuance of the Notes, and of all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to this Agreement, the Collateral Documents and the Notes, (b) the Board of Directors of each of the Subsidiary Guarantors authorizing the execution and delivery of the Collateral Documents and (c), if applicable, certified copies of resolutions of the Board of Directors of the Issuer Subsidiary authorizing execution and delivery of the Notes and of a Confirmation of Acceptance with respect to this Agreement and the Notes. 7

(iii) Certificates of the Secretary or Assistant Secretary and one other officer of each of the Company, the Subsidiary Guarantors, and, if applicable, the Issuer Subsidiary certifying the names and true signatures of the officers of the Company, the Subsidiary Guarantors and, if applicable, the Issuer Subsidiary authorized to sign this Agreement, the Collateral Documents, the applicable Confirmation of Acceptance and the Notes (as applicable) and the other documents to be delivered hereunder or thereunder.

(iv) Certified copies of the Company's, each Subsidiary Guarantor's, and, if applicable, the Issuer Subsdiary's Certificate of Incorporation and By-laws.

(v) A favorable opinion of the General Counsel of the Company, the Subsidiary Guarantors and, if applicable, the Issuer Subsidiary (or such other counsel designated by the Company and acceptable to the Purchaser(s)) and substantially in the form of Exhibit D attached hereto, and as to such other matters as such Purchaser may reasonably request and (b) if Notes are to be issued by an Issuer Subsidiary which is not organized or incorporated under United States law, a favorable opinion of special counsel to such Issuer Subsidiary, which special counsel shall be satisfactory to the Purchasers and admitted to practice in the jurisdiction in which such Issuer Subsidiary is incorporated or organized, addressing such matters as the Purchasers may require. The Company and, if applicable, the Issuer Subsidiary hereby direct each such counsel to deliver such opinion, agree that the issuance and sale of any Notes will constitute a reconfirmation of such authorization, and understand and agree that each Purchaser receiving each such opinion(s) will and is hereby authorized to rely on such opinion(s).

(vi) A good standing (or equivalent) certificate for each of the Company, the Subsidiary Guarantors and, if applicable, the Issuer Subsidiary from the secretary of state (or equivalent official) of its jurisdiction of organization dated as of a recent date and such other evidence of the status of the Company, the Subsidiary Guarantors, and, if applicable, the Issuer Subsidiary as such Purchaser may reasonably request.

(vii) Additional documents or certificates with respect to legal matters or corporate or other proceedings related to the transactions contemplated hereby as may be reasonably requested by such Purchaser.

For Closing Days subsequent to the Closing Day on which Notes are first issued, the requirements of clauses (ii), (iii) and (iv) above may, to the extent appropriate, be satisfied by delivery of "bring-down" certifications from the applicable officers.

3B. **Opinion of Purchaser's Special Counsel**. If Notes are to be issued by an Issuer Subsidiary which is not organized or incorporated under United States law, such Purchaser shall have received from its special U.S. counsel and special foreign counsel, favorable opinions satisfactory to such Purchaser as to such matters incident to the matters herein contemplated as it may reasonably request.

3C. **Representations and Warranties; No Default**. The representations and warranties contained in Section 5 shall be true on and as of such Closing Day; there shall exist on such Closing Day no Event of Default or Default; and the Company shall have delivered to such Purchaser an Officer's Certificate, dated such Closing Day, to both such effects.

3D. **Purchase Permitted by Applicable Laws**. On such Closing Day each Purchaser's purchase of Notes shall (i) be permitted by the laws and regulations of each jurisdiction to which such Purchaser is subject, without recourse to provisions (such as Section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (ii) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (iii) not subject such Purchaser to any tax, penalty or liability on the date thereof. If requested by a Purchaser, it shall have received an Officer's Certificate certifying as to such matters of fact as it may reasonably specify to enable it to determine whether such purchase is so permitted.

3E. **Payment of Fees**. The Company shall have paid to Prudential any fees due it pursuant to or in connection with this Agreement, including any remaining balance of the Structuring Fee due pursuant to Section 2B8(i), any Issuance Fee due pursuant to Section 2B(8)(ii), and any Delayed Delivery Fee due pursuant to Section 2B(8)(iii).

3F. **Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement**. The Purchasers, if not then a party to the Amended and Restated Collateral Agency and Intercreditor Agreement, shall have duly executed and delivered the Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement to the Collateral Agent and such Counterpart shall be in full force and effect.

3G. **Issuer Subsidiary Counterpart**. The applicable Issuer Subsidiary, if not then a party to the Amended and Restated Collateral Agency and Intercreditor Agreement, shall have duly executed and delivered the Issuer Subsidiary Counterpart to the Collateral Agent and such Counterpart shall be in full force and effect.

3H. **Subsidiary Guaranty or Foreign Subsidiary Guaranty**. The applicable Issuer Subsidiary, if not then a party to the Subsidiary Guaranty or a Foreign Subsidiary Guaranty, shall have duly executed and delivered the Subsidiary Guaranty or Foreign Subsidiary Guaranty, as applicable, to the holders of the Notes and such Issuer Subsidiary shall have duly executed and delivered the same Subsidiary Guaranty or Foreign Subsidiary Guaranty, as applicable, to, and for the benefit of, each Senior Secured Creditor party to the Amended and Restated Collateral Agency and Intercreditor Agreement, and such Subsidiary Guaranties or Foreign Subsidiary Guaranties, as applicable, shall be in full force and effect.

4. [Intentionally Omitted.]

5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each Purchaser that:

5.1 Organization; Power and Authority.

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.

5.2 Authorization, etc.

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).

5.3 Disclosure.

Neither this Agreement nor any other document, certificate or statement furnished to any Purchaser by or on behalf of the Company or any Issuer Subsidiary in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading. Except as disclosed in the form 10-K filed by the Company with the Securities and Exchange Commission for the period immediately prior to the applicable Document Delivery Date of the Notes or in any Form 10-Q, Form 8-K or other report filed by the Company with the Securities and Exchange Commission for any period subsequent to the date of such form 10-K filed by the Company (but at least five (5) Business Days prior to the applicable Document Delivery Date of such Notes), there is no fact peculiar to the Company or any of its Subsidiaries which has had a Material Adverse Effect or in the future may (so far as the Company can now foresee) have a Material Adverse Effect which has not been set forth in this Agreement or in the other documents or certificates furnished to the Purchasers in connection herewith.

5.4 Organization and Ownership of Shares of Subsidiaries; Affiliates.

(a) All of the outstanding shares of capital stock or similar equity interests owned by the Company and its Subsidiaries at any time 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).

(b) Each Subsidiary 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.

(c) No Material Subsidiary, is a party to, or otherwise subject to any legal restriction or any agreement (other than this Agreement 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.

5.5 Financial Statements.

The Company has furnished each Purchaser of any Accepted Notes with the following financial statements: (i) a consolidated balance sheet of the Company and its Subsidiaries as of the last day in each of the three fiscal years of the Company most recently completed prior to the date as of which this representation is made or repeated to such Purchaser (other than fiscal years completed within 120 days prior to such date for which audited financial statements have not been released) and consolidated statements of income, cash flows and shareholders' equity of the Company and its Subsidiaries for each such year, all reported on by PricewaterhouseCoopers (which financial statements shall in all respects be consistent with the requirements of Section 7.1(b) hereof, including the provisos thereto) and (ii) a consolidated balance sheet of the Company and its Subsidiaries as at the end of the quarterly period (if any) most recently completed prior to such date and after the end of such fiscal year (other than quarterly periods completed within 60 days prior to such date for which financial statements have not been released) and the comparable quarterly period in the preceding fiscal year and consolidated statements of income, cash flows and shareholders' equity for the periods from the beginning of the fiscal years in which such quarterly periods are included to the end of such quarterly periods, prepared by the Company (which financial statements shall in all respects be consistent with the requirements of Section 7.1(a) hereof, including the provisos thereto). Such financial statements (including any related schedules and/or notes) fairly present the consolidated financial condition of the Company and its Subsidiaries as of the respective dates specified

therein and the results of their operations and cash flows for the periods specified therein (subject, as to interim statements, to changes resulting from audits and year-end adjustments), have been prepared in accordance with GAAP consistently followed throughout the periods involved and show all liabilities, direct and contingent, of the Company and its Subsidiaries required to be shown in accordance with GAAP. The balance sheets fairly present the condition of the Company and its Subsidiaries as at the dates thereof, and the statements of income, stockholders' equity and cash flows fairly present the results of the operations of the Company and its Subsidiaries and their cash flows for the periods indicated. There has been no material adverse change in the business, property or assets, condition (financial or otherwise), operations or prospects of the Company and its Subsidiaries taken as a whole since the end of the most recent fiscal year for which such audited financial statements have been furnished.

5.6 Compliance with Laws, Other Instruments, etc.

The execution, delivery and performance by the Company, each Subsidiary Guarantor and the Issuer Subsidiary (if applicable) of this Agreement, the Collateral Documents and the Notes (as applicable) 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.

5.7 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, any Subsidiary Guarantor and any Issuer Subsidiary (if applicable) of this Agreement, the Collateral Documents or the Notes (as applicable).

5.8 Litigation; Observance of Agreements, Statutes and Orders.

(a) 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 without limitation Environmental Laws) of any Governmental Authority, which default or violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.9 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.

5.10 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 5.5 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.

5.11 Licenses, Permits, etc.

Except as disclosed in Schedule 5.11,

(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.

5.12 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 that individually or in the aggregate are 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.

(e) The execution and delivery of this Agreement and the Collateral Documents and the issuance and sale of the Notes 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. The representation by the Company in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of each Purchaser's representation in Section 6.2 as to the sources of the funds used to pay the purchase price of the Notes to be purchased by it.

5.13 Private Offering by the Company.

Neither the Company nor anyone acting on its behalf has offered the Notes or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and not more than 18 other Institutional Investors, each of which has been offered the Notes or any similar securities at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of Section 5 of the Securities Act.

5.14 Use of Proceeds; Margin Regulations.

No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, so as to involve the Company, any Issuer Subsidiary or any holder of a Note in a violation of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221) or Regulation X of said Board (12 CFR 224), or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 15% 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 15% of the value of such assets. As used in this Section, the term "margin stock" shall have the meanings assigned to them in said Regulation U.

5.15 Existing Indebtedness and Liens.

Neither the Company nor any of its Restricted Subsidiaries has outstanding any Debt except as permitted by Section 10.5. There exists no default under the provisions of any instrument evidencing such Debt or of any agreement relating thereto which would constitute an Event of Default under clause (f) of Section 11. Neither the Company nor any of its Restricted Subsidiaries has agreed or consented to, or agreed 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 Section 10.3.

5.16 Foreign Assets Control Regulations, etc.

Neither the sale of the Notes by the Company or any Issuer Subsidiary hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. Without limiting the foregoing, neither the Company nor any of its Subsidiaries or its Affiliates (a) is or will become a Person whose property or interests in property are blocked pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such Person. The Company and its Subsidiaries and its Affiliates are in compliance, in all Material respects, with the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act of 2001). No part of the proceeds from the sale of the Notes hereunder has been or will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

5.17 Status under Certain Statutes.

None of the Company, any Subsidiary Guarantor, any Issuer Subsidiary or any Restricted Subsidiary is subject to regulation under the Investment Company Act of 1940, as amended, the Public Utility Holding Company Act of 1935, as amended, the Interstate Commerce Act, as amended, or the Federal Power Act, as amended.

5.18 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 each Purchaser 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

(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.

5.19 Hostile Tender Offers. None of the proceeds of the sale of any Notes will be used to finance a Hostile Tender Offer.

6. REPRESENTATIONS OF THE PURCHASERS.

6.1 Purchase for Investment.

Each Purchaser represents that it is an institutional "accredited investor" within the meaning of subparagraphs (1), (2), (3) or (7) of Rule 501(a) promulgated under the Securities Act. Each Purchaser represents that it is purchasing the Notes to be purchased by it for its own account or for one or more separate accounts maintained by it or for the account of one or more pension or trust funds and not with a view to the distribution thereof, provided that the disposition of its or their property shall at all times be within its or their control. Each Purchaser understand that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to register the Notes.

6.2 Source of Funds.

Each Purchaser represents that at least one of the following statements is an accurate representation as to each source of funds (a "**Source**") to be used by it to pay the purchase price of the Notes to be purchased by it hereunder:

(a) the Source is an "insurance company general account" (as the term is defined in the United States Department of Labor's Prohibited Transaction Exemption ("**PTE**") 95-60) in respect of which the reserves and liabilities (as defined by the annual statement for life insurance companies approved by the National Association of Insurance Commissioners (the "**NAIC Annual Statement**")) for the general account contract(s) held by or on behalf of any employee benefit plan together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit plans maintained by the same employer (or affiliate thereof as defined in PTE 95-60) or by the same employee organization in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with such Purchaser's state of domicile; or

(b) the Source is a separate account that is maintained solely in connection with such Purchaser's fixed contractual obligations under which the amounts payable, or credited, to any employee benefit plan (or its related trust) that has any interest in such separate account (or to any participant or beneficiary of such plan (including any annuitant)) are not affected in any manner by the investment performance of the separate account; or

(c) the Source is either (i) an insurance company pooled separate account, within the meaning of PTE 90-1, or (ii) a bank collective investment fund, within the meaning of the PTE 91-38 and, except as disclosed by such Purchaser to the Company in writing pursuant to this paragraph (c), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(d) the Source constitutes assets of an "investment fund" (within the meaning of Part V of PTE 84-14 (the "**QPAM Exemption**")) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of Part V of the QPAM Exemption), no employee benefit plan's assets that are included in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Section V(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, exceed 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM (applying the definition of "control" in Section V(e) of the QPAM Exemption) owns a 5% or more interest in the Company and (i) the identity of such QPAM and (ii) the names of all employee benefit plans whose assets are included in such investment fund have been disclosed to the Company in writing pursuant to this paragraph (d); or

(e) the Source constitutes assets of a "plan(s)" (within the meaning of Section IV of PTE 96-23 (the "**INHAM Exemption**")) managed by an "in-house asset manager" or "INHAM" (within the meaning of Part IV of the INHAM exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a person controlling or controlled by the INHAM (applying the definition of "control" in Section IV(h) of the INHAM Exemption) owns a 5% or more interest in the Company and (a) the identity of such INHAM and (b) the name(s) of the employee benefit plan(s) whose assets constitute the Source have been disclosed to the Company in writing this paragraph (e); or

(f) the Source is a governmental plan; or

(g) the Source is one or more employee benefit plans, or separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this paragraph (g); or

(h) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.2, the terms "**employee benefit plan**", "**governmental plan**" and "**separate account**" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

7. INFORMATION AS TO COMPANY.

7.1 Financial and Business Information.

The Company shall deliver to Prudential and each holder of Notes that is an Institutional Investor:

(a) Quarterly Statements — 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,

(i) a consolidated and a consolidating balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(ii) 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 7.1(a) 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;

(b) Annual Statements — 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,

(i) a consolidated and a consolidating balance sheet of the Company and its Subsidiaries, as at the end of such year, and

(ii) 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 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 7.1(b) 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;

(c) 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 holder), 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;

(d) Notice of Default or Event of Default — promptly, and in any event within five days, after a Responsible Officer becoming aware of the existence of any Default or 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 11(f), 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;

(e) 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:

(i) with respect to any Plan, 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; or

(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 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;

(f) 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; and

(g) Requested Information — 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 Notes as from time to time may be reasonably

requested by any such holder of Notes, including without limitation, such information as is required by Rule 144A promulgated under the Securities Act to be delivered to a prospective transferee of the Notes.

7.2 Officer's Certificate.

Each set of financial statements delivered to a holder of Notes pursuant to Section 7.1 hereof shall be accompanied by a certificate of a Senior Financial Officer setting forth:

(a) Covenant Compliance — the information (including detailed calculations) required in order to establish whether the Company was in compliance with the requirements of Section 10.2 through Section 10.6 hereof, inclusive, 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 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) Event of Default — 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 a Default or an Event of Default or, if any such condition or event existed or exists (including, without limitation, 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.

7.3 Inspection.

The Company shall permit the representatives of each holder of Notes that is an Institutional Investor:

(a) No Default — if no Default or Event of Default then exists, at the expense of such holder 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) Default — if a Default or 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.

8. PREPAYMENT OF THE NOTES.

8.1 Required Prepayments. Each Series of Notes shall be subject to the required prepayments, if any, as are set forth in the Notes of such Series; provided that upon any partial prepayment of the Notes of a Series pursuant to Section 8.2, the principal amount of each required prepayment of the Notes of such Series becoming due on and after the date of such prepayment or purchase, as well as the payment required at maturity, shall be reduced in the same proportion as the aggregate unpaid principal amount of the Notes of such Series is reduced as a result of such prepayment or purchase.

8.2 Optional Prepayments with Make-Whole Amount.

(a) Prepayment Amount. The Company (or the Issuer Subsidiary, if applicable) may, at its option, upon notice as provided below, prepay on any Business Day all, or from time to time any part of, the Notes in an amount not less than 5% of the aggregate principal amount of the Notes then outstanding in the case of a partial prepayment, at 100% of the principal amount so prepaid, plus accrued interest thereon, plus the Make-Whole Amount determined for the prepayment date with respect to such principal amount.

(b) Notice. The Company (or the Issuer Subsidiary, if applicable) will give each holder of Notes written notice of each optional prepayment under this Section 8.2 not less than 30 days and not more than 60 days prior to the Business Day fixed for such prepayment. Each such notice shall specify the prepayment date, the aggregate principal amount of the Notes to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.3), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company (or the Issuer Subsidiary, if applicable) shall deliver to each holder of Notes which shall have designated a recipient for such notices in the Purchaser Schedule attached to the applicable Confirmation of Acceptance or by notice in writing to the Company a certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the specified prepayment date.

(c) Prepayments under the Amended and Restated Collateral Agency and Intercreditor Agreement. Any prepayments of the Notes in accordance with the Amended and Restated Collateral Agency and Intercreditor Agreement under circumstances in which the Notes have not been declared due and payable under Section 11 hereof shall be treated as optional prepayments under this Section 8 for purposes of calculating any Make-Whole Amount due in connection with such prepayment.

8.3 Allocation of Partial Prepayments.

In the case of each partial prepayment of the Notes, the principal amount of the Notes to be prepaid shall be allocated among all of the Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

8.4 Maturity; Surrender, etc.

In the case of each prepayment of Notes pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any. From and after such date, unless the Company (or the Issuer Subsidiary, if applicable) shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company (or the Issuer Subsidiary, if applicable) and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

8.5 Purchase of Notes.

The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes except upon the payment or prepayment of the Notes in accordance with the terms of this Agreement and the Notes. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to any provision of this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

8.6 Make-Whole Amount.

The term "**Make-Whole Amount**" means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal; provided that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

"Called Principal" means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

"Discounted Value" means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

"Implied Canadian Dollar Yield" shall mean, with respect to the Called Principal of any Note, the yield to maturity implied by (i) the yields reported as of 10:00 a.m. (New York time) on the second Business Day preceding the

Settlement Date with respect to such Called Principal, on the display designated as "Page 0#CABMK" on the Reuters Screen (or such other display as may replace "Page 0#CABMK" on the Reuters Screen) for actively traded benchmark Canadian Government bonds having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, ascertainable, (ii) the average of the yields for such securities as determined by Recognized Canadian Government Bond Market Makers. Such implied yield shall be determined, if necessary, by (a) converting quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the actively traded benchmark Canadian Government bonds with the maturity closest to and greater than the Remaining Average Life of such Called Principal and (2) the actively traded benchmark Canadian Government bonds wit the maturity closest to and less than the Remaining Average Life of such Called Principal.

"Implied Dollar Yield" shall mean, with respect to the Called Principal of any Note, the yield to maturity implied by (i) the yields reported as of 10:00 a.m. (New York time) on the Business Day next preceding the Settlement Date with respect to such Called Principal for actively traded U.S. Treasury securities having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date on the Treasury Yield Monitor page of Standard & Poor's MMS – Treasury Market Insight (or, if Standard & Poor's shall cease to report such yields in MMS – Treasury Market Insight or shall cease to be Prudential Capital Group's customary source of information for calculating Make-Whole Amounts on privately placed notes, then such source as is then Prudential Capital Group's customary source of such information), or if such yields shall not be reported as of such time or the yields reported as of such time shall not be ascertainable, (ii) the Treasury Constant Maturity Series yields reported, for the latest day for which such yields shall have been so reported as of the Business Day next preceding the Settlement Date with respect to such Called Principal, in Federal Reserve Statistical Release H.15 (519) (or any comparable successor publication) for actively traded U.S. Treasury securities having a constant maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date. Such implied yield shall be determined, if necessary, by (a) converting U.S. Treasury bill quotations to bond equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between yields reported for various maturities.

"Implied British Pound Yield" means, with respect to the Called Principal of any Note, the yield to maturity implied by (i) the yields reported, as of 10:00 a.m. (New York time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page 0#GBBMK" on the Reuters Screen (or such other display as may replace "Page 0#GBBMK"on the Reuters Screen) for actively traded benchmark gilt-edged securities having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or if such yields are not reported as of such time or the yields reported shall not be ascertainable, (ii) the average of the yields for such securities as determined by Recognized British Government Bond Market Makers. Such

implied yield will be determined, if necessary, by (a) converting quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the actively benchmark traded gilt-edged securities with the maturity closest to and greater than the Remaining Average life, and (2) the actively traded benchmark gilt-edged securities with the maturity closest to and less than the Remaining Average Life.

"Implied Euro Yield" shall mean, with respect to the Called Principal of any Note, the yield to maturity implied by (i) the yields reported, as of 10:00 a.m. (New York time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page 0#DEBMK" on the Reuters Screen (or such other display as may replace "Page 0#DEBMK" on the Reuters Screen) for the actively traded benchmark German Bunds having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or if such yields are not reported as of such time or the yields reported shall not be ascertainable, (ii) the average of the yields for such securities as determined by Recognized German Bund Market Makers. Such implied yield will be determined, if necessary, by (a) converting quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the actively traded benchmark German Bunds with the

maturity closest to and greater than the Remaining Average Life of such Called Principal and (2) the actively traded benchmark German Bunds with the maturity closest to and less than the Remaining Average Life of such Called Principal.

"**Implied Yen Yield**" means, with respect to the Called Principal of any Note, the yield to maturity implied by (i) the yields reported, as of 10:00 a.m. (New York time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page 0#JPBMK" on the Reuters Screen (or such other display as may replace "Page 0#JPBMK" on the Reuters Screen) for the actively traded benchmark Japanese Government bonds having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or if such yields are not reported as of such time or the yields reported shall not be ascertainable, (ii) the average of the yields for such securities as determined by Recognized Japanese Government Bond Market Makers. Such rate will be determined, if necessary, by (a) converting quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the actively traded benchmark Japanese Government bonds with the maturity closest to and greater than the Remaining Average Life of such Called Principal and (2) actively traded benchmark Japanese Government bonds with the maturity closest to and less than the Remaining Average Life of such Called Principal.

"**Recognized British Government Bond Market Makers**" shall mean two internationally recognized dealers of gilt edged securities reasonably selected by Prudential. "**Recognized Canadian Government Bond Market Makers**" shall mean two internationally recognized dealers of Canadian Government bonds reasonably selected by Prudential.

"**Recognized German Bund Market Makers**" shall mean two internationally recognized dealers of German Bunds reasonably selected by Prudential.

"**Recognized Japanese Government Bond Market Makers**" shall mean two internationally recognized dealers of Japanese Government bonds reasonably selected by Prudential.

"**Reinvestment Yield**" shall mean, with respect to the Called Principal of any Note denominated in (i) Dollars, 50 basis points plus the Implied Dollar Yield, (ii) British Pounds, the Implied British Pound Yield, (iii) Canadian Dollars, the Implied Canadian Dollar Yield, (iv) Euros, the Implied Euro Yield, and (v) Yen, the Implied Yen Yield. The Reinvestment Yield will be rounded to that number of decimals as appears in the coupon for the applicable Note.

"**Remaining Average Life**" means, with respect to any Called Principal, the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (b) the number of years (calculated to the nearest one-twelfth year) that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

"**Remaining Scheduled Payments**" means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, provided that if such Settlement Date is not a date on which interest payments are due to be made under the terms of the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to Section 8.2 or 12.1.

"**Settlement Date**" means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

9. AFFIRMATIVE COVENANTS.

The Company covenants that during the Issuance Period and so long thereafter as any of the Notes are outstanding:

9.1 Compliance with Law.

The Company will and will cause each of its Subsidiaries to comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, 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.

9.2 Insurance.

The Company will 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.

9.3 Maintenance of Properties.

The Company will and will 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.

9.4 Payment of Taxes and Claims.

The Company will and will 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.

9.5 Corporate Existence, etc.

The Company will at all times preserve and keep in full force and effect its corporate existence and the existence of any Issuer Subsidiary. Subject to Section 10.2, 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.

9.6 Security; Execution of Pledge Agreement, Foreign Subsidiary Guaranty and Subsidiary Guaranty.

(a) The Notes and other Senior Secured Indebtedness will, at the option of the Company, either be (x) secured by the Pledged Securities of each Material Foreign Subsidiary, or (y) guaranteed by each Material Foreign Subsidiary pursuant to a foreign subsidiary guaranty substantially in the form of the Subsidiary Guaranty (with such modifications as the Required Holders may reasonably request) (a "**Foreign Subsidiary Guaranty**"), in either case, as set forth below; provided that if the Company elects to cause a Material Foreign Subsidiary to deliver a Foreign Subsidiary Guaranty, such Material Foreign Subsidiary shall also deliver the same Foreign Subsidiary Guaranty to, and for the benefit of, each Senior Secured Creditor party to the Amended and Restated Collateral Agency and Intercreditor Agreement.

(i) Pledged Securities of each Material Foreign Subsidiary. In each instance where the Company elects to comply with clause (x) of Section 9.6(a) above, within 5 days after the Company or any of its Restricted Subsidiaries acquires a Material Foreign Subsidiary or within 5 days after the Company delivers consolidating financial statements pursuant to Section 7.1 showing that any of Company's existing Subsidiaries has become a Material Foreign Subsidiary, the Company shall cause the Pledged Securities of such Material Foreign Subsidiary to be pledged pursuant to a supplement to the Pledge Agreement. 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 holders of the Notes 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 holders of the Notes (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 a holder of any Note, a favorable opinion of counsel, in form and substance reasonably satisfactory to the holders of the Notes and their counsel, as to (a) the due organization and good standing of

Pledged Securities of each Material Foreign Subsidiary. In each instance 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 Holders may reasonably request, all of the foregoing to be satisfactory in form and substance to the holders of the Notes and their 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 Holders reasonably may require.

(ii) Foreign Subsidiary Guaranty. In each instance where the Company elects to comply with clause (y) of Section 9.6(a) above, within 5 days after the Company or any of its Restricted Subsidiaries acquires a Material Foreign Subsidiary or within 5 days after the Company delivers consolidating financial statements pursuant to Section 7.1 showing that any of Company's existing Subsidiaries has become a Material Foreign Subsidiary, the Company shall cause such Material Foreign Subsidiary to execute and deliver a Foreign Subsidiary Guaranty. The Company shall promptly deliver to the holders of the Notes, together with the Foreign Subsidiary Guaranty, (i) a certificate executed by the secretary or an assistant secretary of such Material Foreign Subsidiary as to (a) the incumbency and signatures of the officers of such Material Foreign Subsidiary executing the Foreign Subsidiary Guaranty, and (b) the fact that the attached resolutions of the Board of Directors of such Material Foreign Subsidiary authorizing the execution, delivery and performance of the Foreign Subsidiary Guaranty are in full force and effect and have not been modified or rescinded, (ii) at the request of a holder of any Note, a favorable opinion of counsel, in form and substance reasonably satisfactory to the holders of the Notes and their counsel, as to (a) the due organization and good standing of such Material Foreign Subsidiary, (b) the due authorization, execution and delivery by such Material Foreign Subsidiary of the Foreign Subsidiary Guaranty, (c) the enforceability of the Foreign Subsidiary Guaranty, and (d) such other matters as the Required Holders may reasonably request, all of the foregoing to be satisfactory in form and substance to the holders of the Notes and their counsel; provided that the opinion described in this clause (ii) 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 (iii) such other assurances, certificates, documents, consents or opinions as the Required Holders reasonably may require.

(b) Within 5 days after the Company or any of its Restricted Subsidiaries acquires a Material Domestic Subsidiary or within 5 days after the Company delivers consolidating financial statements pursuant to Section 7.1 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) the Company will (x) cause such Material Domestic Subsidiary to execute and deliver to the holders of the Notes a counterpart of the

Subsidiary Guaranty, and (y) if the lenders party to such Significant Credit Facility are not then party to the Amended and Restated 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 Amended and Restated Collateral Agency and Intercreditor Agreement. The Company shall promptly deliver to the holders of the Notes, 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 holders of the Notes, (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 holders of the Notes, (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 a holder of any Note, a favorable opinion of counsel to the Company and such Material Domestic Subsidiary, in form and substance reasonably satisfactory to the holders of the Notes and their 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 Holders may reasonably request, all of the foregoing to be satisfactory in form and substance to the holders of the Notes and their 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 Holders reasonably may require.

9.7 Maintenance of Ownership. The Company shall, at all times when Notes of an Issuer Subsidiary are outstanding, own, directly or indirectly, no less than 100% of the capital stock of such Issuer Subsidiary.

9.8 Pari Passu Ranking. The Company and each Issuer Subsidiary shall cause its respective obligations under the Notes and this Agreement to at all times rank at least *pari passu*, without preference or priority, with all of their respective other outstanding and future secured and unsubordinated obligations, except for those obligations that are mandatorily preferred by law.

9.9 Payment of Notes and Maintenance of Office. The Company and each Issuer Subsidiary will punctually pay, or cause to be paid, the principal and interest (and Make-Whole Amount, if any) to become due in respect of the Notes according to the terms thereof and will maintain an office at the address of the Company set forth in Section 18(c) hereof where notices, presentations and demands in respect hereof or the Notes may be made upon it. Such office will be maintained at such address until such time as such Company will notify the holders of the Notes of any change of location of such office.

10. NEGATIVE COVENANTS.

The Company covenants that during the Issuance Period and so long thereafter as any of the Notes are outstanding:

10.1 Transactions with Affiliates.

The Company will not and will not permit any Restricted Subsidiary to enter into, directly or indirectly, any Material transaction or Material group of related transactions (including without limitation 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.

10.2 Merger, Consolidation, Sale of Assets, etc.

(a) The Company will not and will 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 Default or 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 10.2(c); and

(ii) in the case of a consolidation or merger of the Company or an Issuer Subsidiary, as the case may be, the successor corporation or surviving corporation which results from such consolidation or merger (the "**surviving corporation**"), if not the Company or an Issuer Subsidiary, (A) is a solvent U.S. corporation, (B) executes and delivers to each holder of the Notes its assumption of (x) the due and punctual payment of the principal of and premium, if any, and interest on all of the Notes, and (y) the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and the Notes to be performed or observed by the Company or the Issuer Subsidiary, as applicable, and (C) furnishes to each holder of the Notes an opinion of counsel, reasonably satisfactory to the Required Holders, 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) The Company will 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 Default or Event of Default would exist and:

(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 U.S. corporation, and

(ii) the successor corporation executes and delivers to each holder of the Notes its assumption of the due and punctual payment of the principal of and premium, if any, and interest on all of the Notes, and the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and the Notes to be performed or observed by the Company and shall furnish to such holders an opinion of counsel, reasonably satisfactory to the Required Holders, 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 10.2 from its liability under this Agreement or the Notes.

(c) The Company will not, and will 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 Default or Event of Default would exist; or

(v) the sale of assets meeting the conditions set forth in clauses (B) and (C) of subparagraph (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 (which in the case of the Notes shall be with the Make-Whole Amount) or the Restricted Subsidiaries (other than Indebtedness that is in any manner subordinated in right of payment or security in any respect to Indebtedness evidenced by the Notes, 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 10.2(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 10.2(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) The Company will not, and will 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 10.2(c).

10.3 Liens.

The Company will not and will 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, without limitation, 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 Holders and, in any such case, the Notes shall have the benefit, to the fullest extent that, and with such priority as, the holders of the Notes 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;

(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 date of this Agreement and reflected in Schedule 10.3 hereto;

(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 (A) through (D) in the definition of "Permitted Securitization Program" in connection with any Permitted Securitization Program;

(j) Liens in favor of the holders of the Notes and the other Senior Secured Creditors party to the Amended and Restated 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, however, that any such Liens held by parties to the Amended and Restated Collateral Agency and Intercreditor Agreement will be governed by and subject to the Amended and Restated 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 Sections 10.3(e), (h), and (i), 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 Default or Event of Default would exist; and

(n) other Liens securing Indebtedness not otherwise permitted by paragraphs (a) through (m) of this Section 10.3, 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 paragraph (n) of this Section 10.3 may be renewed, extended or replaced so long as the conditions set forth in subparagraphs (i), (ii) and (iii) of paragraph (m) of this Section 10.3 are satisfied.

10.4 Minimum Consolidated Net Worth.

The Company will 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 October 12, 2000.

10.5 Limitation on Indebtedness.

(a) The Company will not permit at any time (i) the ratio of Total Indebtedness to EBITDA for the four most recently ended fiscal quarters of the Company to be greater than 1.85 to 1.0, or (ii) Priority Indebtedness to exceed 13% of Consolidated Net Worth.

(b) [Intentionally Omitted.]

(c) The Company will not, and will 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 Amended and Restated Collateral Agency and Intercreditor Agreement.

10.6 Minimum Fixed Charges Coverage.

The Company will 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.

10.7 Nature of the Business.

The Company will not, and will 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 date of this Agreement.

10.8 Designation of Restricted and Unrestricted Subsidiaries.

The Company may designate in writing to each of the holders of the Notes any Unrestricted Subsidiary as a Restricted Subsidiary and may designate in writing to each of the holders of the Notes 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 10.2 and such designation is permitted by Section 10.2, 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 Default or 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.

10.9 Limitation on Swap Agreements.

The Company will not, and will 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.

10.10 Limitation on Restricted Payments.

The Company will not, and will not permit any Restricted Subsidiary to, do any of the following if a Default or 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); or

(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).

11. EVENTS OF DEFAULT.

An “Event of Default” shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company or any Issuer Subsidiary defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company or any Issuer Subsidiary defaults in the payment of any interest on any Note or any amount payable under Section 14.4 for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 10; or

(d) the Company or any of its Subsidiaries defaults in the performance of or compliance with any term contained herein (other than those referred to in paragraphs (a), (b) and (c) of this Section 11) or in any Collateral 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 holder of a Note (any such written notice to be identified as a “notice of default” and to refer specifically to this paragraph (d) of Section 11); or

(e) any representation or warranty made in writing by or on behalf of the Company, any Issuer Subsidiary or any Subsidiary Guarantor or by any officer of the Company, any Issuer Subsidiary or any Subsidiary Guarantor in this Agreement, the Collateral Documents 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; or

(f) (i) 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 (ii) 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; or

(g) the Company, any Issuer Subsidiary 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 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

(h) a court or governmental authority of competent jurisdiction enters an order appointing, without consent by the Company, any Issuer Subsidiary 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, any Issuer Subsidiary or any Material Subsidiary, or any such petition shall be filed against the Company, any Issuer Subsidiary or any Material Subsidiary and such petition shall not be dismissed within 60 days; or

(i) 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, any Issuer Subsidiary and any Restricted Subsidiary and which 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; or

(j) 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; or

(k) 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 Collateral Agent shall fail to have a valid, perfected and enforceable first priority security interest in the Pledged Securities; or

(l) a Foreign Subsidiary Guaranty ceases to be in full force and effect with respect to any Material Foreign Subsidiary (or any other Foreign Subsidiary executing such Foreign Subsidiary Guaranty), or any Material Foreign Subsidiary (or any other Foreign Subsidiary executing such Foreign Subsidiary Guaranty) contests the validity thereof; or

(m) the Parent Guaranty shall cease to be in full force and effect or shall be declared by a court or administrative or governmental body of competent jurisdiction to be void, voidable or unenforceable against the Company, or the validity or enforceability of the Parent Guaranty against the Company shall be contested by the Company, or any Subsidiary or Affiliate of the Company, or the Company, or any Subsidiary or Affiliate of the Company, shall deny that the Company has any further liability or obligation under the Parent Guaranty; or

(n) (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 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.

As used in Section 11(n), 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. REMEDIES ON DEFAULT, ETC.

12.1 Acceleration.

(a) If an Event of Default with respect to the Company or any Issuer Subsidiary described in paragraph (g) or (h) of Section 11 (other than an Event of Default described in clause (i) of paragraph (g) or described in clause (vi) of paragraph (g) by virtue of the fact that such clause encompasses clause (i) of paragraph (g)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, any holder or holders of more than 50% in principal amount of the Notes at the time outstanding may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in paragraph (a) or (b) of Section 11 has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company and each Issuer Subsidiary acknowledge, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company or such Issuer Subsidiary (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company or such Issuer Subsidiary in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

12.2 Other Remedies.

If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein, in the Collateral Documents or in any Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

12.3 Rescission.

At any time after any Notes have been declared due and payable pursuant to clause (b) or (c) of Section 12.1, the Required Holders, by written notice to the Company, may rescind and annul any such declaration and its consequences, and at any time after any Notes have become due and payable pursuant to clause (a) of Section 12.1, the holders of all Notes then outstanding, by written notice to the Company, may rescind acceleration of the Notes resulting from the occurrence of an Event of Default described in paragraph (h) of Section 11, if in each case (i) the Company or the Issuer Subsidiary has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (ii) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration or acceleration, have been cured or have been waived pursuant to Section 17, and (iii) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

12.4 No Waivers or Election of Remedies, Expenses, etc.

No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement, the Collateral Documents or by any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

13.1 Registration of Notes.

The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer,

the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

13.2 Transfer and Exchange of Notes.

Upon surrender of any Note at the principal executive office of the Company for registration of transfer or exchange (and in the case of a surrender for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered holder of such Note or his attorney duly authorized in writing and accompanied by the address for notices of each transferee of such Note or part thereof), the Company or the applicable Issuer Subsidiary shall execute and deliver, at its expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Exhibit A. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company or the applicable Issuer Subsidiary may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than $100,000 (or its equivalent if denominated in another currency), provided that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than $100,000 (or its equivalent if denominated in another currency). Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representations set forth in Section 6. Each transferee of a Note shall, as a condition to transfer, simultaneously become a party to the the Amended and Restated Collateral Agency and Intercreditor Agreement. Each transferee of a Note which was not previously a holder of the Notes under this Agreement and which is not incorporated under the laws of the United States of America or a state thereof shall, within three Business Days of becoming a holder, deliver to the Company such certificate and other evidence as the Company may reasonably request to establish that such holder is entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes.

13.3 Replacement of Notes.

Upon receipt by the Company or the applicable Issuer Subsidiary of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least $100,000,000, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Company or such Issuer Subsidiary at its own expense shall execute and deliver, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

14. PAYMENTS ON NOTES.

14.1 Place of Payment.

Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in Provo, Utah at the principal office of the Company in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

14.2 Home Office Payment.

So long as any Purchaser or its nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company and each Issuer Subsidiary will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, and interest by wire transfer of immediately available funds to the account or accounts specified in the Purchaser Schedule to the Confirmation of Acceptance with respect to such Note, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company or such Issuer Subsidiary in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company or such Issuer Subsidiary made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by any Purchaser or its nominee such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to Section 13.2. The Company and each Issuer Subsidiary will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased under this Agreement that has made the same agreement relating to such Note as the Purchasers have made in this Section 14.2.

14.3 Currency of Payments.

(a) All payments under this Agreement and the Notes shall be made in the Available Currency in which the relevant Notes are denominated.

(b) All expenses required to be reimbursed pursuant to this Agreement or the Notes shall be reimbursed in the currency in which such expenses were originally incurred.

(c) To the fullest extent permitted by applicable law, the obligation of the Company and each Issuer Subsidiary in respect of any amount due under or in respect of this Agreement and the Notes, notwithstanding any payment in any currency other than the currency required to be used to pay such amount (as set forth in this Section 14.3(c)), whether as a result of (1) any judgment or order or the enforcement thereof, (2) the realization on any security, (3) the liquidation of the Company or any Issuer Subsidiary, (4) any voluntary payment by the Company or any Issuer Subsidiary or any of them or (5) any other reason, shall be discharged only to the extent of the amount of the applicable Available Currency that each holder of Notes entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the New York Business Day immediately following the day on which such holder receives such payment and if the amount in such Available Currency that may be so purchased for any reason is less than the amount originally due, the Company or the applicable Issuer Subsidiary shall indemnify and save harmless such holder from and against all loss or damage arising out of or as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the Notes, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by such holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or the Notes or under any judgment or order.

14.4 Payments Free and Clear of Taxes.

(a) Payments. The Company and each Issuer Subsidiary will pay all amounts of principal of, applicable Make-Whole Amount, if any, and interest on the Notes, and all other amounts payable hereunder or under the Notes, without set-off or counterclaim and free and clear of, and without deduction or withholding for or on account of, all present and future income, stamp, documentary and other taxes and duties, and all other levies, imposts, charges, fees, deductions and withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority (except net income taxes and franchise taxes in lieu of net income taxes imposed on any holder of any Note by its jurisdiction of incorporation or the jurisdiction in which its applicable lending office is located) (all such non-excluded taxes, duties, levies, imposts, duties, charges, fees, deductions and withholdings being hereinafter called "**Taxes**"). If any Taxes are required to be withheld from any amounts payable to a holder of any Notes, the amounts so payable to such holder shall be increased to the extent necessary to yield such holder (after payment of all Taxes) interest on any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement and the Notes. Whenever any Taxes are payable by the Company or such Issuer Subsidiary, as promptly as possible thereafter, the Company or such Issuer Subsidiary shall send to each holder of the Notes, a certified copy of an original official receipt received by the Company or such Issuer Subsidiary showing payment thereof. If the Company or such Issuer Subsidiary fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to each holder of the Notes the required receipts or other required documentary evidence, the Company or such Issuer Subsidiary shall indemnify each holder of the Notes for any taxes (including interest or penalties) that may become payable by such holder as a result of any such failure. The obligations of the Company and each Issuer Subsidiary under this subsection 14.4(a) shall survive the payment and performance of the Notes and the termination of this Agreement.

(b) Withholding Exemption Certificates. On or prior to the applicable Closing Day, each holder of the Notes which is not organized under the laws of the United States of America or a state thereof shall deliver to the Company such certificates and other evidence as the Company may reasonably request to establish that such holder is entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes. Each such holder further agrees (i) promptly to notify the Company of any change of circumstances (including any change in any treaty, law or regulation) which would prevent such holder from receiving payments under the Notes without any deduction or withholding of such taxes, and (ii) on or before the date that any certificate or other form delivered by such holder under this Section 14.4(b) expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent such certificate or form previously delivered by such holder, to deliver to the Company a new certificate or form, certifying that such holder is entitled to receive payments under the Notes without deduction or withholding of such taxes. If any holder of the Notes which is not organized under the laws of the United States of America or a state thereof fails to provide to the Company pursuant to this Section 14.4(b) (or in the case of a transferee of a Note, Section 13.2) any certificates or other evidence required by such provision to establish that such holder is, at the time it becomes a holder, entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes, such holder shall not be entitled to any indemnification under Section 14.4(a) for any Taxes imposed on such holder.

15. EXPENSES, ETC.

15.1 Transaction Expenses.

Whether or not the transactions contemplated hereby are consummated, the Company will pay all costs and expenses (including reasonable attorneys' fees of one special counsel and, if reasonably required, local or other counsel) incurred by the Collateral Agent, each Purchaser or holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement, the Collateral Documents or the Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the Collateral Documents or the Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the Collateral Documents or the Notes, or by reason of being a holder of any Note, and (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby, by the Collateral Documents and by the Notes. The Company will pay, and will save each holder of a Note harmless from, all claims in respect of any fees, costs or expenses if any, of brokers and finders (other than those retained by such holder).

15.2 Survival.

The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement, the Collateral Documents or the Notes, and the termination of this Agreement and the Collateral Documents.

16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein, in the Collateral Documents or in any Confirmation of Acceptance shall survive the execution and delivery of this Agreement, the Collateral Documents, such Confirmation of Acceptance and the Notes, the purchase or transfer by any holder of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of any Purchaser or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement or the Collateral Documents shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement, the Collateral Documents and the Notes embody the entire agreement and understanding between the Prudential and the Purchasers, on the one hand, and the Company and each Issuer Subsidiary, on the other hand, and supersede all prior agreements and understandings relating to the subject matter hereof.

17. AMENDMENT AND WAIVER.

17.1 Requirements.

This Agreement and the Collateral Documents may be amended, and the Company (or any Issuer Subsidiary, as applicable) may take any action herein prohibited, or omit to perform any act herein required to be performed by it, if the Company (or such Issuer Subsidiary, as applicable) shall obtain the written consent to such amendment, action or omission to act, of the Required Holder(s) of the Notes, except that:

(i) without the written consent of the holders of all Notes of a particular Series, and if an Event of Default shall have occurred and be continuing, of the holders of all Notes of all Series, at the time outstanding, the Notes of such Series may not be amended or the provisions thereof waived to change the maturity thereof, to change or affect the principal thereof, or to change or affect the rate or time of payment of interest on or any Make-Whole Amount payable with respect to the Notes of such Series,

(ii) without the written consent of the holder or holders of all Notes at the time outstanding, no amendment to or waiver of the provisions of this Agreement shall change or affect the provisions of Section 12 or this Section 17 insofar as such provisions relate to proportions of the principal amount of the Notes of any Series, or the rights of any individual holder of Notes, required with respect to any declaration of Notes to be due and payable or with respect to any consent, amendment, waiver or declaration,

(iii) without the written consent of Prudential, the provisions of Section 2B may not be amended or waived (provided that if any such amendment or waiver would affect any rights or obligations with respect to the purchase and sale of Notes which shall have become Accepted Notes prior to such amendment or waiver, the requirements of clause (iv), below, must also be satisfied), and

(iv) without the written consent of all of the Purchasers which shall have become obligated to purchase Accepted Notes of any Series, no provision of Sections 2B or 3 may be amended or waived if such amendment or waiver would affect the rights or obligations with respect to the purchase and sale of the Accepted Notes of such Series or the terms and provisions of such Accepted Notes.

Each holder of any Note at the time or thereafter outstanding shall be bound by any consent authorized by this Section 17, whether or not such Note shall have been marked to indicate such consent. No course of dealing between the Company and the holder of any Note nor any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note.

As used herein, the term "this Agreement" and "the Collateral Documents" and references thereto shall mean this Agreement and the Collateral Documents, respectively, as they may from time to time be amended or supplemented.

17.2 Notes held by Company, etc.

Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes or any Series thereof then outstanding have approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes or any Series thereof, or have directed the taking of any action provided herein or in the Notes or any Series thereof to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes or any Series thereof then outstanding, Notes or any Series thereof directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

18. NOTICES.

All notices and communications provided for hereunder (other than communication provided for in Section 2, which shall be provided as contemplated therein) shall be in writing and sent (a) by telefacsimile if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(a) if to any Purchaser or its nominee, to such Person at the address specified for such communications in the Purchaser Schedule attached to the applicable Confirmation of Acceptance, or at such other address as such Person shall have specified to the Company in writing,

(b) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(c) if to the Company or any Issuer Subsidiary, to the Company at One Nu Skin Plaza, 75 West Center Street, Provo, Utah 84601 to the attention of the Chief Financial Officer, or at such other address as the Company or such Issuer Subsidiary shall have specified to the holder of each Note in writing.

Notices under this Section 18 will be deemed to have been given and received when delivered at the address so specified. Any communication pursuant to Section 2 shall be made by a method specified for such communication in Section 2, and shall be effective to create any rights or obligations under this Agreement only if, in the case of a telephone communication, an Authorized Officer of the party conveying the information and of the party receiving the information are parties to the telephone call, and in the case of a telefacsimile communication, the communication is signed by an Authorized Officer of the party conveying the information, addressed to the attention of an Authorized Officer of the party receiving the information, and in fact received at the telefacsimile terminal the number of which is listed for the party receiving the communication on the Information Schedule hereto or at such other telefacsimile terminal as the party receiving the information shall have specified in writing to the party sending such information.

19. REPRODUCTION OF DOCUMENTS.

This Agreement, the Collateral Documents and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser may at the Closing Day (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process and such Purchaser may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, “Confidential Information” means information delivered to any Purchaser by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of the Company or such Subsidiary, provided that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any person acting on its behalf, (c) otherwise becomes known to such Purchaser other than through disclosure (x) by

the Company or any Subsidiary, or (y) by another Person known by such Purchaser to be bound by a confidentiality agreement with the Company, or (d) constitutes financial statements delivered to such Purchaser under Section 7.1 that are otherwise publicly available. Each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by it in good faith to protect confidential information of third parties delivered to it, provided that each Purchaser may deliver or disclose Confidential Information to (i) its directors, officers, employees, agents, attorneys and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by any Notes), (ii) its financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iii) any other holder of any Note, (iv) any Institutional Investor to which such Purchaser sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (v) any Person from which such Purchaser offers to purchase any security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (vi) any federal or state regulatory authority having jurisdiction over such Purchaser, (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser’s investment portfolio or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process (provided that such Purchaser give prompt notice to the Company of such subpoena or legal process to the extent such Purchaser is legally permitted to do so), (y) in connection with any litigation to which such Purchaser is a party, or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under its Notes, this Agreement and the Collateral Documents. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this Section 20.

21. GUARANTEED OBLIGATIONS.

21.1 Guaranteed Obligations.

The Company, in consideration of the execution and delivery of this Agreement and the purchase by the Purchasers of any Notes issued by an Issuer Subsidiary, hereby irrevocably, unconditionally, absolutely, jointly and severally guarantees, on a continuing basis, to each holder of Notes as and for the Company’s own debt, until final and indefeasible payment has been made the due and punctual payment by each Issuer Subsidiary of the principal of, and interest, and the Make-Whole Amount (if any) on, the Notes issued by such Issuer Subsidiary at any time outstanding and the due and punctual payment of all other amounts payable, and all

other indebtedness owing, by such Issuer Subsidiary to the holders of such Notes under this Agreement and such Notes, in each case when and as the same shall become due and payable,

whether at maturity, pursuant to mandatory or optional prepayment, by acceleration or otherwise, all in accordance with the terms and provisions hereof and thereof; it being the intent of the Company that the guaranty set forth herein shall be a continuing guaranty of payment and not a guaranty of collection. All of the obligations set forth in this Section 21.1 are referred to herein as the "**Guaranteed Obligations**" and the guaranty thereof set forth in this Section 21 is referred to herein as the "**Parent Guaranty**."

21.2 Payments and Performance.

In the event that an Issuer Subsidiary fails to make, on or before the due date thereof, any payment to be made of any principal amount of, or interest or Make-Whole Amount on, or in respect of, the Notes issued by such Issuer Subsidiary or of any other amounts due to any holder of Notes under the Notes or this Agreement, after giving effect to any applicable grace periods or cure provisions or waivers or amendments, the Company shall cause forthwith to be paid the moneys in respect of which such failure has occurred in accordance with the terms and provisions of this Agreement and the Notes. In furtherance of the foregoing, if any or all of the Notes have been accelerated as provided in Section 12.1 (and such acceleration has not been rescinded), the Guaranteed Obligations in respect of such Notes shall forthwith become due and payable without notice, regardless of whether the acceleration of such Notes shall be stayed, enjoined, delayed or deemed ineffective. Nothing shall discharge or satisfy the obligations of the Company hereunder except the full, final and indefeasible payment of the Guaranteed Obligations.

21.3 Releases.

The Company consents and agrees that, without any notice whatsoever to or by the Company, except with respect to any action (but not any failure to act) referred to in clauses (i), (ii) and (iv) below (it being understood that the Company shall be deemed to have notice of any matter as to which any Issuer Subsidiary has knowledge), and without impairing, releasing, abating, deferring, suspending, reducing, terminating or otherwise affecting the obligations of the Company hereunder, each holder of Notes, by action or inaction, may:

(i) compromise or settle, renew or extend the period of duration or the time for the payment, or discharge the performance of, or may refuse to, or otherwise not, enforce, or may, by action or inaction, release all or any one or more parties to, any one or more of the Notes, this Agreement, or any other guaranty or agreement or instrument related thereto or hereto;

(ii) assign, sell or transfer, or otherwise dispose of, any one or more of the Notes;

(iii) grant waivers, extensions, consents and other indulgences of any kind whatsoever to any Issuer Subsidiary or any other Person liable in any manner in respect of all or any part of the Guaranteed Obligations;

(iv) amend, modify or supplement in any manner whatsoever and at any time (or from time to time) any one or more of the Notes, this Agreement, or any other guaranty or any agreement or instrument related thereto or hereto;

(v) release or substitute any one or more of the endorsers or guarantors of the Guaranteed Obligations whether parties hereto or not; and

(vi) sell, exchange, release, accept, surrender or enforce rights in, or fail to obtain or perfect or to maintain, or cause to be obtained, perfected or maintained, the perfection of any security interest or other Lien on, by action or inaction, any property at any time pledged or granted as security in respect of the Guaranteed Obligations, whether so pledged or granted by the Company, any Issuer Subsidiary or any other Person.

The Company hereby ratifies and confirms any such action specified in this Section 21.3 and agrees that the same shall be binding upon the Company. The Company hereby waives any and all defenses, counterclaims or offsets which the Company might or could have by reason thereof.

21.4 Waivers.

To the fullest extent permitted by law, the Company hereby waives:

(i) notice of acceptance of this Agreement;

(ii) notice of any purchase or acceptance of the Notes under this Agreement, or the creation, existence or acquisition of any of the Guaranteed Obligations, subject to the Company's right to make inquiry of each holder of Notes to ascertain the amount of the Guaranteed Obligations at any reasonable time;

(iii) notice of the amount of the Guaranteed Obligations, subject to the Company's right to make inquiry of each holder of Notes to ascertain the amount of the Guaranteed Obligations at any reasonable time;

(iv) notice of adverse change in the financial condition of any Issuer Subsidiary or any other guarantor or any other fact that might increase the Company's risk hereunder;

(v) notice of presentment for payment, demand, protest, and notice thereof as to the Notes or any other instrument;

(vi) notice of any Default or Event of Default, so long as any Issuer Subsidiary has knowledge thereof;

(vii) all other notices and demands to which the Company might otherwise be entitled (except if such notice or demand is specifically otherwise required to be given to the Company under this Agreement);

(viii) the right by statute or otherwise to require any or each holder of Notes to institute suit against any Issuer Subsidiary or any other guarantor or to exhaust the rights and remedies of any or each holder of Notes against any Issuer

Subsidiary or any other guarantor, the Company being bound to the payment of each and all Guaranteed Obligations, whether now existing or hereafter accruing, as fully as if such Guaranteed Obligations were directly owing to each holder of Notes by the Company;

(ix) any defense arising by reason of any disability or other defense (other than the defense that the Guaranteed Obligations shall have been fully, finally and indefeasibly paid) of any Issuer Subsidiary or by reason of the cessation from any cause whatsoever of the liability of any Issuer Subsidiary in respect thereof;

(x) any stay (except in connection with a pending appeal), valuation, appraisal, redemption or extension law now or at any time hereafter in force that, but for this waiver, might be applicable to any sale of property of the Company made under any judgment, order or decree based on this Agreement, and the Company covenants that it will not at any time insist upon or plead, or in any manner claim or take the benefit or advantage of any such law; and

(xi) at all times prior to full, final and indefeasible payment of the Guaranteed Obligations, any claim of any nature arising out of any right of indemnity, contribution, reimbursement, indemnification or any similar right or any claim of subrogation (whether such right or claim arises under contract, common law or statutory or civil law (including, without limitation, section 509 of the United States Bankruptcy Code)) arising in respect of any payment made under this Agreement or in connection with this Agreement, against any Issuer Subsidiary or the estate of any Issuer Subsidiary (including Liens on the property of any Issuer Subsidiary or the estate of any Issuer Subsidiary), in each case whether or not any Issuer Subsidiary at any time shall be the subject of any proceeding brought under any Bankruptcy Law, and the Company further agrees that, except as provided in Section 21.9, it will not file any claims against any Issuer Subsidiary or the estate of any Issuer Subsidiary in the course of any such proceeding or otherwise, and further agrees that each holder of Notes may specifically enforce the provisions of this clause (xi).

21.5 Marshaling.

The Company consents and agrees:

(a) that each holder of Notes, and each Person acting for the benefit of one or more of the holders of Notes, shall be under no obligation to marshal any assets in favor of the Company or against or in payment of any or all of the Guaranteed Obligations; and

(b) that, to the extent that any Issuer Subsidiary makes a payment or payments to any holder of Notes, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required, for any of the foregoing reasons or for any other reason, to be repaid or paid over to a custodian, trustee, receiver or any other party under any Bankruptcy Law, other common or civil law, or equitable

cause, then, to the extent of such payment or repayment, the obligation or part thereof intended to be satisfied thereby shall be revived and continued in full force and effect as if such payment or payments had not been made and the Company shall be primarily liable for such obligation.

21.6 Immediate Liability.

The Company agrees that the liability of the Company in respect of this Parent Guaranty shall be immediate and shall not be contingent upon the exercise or enforcement by any holder of Notes or any other Person of whatever remedies such holder of Notes or other Person may have against any Issuer Subsidiary or any other guarantor or the enforcement of any Lien or realization upon any security such holder of Notes or other Person may at any time possess.

21.7 Primary Obligations.

This Parent Guaranty is a primary and original obligation of the Company and is an absolute, unconditional, continuing and irrevocable guaranty of payment and shall remain in full force and effect without respect to any action by any holder of Notes specified in Section 21.3 hereof or any future changes in conditions, including, without limitation, change of law or any invalidity or irregularity with respect to the issuance or assumption of any obligations (including, without limitation, the Notes) of or by any Issuer Subsidiary or any other guarantor, or with respect to the execution and delivery of any agreement (including, without limitation, the Notes and this Agreement) by any Issuer Subsidiary or any other Person.

21.8 No Reduction or Defense.

The obligations of the Company under this Agreement, and the rights of any holder of Notes to enforce such obligations by any proceedings, whether by action at law, suit in equity or otherwise, shall not be subject to any reduction, limitation, impairment or termination, whether by reason of any claim of any character whatsoever or otherwise (other than payment in full of all amounts owing hereunder or under the Notes), including, without limitation, claims of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense (other than any defense based upon the irrevocable payment in full of the obligations under this Agreement and the Notes), set-off, counterclaim, recoupment or termination whatsoever.

Without limiting the generality of the foregoing, the obligations of the Company shall not be discharged or impaired by:

(a) any default (including, without limitation, any Default or Event of Default), failure or delay, willful or otherwise, in the performance of any obligations by any Issuer Subsidiary or any of its respective Subsidiaries or Affiliates;

(b) any proceeding of, or involving, any Issuer Subsidiary under any Bankruptcy Law, or any merger, consolidation, reorganization, dissolution, liquidation, sale of assets or winding up or change in corporate constitution or corporate identity or loss of corporate identity of any Issuer Subsidiary or any of its Subsidiaries or Affiliates;

(c) any incapacity or lack of power, authority or legal personality of, or dissolution or change in the directors, stockholders or status of, any Issuer Subsidiary or any of its Subsidiaries or any other Person (other than the Company);

(d) impossibility or illegality of performance on the part of any Issuer Subsidiary under this Agreement or the Notes;

(e) the invalidity, irregularity or unenforceability of the Notes, this Agreement or any documents referred to therein or herein;

(f) in respect of any Issuer Subsidiary, any change of circumstances, whether or not foreseen or foreseeable, whether or not imputable to any Issuer Subsidiary, or impossibility of performance through fire, explosion, accident, labor disturbance, floods, droughts, embargoes, wars (whether or not declared), terrorist activities, civil commotions, acts of God or the public enemy, delays or failure of suppliers or carriers, inability to obtain materials or any other causes affecting performance, or any other force majeure, whether or not beyond the control of any Issuer Subsidiary and whether or not of the kind hereinbefore specified;

(g) any attachment, claim, demand, charge, Lien, order, process, encumbrance or any other happening or event or reason, similar or dissimilar to the foregoing, or any withholding or diminution at the source, by reason of any taxes, assessments, expenses, indebtedness, obligations or liabilities of any character, foreseen or unforeseen, and whether or not valid, incurred by or against any Person, corporation or entity, or any claims, demands, charges, Liens or encumbrances of any nature, foreseen or unforeseen, incurred by any Person, or against any sums payable under this Agreement or the Notes, so that such sums would be rendered inadequate or would be unavailable to make the payments herein provided; or

(h) any order, judgment, decree, ruling or regulation (whether or not valid) of any court of any nation or of any governmental authority or agency thereof, or any other action, happening, event or reason whatsoever which shall delay, interfere with, hinder or prevent, or in any way adversely affect, the performance by any Issuer Subsidiary of its obligations under this Agreement or the Notes, as the case may be.

21.9 Subordination.

In the event that, for any reason whatsoever, any Issuer Subsidiary is now or hereafter becomes indebted or obligated to the Company in any manner, the Company agrees that the amount of such obligation, interest thereon if any, and all other amounts due with respect thereto, shall, at all times during the existence of a Default or an Event of Default, be subordinate as to time of payment and in all other respects to all the Guaranteed Obligations, and the Company shall not be entitled to enforce or receive payment thereof until all sums then due and owing to the holders of the Notes in respect of the Guaranteed Obligations shall have been fully, finally and indefeasibly paid in full in cash, except that the Company may enforce (and shall enforce, at the request of the Required Holders, and at the Company's expense) any obligations in respect of any such obligation owing to the Company from any Issuer Subsidiary so long as all proceeds in respect of any recovery from such enforcement shall be held by the Company in trust for the benefit of the holders of the Notes, to be paid thereto as promptly as reasonably possible.

If any other payment, other than pursuant to the immediately preceding sentence, shall have been made to the Company by any Subsidiary in respect of any such obligation during any time that a Default or an Event of Default exists and there are Guaranteed Obligations outstanding, the Company shall hold in trust all such payments for the benefit of the holders of Notes, to be paid thereto as promptly as reasonably possible.

21.10 No Election.

Each holder of Notes shall, individually or collectively, have the right to seek recourse against the Company to the fullest extent provided for herein for its obligations under this Agreement. No election to proceed in one form of action or proceeding, or against any party, or on any obligation, shall constitute a waiver of such holder's right to proceed in any other form of action or proceeding or against other parties unless such holder of Notes has expressly waived such right in writing. Specifically, but without limiting the generality of the foregoing, no action or proceeding by or on behalf of any holder of Notes against an Issuer Subsidiary or any other Person under any document or instrument evidencing obligations of such Issuer Subsidiary or such other Person to or for the benefit of such holder of Notes shall serve to diminish the liability of the Company under this Agreement except to the extent that such holder of Notes unconditionally shall have realized payment by such action or proceeding.

21.11 Severability.

Each of the rights and remedies granted under this Section 21 to each holder of Notes in respect of the Notes held by such holder may be exercised by such holder without notice to, or the consent of or any other action by, any other holder of Notes.

21.12 Appropriations.

Until all amounts which may be or become payable by all Issuer Subsidiaries under or in connection with this Agreement or the Notes or by the Company under or in connection with this Agreement have been irrevocably paid in full, any holder of Notes (or any trustee or agent on its behalf) may refrain from applying or enforcing any moneys, security or rights held or received by such holder of Notes (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Company shall not be entitled to the benefit of the same; provided, however, that any payments received from any Issuer Subsidiary, or the Company on behalf of any Issuer Subsidiary, will be applied to amounts owing by such Issuer Subsidiary hereunder or in respect of the Notes issued by it.

21.13 Other Enforcement Rights.

Each holder of Notes may proceed to protect and enforce this Agreement by suit or suits or proceedings in equity, at law or in bankruptcy or insolvency, and whether for the specific performance of any covenant or agreement contained herein or in execution or aid of any power herein granted, or for the recovery of judgment for the obligations hereby guarantied or for the enforcement of any other proper, legal or equitable remedy available under applicable law.

21.14 Invalid Payments.

To the extent that any payment is made to any holder of Notes in respect of the Guaranteed Obligations by any Person, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required, for any of the foregoing reasons or for any other reason, to be repaid or paid over to a custodian, trustee, receiver, administrative receiver, administrator or any other party or officer under any Bankruptcy Law, or any other common or civil law or

equitable cause, then to the extent of such payment or repayment, the obligation or part thereof intended to be satisfied shall be revived and continued in full force and effect as if said payment had not been made and the Company shall be primarily liable for such obligation.

21.15 No Waivers or Election of Remedies; Expenses; etc.

No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement upon any holder of Notes shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise.

21.16 Restoration of Rights and Remedies.

If any holder of Notes shall have instituted any proceeding to enforce any right or remedy under this Agreement or any Note held by such holder and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such holder, then and in every such case each such holder of Notes, the Issuer Subsidiary which is the issuer of such Notes and the Company shall, except as may be limited or affected by any determination in such proceeding, be restored severally and respectively to its respective former position hereunder and thereunder, and thereafter the rights and remedies of such holder of Notes shall continue as though no such proceeding had been instituted.

21.17 No Setoff or Counterclaim.

Except as otherwise required by law, each payment by the Company shall be made without setoff or counterclaim.

21.18 Further Assurances.

The Company will cooperate with the holders of the Notes and execute such further instruments and documents as the Required Holders shall reasonably request to carry out, to the reasonable satisfaction of the Required Holders, the transactions contemplated by this Agreement, the Notes and the documents and instruments related hereto and thereto.

21.19 Survival.

So long as the Guaranteed Obligations shall not have been fully and finally performed and indefeasibly paid, the obligations of the Company under this Parent Guaranty shall survive the transfer and payment of any Note and the payment in full of all the Notes.

22. JUDICIAL PROCEEDINGS.

22.1 Consent to Jurisdiction.

The Company and each Issuer Subsidiary irrevocably submits to the non-exclusive jurisdiction of any New York State or United States federal court sitting in New York City, and irrevocably waives its own forum, over any suit, action or proceeding arising out of or relating to this Agreement or any Note. The Company and each Issuer Subsidiary irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. The Company and each Issuer Subsidiary agrees, to the fullest extent it may effectively do so under applicable law, that a final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company and each Issuer Subsidiary may be enforced in the courts of the United States, the State of New York (or any other courts to the jurisdiction of which the Company is or may be subject) by a suit upon such judgment, provided that service of process is effected on the Company or such Issuer Subsidiary in one of the manners specified below or as otherwise permitted by law.

22.2 Service of Process.

The Company and each Issuer Subsidiary hereby consents to process being served in any suit, action or proceeding of the nature referred to in Section 22.1 by the mailing of a copy thereof by registered or certified air mail, postage prepaid, return receipt requested, to the address of the Company or such Issuer Subsidiary set forth in Section 18. The Company and each Issuer Subsidiary irrevocably waives, to the fullest extent it may effectively do so under applicable law, all claim of error by reason of any such service and agrees that such service (a) shall be deemed in every respect effective service of process upon the Company or such Issuer Subsidiary in any such suit, action or proceeding, and (b) shall, to the fullest extent permitted by law, be taken and held to be valid personal service upon the Company.

22.3 No Limitation on Service or Suit.

Nothing in this Section 22 shall affect the right of any hold er of the Notes to serve process in any manner permitted by law or limit the right of any holder of the Notes to bring proceedings against the Company or any Issuer Subsidiary in the courts of any jurisdiction or jurisdictions or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

23. MISCELLANEOUS.

23.1 Successors and Assigns.

All covenants and other agreements contained in this Agreement and the Collateral Documents by or on behalf of any of the parties hereto or thereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

23.2 Accounting Principles.

The Company shall prepare its accounts and financial statements required to be delivered pursuant to Section 7.1 hereof in accordance with GAAP as in effect on the date of, or at the end of the period covered by, such accounts and financial statements as specified in Section 7.1 hereof, and any such accounts and financial statements delivered pursuant to Section 7.1 hereof shall be audited, and an audit report or opinion in respect thereof shall be executed, by independent public accountants of recognized national standing, as more particularly set forth in Section 7.1 hereof.

23.3 Payments Due on Non-Business Days.

Anything in this Agreement, the Collateral Documents or the Notes to the contrary notwithstanding, any payment of principal of or Make-Whole Amount or interest on any Note that is due on a date other than a New York Business Day shall be made on the next succeeding New York Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding New York Business Day.

23.4 Severability.

Any provision of this Agreement or the Collateral Documents that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

23.5 Construction.

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

23.6 Counterparts.

This Agreement and the Collateral Documents may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one

instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

23.7 Governing Law.

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State (other than Section 5-1401 of the New York General Obligations Law) that would require the application of the laws of a jurisdiction other than such State.

23.8 Binding Agreement.

When this Agreement is executed and delivered by the Company and Prudential, it shall become a binding agreement between the Company and Prudential. This Agreement shall also inure to the benefit of each Purchaser and Issuer Subsidiary which shall have executed and delivered a Confirmation of Acceptance, and each such Purchaser and Issuer Subsidiary shall be bound by this Agreement to the extent provided in such Confirmation of Acceptance.

Very truly yours,

NU SKIN ENTERPRISES, INC.

By: /s/ Ritch N. Wood
Name: Ritch N. Wood
Title: Chief Financial Officer

The foregoing Agreement is hereby accepted as of the date first above written.

PRUDENTIAL INVESTMENT MANAGEMENT, INC.

By: /s/ Iris Krause
Name: Iris Krause
Title: Vice President

SCHEDULE A

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"**Acceptance**" shall have the meaning specified in Section 2B(5).

"**Acceptance Day**" shall have the meaning specified in Section 2B(5).

"**Accepted Note**" shall have the meaning specified in Section 2B(5).

"**Acceptance Window**" shall mean, with respect to any Quotation, the time period designated by Prudential during which the Company and Prudential shall be in live communication and the Company may elect to accept such Quotation.

"**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.

"**Amended and Restated Collateral Agency and Intercreditor Agreement**" means the Amended and Restated Collateral Agency and Intercreditor Agreement, substantially in the form of Exhibit G hereto, dated as of the date hereof, by and among the Collateral Agent, the Purchasers and each of the other Senior Secured Creditors, and acknowledged by the Company and the Subsidiary Guarantors, as such agreement may be amended, supplemented or modified from time to time.

"**Available Currencies**" shall mean British Pounds, Canadian Dollars, Dollars, Euros, and Yen.

"**Available Facility Amount**" shall have the meaning specified in Section 2B(1).

"**British Pounds**" means the lawful currency of the United Kingdom.

"**Business Day**" shall mean (i) other than as provided in clauses (ii) and (iii) below, any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are authorized or required to be closed, (ii) for purposes of Section 2B(3) only, any day which is both a New York Business Day and a day on which Prudential is open for business and (iii) for purposes of Section 8.6 only, (a) if with respect to Notes denominated in British

Pounds, any day which is both a New York Business Day and a day on which commercial banks are not required or authorized to be closed in London, (b) if with respect to Notes denominated in Canadian Dollars, any day which is both a New York Business Day and a day on which commercial banks are not required or authorized to be closed in Ottawa, (c) if with respect to Notes denominated in Dollars, a New York Business Day, (d) if with respect to Notes denominated in Euros, any day which is both a New York Business Day and a day on which commercial banks are not required or authorized to be closed in Frankfurt and Brussels, and (e) if with respect to Notes denominated in Yen, any day which is both a New York Business Day and a day on which commercial banks are not required or authorized to be closed in Tokyo, Japan.

"**Canadian Dollars**" means the lawful currency of Canada.

"**Cancellation Date**" shall have the meaning specified in Section 2B(8)(iv).

"**Cancellation Fee**" shall have the meaning specified in Section 2B(8)(iv).

"**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.

"**Closing Day**" shall mean, with respect to any Accepted Note, the Business Day specified for the closing of the purchase and sale of such Accepted Note in the Confirmation of Acceptance with respect to such Accepted Note, provided that (i) if the Company and the Purchaser which is obligated to purchase such Accepted Note agree on an earlier Business Day for such closing, the "Closing Day" for such Accepted Note shall be such earlier Business Day, and (ii) if the closing of the purchase and sale of such Accepted Note is rescheduled pursuant to Section 2B(7), the Closing Day for such Accepted Note, for all purposes of this Agreement except references to "original Closing Day" in Section 2B(8)(iii), shall mean the Rescheduled Closing Day with respect to such Accepted Note.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

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

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

"**Company**" means Nu Skin Enterprises, Inc., a Delaware corporation.

"**Confidential Information**" is defined in Section 20.

"**Confirmation of Acceptance**" shall have the meaning specified in Section 2B(5).

"**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.

"**Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement**" means counterpart to the Amended and Restated Collateral Agency and Intercreditor Agreement attached thereto as Exhibit A.

"**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.

"**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.

"**Default Rate**" shall mean (i) in the case of any Note denominated in Dollars, the greater of 2% over the interest rate expressed in such Note and 2% over the rate announced from time to time in New York City by the Bank of New York as its "base" or "prime" rate and (ii) in the case of any Note denominated in a currency other than Dollars, 2% over the interest rate expressed in such Note.

"**Delayed Delivery Fee"** shall have the meaning specified in Section 2B(8)(iii).

"**Document Delivery Date**" shall mean (i) the applicable Closing Day in the case of any Accepted Notes to be denominated in Dollars, (ii) two New York Business Days prior to the applicable Closing Day in the case of any Accepted Notes to be denominated in British Pounds, Canadian Dollars or Euros and (iii) three New York Business Days prior to the applicable Closing Day in the case of any Accepted Notes to be denominated in Yen.

"**Dollars**" and the symbol "**$**" mean the lawful money of the United States of America unless, in the case of "Dollars" or "$", if immediately preceded by the name of another country (e.g. "Canadian Dollars").

"**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 law 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.

"**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.

"**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.

"**Equity Securities**" of any Person means (a) all common stock, Preferred Stock, participations, shares, partnership interest, membership interest or other equity interest in and of such Person (regardless of how designated and whether or not voting or non-voting), and (b) all warrants, options and other rights to acquire any of the foregoing.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time, 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.

"**Euros**" shall mean the single currency of participating member states of the European Union.

"**Event of Default**" is defined in Section 11.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Facility**" shall have the meaning specified in Section 2B(1).

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

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

"**Foreign Subsidiary Guaranty**" shall have the meaning specified in Section 9.6(a).

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

"**Governmental Authority"** means

(a) the government of

(i) the United States of America or any State or other political subdivision thereof, or

(ii) the jurisdiction of organization of any Issuer Subsidiary, 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 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, without limitation, asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls).

"**Hedge Treasury Note(s)**" shall mean, with respect to any Accepted Note, the United States Treasury Note or Notes whose cash flow duration (as determined by Prudential) most closely matches the duration of such Accepted Note.

"**holder**" means, with respect to any Note, the Person in whose name such Note is registered in the register maintained by the Company pursuant to Section 13.1.

"**Hostile Tender Offer**" shall mean, with respect to the use of proceeds of any Note, any offer to purchase, or any purchase of, shares of capital stock of any corporation or equity interests in any other entity, or securities convertible into or representing the beneficial ownership of, or rights to acquire, any such shares or equity interests, if such shares, equity interests, securities or rights are of a class which is publicly traded on any securities exchange or in any over-the-counter market, other than purchases of such shares, equity interests, securities or rights representing less than 5% of the equity interests or beneficial ownership of such corporation or other entity for portfolio investment purposes, and such offer or purchase has not been duly approved by the board of directors of such corporation or the equivalent governing body of such other entity prior to the date on which the Company makes the Request for Purchase of such Note.

"**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.

"**INHAM Exemption**" shall have the meaning provided in Section 6.2(e).

"**Institutional Investor**" means (a) any original purchaser of a Note, and (b) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, holding more than $2,000,000 (or its equivalent in another Available Currency) in of the aggregate principal amount of the Notes then outstanding or more than 20% of the aggregate principal amount of the Notes then outstanding.

"**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.

"**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.

"**Issuance Period**" shall have the meaning specified in Section 2B(2).

"**Issuance Fee**" shall have the meaning provided in Section 2B(8)(ii).

"**Issuer Subsidiary**" shall mean (a) any Subsidiary Guarantor of the Company which has issued or proposes to issue any Notes, or (b) any Foreign Subsidiary of the Company which has issued or proposes to issue any Notes and has executed and delivered a Foreign Subsidiary Guaranty to the holders of the Notes and has executed and delivered the same Foreign Subsidiary Guaranty to, and for the benefit of, each Senior Secured Creditor party to the Amended and Restated Collateral Agency and Intercreditor Agreement.

"**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.

"**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).

"**Make-Whole Amount**" is defined in Section 8.6.

"**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 or any Subsidiary to perform its obligations under this Agreement, the Notes or the Collateral Documents (as applicable), or (c) the validity or enforceability of this Agreement, the Notes or any of the Collateral Documents.

"**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, Nu Skin Enterprises Hong Kong, Inc., a Utah corporation, Nu Skin Taiwan, Inc., a Utah corporation, Nu Skin United States, Inc., a Delaware corporation, and Big Planet, 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 (provided that if the Company and Subsidiaries collectively own not more than 30% of the outstanding equity, by value, of Nu Skin Malaysia Holdings, then Nu Skin Malaysia Holdings and its subsidiaries shall not be deemed Material Subsidiaries by reason of this clause (i) unless their consolidated revenues during the four most recently ended fiscal quarters equaled or exceeded 15.0% 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.

"**Memorandum**" is defined in Section 5.3.

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

"**NAIC Annual Statement**" shall have the meaning provided in Section 6.2(a).

"**New York Business Day**" shall mean any day other than a Saturday, a Sunday or a day on which commercial banks in New York are required or authorized to be closed.

"**Notes**" is defined in Section 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.

"**Overnight Interest Rate**" means with respect to an Accepted Note denominated in a currency other than Dollars, the actual rate of interest, if any, received by the Purchaser which intends to purchase such Accepted Note on the overnight deposit of the funds intended to be used for the purchase of such Accepted Note, it being understood that reasonable efforts will be made by or on behalf of the Purchaser to make any such deposit in an interest bearing account.

"**Parent Guaranty**" shall mean the guaranty of the Company pursuant to Section 21 hereof of any Notes issued by any Issuer Subsidiary.

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

"**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 (i) a Securitization Entity (in the case of a transfer by the Company or any Restricted Subsidiary) and (ii) 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 (A) all collateral securing such receivables, (B) all contracts and contract rights and all guarantees or other obligations in respect of such receivables, (C) proceeds of such receivables, and (D) 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 10.5(a)(ii).

"**Person**" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or 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, dated as of October 12, 2000, executed and delivered by the Pledgors and the Collateral Agent, as amended, supplemented and modified from time to time.

"**Pledged Securities**" means (a) the Equity Securities described in Schedule I attached to the Pledge Agreement and the Equity Securities 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 such Person 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.

"**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 Amended and Restated Collateral Agency and Intercreditor Agreement (provided that until the holder of such Indebtedness becomes a party to the Amended and Restated Collateral Agency and Intercreditor Agreement, such Indebtedness will be considered Priority Indebtedness), (iii) Indebtedness owed to the Company or any other Restricted Subsidiary, and (iv) Indebtedness of Issuer Subsidiaries evidenced by the Notes and (b) Indebtedness of the Company and its Restricted Subsidiaries secured by a Lien not permitted by paragraphs (a) through (m) of Section 10.3, 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.

"**Prudential**" shall mean Prudential Investment Management, Inc..

"**Prudential Affiliate**" shall mean (i) any corporation or other entity controlling, controlled by, or under common control with, Prudential and (ii) any managed account or investment fund which is managed by Prudential or a Prudential Affiliate described in clause (i) of this definition. For purposes of this definition the terms "control", "controlling" and "controlled" shall mean the ownership, directly or through subsidiaries, of a majority of a corporation's or other Person's voting stock or equivalent voting securities or interests.

"**PTE**" shall have the meaning provided in Section 6.2(a).

"**Purchasers**" shall mean with respect to any Accepted Notes, Prudential and/or the Prudential Affiliate(s) which are purchasing such Accepted Notes.

"**QPAM Exemption**" shall have the meaning provided in Section 6.2(d).

"**Quotation**" shall have the meaning provided in Section 2B(4).

"**Request for Purchase**" shall have the meaning specified in Section 2B(3).

"**Required Holder(s)**" shall mean the holder or holders of at least 51% of the aggregate principal amount of the Notes or of a Series of Notes, as the context may require, from time to time outstanding and, if no Notes are outstanding, shall mean Prudential.

"**Rescheduled Closing Day**" shall have the meaning specified in Section 2B(7).

"**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 the Collateral Documents.

"**Restricted Investments**" means all Investments except any of the following: (i) property to be used in the ordinary course of business; (ii) assets arising from the sale of goods and services in the ordinary course of business; (iii) Investments in one or more Restricted Subsidiaries or any Person that immediately becomes a Restricted Subsidiary; (iv) Investments existing at the date of Closing; (v) 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; (vi) 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; (vii) 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 lest one national rating agency; (viii) Investments in commercial paper, maturing within 270 days, rated in one of the top two rating classifications by at least one national rating agency; (ix) Investments in repurchase agreements; (x) treasury stock; (xi) Investments in money market instrument programs which are classified as current assets in accordance with GAAP; (xii) Investments in foreign currency risk hedging contracts used in the ordinary course of business; and (xiii) 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

"**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 10.8; provided that upon any Unrestricted

"**Securities Act**" means the Securities Act of 1933, as amended from time to time.

"**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 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 (i) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (A) 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), (B) is recourse to or obligates the Company or any of its Subsidiaries in any way other than pursuant to Standard Securitization Undertakings, or (C) subjects any property or asset of the Company or any other Subsidiary of the Company, directly or indirectly, continently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (ii) 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 (iii) 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 Secured Creditor**" means (a) each holder of a Note, (b) each holder of a 3.03% Senior Note due October 12, 2010 issued pursuant to that certain Note Purchase Agreement dated as of October 12, 2000, and (c) each lender under a Significant Credit Facility.

"**Senior Secured Indebtedness**" means the Indebtedness of the Company under (a) this Agreement and the Notes, (b) the 3.03% Senior Notes due October 12, 2010 issued pursuant to that certain Note Purchase Agreement dated as of October 12, 2000, and (c) any 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 include any Priority Indebtedness to the extent that such Priority Indebtedness is permitted by Section 10.5(a)(ii), any Indebtedness secured by a Lien permitted by Section 10.3(h), or any Indebtedness secured by a Lien renewing, extending or replacing Liens as described in Section 10.3(m).

"**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.

"**Structuring Fee**" shall have the meaning provided in Section 2B(8)(i).

"**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 the other 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 Company.

"**Subsidiary Guaranty**" means that certain Subsidiary Guaranty, substantially in the form of Exhibit E hereto, dated as of the date hereof, executed and delivered by the Subsidiary Guarantors, as amended, supplemented and modified from time to time.

"**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**" is defined in Section 14.4(a).

"**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 Notes pursuant to an Amended and Restated Subordination Agreement substantially in the form set forth in Exhibit F.

"**Unrestricted Subsidiary**" means any Subsidiary which is designated as an Unrestricted Subsidiary on Schedule B or is designated as such in writing by the Company to each of the holders of the Notes pursuant to Section 10.8; 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%) 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**" means the lawful currency of Japan.

SCHEDULE B
UNRESTRICTED SUBSIDIARIES

Shanghai Nu SKin Daily-Use and Health Products Co., Ltd., a Chinese company
Nu Skin Enterprises Singapore Pte. Lts., a Singapore corporation
Nu Skin (Malaysia) Sdn. Bhd., a Malaysian corporation
Cygnus Resources, Inc., a Delaware corporation

SCHEDULE 5.8
LITIGATION

None.

SCHEDULE 5.11
LICENSES, PERMITS, ETC.

1. The Company's Taiwan subsidiary has received a claim for infringement of patent rights in respect of hand-set free equipment for mobile phones. Nu Skin Taiwan's counsel drafted letters of reply, but has not recieved any responses from the claimant. The Company does not believe that the claimants will pursue the claim any further.

2. The Company is party to routine trademark matters involving oppositions to various trademarks of the Comapny and the trademarks of other parties in its markets world-wide.

SCHEDULE 10.3
LIENS

1. The Company has granted a security interest in 65% of its shares of stock of Nu Skin Japan Co., Ltd. to State Street Bank and Trust of California as collateral agent for the lenders party to that certain Intercreditor Agreement dated as of October 12, 2000, as amended from time to time to add additional lenders as parties and to make certain other changes.

2. The Company and its subsidiaries have netered into various operating leases for equipment. Many of the equipment vendors have filed UCC notice filings with respect to these leases.

EXHIBIT A

[FORM OF NOTE]

[NU SKIN ENTERPRISES, INC.]
[NAME OF ISSUER SUBSIDIARY]

SERIES __ SENIOR NOTE

No. _____

CURRENCY AND ORIGINAL PRINCIPAL AMOUNT:
ORIGINAL ISSUE DATE:
INTEREST RATE:
INTEREST PAYMENT DATES:
FINAL MATURITY DATE:
PRINCIPAL PREPAYMENT DATES AND AMOUNTS:

FOR VALUE RECEIVED, the undersigned, [**NU SKIN ENTERPRISES, INC.** (herein called the "**Company**")] [name of **ISSUER SUBSIDIARY** (herein called the "**Issuer Subsidiary**")], a corporation organized and existing under [the laws of Delaware] [_____], hereby promises to pay to [_____], or registered assigns, the principal sum of _____[specify principal amount and currency] [on the Final Maturity Date specified above] [, payable on the Principal Payment Dates and in the amounts specified above, and on the Final Maturity Date as specified above in an amount equal to the unpaid balance of the principal

hereof,] with interest (computed on the basis of a [360-day year of twelve 30-day months)][1] [365-day year and actual days elapsed)][2] (a) on the unpaid balance thereof at the Interest Rate per annum specified above, payable on each Interest Payment Date specified above and on the Final Maturity Date specified above, commencing with the Interest Payment Date next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) on any overdue payment (including any overdue prepayment) of principal, any overdue payment of any Make-Whole Amount and any overdue payment of interest, payable on each Interest Payment Date as aforesaid (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to the Default Rate.

Payments of principal, Make-Whole Amount, if any, and interest are to be made at The Bank of New York in New York City or at such other place as the holder hereof shall designate to the Company in writing, in lawful money of [specify country or European Union].

This Note is one of a series of Senior Notes (herein called the "**Notes**") issued pursuant to a Private Shelf Agreement, dated as of August 26, 2003 (as from time to time amended, herein called the "**Agreement**"), between Nu Skin Enterprises, Inc. (the "**Company**") and each Issuer Subsidiary which becomes party thereto, on the one hand,

and is entitled to the benefits thereof. Capitalized terms used and not otherwise defined herein shall have the meanings provided in the Agreement. Each holder of this Note will be deemed, by its acceptance hereof, (i) to have agreed to the confidentiality provisions set forth in Section 20 of the Agreement, and (ii) to have made the representations set forth in Section 6 of the Agreement. This Note is secured by the Collateral Documents and is guaranteed by the Subsidiary Guarantors pursuant to the Subsidiary Guaranty.

This Note is subject to optional prepayment, in whole or from time to time in part, on the terms specified in the Agreement.

This Note is a registered Note and, as provided in the Agreement, upon surrender of this Note for registration of transfer, duly endorsed, or accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for the then outstanding principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the [Company] [Issuer Subsidiary] may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the [Company] [Issuer Subsidiary] shall not be affected by any notice to the contrary.

[This Note is guaranteed by the Company pursuant to the Parent Guaranty set forth in the Agreement.]

In case an Event of Default shall occur and be continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount), and with the effect provided in the Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State (other than Section 5-1401 of the New York General Obligations Law) that would require the application of the laws of a jurisdiction other than such State.

[NU SKIN ENTERPRISES, INC.]
[NAME OF ISSUER SUBSIDIARY]

By:
Name:
Title:

EXHIBIT D

[FORM OF OPINION OF GENERAL COUNSEL

TO THE COMPANY, THE SUBSIDIARY GUARANTORS, AND, IF APPLICABLE, THE ISSUER SUBSIDIARY]

[Letterhead of Nu Skin Enterprises, Inc.]

[Date of Closing Day]

[Name of Each Purchaser]
c/o Prudential Capital Group
Four Embarcadero Center, Suite 2700
San Francisco, California 94111-4180

Re: Nu Skin Enterprises, Inc. – Series ___ Note Issuance

Ladies and Gentlemen:

I am the General Counsel of Nu Skin Enterprises, Inc., a Delaware corporation (the "Company"), [and _____, a _____ corporation (the "Issuer Subsidiary"),] and in such capacity have represented the Company[, the Issuer Subsidiary] and certain of the Company's subsidiaries listed on Schedule I hereto (the "Subsidiaries," and together with the Company [and the Issuer Subsidiary], the "Note Parties"), in connection with (i) the issuance and sale by [the Company] [the Issuer Subsidiary] on today's date of [describe Notes] (the "Notes") to the Purchaser[s] pursuant to the Private Shelf Agreement dated as of August 19, 2003 (the "Agreement") by and among the Company [and the Issuer Subsidiary)], on the one hand, and Prudential Investment Management, Inc. ("Prudential") and each Prudential Affiliate which has become bound by certain provisions thereof, on the other hand, (ii) the execution of the Subsidiary Guaranty, dated as of August 26, 2003, by each of the Subsidiaries in favor of Prudential and each of the holders of the Notes issued pursuant to the Agreement (the "Subsidiary Guaranty"), (iii) the execution and delivery of the Pledge Agreement dated as of October 12, 2000, by State Street Bank and Trust Company of California, N.A. (the "Collateral Agent") and the Company (the "Pledge Agreement"), (iv) the Amended and Restated Collateral Agency and Intercreditor Agreement dated as of August 26, 2003 (the "Intercreditor Agreement") by and among the Purchasers, the other senior creditors identified therein, and the Collateral Agent and acknowledged by the Company, the Subsidiaries and any Issuer Subsidiary which may become party to the Agreement, and (v) the execution and delivery of the Amended and Restated Subordination Agreement dated as of August 26, 2003 (the "Subordination Agreement") by the Company and each of the Subsidiaries and Nu Skin Japan Co., Ltd., [and (vi) the execution and delivery of the Foreign Subsidiary Guaranty, dated as of _____, by _____ in favor of Prudential and each of the holders of the Notes issued pursuant to the Agreement (the "Foreign Subsidiary Guaranty")]. *[Note: clause (vi) only relevant if Issuer*

Subsidiary is a Foreign Subsidiary that must execute a Foreign Subsidiary Guaranty.] The Agreement, together with the Notes, the Subsidiary Guaranty, the Intercreditor Agreement, the Pledge Agreement and the Subordination Agreement [and the Foreign Subsidiary Guaranty] are collectively referred to in this opinion as the "Transaction Documents"). [The Company has provided its Parent Guaranty with respect to the Notes pursuant to the Agreement.]

This opinion is delivered to you pursuant to Section 3A(v) of the Agreement and with the understanding that you are purchasing the Notes in reliance hereon. Capitalized terms not otherwise defined herein are used herein with the meanings ascribed to such terms in the Agreement. "Applicable Laws" shall mean those laws, rules and regulations that in my experience, based on the nature of the transactions contemplated by the Transaction Documents and the nature of the business of the Company and its Subsidiaries [and the Issuer Subsidiary], are normally applicable to the transactions contemplated by the Transaction Documents (provided that the term "Applicable Laws" does not include (i) state securities laws, (ii) anti-fraud laws, or (iii) any law, rule or regulation that may have become applicable to the transactions contemplated by the Transaction Documents because of any fact specifically pertaining to the Purchasers) but without having made any special investigation concerning the applicability of any other law, rule or regulation. "Charter Documents" shall mean the Articles or Certificate of Incorporation, as the case may be, and the Bylaws, of a corporate entity [and _____ [specify if relevant]].

In connection with this opinion, I have examined the following documents:

(a) counterparts of the Agreement, together with all schedules and exhibits thereto, executed by each of the parties thereto;

(b) counterparts of the Subsidiary Guaranty, together with all schedules and exhibits thereto, executed by each of the parties thereto;

(c) counterparts of the Pledge Agreement, together with all schedules and exhibits thereto, executed by each of the parties thereto;

(d) counterparts of the Intercreditor Agreement, together with all schedules and exhibits thereto, executed by each of the parties thereto;

(e) counterparts of a Subordination Agreement, executed by each of the parties thereto;

[(f) counterparts of the Subsidiary Guaranty, together with all schedules and exhibits thereto, executed by each of the parties thereto;]

[(f)][(g)] originals of the Notes, executed by the [Company] [Issuer Subsidiary];

[(g)][(h)] certificates of public officials from the States of Delaware and Utah [and _____ [for the applicable Issuer Subsidiary]] as I have deemed necessary for the purpose of rendering this opinion;

[(h)][(i)] the Charter Documents of the Company[, the Issuer Subsidiary] and the Subsidiaries, in each case as amended to date;

[(i)][(j)] certified copies of resolutions of the [Board of Directors] of the Company[, the Issuer Subsidiary] and of each Subsidiary relating to the respective Transaction Documents; and

[(j)][(k)] such other documents, instruments and certificates as I have deemed necessary for the purpose of rendering this opinion.

In my examination of the Transaction Documents, to the extent my opinions set forth below are dependent thereon, I have assumed without independent investigation that (i) each party to each Transaction Document (other than any Note Party) is a corporation or other entity duly incorporated or otherwise organized and validly existing under the laws of the jurisdiction of its incorporation or organization, (ii) each party to each Transaction Document (other than any Note Party) has full corporate power and authority to execute, deliver and perform each Transaction Document to which it is a party, (iii) the execution, delivery and performance by each party (other than any Note Party) of each Transaction Document to which it is a party has been duly authorized by all necessary corporate action, (iv) the genuineness of all signatures (other than those of any Note Party), (v) the authenticity of all documents submitted to me as originals, (vi) the conformity to originals of all such documents submitted to me as copies, (vii) each Transaction Document has been duly executed and delivered by each of the parties thereto (other than any Note Party), and (viii) the Company has, or will have at the relevant time, rights in the Pledged Securities (as hereinafter defined) in which the Company has granted a security interest to the Collateral Agent within the meaning of Section 9-203(b)(2) of the NYUCC (as hereinafter defined) at all times relevant to this opinion.

As to all questions of fact material to my opinions below, I have relied upon, without independent investigation, and assumed the accuracy and completeness of, the representations and warranties of the parties to the Transaction Documents contained in the Transaction Documents and the certificates of such parties or their officers, partners, or managers, as the case may be, or of public officials. I have made no independent investigation of any of the facts stated in any of the representations.

Based upon and subject to the foregoing and subject to the limitations and qualifications set forth below, I am of the opinion that:

1. The Company has been duly incorporated and is validly existing and in good standing as a corporation under the laws of the State of Delaware and is duly qualified as a foreign corporation to do business and is in good standing in the State of Utah. [The Issuer Subsidiary has been duly incorporated and is validly existing and in good standing as a corporation under the laws of the State of [_____] and is duly qualified as a foreign corporation to do business and is in good standing in the State of Utah.] Each Subsidiary has been duly [incorporated in its respective state of incorporation and is validly existing and in good standing as corporation under the laws of such state] [alternative language, as appropriate, if any Subsidiary is not a corporation], and each Subsidiary that is a Delaware corporation is duly qualified as a foreign corporation to do business, and is in good standing, in the State of Utah.

2. The execution, delivery and performance by each Note Party of each Transaction Document to which it is a party are within its corporate powers and have been duly authorized by all necessary [corporate] [alternative language, as appropriate, if any Subsidiary is not a corporation] action. The execution, delivery and performance by each Note Party of each Transaction Document to which it is a party do not, and will not, contravene its respective Charter Documents or any Applicable Laws.

3. No order, filing, consent or approval of any Governmental Authority under Applicable Laws or filing with any Governmental Authority is required on the part of any Note Party in connection with the execution, delivery or performance by such Note Party of any Transaction Document to which it is a party except as expressly contemplated by the Transaction Documents and except such as have been made or obtained and are in full force and effect and routine governmental filings required in the ordinary course of business.

4. Each Transaction Document has been duly executed and delivered by each Note Party that is a party thereto.

5. Each Transaction Document constitutes the legal, valid and binding obligation of each Note Party, enforceable against each such Note Party in accordance with its respective terms.

6. Neither the extension of credit evidenced by the Notes nor the use of proceeds thereof will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

7. The Pledge Agreement and delivery to the Collateral Agent in the State of New York of the security certificates representing the shares of stock identified in Schedule I to the Pledge Agreement (the "Pledged Securities") endorsed to the Collateral Agent or in blank, created in favor of the Collateral Agent, as security for the payment of the Secured Obligations (as defined in the Pledge Agreement), a perfected security interest under the Uniform Commercial Code as in effect on the date of the Pledge Agreement in the State of New York (the "NYUCC") in the Pledged Securities, and such perfected security interest continues to be in full force and effect. Assuming the Collateral Agent acquired its interest in such Pledged Securities in good faith and without notice of any adverse claims (as to which I express no opinion), the Collateral Agent has acquired its security interest in such Pledged Securities free of adverse claims within the meaning of the NYUCC.

8. Assuming the accuracy of (i) the Company's representations in the first sentence of Section 5.13 of the Agreement and (ii) your representations in Section 6.1 of the Agreement, it is not necessary in connection with the execution and delivery of the Notes under the circumstances contemplated by the Agreement to register the Notes under the Securities Act of 1933, as amended or to qualify an indenture in respect thereof under the Trust Indenture Act of 1939, as amended.

9. No Note Party is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

10. Assuming that the State of New York has a sufficient relationship to the parties to the Transaction Documents or the transactions contemplated in the Transactions, in any proceedings duly taken in the courts of the State of Utah or a United States court sitting in the State of Utah to enforce any Transaction Document, the choice of New York law as the substantive law governing such Transaction Document would be recognized and such law would be applied.

At your request, I also confirm to you the following:

(i) The execution and delivery by each Note Party of each Transaction Document to which it is a party do not, and the performance by each Note Party of each Transaction Document to which it is a party will not, (i) violate, breach or result in default under, or result in the imposition of any Lien upon any property of any Note Party pursuant to, the [describe all material credit agreements] or, to my knowledge, any existing obligation or restriction on any Note Party under any other agreement, instrument or indenture applicable to it, or (ii) to my knowledge, breach or otherwise violate any existing obligation of or restriction on any Note Party under any order, judgment or decree applicable to it.

(ii) To my knowledge, except as disclosed in the Transaction Documents, no actions, suits, proceedings or investigations are pending or threatened against any Note Party before any Governmental Authority or arbitrator that (a) could reasonably be expected (alone or in the aggregate) to have a Material Adverse Effect or (b) seek to enjoin, either directly or indirectly, the execution, delivery or performance by any Note Party of any Transaction Documents to which it is a party or the transactions contemplated thereby.

The opinions and confirmations set forth herein are predicated upon, limited by and subject to the following assumptions, qualifications, limitations and exceptions in addition to those set forth elsewhere herein:

A. I am an attorney admitted to practice in the State of Utah. Except as set forth below, the opinions expressed above are limited to the laws of the State of Utah, the State of New York (as to the opinion expressed in paragraphs 5 and 7) and the federal laws of the United States, and I do not express any opinion herein concerning any other law. In rendering the opinions set forth in paragraphs 1 and 2, to the extent such opinions concern the corporations incorporated under Delaware law, such opinions are limited to the published compilations of the Delaware General Corporation Law. In rendering the opinions set forth in paragraph 1, to the extent such opinions concern Delaware corporations, I have relied solely on (i) my review of the certificates of incorporation certified by the Secretary of State of Delaware, (ii) my review of the current published compilations of the Delaware General Corporation Law regarding the required content and execution of a certificate of incorporation, (iii) Certificates of Good Standing issued by the Secretary of State of Delaware, and (iv) Section 105 of the Delaware General

Corporation Law regarding the required content and execution of a certificate of incorporation, (iii) Certificates of Good Standing issued by the Secretary of State of Delaware, and (iv) Section 105 of the Delaware General Corporation Law which provides that a certificate of incorporation duly certified by the Secretary of State and accompanied by the certificate of the recorder of the county in which it has been recorded, shall be received in all courts, public offices, and official bodies, as prima facie evidence of: (a) due execution, acknowledgment, filing and recording of the instrument; (b) observance and performance of all acts and conditions necessary to have been observed and performed precedent to the instrument becoming effective; and (c) any other facts required or permitted by law to be stated in the instrument. I note that the Transaction Documents are governed by the laws of the State of New York, and for purposes of the opinions expressed in paragraphs 5and 7, I have assumed that the laws of the State of New York are the same as the laws of the State of Utah. *[Note: For any Issuer Subsidiary not incorporated in the State of Delaware, this paragraph will need to be modified to address the relevant state.]*

B. The qualification of the confirmations requested by the words "to my knowledge" or "of which I have knowledge" is intended to indicate that I do not have current and actual knowledge of the inaccuracy of such statement. However, except as expressly indicated in the following sentence, I have not undertaken

any independent investigation to determine the accuracy of such statement. I have, however, made inquiry of each of the in-house counsel of the Company with respect to each matter and have also made inquiry to the Chief Executive Officer and Chief Financial Officer of the Company with respect to each matter.

C. My opinion in paragraph 5 is subject to the effect of any applicable bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar law affecting creditors' rights generally.

D. My opinion in paragraph 5 is subject to the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether considered in a proceeding in equity or at law) and the availability of specific performance or any other equitable remedy. Such principles of equity are of general application, and in applying such principles a court, among other things, might not allow a creditor to accelerate the maturity of a debt, or might decline to order the Note Parties to perform covenants. Such principles applied by a court might include a requirement that creditors act with reasonableness and in good faith. Such a requirement might be applied, among other situations, to the provisions of any Transaction Document purporting to authorize conclusive determinations by any Purchaser. Further, Section 2.4.e. of the Subsidiary Guaranty, which provides that the liabilities of the parties thereto shall not be affected by amendments, waivers or similar actions with respect to the Note Documents might be enforceable only to the extent that such amendments, waivers or other actions are not so material as to constitute a new contract among the parties.

E. My opinion in paragraph 7 is subject to the following qualifications:

(1) in the case of property that becomes Pledged Collateral (as defined in the Pledge Agreement) after the date hereof, Section 552 of the Federal Bankruptcy Code limits the extent to which property acquired by a debtor after the commencement of a case under the Federal Bankruptcy Code may be subject to a security interest arising from a security agreement entered into by the debtor before the commencement of such case;

(2) in the case of proceeds, continuation of perfection of the Collateral Agent's security interest therein is limited to the extent set forth in Section 9-3115 of the NYUCC;

(3) I express no opinion as to the priority of security interests as against any lien creditor (as defined in Section 9-102(a)(52) of the NYUCC) to the extent set forth in Section 9-323(b) of the NYUCC;

(4) in the case of the issuance or other distribution in respect of the Pledged Collateral of additional instruments (as such term is defined in Article 9 of the NYUCC), the security interest of the Collateral Agent therein will be perfected only if possession thereof is obtained in accordance with the provisions of Article 9 of the NYUCC;

(5) in the case of the Pledged Collateral consisting of investment property (as defined in Article 9 of the NYUCC), Sections 9-312, 9-314 and 9-106 of the NYUCC provide that perfection of a security interest in such investment property may be perfected by control (as defined in Article 8 of the NYUCC) or by filing;

(6) I have assumed that the Collateral Agent will maintain possession of the Pledged Securities in the State of New York; and

(7) in the case of property of a type as to which the Federal laws of the United States have preempted the NYUCC with respect to the validity or perfection of the security interest therein, the security interest may not be valid or perfected without compliance with applicable Federal law. In addition, Federal and State securities laws may limit the right to transfer or dispose of Pledged Collateral which may constitute securities under such laws.

F. I express no opinion as to any provision in the Transaction Documents providing for the payment or reimbursement of costs or expenses or indemnifying a party or the waiver of rights, to the extent such provisions may be held unenforceable as contrary to public policy.

G. I express no opinion as to the enforceability of Section 14.3 of the Agreement and Section 2.16 of the Subsidiary Guaranty providing for the respective Note Party's payments of obligations to the Purchaser in the Available Currency in which the Notes are denominated after a court judgment in another currency.

H. I advise you that Section 22.1 of the Agreement and Section 4.1 of the Subsidiary Guaranty, which provide for non-exclusive jurisdiction of the courts of the State of New York and federal courts sitting in the State of New York, may not be binding on federal courts sitting in New York (or any federal appellate court).

I. In addition to any other limitation by operation of law upon the scope, meaning, or purpose of this letter, this letter speaks only as of the date hereof. I have no obligation to advise the recipients of this letter of changes of law or fact that may occur after the date hereof even though the change may affect the legal analysis, a legal conclusion or any informational confirmation herein.

The opinions expressed in this letter are solely for the use of the Purchasers, and their successors and permitted transferees and assigns, in matters directly related to the Agreement and the transactions contemplated thereunder, and these opinions may not be relied on by any other persons or for any other purpose.

Very truly yours,

D. Matthew Dorny
General Counsel

Schedule I

Nu Skin Enterprises Hong Kong, Inc.

Nu Skin International, Inc.

Nu Skin Taiwan, Inc.

Nu Skin United States, Inc.

Big Planet, Inc.

NSE Korea Ltd.

AMENDED AND RESTATED COLLATERAL AGENCY AND INTERCREDITOR AGREEMENT

This **AMENDED AND RESTATED COLLATERAL AGENCY AND INTERCREDITOR AGREEMENT** (this "**Agreement**"), dated as of August 26, 2003, is entered into among the 2000 Senior Noteholder listed on the signature pages hereof (together with assignees of such 2000 Senior Noteholder, the "**2000 Senior Noteholders**"), the 2003 Senior Noteholder listed on the signature pages hereof (together with assignees of such 2003 Senior Noteholder and any Prudential Affiliate that may become a party hereto and assignees thereof, the "**2003 Senior Noteholders**"), the Senior Lenders listed on the signature pages hereof (together with any assignees of such Senior Lenders, the **"Senior Lenders**") and Bank of America, N.A., as Agent for the Senior Lenders (in such capacity, together with any successor in such capacity, the "**Agent**"), any Additional Creditors that may become parties to this Agreement (either directly or through their agent), and U.S. Bank National Association, as successor to State Street Bank and Trust Company of California, N.A., in its capacity as collateral agent for the 2000 Senior Noteholders, the 2003 Senior Noteholders, the Senior Lenders, the Agent and the Additional Creditors (the "**Collateral Agent**").

RECITALS

A. Nu Skin Enterprises, Inc., a Delaware corporation (the "**Company**"), has issued to the 2000 Senior Noteholder its 3.03% Senior Notes due October 12, 2010 in the aggregate principal amount of JP¥9,706,500,000 (the "**2000 Senior Noteholder Notes**") pursuant to that certain Note Purchase Agreement, dated as of October 12, 2000 (as the same may be amended, supplemented, amended and restated or otherwise modified from time to time, the "**2000 Note Purchase Agreement**"), between the Company and the 2000 Senior Noteholder.

B. The Company and/or one or more Issuer Subsidiaries (as defined in the 2003 Private Shelf Agreement described below) may from time to time issue and sell to the 2003 Senior Noteholder and/or one or more Prudential Affiliates (as defined in the 2003 Private Shelf Agreement) its senior promissory notes in the aggregate principal amount of up to US$125,000,000 or the equivalent amount in certain other currencies (the "**2003 Senior Noteholder Notes**") pursuant to that certain Private Shelf Agreement, dated as of August 26, 2003 (as the same may be amended, supplemented, amended and restated or otherwise modified from time to time, the "**2003 Private Shelf Agreement**"), between the Company and each Issuer Subsidiary which may become party thereto, on the one hand, and the 2003 Senior Noteholder and each Prudential Affiliate which may become party thereto, on the other hand.

C. The Company, the Senior Lenders and the Agent have entered into a Credit Agreement dated as of May 10, 2001 (as amended, supplemented, amended and restated or otherwise modified from time to time, the "**Credit Agreement**"), pursuant to which the Senior Lenders may from time to time make loans and other financial accommodations to the Company.

D. Each of the Material Domestic Subsidiaries of the Company (together with any future Material Domestic Subsidiaries entering into a guaranty agreement with respect to the Obligations (as defined below), the "**Subsidiary Guarantors**") has entered into a guaranty agreement pursuant to which the Subsidiary Guarantors guarantee to the Senior Lenders the payment and performance of all of the Company's obligations under the Loan Documents (as defined in the Credit Agreement) (as such guaranty agreement may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, the "**Bank Obligation Guaranty**").

E. The Subsidiary Guarantors have entered into a guaranty agreement pursuant to which the Subsidiary Guarantors have guaranteed to the 2000 Senior Noteholders the payment of the 2000 Noteholder Obligations and the payment and performance of all of the Company's obligations under the 2000 Note Purchase Agreement and the 2000 Senior Noteholders Notes (as such guaranty agreement may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, the "**2000 Note Obligation Guaranty**").

F. Pursuant to the 2003 Private Shelf Agreement, (i) the Company will, with respect to any 2003 Senior Noteholders Notes issued by any Issuer Subsidiary, guarantee to the 2003 Senior Noteholders the payment of the 2003 Noteholder Obligations and the payment and performance of each such Issuer Subsidiary's obligations under the 2003 Private Shelf Agreement and the 2003 Senior Noteholders Notes and (ii) the Subsidiary Guarantors will enter into a guaranty agreement pursuant to which the Subsidiary Guarantors will guarantee to the 2003 Senior Noteholders the payment of the 2003 Noteholder Obligations and the payment and performance of all of the Company's and each Issuer Subsidiary's obligations under the 2003 Private Shelf Agreement and the 2003 Senior Noteholders Notes (such guaranty agreements of the Company and the Subsidiary Guarantors as they may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, collectively, the "**2003 Note Obligation Guaranty**").

G. 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, depositary 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.

H. Certain foreign subsidiaries of the Company may enter into one or more guaranty agreements pursuant to which such foreign subsidiary guarantors will guarantee to the Benefitted Parties (as defined below) the payment and performance of all of the Company's and each Issuer Subsidiary's obligations, as the case may be, under the Senior Loan Documents (as defined below) (as each such guaranty agreement may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, a **"Foreign Subsidiary Guaranty**").

I. The Bank Obligation Guaranty, the 2000 Note Obligation Guaranty, the 2003 Note Obligation Guaranty, any Additional Subsidiary Guaranty, any Direct Subsidiary Obligation and any Foreign Subsidiary Guaranty are each hereinafter referred to as a **"Subsidiary Guaranty**." The Loan Documents, the 2000 Note Purchase Agreement, the 2003 Private Shelf Agreement, each Subsidiary Guaranty 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".

J. The Company has secured all present and future obligations to the 2000 Senior Noteholders under the 2000 Senior Noteholder Notes and the 2000 Note Purchase Agreement (all such obligations, including, without limitation, principal, interest, Make-Whole Amounts, fees and indemnities, being referred to herein as the "**2000 Senior Noteholder Obligations**"), all present and future obligations to the 2003 Senior Noteholders under the 2003 Senior Noteholder Notes and the 2003 Private Shelf Agreement (all such obligations, including, without limitation, principal, interest, Make-Whole Amounts, fees and indemnities, being referred to herein as the "**2003 Senior Noteholder Obligations**") and all present and future obligations to the Senior Lenders, including, without limitation, principal, interest, letter of credit obligations (including Contingent L/C Obligations), break-funding amounts, fees and indemnities (the "**Senior Lender Obligations**") and may secure all Additional Obligations, pursuant to the terms of that certain Pledge Agreement dated as of October 12, 2000 between the Company and the Collateral Agent (the "**Pledge Agreement**") and any similar documents executed after the date hereof, as the same may be amended, supplemented or modified from time to time (the "**Security Documents**"). The 2000 Senior Noteholder Obligations, the 2003 Senior Noteholder Obligations, the Senior Lender Obligations and the Additional Obligations are collectively referred to as the "**Obligations**." The 2000 Senior Noteholders, the 2003 Senior Noteholders, the Senior Lenders and the Additional Creditors are sometimes collectively referred to as the "**Benefitted Parties**" and individually referred to as a "**Benefitted Party**." The Pledge Agreement grants to the Collateral Agent, for the ratable benefit of the Benefitted Parties, a valid, perfected and enforceable first priority lien on and a security interest in 65% of the equity securities of certain foreign subsidiaries of the Company (hereinafter all of such collateral, together with all rights to payment under any Subsidiary Guaranty, shall be referred to collectively as the "**Collateral**").

K. The 2000 Senior Noteholders, the 2003 Senior Noteholders, the Senior Lenders and the Additional Creditors wish to set forth their understandings and agreements regarding their respective rights and priorities with respect to amounts recovered through the exercise of any right of set off, payments received after a Triggering Event (as defined in Section 2(a), below) and proceeds of the Collateral.

L. The Collateral Agent and the Benefitted Parties are parties to a Collateral Agency and Intercreditor Agreement dated as of October 12, 2000, as amended by that certain First Amendment dated as of May 10, 2001 (as amended to date, the "**Existing Collateral Agency and Intercreditor Agreement**"), and intend for this Agreement to replace and supercede the Existing Collateral Agency and Intercreditor Agreement.

M. Capitalized terms used herein without being defined shall have the meanings set forth in the 2000 Note Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants and promises set forth herein, each of the parties to this Agreement agrees as follows:

1. Sharing.

(a) The liens of the Collateral Agent relating to the Collateral shall be held by the Collateral Agent for the benefit of the Benefitted Parties, and any proceeds realized in respect thereof shall be shared by the Benefitted Parties and distributed in accordance with the rights and priorities set forth in this Agreement. Any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds (as such terms are defined in Section 2(b)) shall be shared by the Benefitted Parties and distributed in accordance with the rights and priorities set forth in this Agreement. As used herein, the term **"Triggering Event"** means (a) the occurrence and continuation of a Bankruptcy Proceeding (as defined below) with respect to the Company, any Issuer Subsidiary, any Subsidiary Guarantor or any Material Foreign Subsidiary, (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 or (c) any exercise of any right of setoff or banker's lien by any Benefitted Party. As used herein, the term "**Bankruptcy Proceeding**" means, with respect to any Person, a general assignment of such Person for the benefit of its creditors, or the institution by or against such Person of any proceeding seeking relief as debtor, or seeking to adjudicate such Person as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment or composition of such Person or its debts, under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for such Person or for any substantial part of its property.

(b) Notwithstanding anything to the contrary set forth herein, any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds which are to be remitted to any Benefitted Party on account of Obligations which are Contingent L/C Obligations (as defined

below) shall be remitted to the Collateral Agent to be held in a separate cash collateral account (the "**L/C Account**") by the Collateral Agent and distributed by the Collateral Agent only in accordance with this Section 1(b). In the event, and upon the condition that, any Contingent L/C Obligation becomes an absolute obligation of the Company upon the honoring of a draw under any Letter of Credit (as defined below), upon receipt of written direction from the applicable Benefitted Party, the Collateral Agent shall withdraw from the L/C Account and shall pay over to such Benefitted Party (or issuing bank on behalf of such Benefitted Party) that honored such draw an amount equal to the Withdrawal Amount (as defined below) with respect to the amount of such draw together with interest on such Withdrawal Amount at the rate earned while on deposit in the L/C Account. In the event that the Collateral Agent receives written notice that any Contingent L/C Obligation lapses on account of the expiration or other termination of the applicable Letter of Credit, an amount equal to the Withdrawal Amount with respect to such lapsed Contingent L/C Obligation, together with interest on account of such amount at the rate earned while on deposit in the L/C Account, shall be released from the L/C Account and shall be distributed by the Collateral Agent to the Benefitted Parties in accordance with clause "third" of Section 2(c). As used herein "**Withdrawal Amount**" means the product of (a) the quotient of (i) the amount of a Contingent L/C Obligation which has then become an absolute obligation on account of a draw or the amount of a Contingent L/C Obligation which has lapsed on account of the expiration or termination of the applicable Letter of Credit, as the case may be, over (ii) the total amount of all Contingent L/C Obligations, and (b) the total amount then deposited in the L/C Account.

As used herein, the term "**Contingent L/C Obligations**" means any and all contingent obligations of the Company to reimburse the issuers of Letters of Credit for drawings under such Letters of Credit.

As used herein, the term "**Letter of Credit**" means a letter of credit issued by a Benefitted Party, or an issuing bank on behalf of a Benefitted Party, for the account of the Company or any of the Subsidiary Guarantors pursuant to the Loan Documents or any additional credit agreements with lenders which become party to this Agreement.

2. Cash Collateral Account; Application of Proceeds

(a) The Collateral Agent has established an interest-bearing demand deposit cash collateral account subject to the lien and security interest created by the Security Documents (the "**Cash Collateral Account**") in the name of the Collateral Agent into which the proceeds, payments and amounts described in subsections (b)(i), (b)(ii), (b)(iii) and (b)(iv) below shall be deposited and from which only the Collateral Agent may effect withdrawals. Such amounts shall be held by the Collateral Agent in the Cash Collateral Account and shall be distributed from time to time by the Collateral Agent in accordance with Section 2(c) below.

(b) The following proceeds, payments and amounts shall be deposited and held by the Collateral Agent in the Cash Collateral Account and shall be distributed

from time to time by the Collateral Agent in accordance with Section 2(c) below:

(i) any proceeds of any collection, recovery, receipt, appropriation, realization or sale of any or all of the Collateral or the enforcement of the Security Documents (the "**Collateral Proceeds**") received by the Collateral Agent or any Benefitted Party;

(ii) any amounts held in the Cash Collateral Account at the time a Triggering Event occurs (the "**Triggering Event Balances**");

(iii) any payments received or otherwise realized by any Benefitted Party in respect of any Obligations on or after the date on which a Triggering Event has occurred (the "**Triggering Event Payments**"); and

(iv) any amounts received or recovered by any Benefitted Party through any exercise of any right of setoff or banker's lien at any time on or after the occurrence of a Triggering Event (whether by law, contract or otherwise, but excluding any amount deposited into an account of the Company or any Subsidiary maintained with a Benefitted Party that is applied solely to pay overdrafts in, or fees and charges related to the maintenance of, such account or any related account) (the "**Setoff Proceeds**").

Each Benefitted Party agrees to deliver any Collateral Proceeds, any Triggering Event Balances, any Triggering Event Payments and any Setoff Proceeds to the Collateral Agent within two (2) Business Days after receipt (other than pursuant to subsection (c) below) of such Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds. (c) The Collateral Agent shall distribute the proceeds described in subsections (b)(i), (b)(ii), (b)(iii) and (b)(iv) above which are held in the Cash Collateral Account to the Collateral Agent and the Benefitted Parties in accordance with the following priorities:

first, to the reasonable costs and expenses of the Collateral Agent incurred in connection with the maintenance of the Cash Collateral Account and any collection, recovery, receipt, appropriation, legal proceeding (whether by or against any such party), realization or sale of any or all of the Collateral or the enforcement of the Security Documents;

second, after payment in full of all amounts set forth in item first, to the Benefitted Parties in payment of any and all amounts owed to the Benefitted Parties for reimbursement of amounts paid by them to the Collateral Agent in accordance with Section 4(g) pro rata in proportion to such amounts owed to such Benefitted Parties;

third, after payment in full of all amounts set forth in item second, to the payment and permanent reduction of the principal amount of the outstanding Obligations and the Contingent L/C Obligations, pro rata, based on the proportion that the principal amount of such outstanding Obligations and Contingent L/C Obligations held by each Benefitted Party at such time bears to the sum of the principal amount of all such Obligations and Contingent L/C Obligations;

fourth, after payment in full of all amounts set forth in item third, to the payment and permanent reduction of the amount of the outstanding Obligations representing interest, pro rata, based on the proportion that such outstanding Obligations representing interest held by each Benefitted Party at such time bears to the sum of all such Obligations representing interest;

fifth, after payment in full of all amounts set forth in item fourth, to the payment and permanent reduction of all other outstanding Obligations not representing principal, Contingent L/C Obligations or interest, pro rata, based on the proportion that such outstanding Obligations not representing principal, Contingent L/C Obligations or interest held by each Benefitted Party at such time bears to the sum of all such Obligations not representing principal, Contingent L/C Obligations or interest; and

sixth, after payment in full of all amounts set forth in item fifth, to or at the direction of the Company or as a court of competent jurisdiction may otherwise direct.

The Collateral Agent shall make such distributions promptly after the deposit of any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds into the Cash Collateral Account. A Benefitted Party's pro rata share of the Obligations on any distribution date shall be determined by assuming that all Obligations are denominated in U.S. Dollars based upon the quoted spot rate at which the Collateral Agent's principal office offers to exchange any applicable currency for U.S. Dollars at 11:00 A.M. (local time at such principal office) on the Business Day preceding such distribution date (the "**Applicable Exchange Rate**"). For any distribution, the Collateral Agent shall exchange the relevant portion of such distribution into the applicable currency and make each such distribution in the applicable currency.

3. Payment of Obligations; Distributions Recovered.

(a) The Company, each Issuer Subsidiary and each Subsidiary Guarantor agree that any amounts received by a Benefitted Party and delivered by such Benefitted Party to the Collateral Agent pursuant to the terms of this Agreement will not be deemed to be a payment in respect of any Obligations owing to such Benefitted Party until such Benefitted Party receives its pro rata share of such amount from the Collateral Agent and then only to the extent of the actual payment and receipt of such pro rata share; provided that no Subsidiary Guarantor shall be obligated to pay any amount in respect of the Obligations (including, in the case of an Issuer Subsidiary, in respect of its Direct Subsidiary Obligations) in excess of the maximum amount of the Obligations that may be paid by such Subsidiary Guarantor without rendering any Subsidiary Guaranty issued by such Subsidiary Guarantor (or, in the case of an Issuer Subsidiary, any of its Direct Subsidiary Obligations) void, voidable or illegal under any applicable law (including, without limitation, any fraudulent conveyance or fraudulent transfer).

(b) Notwithstanding anything to the contrary contained in this Agreement, in each case in which any proceeds (or the value thereof) or payments are recovered as a preferential or otherwise voidable payment (whether by a trustee in bankruptcy or otherwise) from the party (the "**Distributor**") which distributed those proceeds to another party or parties under this Agreement, each party (a **"Distributee**") to whom any of those proceeds were ultimately distributed shall, upon the Distributor's notice of the recovery to the Distributee, return to the Distributor an amount equal to the Distributee's ratable share of the amount recovered, together with a ratable share of interest thereon to the extent the Distributor is required to pay interest thereon. For purposes of this Agreement, "**proceeds**" means any payment (whether made voluntarily or involuntarily) from any source, including, without limitation, any offset of any deposit or other indebtedness, any security (including, without limitation, any guaranty or any collateral) or otherwise.

(c) Notwithstanding anything to the contrary contained in this Agreement, including Section 2 and the foregoing provisions of this Section 3, the Benefitted Parties may, without the consent of the Company, any Issuer Subsidiary or any Subsidiary Guarantor, enter into such other arrangements (including, without limitation, the purchase of participations) as the Benefitted Parties determine are necessary or appropriate to accomplish the ratable sharing of recoveries on the Obligations contemplated by this Agreement.

4. The Collateral Agent.

(a) By execution and delivery hereof, each Benefitted Party hereby appoints State Street Bank and Trust Company of California, N.A. as Collateral Agent and its representative hereunder and under the Security Documents and authorizes the Collateral Agent to act as such hereunder and thereunder on behalf of such Benefitted Party. The Collateral Agent agrees to act as such upon the express conditions contained in this Agreement. In performing its functions and duties under this Agreement and the Security Documents, the Collateral Agent shall act solely as agent of the Benefitted Parties to the extent, but only to the extent, provided in this Agreement and does not assume, and shall not be deemed to have assumed, any obligation towards or relationship of agency, fiduciary or trust with or for any other Person, other than as set forth herein and in the Security Documents.

(b) The Collateral Agent shall take any action with respect to the Collateral and/or the Security Documents only as directed in accordance with Section 5(a) hereof; provided that the Collateral Agent shall not be obligated to follow any directions given in accordance with Section 5(a) hereof to the extent that the Collateral Agent has received advice from its counsel to the effect that such directions are in conflict with any provisions of law, this Agreement, the Security Documents or any order of any court or administrative agency; provided further that the Collateral Agent shall not, under any circumstances, be liable to any Benefitted Party or any other person for following the written directions received in accordance with Section 5(a) hereof. Any directions given by the Required Creditors pursuant to Section 5(a) hereof may be withdrawn or modified by the Required Creditors by delivering written notice of withdrawal or modification to the Collateral Agent prior to the time when the Collateral Agent takes any action pursuant to such directions.

(c) Each Benefitted Party authorizes the Collateral Agent to take such action on such Benefitted Party's behalf and to exercise such powers hereunder as are specifically delegated to the Collateral Agent by the terms hereof and of the Security Documents, together with such powers as are reasonably incidental thereto. The Collateral Agent shall have only those duties and responsibilities that are expressly specified in this Agreement and the Security Documents, and it may perform such duties by or through its agents or employees. Nothing in this Agreement or the Security Documents, express or implied, is intended to or shall be construed as imposing upon the Collateral Agent any obligations in respect of this Agreement or such Security Documents except as expressly set forth herein.

(d) The Collateral Agent shall not be responsible to any Benefitted Party for the execution, effectiveness, genuineness, validity, perfection, enforceability, collectibility, value or sufficiency of the Collateral or the Security Documents or for any representations, warranties, recitals or statements made in any document executed in connection with the Obligations or

made in any written or oral statement or in any financial or other statements, instruments, reports, certificates or any other documents in connection herewith or therewith furnished or made by or on behalf of the Company and its Subsidiaries (including any Issuer Subsidiary) to any Benefitted Party or be required to ascertain or inquire as to the performance or observance by the Company or any of its Subsidiaries (including any Issuer Subsidiary) or any other pledgor or guarantor of any of the terms, conditions, provisions, covenants or agreements contained in any document executed in connection with the Obligations or of the existence or possible existence of any Triggering Event.

(e) The Collateral Agent shall not be liable to any Benefitted Party for any action taken or omitted hereunder or under the Security Documents or in connection herewith or therewith except to the extent caused by the Collateral Agent's gross negligence or willful misconduct. The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any written statement, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons and, except as otherwise specifically provided in this Agreement, shall be entitled to rely upon the written direction of the Required Creditors (as defined in Section 5(a)) certifying that the persons signing such direction constitute the "Required Creditors," and shall be entitled to rely and shall be fully protected in relying on opinions and judgments of counsel, accountants, experts and other professional advisors selected by it in good faith and with due care. The Collateral Agent shall be entitled to refrain from exercising any power, discretion or authority vested in it under this Agreement or the Security Documents unless and until it has obtained the directions in accordance with Section 5(a) hereof with respect to the matters covered thereby. The Collateral Agent shall be entitled to request from each Benefitted Party a certificate setting out the amount of the respective Obligations held by it (including, without limitation, amounts representing principal, Contingent L/C Obligations or interest on such Obligations) for purposes of calculating distributions pursuant to Section 2(c).

(f) Each Benefitted Party agrees not to take any action whatsoever to enforce any term or provision of the Security Documents or to enforce any of its rights in respect of the Collateral, in each case except through the Collateral Agent acting in accordance with this Agreement.

(g) The Company and each of its subsidiaries which is party to this Agreement, and any Issuer Subsidiary which may become party to this Agreement pursuant to Section 10(f) hereof, by its execution of the signature page of this Agreement, agrees to pay and save the Collateral Agent harmless from liability for payment of all costs and expenses of the Collateral Agent in connection with this Agreement and the Security Documents, other than liabilities, costs and expenses resulting from the Collateral Agent's gross negligence or willful misconduct. Each Benefitted Party severally agrees to indemnify the Collateral Agent, pro rata (to the extent set forth in the penultimate sentence of this Section 4(g)), to the extent the Collateral Agent shall not have been reimbursed by or on behalf of the Company or from proceeds of the Collateral or otherwise, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, reasonable expenses (including, without limitation, reasonable counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Collateral Agent in performing its duties hereunder or under the Security Documents in its capacity as the Collateral Agent in any way relating to or arising out of this Agreement, the Security Documents

and/or the Collateral; provided that no Benefitted Party shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Collateral Agent's gross negligence, willful misconduct or breach of the express terms of this Agreement. For purposes of this Section 4(g), any pro rata calculation shall be on the basis of the outstanding principal amount of the Obligations (determined by assuming that all Obligations are denominated in U.S. Dollars based upon the Applicable Exchange Rate) held by or for each Benefitted Party at the time of the act, omission or transaction giving rise to the reimbursement or indemnity required by this Section 4(g). The provisions of this Section 4(g) shall survive the payment in full of all the Obligations and the termination of this Agreement and all other documents executed in connection with the Obligations.

(h) The Collateral Agent may resign at any time by giving sixty (60) days' prior written notice thereof to the Benefitted Parties and the Company, subject to the acceptance of its appointment by a successor Collateral Agent simultaneously with or prior to any resignation of the Collateral Agent. Upon any such notice of resignation, the Required Creditors (as defined in Section 5(a) below) shall have the right to appoint a successor Collateral Agent. The Collateral Agent may be removed at any time with or without cause, by an instrument in writing delivered to the Collateral Agent, the Company and the other Benefitted Parties by the Required Creditors (as defined in Section 5(a) below). Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent, and the retiring or

removed Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Security Documents; provided, however, that the retiring or removed Collateral Agent will continue to remain liable for all acts of, or the omission to act by, such retiring or removed Collateral Agent which occurred prior to such retirement or removal. If no successor Collateral Agent shall have been so appointed and shall have accepted such appointment within forty-five (45) days after the retiring Collateral Agent's giving of notice of resignation, then, upon five days' prior written notice to the Company and the Benefitted Parties, the retiring Collateral Agent may, on behalf of the Benefitted Parties, appoint a successor Collateral Agent, which shall be a bank or trust company organized under the laws of the United States or any state thereof (or under the laws of a foreign country and having a branch or agency located in the United States) having a combined capital and surplus of at least $500,000,000, and the short term unsecured debt obligations of which are rated at least P-1 by Moody's Investors Service or A-1 by Standard & Poor's, or any affiliate of such bank. After any retiring or removed Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Agreement and the Security Documents.

(i) Except as expressly set forth herein, the Collateral Agent and each of its affiliates may accept deposits from, lend money to and generally engage in any kind of banking, trust, financial advisory or other business with the Company or any affiliate thereof (including any Issuer Subsidiary), and may accept fees and other consideration from the Company or any affiliate thereof (including any Issuer Subsidiary) for services in connection with this Agreement and otherwise without having to account for the same to any Benefitted Party.

(j) The Collateral Agent shall not be liable for or by reason of (i) any failure or defect in the registration, filing or recording of any of the Security Documents, or any notice, caveat or financing statement with respect to the foregoing, or (ii) any failure to do any act necessary to constitute, perfect and maintain the priority of the security interest created by the Security Documents.

(k) Notwithstanding anything to the contrary contained in this Agreement or any document executed in connection with any of the Obligations, the Collateral Agent, unless it shall have actual knowledge thereof, shall not be deemed to have any knowledge of any Triggering Event unless and until it shall have received written notice from the Company, any Issuer Subsidiary, or any Benefitted Party describing such Triggering Event in reasonable detail (including, to the extent known, the date of occurrence of the same).

(l) Upon receipt by the Collateral Agent of any direction by the Required Creditors, all of the Benefitted Parties will be bound by such direction.

5. Relating to Defaults and Remedies.

(a) The Required Creditors may, after any Triggering Event (other than an Involuntary Proceeding) has occurred (or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days) and by giving the Collateral Agent written notice of such election, instruct and cause the Collateral Agent to exercise its rights and remedies under the Security Documents. The Collateral Agent shall follow the instructions of the Required Creditors with respect to the enforcement action to be taken. For purposes of this Agreement, the term "**Required Creditors"** shall mean (a) the Required Lenders as defined in the Credit Agreement, and (b) the 2000 Senior Noteholders and the 2003 Senior Noteholders holding a majority in principal amount of the 2000 Senior Noteholder Notes plus the 2003 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 Senior Lenders under and as defined in the Credit Agreement, or (ii) the aggregate outstanding principal amount of the 2000 Senior Noteholders Notes plus the aggregate outstanding principal amount of the 2003 Senior Noteholders 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). For purposes of the foregoing definitions, any Benefitted Party that has purchased a participation in the Obligations owing to another Benefitted Party shall be deemed to be the holder of the amount of such Obligations which are the subject of such participation.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Collateral Agent shall not commence or otherwise take any action or proceeding to enforce any Collateral Document or to realize upon any or all of the Collateral unless and until the Collateral Agent has received instructions in accordance with Section 5(a) above. Upon receipt by the

Collateral Agent of any such instructions, the Collateral Agent shall seek to enforce the Security Documents and to realize upon the Collateral in accordance with such instructions; provided that the Collateral Agent shall not be obligated to follow any such directions as to which the Collateral Agent has received a written opinion of its counsel to the effect that such directions are in conflict with any provisions of law, this Agreement, the Security Documents or any order of any court or administrative agency, and the Collateral Agent shall not, under any circumstances, be liable to any Benefitted Party or any other Person for following the written directions received in accordance with Section 5(a) above.

(c) The duties and responsibilities of the Collateral Agent hereunder shall consist of and be limited to (i) selling, releasing, surrendering, realizing upon or otherwise dealing with, in any manner and in any order, all or any portion of the Collateral, (ii) exercising or refraining from exercising any rights, remedies or powers of the Collateral Agent under this Agreement or the Security Documents or under applicable law in respect of all or any portion of the Collateral, (iii) making any demands or giving any notices under the Security Documents, (iv) effecting amendments to and granting waivers under the Security Documents in accordance with the terms hereof, and (v) maintaining the Cash Collateral Account under its exclusive dominion and control for the benefit of the Benefitted Parties and making deposits therein and withdrawals therefrom as necessary to effect the provisions of this Agreement.

(d) In the event that the Collateral Agent proceeds to foreclose upon, collect, sell or otherwise dispose of or take any other action with respect to any or all of the Collateral or to enforce any provisions of the Security Documents or takes any other action pursuant to this Agreement or any provision of the Security Documents or requests directions from the Required Creditors as provided herein, upon the request of the Collateral Agent or any Benefitted Party, each of the Benefitted Parties agrees that such Benefitted Party (or any agent of or representative for such Benefitted Party) shall promptly notify the Collateral Agent in writing, as of any time that the Collateral Agent may specify in such request, (i) of the aggregate amount of the respective Obligations then owing to such Benefitted Party as of such date and (ii) such other information as the Collateral Agent may reasonably request.

(e) Promptly after the Collateral Agent receives written notice of the occurrence of any Triggering Event pursuant to Section 2(a), it shall promptly send copies of such notice to each of the Benefitted Parties.

(f) The Collateral Agent shall not be obliged to expend its own funds in performing its obligations under this Agreement and shall be entitled to require that the Benefitted Parties provide it with sufficient funds prior to taking any action required under this Agreement.

6. Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and their respective successors and assigns, and none of the Company, any Issuer Subsidiary or any other person or entity, including, without limitation, any guarantor of the obligations of the Company or any Issuer Subsidiary, is intended

to be a third party beneficiary hereunder or to have any right, benefit, priority or interest under, or shall have any right to enforce, this Agreement.

7. Relation of Creditors. This Agreement is entered into solely for the purposes set forth herein, and no Benefitted Party assumes any responsibility to any other party hereto to advise such other party of information known to such Benefitted Party regarding the financial condition of the Company or any of its Subsidiaries (including any Issuer Subsidiary) or of any other circumstances bearing upon the risk of nonpayment of any Obligation. Each Benefitted Party specifically acknowledges and agrees that nothing contained in this Agreement is or is intended to be for the benefit of the Company or any of its Subsidiaries (including any Issuer Subsidiary) and nothing contained herein shall limit or in any way modify any of the obligations of the Company, any Issuer Subsidiary or any Subsidiary Guarantor to the Benefitted Parties.

8. Acknowledgment of Guaranties. Each party expressly acknowledges the existence and validity of the 2000 Note Obligation Guaranty, the 2003 Note Obligation Guaranty and the Bank Obligation Guaranty, agrees not to contest or challenge the validity of the 2000 Note Obligation Guaranty, the 2003 Note Obligation Guaranty or the Bank Obligation Guaranty and agrees that the judicial or other determination of the invalidity of the 2000 Note Obligation Guaranty, the 2003 Note Obligation Guaranty or the Bank Obligation Guaranty shall not affect the provisions of this Agreement.

9. Notice of Certain Events. Each Benefitted Party agrees that upon the occurrence of a Triggering Event, it shall promptly notify the Collateral Agent of the occurrence of such Triggering Event. In addition, each Benefitted Party agrees to provide to the Collateral Agent the amount and currency of its Obligations at such reasonable times as may be necessary to determine such Benefitted Party's pro rata share of the outstanding principal amount of the Obligations.

10. Miscellaneous.

(a) Notices. All notices and other communications provided for herein, (including, without limitation, any modifications of, or waivers or consents under, this Agreement) shall be sent (i) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (ii) by registered or certified mail with return receipt requested (postage prepaid), or (iii) by a recognized overnight delivery service (with charges prepaid) to the intended recipient at the address for notices specified beneath the signature of such party hereto; or as to any party at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when actually received.

(b) Amendments, Waivers, Consents. All amendments, waivers or consents of any provision of this Agreement shall be effective only if the same shall be in writing and signed by all of the Benefitted Parties.

(c) Releases of Collateral. The parties hereto agree that the Collateral Agent shall release all or any portion of the Collateral (other than in connection with the exercise of its rights and remedies pursuant to Section 5) only upon the receipt by the Collateral Agent of (i) a written approval from the Required Creditors, or (ii) so long as no event of default exists under any Senior Loan Document and releasing such Collateral is not prohibited by any Senior Loan

Document, an Officers' Certificates of the Company and any applicable Subsidiary Guarantor, which shall be true and correct, (x) stating that the Collateral subject to such disposition is being sold, transferred or otherwise disposed of in compliance with the terms of each of the Senior Loan Documents, and (y) specifying the Collateral being sold, transferred or otherwise disposed of in the proposed transaction. Upon the receipt of such written approval or Officers' Certificates (so long as the Collateral Agent has no reason to believe that the Officers' Certificates delivered with respect to such disposition are not true and correct), the Collateral Agent shall, at the Company's expense, execute and deliver such releases of its security interest in such Collateral to be released, and provide a copy of such releases to each of the Benefitted Parties. In connection therewith, the Benefitted Parties hereby irrevocably authorize the Collateral Agent from time to time to release such Collateral or consent to such release in accordance with the terms of this Agreement. Notwithstanding anything provided herein to the contrary, no release of security shall in any way affect the guaranties by the Material Domestic Subsidiaries of the Obligations, which guaranties shall continue to remain in full force and effect after any such release.

(d) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. At the time of any assignment of all or any portion of the 2000 Senior Noteholder Obligations by a 2000 Senior Noteholder, or of all or any portion of the 2003 Senior Noteholder Obligations by a 2003 Senior Noteholder, or of all or any portion of the Senior Lender Obligations by a Senior Lender, or of all or any portion of the Additional Obligations by any Additional Creditor, such assigning 2000 Senior Noteholder, 2003 Senior Noteholder, Senior Lender or Additional Creditor, as the case may be, shall cause its assignee (each an "**Additional Benefitted Party**") to execute a Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement substantially in the form attached hereto as Exhibit A (a "**Counterpart**") and become a party to this Agreement.

(e) Purchasers of 2003 Senior Noteholder Notes. As a condition precedent to purchasing any 2003 Senior Noteholder Notes, each Prudential Affiliate that becomes a party to the 2003 Private Shelf Agreement, if not then a party to this Agreement, shall execute a Counterpart and become a party to this Agreement, and each such Prudential Affiliate shall be as fully a party to this Agreement as a Benefitted Party as if it was an original signatory hereof without any action required to be taken by any other party hereto. Each other party to this Agreement expressly agrees that its rights and obligations arising hereunder shall continue after giving effect to the addition of each such Prudential Affiliate as a Benefitted Party to this Agreement.

(f) Additional Creditors. Upon the execution of a Counterpart by any Additional Creditor (either directly or through its agents) and delivery of such Counterpart to the other parties hereto, such Additional Creditor shall be as fully a party to this Agreement as a Benefitted Party as if such Additional Creditor was an original signatory hereof without any action required to be taken by any other party hereto, provided that each such Additional Creditor shall execute this Agreement simultaneously with the Subsidiary Guarantors' execution and delivery to it of a Subsidiary Guaranty. Each other party to this Agreement expressly agrees that its rights and obligations arising hereunder shall continue after giving effect to the addition of such Additional Creditor as a party to this Agreement. Notwithstanding the foregoing, after

the occurrence and during the continuation of an event of default under any Senior Loan Document, no Additional Creditor (other than a Prudential Affiliate pursuant to Section 10(e) hereof) may become party to this Agreement.

(g) Issuer Subsidiaries. Upon the execution of an Issuer Subsidiary Counterpart in the form attached hereto as Exhibit B (an **"Issuer Subsidiary Counterpart**") by any Issuer Subsidiary which may become a party to the 2003 Private Shelf Agreement and delivery of such Issuer Subsidiary Counterpart to the other parties hereto, such Issuer Subsidiary shall be deemed to acknowledge and consent to this Agreement, including without limitation Section 3 hereof, as if such Issuer Subsidiary was an original signatory hereof without any action required to be taken by any other party hereto, provided that as a condition precedent to issuing any 2003 Senior Noteholder Notes each such Issuer Subsidiary shall execute this Agreement. Each other party to this Agreement expressly agrees that its rights and obligations arising hereunder shall continue after giving effect to the addition of each such Issuer Subsidiary as a party to this Agreement. Notwithstanding the foregoing or any

other provision of this Agreement, no entity may become an Issuer Subsidiary unless either (i) such entity has executed and delivered a counterpart of the Bank Obligation Guaranty or (ii) the Required Lenders (as defined in the Credit Agreement) have consented thereto.

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

(i) Conflicts. In the event of a conflict between the terms of this Agreement and the terms of any of the Security Documents, the terms of this Agreement shall control.

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

(k) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THE STATE OF NEW YORK.

(l) Merger. This Agreement and the Security Documents supersede all prior agreements, written or oral, among the parties with respect to the subject matter of such agreements.

(m) Independent Investigation. None of the Collateral Agent or any of the Benefitted Parties, nor any of their respective directors, officers, agents or employees, shall be responsible to any of the others for the solvency or financial condition of the Company or any applicable Issuer Subsidiary or the ability of the Company or any applicable Issuer Subsidiary to repay any of the Obligations, or for the value, sufficiency, existence or ownership of any of the Collateral, or the statements of the Company or any applicable Issuer Subsidiary, oral or written, or for the validity, sufficiency or enforceability of any of the Obligations or any document or agreement executed or delivered in connection with or pursuant to any of the foregoing. Each

Benefitted Party has entered into its respective financial agreements with the Company or any applicable Issuer Subsidiary based upon its own independent investigation, and makes no warranty or representation to the other, nor does it rely upon any representation by any of the others, with respect to the matters identified or referred to in this Section.

(n) Severability. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

(o) Effect of Bankruptcy or Insolvency. This Agreement shall continue in effect notwithstanding the bankruptcy or insolvency of any party hereto or the Company or any of its Subsidiaries (including any Issuer Subsidiary).

[Remainder of page intentionally left blank]

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

U.S. BANK NATIONAL ASSOCIATION,
as successor to State Street Bank and Trust Company
of California, N.A. as Collateral Agent

By: /s/ Brad E. Scarbrough
Name: Brad E. Scarbrough
Title: Vice President

Address for Notices:

U.S. Bank National Association
633 W 5th Street, 24th Floor
Los Angeles, California 90071
Attention: Brad Scarbrough
Vice President
Telephone: (213) 615-6047
Facsimile:
(213) 615-6197

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,
as 2000 Senior Noteholder

By: /s/ Iris Krause
Name: Iris Krause
Title: Vice President

Address for Notices:

The Prudential Insurance Company of America
c/o Prudential Capital Group – Corporate Finance
Four Embarcadero Center, Suite 2700
San Francisco, California 94111
Attention: Managing Director
Facsimile: (415) 421-6233

PRUDENTIAL INVESMENT MANAGEMENT, INC.,
as 2003 Senior Noteholder
By: /s/ Iris Krause
Name: Iris Krause
Title: Vice President

Address for Notices:

Investment Management, Inc.
c/o Prudential Capital Group – Corporate Finance
Four Embarcadero Center, Suite 2700
San Francisco, California 94111
Attention: Managing Director
Facsimile: (415) 421-6233

BANK OF AMERICA, N.A.,
as Agent to the Senior Lenders and a Senior Lender

By: /s/ Sharon Burks Horos
Name: Sharon Burks Horos
Title: Vice President

Address for Notices:

Bank of America, N.A.
231 South LaSalle Street
Chicago, Illinois 60697
Attn: Sharon Burks Horos
Tel (312) 828-2149
Fax (312) 828-6269

BANK ONE, N.A.,
with its main office in Chicago, Illinois (as successor by merger to Bank One, Utah, NA
as a Senior Lender

By: /s/ Mark F. Nelson
Name: Mark F. Nelson
Title: Vice President

Address for Notices:

Bank One, N.A.
80 West Broadway, Suite 200
Salt Lake City, Utah 84101
Attn: Mark F. Nelson
Tel (801) 481-5041
Fax (801) 481-5351

EACH OF THE UNDERSIGNED HEREBY ACKNOWLEDGES AND CONSENTS TO THE FOREGOING, INCLUDING, WITHOUT LIMITATION, SECTION 3. EACH OF THE UNDERSIGNED HEREBY CONSENTS TO THE RELEASE BY THE COLLATERAL AGENT TO THE BENEFITTED PARTIES OF ANY INFORMATION PROVIDED TO OR OBTAINED BY THE COLLATERAL AGENT UNDER OR IN CONNECTION WITH THE SECURITY DOCUMENTS. EACH OF THE UNDERSIGNED HEREBY COVENANTS TO PAY TO THE COLLATERAL AGENT FROM TIME TO TIME REASONABLE REMUNERATION FOR ITS SERVICES HEREUNDER AND WILL PAY OR REIMBURSE THE COLLATERAL AGENT UPON ITS REQUEST FOR ALL REASONABLE EXPENSES, DISBURSEMENTS AND ADVANCES INCURRED OR MADE BY THE COLLATERAL AGENT IN THE ADMINISTRATION OR EXECUTION OF THE COLLATERAL AGENCY HEREBY CREATED (INCLUDING THE REASONABLE COMPENSATION AND THE DISBURSEMENTS OF ITS COUNSEL AND ALL OTHER ADVISERS AND ASSISTANTS NOT REGULARLY IN ITS EMPLOY) BOTH BEFORE ANY DEFAULT HEREUNDER AND THEREAFTER UNTIL ALL DUTIES OF THE COLLATERAL AGENT HEREUNDER SHALL BE FINALLY AND FULLY PERFORMED EXCEPT ANY SUCH EXPENSE, DISBURSEMENT OR ADVANCE AS MAY ARISE OUT OF OR RESULT FROM THE COLLATERAL AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE UNDERSIGNED HEREBY AGREES TO PROVIDE TO EACH OF THE BENEFITTED PARTIES TRUE AND CORRECT COPIES OF ALL NOTICES, CERTIFICATES, SCHEDULES AND OTHER INFORMATION PROVIDED TO THE COLLATERAL AGENT PURSUANT TO THIS AGREEMENT AND THE SECURITY DOCUMENTS.

NU SKIN ENTERPRISES, INC.

By: /s/ D. Matthew Dorny
Name: D. Matthew Dorny
Title: Vice President

NU SKIN INTERNATIONAL, INC.
NU SKIN ENTERPRISES HONG KONG, INC.
NU SKIN TAIWAN, INC.

NU SKIN UNITED STATES, INC.
BIG PLANET, INC.

By: /s/ D. Matthew Dorny
Name: D. Matthew Dorny
Title: Vice President

NSE KOREA LTD.,
a Korean corporation domesticated under under the laws of Delaware

By: /s/ Sung Tae Han
Name: Sung Tae Han
Title: President, Representative Director and General Manager

Address for Notices:
One Nu Skin Plaza
75 West Center Street
Provo, Utah 84601
Attention: General Counsel
Facsimile: (801) 345-6099

EXHIBIT A

Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Amended and Restated Collateral Agency and Intercreditor Agreement, dated as of _____, 20__ (this "Counterpart"), to be duly executed and delivered by its duly authorized officer. Upon execution and delivery of this Counterpart to Collateral Agent, the undersigned shall be an Additional Benefitted Party under the Amended and Restated Collateral Agency and Intercreditor Agreement and shall be as fully a party to the Amended and Restated Collateral Agency and Intercreditor Agreement as if such Additional Benefitted Party were an original signatory to the Amended and Restated Collateral Agency and Intercreditor Agreement.

[Name of Additional Benefitted Party]

By:
Name:
Title:

EXHIBIT B

Issuer Subsidiary Counterpart

IN WITNESS WHEREOF, the undersigned has caused this Issuer Subsidiary Counterpart, dated as of _____, 20__ (this "Issuer Subsidiary Counterpart"), to be duly executed and delivered by its duly authorized officer. Upon execution and delivery of this Issuer Subsidiary Counterpart to Collateral Agent, the undersigned shall be an Issuer Subsidiary under the Amended and Restated Collateral Agency and Intercreditor Agreement and shall be deemed to acknowledge and consent to the Amended and Restated Collateral Agency and Intercreditor Agreement, including without limitation Section 3 thereof, as if such Issuer Subsidiary were an original signatory to the Amended and Restated Collateral Agency and Intercreditor Agreement.

[Name of Issuer Subsidiary] By:
Name:
Title:

STOCK ACQUISITION AGREEMENT, made and entered into effective as of 12:00:01 am, August 1, 2003, among NU SKIN ENTERPRISES, INC., a Delaware corporation ("NSE"), Orrin T. Colby III, an individual ("Purchaser"), and Cygnus Resources Inc., a Delaware corporation ("Cygnus")

WITNESSETH:

WHEREAS, NSE owns, as of the date of this Agreement, all of the issued and outstanding capital stock of Cygnus, consisting of 1,000 shares of Common Stock, $0.001 par value (the "Cygnus Shares");

WHEREAS, NSE desires to transfer to Purchaser, and Purchaser desires to acquire the Cygnus Shares (the "Stock Acquisition"), all on the terms and subject to the conditions hereinafter set forth in exchange for, and in consideration for, the Cash Consideration (as defined herein) upon the terms and subject to the conditions set forth herein;

WHEREAS, Cygnus is liable for the outstanding obligations and costs related to the employee medical benefit claims left unpaid by Meridian Benefit, Inc. and Intercare Health Plan, and NSE is willing to agree to assume such liabilities;

WHEREAS, pursuant to that certain Settlement and Mutual Release Agreement dated as of February 3, 2003 between Cygnus, AdvantEdge Business Group, L.L.C., and various other related parties, AdvantEdge currently owes Cygnus approximately $110,000 (the "AdvantEdge Proceeds"), and Cygnus is willing to assign its rights to the AdvantEdge Proceeds as a way to offset the Meridian Liabilities assumed by NSE;

WHEREAS, pursuant to that certain Continuing Guarantee executed by NSE on September 23, 2002 NSE agreed to guarantee the obligations of Cygnus under a policy of group health insurance issued to Cygnus by IHC effective as of October 1, 2002 and ending on December 31, 2003 (the "IHC Guarantee"), and the parties desire to take such actions as are necessary so that the IHC Guarantee does not continue, or have efficacy, beyond the current term of the Cygnus group health insurance policy;

WHEREAS, the parties desire to make certain representations, warranties, covenants and other agreements in connection herewith;

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, NSE, Purchaser and Cygnus hereby agree as follows:

ARTICLE I

ACQUISITION AND TRANSFER

SECTION 1.01. Acquisition and Transfer of Cygnus Shares. Upon the terms and subject to the conditions of this Agreement, at the Closing (as hereinafter defined), NSE shall assign, transfer, convey and deliver to Purchaser the Cygnus Shares and deliver one or more certificates representing such Cygnus Shares (the "Cygnus Share Certificates") to Purchaser as provided in Section 1.03 below in consideration of the Purchase Price described in Section 1.03 below.

SECTION 1.02. Closing. The Closing of the transactions contemplated by this Agreement (the "Closing") shall take place as soon as practicable after execution of this Agreement, but not later than August 20, 2003, and shall take place at the offices of NSE at 75 West Center Street, Provo, Utah 84601.

SECTION 1.03. Delivery of Shares and Payment of Purchase Price.

(a) At the Closing, NSE shall deliver to Purchaser the Cygnus Share Certificates evidencing the Cygnus Shares duly endorsed in the name of Purchaser or his designee.

(b) Subject to the terms and conditions set forth herein, in consideration for the assignment, transfer, conveyance and delivery of the Cygnus Shares, Purchaser will make annual payments (the "Annual Payments") to NSE in cash, by check, or by wire transfer no later than 31 days after each Annual Payment Due Date (described below), equal to the lesser of (i) Cygnus' Adjusted EBIT (as defined below) for the twelve months just ended on the applicable Annual Payment Due Date and (ii) the amount listed opposite the corresponding Annual Payment Due Date (the "Amount").

Annual Payment Schedule:

Annual Payment Due Date December 31,	Amount
2004	$ 25,000
2005	$ 75,000
2006	$125,000
2007	$175,000
2008	$225,000
2009	$255,000

(i) "Adjusted EBIT" shall mean annual calendar year earnings from Cygnus operations before deduction of interest payments and income taxes, as determined in accordance with generally accepted accounting principles ("GAAP") consistently applied, minus 3.0% of the client employee wages earned during the same period. Adjusted EBIT shall be determined by Cygnus promptly after the close of each fiscal year, and copies of its report setting forth its computation of EBIT shall be submitted in writing to NSE as soon as practicable after the close of each fiscal year. NSE shall have reasonable access to the books and records of Cygnus to verify the computations of Adjusted EBIT made by Cygnus. Unless NSE notifies Cygnus within 45 days after receipt of the report that it objects to the computation of Adjusted EBIT set forth therein, such report shall be binding and conclusive for purposes of this Agreement. If NSE notifies Cygnus within 45 days after receipt of the report that it objects to the computation of Adjusted EBIT set forth therein, NSE and Cygnus shall negotiate in good faith to determine Adjusted EBIT for that period. If no agreement is reached within 30 days, the determination shall be made by a mutually agreeable third-party independent certified public accountant, whose determination shall be binding and conclusive on the parties. If the independent accountant determines that Adjusted EBIT has been materially understated by Cygnus, Cygnus shall pay the independent accountant's fees, costs, and expenses. Otherwise, NSE shall pay such costs, fees, and expenses.

(ii) Purchaser shall have no further obligation to make payments to NSE hereunder following the December 31, 2009 Annual Payment Due Date, provided, however, that this provision shall in no way be construed so as to relieve Purchaser from liability for defaults in payments of amounts otherwise due as provided in Section 1.03 (b).

(iii) Notwithstanding the foregoing, if, with respect to any given Annual Payment Due Date, Purchaser is obligated to make an Annual Payment equal to Adjusted EBIT as provided above, Purchaser shall be obligated during the following year thereafter to make quarterly payments equal to the Adjusted EBIT for the applicable quarter until the Deficiency Amount (as defined below) has been paid in full. If such quarterly payments do not result in the Deficiency Amount being paid in full, then the remaining unpaid portion of the Deficiency Amount shall be eliminated as a Deficiency Amount, carried over to the following Annual Payment Due Date and added to the corresponding Amount, with the resulting amount replacing such corresponding Amount listed in the Annual Payment Schedule above. For purposes of the foregoing, the "Deficiency Amount" with respect to any particular Annual Payment Due Date shall mean the difference, if any, between the corresponding Amount and Adjusted EBIT.

(iv) Purchaser may, without penalty, prepay Amounts not yet due. The amounts of any such prepayments shall be deducted from the Amount due for the following Annual Payment Due Date, with the resulting amount replacing such corresponding Amount listed in the Annual Payment Schedule above.

(v) "Purchase Price" shall mean the aggregate of all payments required to be made pursuant to this Section 1.03. In no event shall the Purchase Price exceed $880,000.

(vi) Purchaser shall be entitled to rely on the funds of Cygnus as the sole source of funds for payment of the Purchase Price. Purchaser shall not be obligated to pay the Purchase Price out of any source other than the funds of Cygnus. Notwithstanding the foregoing, if with respect to any given Annual Payment Due Date there is a Deficiency Amount, , the foregoing provisions of Section 1.03(b)(vi) shall be void and have no effect with respect to that portion of the Deficiency Amount equal to any distribution from Cygnus that Purchaser receives or becomes entitled to (other than reasonable compensation and Purchase Price payments) with respect to the accounting year corresponding to such Annual Payment Due Date.

(vii) Notwithstanding the foregoing, in the event that (a) Cygnus is acquired by means of a stock acquisition, reorganization, merger, consolidation or the like, (b) Cygnus sells, leases, or otherwise transfers or conveys all or substantially all of its assets, or (c) is otherwise liquidated, dissolved, or wound up, then $880,000 (less any amount of the Purchase Price already paid) shall become immediately due and payable. This provision shall in no way be construed to alter the provisions of Section 1.03(b)(iv), (v), or (vi).

(viii) Purchaser hereby pledges and assigns to NSE, and hereby grants to NSE a first priority security interest in all of Purchaser's right, title and interest in and to the Cygnus Shares and any derivatives thereof as collateral security for payment of the Purchase Price when due. Purchaser shall deliver to NSE the certificate(s) representing the Cygnus Shares along with an executed blank stock assignment. Upon default by Purchaser of his obligation to pay the Purchase Price in accordance with the terms of this Agreement, NSE shall have the right to transfer to or register in the name of NSE the Cygnus Shares. So long as all Purchase Price payments are made as they become due under this Agreement, Purchaser shall have the right to vote all of the Cygnus shares. Purchaser shall not sell, transfer, encumber, or otherwise dispose of any part of the Cygnus Shares without the prior written consent of NSE. This pledge of shares shall continue until the full Purchase Price is paid according to the terms of this Agreement, at which time the Cygnus Shares shall be promptly delivered to Purchaser.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF NSE

NSE represents and warrants to Purchaser that the statements contained in this Article II are true and correct as of the date hereof, and will be true as of the Closing.

SECTION 2.01. Organization. Authority and Qualification of Cygnus: Execution and Delivery. (a) Cygnus (i) is a corporation duly organized, validly existing and in good standing under the laws of its

jurisdiction of incorporation, (ii) has all the necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the business as it has been and is currently conducted by it.

(b) Cygnus is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not result in a material adverse effect on Cygnus.

(c) All corporate actions taken by Cygnus have been duly authorized, and Cygnus has not taken any action that conflicts with, constitutes a default under or results in a violation of any provision of its Certificate of Incorporation or Bylaws in any material way.

SECTION 2.02. Due Execution and Delivery by Cygnus and NSE. This Agreement has been duly executed and delivered by Cygnus and NSE, and (assuming due authorization, execution and delivery by Purchaser) this Agreement constitutes legal, valid and binding obligations of Cygnus and NSE enforceable against Cygnus and NSE in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought.

SECTION 2.03. Capital Stock of Cygnus; NSE's Ownership of Cygnus Shares.

(a) The authorized capital stock of Cygnus consists of 1,000,000 shares of capital stock, 600,000 of which are designated as "Common Stock", and 400,000 of which are designated as "Preferred Stock". As of the date hereof, 1,000 shares of Common Stock are issued and outstanding, all of which are duly authorized, validly issued, fully paid and nonassessable. Except for the Cygnus Shares, there are no other equity securities of Cygnus outstanding. There are no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of Cygnus or obligating Cygnus or NSE to issue or sell any shares of capital stock of, or any other interest in, Cygnus. There are no outstanding contractual obligations of Cygnus to repurchase, redeem or otherwise acquire any of its shares or to provide funds to, or make any investment (in the form of a loan, capital contribution, or otherwise) in, any other person.

(b) As of the date hereof, NSE is the record and beneficial owner of and has good and valid title to the Cygnus Shares, free and clear of all encumbrances (except for restrictions on transfer imposed by applicable securities laws). Upon consummation of the transaction contemplated by this Agreement and registration of the Cygnus Shares in the name of Purchaser, Purchaser will own all the issued and outstanding capital stock of Cygnus free and clear of all encumbrances. Upon consummation of the transaction contemplated by this Agreement, the Cygnus Shares will be fully paid and nonassessable. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Cygnus Shares.

SECTION 2.04. No Conflict. Assuming that all required consents, approvals, authorizations and other actions described in Section 3.06 have been obtained, the execution, delivery and performance of this Agreement by Cygnus and NSE and the consummation of the transaction contemplated herein in the manner contemplated hereby do not and will not violate, conflict with or result in the breach of any provision of the charter or by-laws of Cygnus.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to NSE as follows:

SECTION 3.01. Investment Purpose. Purchaser is acquiring the Cygnus Shares solely for the purpose of investment and not with a view to, or for offer or sale in connection with, any distribution thereof.

ARTICLE IV

ADDITIONAL AGREEMENTS AND COVENANTS

SECTION 4.01. Assumption of Liabilities.

(a) NSE agrees to and hereby does expressly assume and agree to pay, discharge, perform, satisfy and resolve the Meridian Liabilities (as defined in Section 4.01(b) below). NSE does not agree to assume any liabilities or obligations of Cygnus other than the Meridian Liabilities, provided, however, that this does not negate the indemnification obligations provided in Article VI.

(b) "Meridian Liabilities" include any and all liabilities or obligations of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several or otherwise, arising out of or related to employee benefit claims left unpaid by Meridian Benefit, Inc. and Intercare Health Plan , including but not limited to payments of medical claims, legal and all other costs and expenses, governmental and regulatory fines, and claims by or obligations to brokers, third party administrators, AdvantEdge, Meridian, or any other person in relation thereto. Meridian Liabilities expressly include, but are not limited to, the corresponding compliance liabilities related to the United States Department of Labor and other governmental authorities, including penalties, fines, adverse claims and the like from such authorities.

(c) NSE agrees to keep Cygnus reasonably informed of the status of the resolution of the Meridian Liabilities on an on-going basis, including making permanently available all pertinent records, files, correspondence, and the like. NSE also agrees to promptly inform Cygnus of any matters it is aware of related to the Meridian Liabilities which could reasonably impact the business of Cygnus in any material way.

SECTION 4.02. Assignment of AdvantEdge Proceeds. Cygnus agrees to and hereby does assign to NSE its rights to receive the AdvantEdge Proceeds (as previously defined herein). If AdvantEdge pays any of the AdvantEdge proceeds to Cygnus, Cygnus agrees that NSE is the legal owner of these funds, and Cygnus will immediately pay or forward these funds to NSE. In addition, Cygnus agrees to inform AdvantEdge of this assignment of proceeds as soon as practicable after the Closing. NSE agrees to hold Cygnus harmless from any costs or other liabilities incurred by NSE in pursuit of the AdvantEdge Proceeds.

SECTION 4.03. IHC Guarantee. Cygnus agrees that it will not renew, extend or otherwise continue its current policy of group health insurance issued by IHC beyond the current policy period ending December 31, 2003 unless and until IHC has released NSE from its guarantee obligations under the IHC Guarantee (as previously defined herein).

SECTION 4.04. Liability Insurance. The parties agree that after the Closing, Cygnus shall be responsible for obtaining its own liability insurance, and that NSE shall have no obligation to maintain liability insurance on behalf of Cygnus. NSE agrees to provide Cygnus with copies of any insurance policies it is aware of that are in Cygnus' name, and to inform Cygnus within 10 business days of any removal of Cygnus' name or property from any liability insurance carried by NSE on Cygnus' behalf.

SECTION 4.05 Intercompany Agreements. NSE and Cygnus agree that all agreements, contracts, and the like between NSE (or its affiliates) and Cygnus shall be terminated as of the Closing Date, and after the Closing Date, neither party shall be bound thereby or have any liability thereunder, other than unsatisfied obligations incurred pursuant to such agreements, contracts, and the like prior to the Closing Date.

SECTION 4.06. Use of NSE Resources. The parties agree that until September 30, 2003, Cygnus may continue to utilize the facilities, equipment, administrative resources, technical support, and the like in a manner consistent with its use of such prior to the Closing at no cost to Cygnus, provided, however, that if such NSE facility and resources are used by Cygnus in a manner that exceeds current practice, or if Cygnus desires to continue to utilize the facilities and resources of NSE after September 30, 2003, it may only do so pursuant to an arrangement acceptable to NSE that provides for payment by Cygnus for such use of resources. NSE is under no obligation to allow Cygnus to continue its occupation of NSE premises or use of its resources after September 30, 2003.

SECTION 4.07. Confidentiality. NSE and Purchaser each agree to, and shall cause each of their respective agents, representatives and affiliates to: (i) treat and hold as confidential (and not disclose or provide access to any person to) all information relating to trade secrets, processes, patent and trademark applications, product development, pricing and marketing plans, policies and strategies, operations methods, product development techniques, new personnel acquisition plans and all other confidential information with respect to Cygnus (in the case of NSE) and NSE (in the case of Purchaser), (ii) in the event that NSE or Purchaser or any agent, representative, affiliate, employee, officer or director of each becomes legally compelled to disclose any such information, provide NSE or Purchaser, as the case may be, with prompt written notice of such requirement so that NSE or Purchaser, as the case may be, may seek a protective order or other remedy or waive compliance with this Section 4.07 and (iii) in the event that such protective order or other remedy is not obtained, or NSE or Purchaser, as the case may be, waives compliance with this Section 4.07 furnish only that portion of such confidential information which is legally required to be provided and exercise its best efforts to obtain assurances that confidential treatment will be accorded such information. NSE and Purchaser each agrees and acknowledges that remedies at law for any breach of their obligations under this Section 4.07 are inadequate and that in addition thereto NSE and Purchaser shall be entitled to seek equitable relief, including injunction and specific performance, in the event of any such breach.

SECTION 4.08. Regulatory and Other Authorizations: Notices and Consents.

(a) NSE and Purchaser shall cooperate in obtaining (or causing Cygnus to obtain) all authorizations, consents, orders and approvals of all governmental authorities and officials that may be or become necessary for the execution and delivery of, and the performance of, obligations pursuant to this Agreement and will cooperate in promptly seeking to obtain all such authorizations, consents, orders and approvals.

(b) NSE and Purchaser shall cooperate in giving promptly such notices to third parties and use their best efforts to obtain such third party consents and estoppel certificates as may be necessary or desirable in connection with the transactions contemplated by this Agreement.

(c) NSE and Purchaser agree that, in the event any consent, approval or authorization necessary or desirable to preserve for Cygnus any right or benefit under any lease, license, contract, commitment or other agreement or arrangement to which Cygnus is a party is not obtained prior to the Closing, NSE will, subsequent to the Closing, cooperate with Purchaser in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable.

SECTION 4.09 Records, Files, etc. NSE agrees to provide originals or copies of all records, files, data and other documents, electronic or otherwise, pertinent to the business of Cygnus.

SECTION 4.10 Tax Returns. NSE agrees to continue filing consolidated tax returns for Cygnus through the period ending as of the date hereof.

SECTION 4.11. Further Action. Each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable law, and execute and deliver such documents and other papers, as may be required to carry out the provisions of this Agreement and consummate and make effective the transactions contemplated by this Agreement.

ARTICLE V

CONDITIONS TO CLOSING

SECTION 5.01. Conditions to Obligations of all parties. The obligations of each party to consummate the transaction contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of the following conditions by the other parties:

(a) Representations, Warranties, and Covenants. The representations and warranties of the other parties contained in this Agreement shall have been true and correct when made and shall be true and correct in all material respects as of the Closing, with the same force and effect as if made as of the Closing, and the covenants and agreements contained in this Agreement to be complied with by the other parties on or before the Closing shall have been complied with in all material respects.

(b) Governmental Consents. All authorizations, consents, orders, and approvals of all governmental authorities and officials that may be necessary for the execution and delivery of, and the performance of, obligations pursuant to this Agreement shall have been obtained.

(c) Intercompany Payables. The books of NSE shall have been adjusted appropriately to reflect the capitalization by NSE of the approximately $690,000 intercompany debt owed by Cygnus to NSE on the closing books for July 2003, and NSE shall have delivered to Purchaser Cygnus' unaudited balance sheet for the period ended July 31, 2003, reflecting such capitalization.

(d) Cygnus Financial Statements. NSE shall have delivered to Purchaser copies of the balance sheet, income statement, and statement of cash flows of Cygnus for the period ending July 31, 2003. Such financial statements shall reflect the capitalization of intercompany debt as provided in Section 5.01(c).

(e) Schedule of Cygnus Assets. NSE shall have delivered to Purchaser a complete schedule of the assets that, to the knowledge of NSE, are owned by Cygnus as of July 31, 2003.

(f) Schedule of Cygnus Liabilities. NSE shall have delivered to Purchaser a complete schedule of liabilities that, to the knowledge of NSE, are owed by Cygnus as of the date hereof. This schedule of liabilities is the same as that referenced below in Section 6.02(e).

(g) Officers and Directors. Each current officer and director of Cygnus shall have resigned from their respective positions, effective as of the Closing.

(h) Corporate Documents. NSE shall have delivered to Purchaser originals of the Stock Register, Articles of Incorporation, Bylaws, Board Minute Book, and Corporate Seal.

ARTICLE VI

INDEMNIFICATION

SECTION 6.01. Survival of Representations and Warranties. The representations and warranties of the parties contained in this Agreement, the indemnification provisions of this Article VI and all statements contained in this Agreement or other document delivered pursuant to this Agreement or in connection with the transaction contemplated by this Agreement (collectively, the "Acquisition Documents"), shall survive the Closing. Neither the survival nor the liability of the parties with respect to their representations and warranties shall be reduced by any investigation made at any time by or on behalf of any other party.

SECTION 6.02. Indemnification by NSE. Purchaser, his affiliates and their successors and assigns, and the officers, directors, employees and agents of Purchaser, his affiliates, and their successors and assigns (each an "Indemnified Party") shall be indemnified and held harmless by NSE (the "Indemnifying Party") for any and all liabilities, losses, damages, claims, costs and expenses, interest, awards, judgments and penalties (including, without limitation, attorneys' and consultants' fees and expenses) actually suffered or incurred by them (including, without limitation, any action brought or otherwise initiated by any of them) (hereinafter a "Loss"), arising out of or resulting from:

(a) the breach of any representation or warranty made by NSE contained in the Acquisition Documents;

(b) the breach of any covenant or agreement by NSE contained in the Acquisition Documents;

(c) any liabilities or obligations of Cygnus arising from or relating to actions or inactions of Cygnus or the conduct of its business prior to the Closing, including, but not limited to, taxes, assessments, penalties, fines, and interest associated with the filing of consolidated tax returns by NSE through the date hereof; or

(d) any and all Losses suffered or incurred by Cygnus by reason of or in connection with any claim or cause of action of any third party to the extent arising out of any action, inaction, event, condition, liability or obligation of Cygnus prior to the Closing.

(e) Notwithstanding the foregoing, the indemnification obligations provided by NSE in this Section 6.02 do not apply to the liabilities described in Schedule 6.02(e), relating to ordinary course liabilities of Cygnus as reflected in Cygnus' books as of the date hereof, and any such liabilities relating to the period between the date hereof and the Closing.

SECTION 6.03. Indemnification by Cygnus. NSE, its affiliates and their successors and assigns, and the officers, directors, employees and agents of NSE, its affiliates, and their successors and assigns (each an "Indemnified Party") shall be indemnified and held harmless by Cygnus (the "Indemnifying Party") for any and all liabilities, losses, damages, claims, costs and expenses, interest, awards, judgments and penalties (including, without limitation, attorneys' and consultants' fees and expenses) actually suffered or incurred by them (including, without limitation, any action brought or otherwise initiated by any of them) (hereinafter a "Loss"), arising out of or resulting from:

(a) the breach of any representation or warranty made by Purchaser contained in the Acquisition Documents;

(b) the breach of any covenant or agreement by Cygnus or Purchaser contained in the Acquisition Documents;

(c) liabilities incurred by NSE pursuant to the IHC Guarantee arising out of actions or inactions of Cygnus or the conduct of its business after the Closing;

(d) any liabilities or obligations of Cygnus arising from or relating to actions or inactions of Cygnus or the conduct of its business after the Closing; or

(e) any and all Losses suffered or incurred by NSE by reason of or in connection with any claim or cause of action of any third party to the extent arising out of any action, inaction, event, condition, liability or obligation of Cygnus after the Closing.

SECTION 6.04. Indemnification Procedures. An Indemnified Party shall give the applicable Indemnifying Party notice of any matter which an Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement, within 60 days of such determination, stating the amount of the Loss, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises. If an Indemnified Party shall receive notice of any claim by a third party, the Indemnified Party shall give the applicable Indemnifying Party notice of such third party claim within 30 days of the receipt by the Indemnified Party of such notice; provided, however, that the failure to provide such notice shall not release such Indemnifying Party from any of its obligations under this Article VI except to the extent the indemnifying party is materially prejudiced by such failure and shall not relieve such Indemnifying Party from any other obligation or liability that they may have to any Indemnified Party otherwise than under this Article VI. If any Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party hereunder against any Losses that may result from such third party claim, then such Indemnifying Party shall be entitled to assume and control the defense of such third party claim at its expense and through counsel of its choice if it gives notice of its intention to do so to the Indemnified Party within five days of the receipt of such notice from the Indemnified Party; provided, however, that if there exists or is reasonably likely to exist a conflict of interest that would make it inappropriate in the judgment of the Indemnified Party, in its sole and absolute discretion, for the same counsel to represent both the Indemnified Party and the Indemnifying Party, then the Indemnified Party shall be entitled to retain its own counsel, in each jurisdiction for which the Indemnified Party determines counsel is required, at the expense of the Indemnifying Party. In the event the Indemnifying Party exercises the right to undertake any such defense against any such third party claim as provided above, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, an witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party. Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such third party claim, the Indemnifying Party shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at the Indemnifying Party's expense, all such witnesses, records, materials and information in the Indemnifying Party's possession or under the Indemnifying Party's control relating thereto as is reasonably required by the Indemnified Party. No such third party claim may be settled by the Indemnifying Party without the prior written consent of the Indemnified Party.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.01. Expenses. Except as otherwise specified in this Agreement, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transaction contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

SECTION 7.02. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt by delivery in person, by courier service, by cable, by telecopy, by telegram, by telex or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 7.02):

(a)

if to NSE:

Nu Skin Enterprises, Inc.
One Nu Skin Plaza
75 West Center
Provo, Utah 84601
Telecopy:(801) 345-3899
Attention: D. Matthew Dorny

(b)

if to Purchaser or Cygnus:

Orrin T. Colby III
406 Oakley St.
Salt Lake City, UT 84116
Telecopy: (801) 406-0209
Attention: Orrin T. Colby III

SECTION 7.03. Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 7.04. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

SECTION 7.05. Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the parties with respect to the subject matter hereof.

SECTION 7.06. Assignment. This Agreement may not be assigned by operation of law or otherwise without the express written consent of the other parties (which consent may be granted or withheld in the sole discretion of such other parties); provided, however, that NSE may assign this Agreement to an affiliate of NSE without

the consent of the other parties, provided further, however that no such assignment shall release NSE from its payment and performance obligations herewith, and that NSE agrees to notify Purchaser and Cygnus of such assignment within 15 days.

SECTION 7.07. No Third Party Beneficiaries. Except for the provisions of Article VII relating to Indemnified Parties, this Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 7.08. Amendment. This Agreement may not be amended or modified except by an instrument in writing signed by, or on behalf of, each party.

SECTION 7.09. Waiver. Any party may (a) extend the time for the performance of any of the obligations or other acts of an other party, (b) waive any inaccuracies in the representations and warranties of an other party contained herein or in any document delivered by an other party pursuant thereto or (c) waive compliance with any of the agreements or conditions of an other party contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition, of this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights.

SECTION 7.10. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF UTAH, EXCLUDING (TO THE GREATEST EXTENT PERMISSIBLE BY LAW) ANY RULE OF LAW THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF UTAH.

SECTION 7.11. Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

SECTION 7.12. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

IN WITNESS WHEREOF, the NSE, Purchaser, and Cygnus have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

NU SKIN ENTERPRISES, INC., a Delaware corporation ("NSE")

By: /s/ Mark L. Adams
Name: Mark L. Adams
Title: Vice President

ORRIN T. COLBY III, an individual ("PURCHASER")

/s/ Orrin T. Colby III

CYGNUS RESOURCES, INC., a Delaware corporation ("CYGNUS")

By: /s/ Paul D. Swan
Name: Paul D. Swan
Title: President

SCHEDULE 6.02(e)

CYGNUS LIABILITES

Accounts Payable		
Trade Payables	92,361	
Accounts Payables Total		92,361
Accrued Liabilities		
Wages Payable	(357)	
Accrued Payroll Taxes	9,612	
Other Accrued Liabilities	116,722	
Cafeteria Plan (125) Payable	(5437)	
401(k) Payable	1,452	
Other Accruals - Clearing	17,279	
Sales Tax - AP	(254)	
Social Security W/H	4,531	
Medicare W/H	1,210	
Federal W/H	1,384	
State W/H	32,894	
City Tax	736	
Accrued Liabilities Total		179,772
Cygnus Liabilities TOTAL		272,133

ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED, Nu Skin Enterprises, Inc. hereby sells, assigns, and transfers unto Orrin T. Colby III, one thousand (1,000) shares of the Common Stock of Cygnus Resources, Inc., standing in the undersigned's name on the books of said corporation, represented by Certificate No. 001, and does hereby irrevocably constitute and appoint D. Matthew Dorny attorney to transfer the said stock on the books of the said corporation with full power of substitution in the premises.

Dated:_____

NU SKIN ENTERPRISES, INC.

By:_____
Name:
Title:

ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED, Orrin T. Colby hereby sells, assigns, and transfers unto Nu Skin Enterprises, Inc. _____ (_____) shares of the Common Stock of Cygnus Resources, Inc., standing in the undersigned's name on the books of said corporation, represented by Certificate(s) No. _____, and does hereby irrevocably constitute and appoint _____ attorney to transfer the said stock on the books of the said corporation with full power of substitution in the premises.

Dated:_____

_____

(signature)

_____

(print name)

[This assignment may only be completed and delivered in accordance with the terms of the Stock Acquisition Agreement dated as of August 1, 2003 between the signatory hereof and Nu Skin Enterprises, Inc.]

AMENDMENT NO. 1 TO THE

MASTER LEASE AGREEMENT

[Aspen Country, LLC]

THIS AMENDMENT NO. 1 TO THE MASTER LEASE AGREEMENT (hereinafter the "Amendment"), effective as of the 1st day of July, 2003, by and between ASPEN COUNTRY, LLC, a Utah limited liability company, whose address is 75 West Center Street, Provo, Utah 84601, ATTN: Brooke Roney (hereinafter "Landlord") and NU SKIN INTERNATIONAL, INC., a Utah corporation, whose address is 75 West Center Street, Provo, Utah 84601 (hereinafter "Tenant").

R E C I T A L S:

A. Tenant has the right to renew certain leases to the premises identified on Schedule A to this Amendment (the "Premises").

B. Tenant desires to renew such leases of the Premises from Landlord.

C. The parties desire to amend the Master Lease Agreement with respect to the Premises to reflect the renewal terms of the lease.

NOW, THEREFORE, in consideration of the rents, covenants and agreements hereinafter set forth, Landlord and Tenant mutually agree to the amended terms and conditions for the Premises set forth on Schedule A attached hereto.

SCHEDULE A

to

AMENDMENT NO. 1 TO THE MASTER LEASE

[Aspen Country, LLC]

ANNEX "A"

1. Commencement Date: July 1, 2003

2. Premises: All of Annex A except for 7,500 sq. ft. which is not being leased by Tenant.

3. Expiration Date: June 30, 2008

4. Term: Five (5) years.

5. Renewal Terms: None

6. Monthly Rent:

MONTHS	MONTHLY RENT
1-12	$ 5,343.75
13-24	5,477.34
25-36	5,614.28
37-48	5,754.63
49-60	5,898.50

7. Permitted Use: General warehouse storage, fleet maintenance and related uses.

8. Utilities: In the event utilities for the space not being leased by Tenant cannot be separately metered, Landlord shall reimburse Tenant a portion of such shared utility costs in a manner as mutually agreed upon.

9. Taxes/Repairs: Landlord shall reimburse Tenant pro rata for property taxes based on square footage if retained by Landlord (7500/30000). Landlord shall be responsible for paying for any and all repairs to the portion of the Premises retained by Landlord.

LANDLORD AND TENANT have executed this Amendment to the Lease effective as of the day and year first above written.

LANDLORD:

ASPEN COUNTRY, LLC
by its Manager:

By: /s/ Brooke B. Roney
Brooke B. Roney
Manager

TENANT

NU SKIN INTERNATIONAL, INC.

By /s/ D. Matthew Dorny

D. Matthew Dorny
Vice President and General Counsel

AMENDMENT NO. 1 TO THE

MASTER LEASE AGREEMENT

[Scrub Oak, LLC]

THIS AMENDMENT NO. 1 TO THE MASTER LEASE AGREEMENT (hereinafter the "Amendment"), effective as of the 1st day of July, 2003, by and between SCRUB OAK, LLC, a Utah limited liability company, whose address is 75 West Center Street, Provo, Utah 84601, ATTN: Brooke Roney (hereinafter "Landlord") and NU SKIN INTERNATIONAL, INC., a Utah corporation, whose address is 75 West Center Street, Provo, Utah 84601 (hereinafter "Tenant").

R E C I T A L S:

A. Tenant has the right to renew certain leases to the premises identified on Schedule A to this Amendment (the "Premises").

B. Tenant desires to renew such leases of the Premises from Landlord.

C. The parties desire to amend the Master Lease Agreement with respect to the Premises to reflect the renewal terms of the lease.

NOW, THEREFORE, in consideration of the rents, covenants and agreements hereinafter set forth, Landlord and Tenant mutually agree to the amended terms and conditions for the Premises set forth on Schedule A attached hereto.

SCHEDULE A

to

AMENDMENT NO. 1 TO THE MASTER LEASE

[Scrub Oak, LLC]

ANNEX "B"

1. Commencement Date: July 1, 2003

2. Premises: All of Annex B located at 1070 South 350 East

3. Expiration Date: June 30, 2008

4. Term: Five (5) years.

5. Renewal Terms: None

6. Monthly Rent:

MONTHS	MONTHLY RENT
1-12	$ 7,312.50
13-24	7,495.31
25-36	7,682.69
37-48	7,874.76
49-60	8,071.63

7. Permitted Use: General warehouse storage, fleet maintenance and related uses.

LANDLORD AND TENANT have executed this Amendment to the Lease effective as of the day and year first above written.

LANDLORD:

SCRUB OAK, LLC
by its Manager:

By: /s/ Brooke B. Roney
Brooke B. Roney
Manager

TENANT

NU SKIN INTERNATIONAL, INC.

By: /s/ D. Matthew Dorny
D. Matthew Dorny
Vice President and General Counsel

Nu Skin Enterprises

Executive Incentive Plan

July 2001 (Updated July 1, 2003)

Nu Skin Enterprises, Inc. 2

Purpose

Nu Skin Enterprises, Inc. ("Nu Skin") believes that sound compensation programs are essential to the retention, attractionand motivation of personnel. The purpose of the Plan is to focus employees on excellent, sustained performance that leads tolong-term growth, profitability and stability.

Objectives

The objectives of the Incentive Plan include:

- Focusing employees on the achievement of Nu Skin Enterprise business and strategic objectives;
- Enhancing operational efficiency and teamwork within each division and country and across divisions and countries;
- Increasing revenue and operating income; and
- Attracting, retaining and motivating employees by emphasizing "pay for performance" compensation programs that offer competitive total compensation (base salary + incentives) opportunities upon achievement of Nu Skin Enterprises' (NSE) financial and strategic objectives; and Division, Country/Region, Department and Individual objectives

Nu Skin Enterprises, Inc. 3

Effective Plan Date, Duration and Performance Cycles

Effective Plan Date

The effective Plan date is July 1, 2001. The Plan is in effect until further notice and can be cancelled or changed by notification to plan participants prior to the start of any performance cycle.

Performance Cycles

The Plan has two six-month performance cycles. Each cycle is based on the specific results of each period. The six-month periods are January through June and July through December. Within each six-month period, the results of each quarter are calculated.

- Employees are eligible to earn 25% of their potential semi-annual incentive award each fiscal quarter.
- 50% of the semi-annual incentive is dependant on the combined results of both quarters.

Six-month Period

50%

25%	25%
Quarter	**Quarter**

Nu Skin Enterprises, Inc. 4

- The quarter and six-month period results are based upon the Company, Division or Country/Region, Department, and Individual performance during the quarters and the six-month period. and,

- The calculation is based upon the Individual's base salary at the time of the payment.

Constant Currency Basis

The Operating Profit and Revenue targets will be set based on budgets and projections converted on a constant currency basis and the results for each fiscal quarter will be converted to constant currency amounts for use in computing performance bonuses.

Constant Currency means using the same currency exchange rate used to translate the financial results for the corresponding period of the prior year, thus eliminating the impact of currency fluctuations. These amounts will be computed by the Nu Skin Enterprises' Finance Department.

Incentives and Participants

Incentive Plan Participants have target award opportunities designed to reward superior NSE, Division, Country/Region, Department and Individual performance and maintain externally competitive total cash compensation commensurate with NSE's performance:

- Participants' incentive awards will be based upon the areas of the Company in which they contribute and,

- Participants are assigned a target incentive award opportunity expressed as a percentage of their base salary. The following chart summarizes the percentages used to calculate the bonus for each executive group.

	Incentives				
		Operating Profit		Revenue	
Position	Total Target Incentive	NSE Portion	Country/Region	NSE Portion	Division/Country/Region
Chairman & CEO	60%	60%		40%	
Senior Vice Presidents	60%	60%		40%	
Executive Committee	60%	60%		40%	
CFO, CIO, CAO, CLO	60%	60%		40%	
Division Presidents	50%	60%		10%	30%
Corp. Regional Vice Presidents, US	50%	20%	40%	10%	30%
US Country Vice Presidents	30-40%	20%	40%	10%	30%
Division Vice Presidents	30-40%	60%		10%	30%
Vice Presidents	30-40%	60%		40%	

Critical Success Factors ("CSF's")

- The Company will use operating profit and revenue as Critical Success Factors ("CSF's").

- The incentive bonus will be weighted 60% to operating profit and 40% to revenue.

- The revenue portion directly related the area of responsibility, NSE, Country/Region or Division, is the revenue CSF for that area.

Performance Thresholds

- Threshold levels represent the minimum acceptable performance levels required for incentive pay-out in each category.

  The Operating Profit threshold is 90%

  The Revenue threshold is 90%

  The Department Goals threshold is 80%

  The Individual Goals threshold is 80%

- ***If the Operating Profit threshold is not met, no Revenue incentive will be paid. If the Operating Profit threshold is met and the Revenue threshold if <u>not</u> met, the Operating Profit portion will be paid but the Revenue portion will not be paid. If Department objectives or Individual objectives are below the threshold level at the end of the Plan performance cycle, no incentive will be paid. Payout of the Region portion of the incentive bonus is not dependant on first attaining Corporate results.***

Targets

Target levels are established by NSE's Executive Committee and represent achievement of 100% of budgeted revenue andoperating profit, adjusted for currency fluctuations.

- At achievement of 90% of the CSFs and achievement of "Pass" for Department and Individual Goals,one-half of the cash incentive will be paid out. The pay-out amount is increased linearly up to full payment at 100% achievement of CSFs.
- Outstanding levels represent performance levels that exceed the target objectives.
- At the Outstanding performance level, target cash incentives will be increased linearly.

Department Targets

- Departments set objectives that align with CSFs and the priorities of NSE and the Division/Country/Region they support.
- A Department must achieve 80% of its respective Goals to earn a "pass" (P) to be eligible for any payment under the incentive plan;
- A Department is defined as a cost- center or group of cost- centers as determined by the employee's vice president;
- The approved budget must account for 25% of Department Goals. If a Department exceeds their approved budget by 5% or more, the employees in the Department are not eligible for the incentive unless such overruns are approved in advance by the NSE Executive Committee.

Individual Targets

- Target incentive award levels are determined by the Individual's level of job responsibility, reflecting that job's ability to impact NSE's financial performance, as well as competitive total compensation practices (base salary plus incentives) for comparable jobs within organizations similar in size and scope.
- Individual performance objectives for each participant are established prior to the start of the performance period. Some Individual objectives may stretch for the entire fiscal year. Performance levels for Individual objectives are negotiated with each manager.
- The cost center of the participant determines which CSFs relate to the participant's incentive payout;
- A participant must achieve at least 80% of Individual Goals to earn a "pass" (P) to be eligible for any payment under the incentive plan; and
- A participant's job performance must be at least at "competent" level.

Incentive Award Pay-Out Guidelines and Eligibility

- Incentive awards, if earned, will be distributed to Plan participants at the end of each performance cycle;
- All participants must be on the payroll at the time of the payment;
- Participants must be actively employed (not on a leave-of-absence) a minimum of six weeks to participate in the plan. The award amount will be prorated based on the number of days actively employed during the bonus period;
- Participants will receive their awards, when earned, by separate check;
- Award payments shall be subject to any State and/or Federal tax withholdings; and
- Award payments will be made within 45 days of the close of each quarter or 6 month period.
- The actual incentive pay-out may be smaller or larger, depending on overall NSE, Country and Division performance results.

EXHIBIT 31.1
SECTION 302 – CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, M. Truman Hunt, Chief Executive Officer of the registrant, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Nu Skin Enterprises, Inc;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 13, 2003

/s/ M. Truman Hunt
M. Truman Hunt
Chief Executive Officer

EXHIBIT 31.2
SECTION 302 – CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Ritch N. Wood, Chief Financial Officer of the registrant, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Nu Skin Enterprises, Inc;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 13, 2003

/s/ Ritch N. Wood
Ritch N. Wood
Chief Financial Officer

EXHIBIT 32.1
SECTION 1350 CERTIFICATION OF CHIEF EXECUTIVE OFFICER

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the quarterly report of Nu Skin Enterprises, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2003, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, M. Truman Hunt, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 13, 2003

/s/ M. Truman Hunt
M. Truman Hunt
Chief Executive Officer

EXHIBIT 32.2
SECTION 1350 CERTIFICATION OF CHIEF FINANCIAL OFFICER

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the quarterly report of Nu Skin Enterprises, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2003, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Ritch N. Wood, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 13, 2003

/s/ Ritch N. Wood
Ritch N. Wood
Chief Financial Officer

RISK FACTORS

Risks Related to Our Business

Currency exchange rate fluctuations could lower our revenue and net income.

In 2002, we recognized approximately 86% of our revenue in markets outside of the United States in each market's respective local currency. We purchase inventory primarily in the United States in U.S. dollars. In preparing our financial statements, we translate revenue and expenses in foreign countries from their local currencies into U.S. dollars using weighted average exchange rates. If the U.S. dollar strengthens relative to local currencies, particularly the Japanese yen inasmuch as we generate approximately 55% of our revenue in Japan, our reported revenue, gross profit and net income will likely be reduced. Given our inability to predict the degree of exchange rate fluctuations, we cannot estimate the effect these fluctuations may have upon future reported results or our overall financial condition. Although we attempt to reduce our exposure to short-term exchange rate fluctuations by using foreign currency exchange contracts for the Japanese yen, we cannot be certain these contracts or any other hedging activity will effectively reduce exchange rate exposure.

Because our Japanese operations account for a majority of our business, any adverse changes in our business operations in Japan would harm our business.

Approximately 55% of our 2002 revenue was generated in Japan. Various factors could harm our business in Japan, such as worsening economic conditions. Economic conditions in Japan have been poor in recent years and may worsen or not improve. The volume of goods sold through the direct selling channel has decreased from $26.2 billion in 1998 to approximately $24.5 billion in 2002, we believe primarily as a result of difficult economic conditions. We believe our operating results have been negatively impacted in the past in part because of economic conditions. Continued or worsening economic and political conditions in Japan could further impact our revenue and net income. In addition, we also face significant competition from existing and new competitors in Japan. Our financial results would be harmed if our products, business opportunity or planned growth initiatives fail to retain and generate continued interest and enthusiasm among our distributors and consumers in this market.

If we are unable to retain our existing independent distributors and recruit additional distributors, our revenue will not increase.

We distribute almost all of our products through our independent distributors, and we depend on them to generate virtually all of our revenue. Our distributors may terminate their services at any time, and, like most direct selling companies, we experience high turnover among distributors from year to year. As a result, in order to maintain sales and increase sales in the future, we need to continue to retain existing distributors and recruit additional distributors. To increase our revenue, we must increase the number of and/or the productivity of our distributors.

We have experienced periodic declines in both active distributors and executive distributors in the past. Our growth is dependent upon our ability to increase the number of active distributors and executive distributors. However, the number of our active and executive distributors may not increase and could decline once again in the future. While we take many steps to help train, motivate and retain distributors, we cannot accurately predict how the number and productivity of distributors may fluctuate because we rely primarily upon our distributor leaders to recruit, train and motivate new distributors. Our operating results would be harmed if we and our distributor leaders fail to generate sufficient interest in our business to retain existing distributors and attract new distributors.

The number and productivity of our distributors also depends on several additional factors, including:

- any adverse publicity regarding us, our products, our distribution channel or our competitors;
- a lack of interest in, or the technical failure of existing or new products;
- the public's perception of our products and their ingredients;
- the public's perception of our distributors and direct selling businesses in general; and
- general economic and business conditions.

In addition, we may face saturation or maturity levels in a given country or market. This is of particular concern in Taiwan, where industry sources have estimated that over 10% of the population is already involved in some form of direct selling. The maturity of several of our markets could also affect our ability to attract and retain distributors in those markets.

Our expansion of operations in China has resulted in governmental scrutiny, and our operations in China may be harmed by the results of such scrutiny.

The Chinese government banned direct selling activities in China in 1998, subject to certain limited exceptions. The government has rigorously monitored and enforced this ban. In the past, the government has taken significant actions against companies that the government found were engaging in direct selling in violation of applicable law, including shutting down their businesses and imposing substantial fines. Although certain of our global direct selling competitors have authorization to conduct limited direct selling activities after the 1998 ban, we have not received such authorization. Consequently, we have not implemented our direct sales model in China. Instead, we have implemented a business model that utilizes retail stores and an employed sales force that we believe complies with applicable regulations. We also allow distributor leaders from outside China to help us find, train and motivate our employed sales force in China. Frequently, individuals, including our competitors, complain to local regulatory agencies that our China business model violates applicable regulations on direct selling. As a result, we regularly visit with regulators to address their questions and concerns and explain our local business model. We also train our China sales force on our business model.

The regulatory environment in China is evolving, and officials in the Chinese government often exercise discretion in deciding how to interpret and apply applicable regulations. We have made some modifications to our business model and policies in response to concerns expressed by governmental authorities prior to and since we opened for business in January 2003. At times, these reviews and related actions by government regulators have caused, and could cause in the future, an obstruction to our ability to conduct business. Occasionally, we have been asked to cease sales activity in some stores while the regulators review our operations. In each of these cases, we have been allowed to recommence operations after the government's review. In addition, some of our distributors living outside of China and some of our employed sales representatives in China have engaged in activities that violated our policies in this market and resulted in some regulatory concern and some adverse publicity. Although we have worked closely with both national and local governmental agencies in implementing our plans, our efforts

to comply with local laws may be harmed by a rapidly evolving regulatory climate, concerns about activities resembling direct selling and any subjective interpretation of laws. Any determination that our operations or activities, or the activities of our employed sales representatives or distributors living outside of China, are not in compliance with applicable regulations could result in the imposition of substantial fines, extended interruptions of business, restrictions on our ability to open new

stores or expand into new locations, changes to our business model, the termination of required licenses to conduct business, or other actions, all of which would harm our business.

If we are not able to hire sale employees and open new stores in China as quickly as we would like, our ability to grow our business there could be negatively impacted.

Because of concerns about the potential number of sales employees we could hire in some cities, regulators in certain cities in China initially recommended that we maintain a reasonable level of sales employees per store. If the level of employees that regulators determine to be reasonable is less than we anticipate or believe reasonable, or if regulators otherwise impose restrictions on the number of sales employees we may hire, our revenue could be negatively impacted, which could reduce our revenue or slow our growth rate in China. Additionally, regulatory provisions require us to obtain a license for each store that we operate in China, and regulators have broad discretion in approving these licenses. If regulators fail to approve licenses for new stores at a rate that meets our growth demands, this could harm our growth potential.

China regulations currently require us to manufacture the majority of our products in China and to employ a local sales force to market and sell our products from retail store locations. We have limited experience in each of these activities.

Current regulations in China prohibit us from implementing our person-to-person direct selling distribution model there. As a result, we have opened 100 of our own retail stores and hired approximately 4,000 sales employees as of September 30, 2003. Chinese regulations also require that a majority of products that we sell in China are produced in our own factory. Outside of China, virtually all of our products are manufactured by third party contractors in the U.S. As a result, we have built and operate our own manufacturing plant to produce the products that we sell in our stores in China. Because we have limited experience in operating manufacturing facilities and dealing with an employed sales force, we cannot assure you that we will be able to do this successfully or that we will not experience difficulties in dealing with or taking employment related actions (such as hiring, terminations and salary administration including social benefit payments) with respect to our employed sales representatives, particularly given the highly regulated nature of the employment relationship in China. We anticipate that we could experience significant growth in this market, but we cannot assure you that we will be able to successfully manage this growth or that we will not experience unanticipated challenges given the unique business model and our limited experience in manufacturing our own products. If we are unable to effectively manage our retail stores, manufacturing operations or our employees, our government relations may be compromised and our operations in China may be harmed.

Manufacturing and production cost issues associated with our laser-based scanner could negatively impact the success of our scanner program and our ability to make a sufficient number of scanners available to interested distributors, which could harm our business.

Our introduction of a laser-based scanner that measures the levels of caratenoid antioxidants in the skin has generated considerable enthusiasm among some of our distributors, particularly in the United States. We have not had experience in developing and marketing sophisticated technology products such as the scanner and are working on a very short development timetable.

As with any new technology, we have experienced delays and technical and production cost issues in developing a large-scale production model that meets required specifications and performs at a consistent level. We are currently only manufacturing 15 to 20 units each week at a cost of approximately $7,500 per unit. If we are unable to timely resolve technical issues or otherwise fail to deliver scanners that perform to a standard expected by our distributors or if we are unable to make a sufficient number of scanners available to interested distributors at reasonable lease rates, we could dampen distributor enthusiasm and harm our business, particularly in the United States where many distributors have been focusing their marketing activities around the introduction of the scanner. Because of the substantial investment in the scanner initiative, we may not be able to recoup our investment or may have to record an expense that would negatively impact earnings if the scanner program fails for any reason.

If our laser-based scanner is determined to be a medical device in a particular geographic market, this could inhibit or delay our ability to market the scanner in such market.

We believe that our laser-based scanner can be marketed in the United States as a non-medical device. However, the FDA has questioned the status of the scanner as a non-medical device. If the FDA were to make a determination that the scanner is a medical device, or if it determines that our distributors are using the scanner to make medical claims, we would be required to obtain FDA clearance to market the scanner as a medical device, which could delay significantly or otherwise inhibit our ability and the ability of our distributors to use the scanner in the United States. In addition, we are facing similar uncertainties and regulatory issues in other markets, including Japan, with respect to the status of the scanner as a non-medical device, which could delay or inhibit our ability to introduce the scanner in these markets.

Obtaining FDA clearance or similar clearance in other markets could require us to provide documentation concerning the clinical utility of the scanner and to make some modifications to the design, specifications, and manufacturing process of the scanner in order to meet stringent standards imposed on medical device companies, and there can be no assurance we would be able to provide such documentation and make such changes promptly or in a manner that is satisfactory to regulatory authorities. We are also subject to regulatory restrictions that limit the claims or representations that we and our distributors can make about the scanner because we are not using it as a medical device, which could adversely impact our success in utilizing the scanner. Any delay, restriction or limitation of our anticipated use of this tool caused by regulatory issues could harm our business, particularly in the United States where we have experienced the strongest interest in the scanner.

Governmental regulations relating to the marketing and advertising of our products and services, in particular our nutritional supplements, may restrict or inhibit our ability to sell these products.

Our products and our related marketing and advertising efforts are subject to extensive governmental regulations by numerous domestic and foreign governmental agencies and authorities. These include the FDA, the FTC, the Consumer Product Safety Commission and the Department of Agriculture in the United States, State Attorneys General and other state regulatory agencies and the Ministry of Health, Labor and Welfare in Japan along with similar governmental agencies in other foreign markets where we operate. We also believe that the regulatory attitude towards dietary supplements in the U.S., Japan and other markets is worsening.

Our markets have varied regulations concerning product formulation, labeling, packaging and importation. These laws and regulations often require us to, among other things:

- reformulate products for a specific market to meet the specific product formulation laws of that country;
- conform product labeling to the regulations in each country; and
- register or qualify products with the applicable governmental authority or obtain necessary approvals or file necessary notifications for the marketing of our products.

Failure to introduce products or delays in introducing products could reduce revenue and decrease profitability. Regulators also may prohibit us from making therapeutic claims about products, regardless of the existence of research and independent studies that may support such claims. These product claim restrictions could

prevent us from realizing the potential revenue from some of our products.

Governmental regulations relating to the sources and ingredients of our products, in particular our nutritional supplements, may restrict or inhibit our ability to sell these products.

The sources and ingredients of our products are subject to various governmental regulations by numerous domestic and foreign governmental agencies and authorities. We may be unable to introduce our products in some markets if we fail to obtain the necessary regulatory approvals or if any product ingredients are prohibited. For example, many countries have banned the importation of products that contain bovine materials sourced from locations where Bovine Spongiform Encephalopathy (BSE), commonly referred to as “mad cow disease”, has been identified. We currently source all of our bovine materials, used primarily in the gel capsules of our nutritional supplements, from BSE-free countries. However, if BSE spreads to additional countries where we currently source our bovine materials, particularly the U.S., this could negatively impact our ability to import products into our markets until we change sources or ingredients, which could harm our business.

Recent negative publicity concerning stimulant-based supplements have spurred efforts to change existing laws and regulations with respect to nutritional supplements that, if successful, could result in more restrictive and burdensome regulations.

There have been some recent injuries and deaths that have been attributed to the use of nutritional supplements that contain ingredients that are controversial and have generated negative publicity. This publicity has resulted in efforts to adopt new regulations applicable to nutritional supplements that could impose further restrictions and regulatory control over the nutritional supplement industry. Although we are committed to not marketing nutritional supplements that contain any stimulants, steroids or other substances that are controversial and could pose health risks, our operations could be harmed if governmental laws or regulations are enacted that restrict the ability of companies to market or distribute nutritional supplements or impose additional burdens or requirements on nutritional supplement companies as a result of public reaction to the recent injuries and deaths caused by supplements that do contain these controversial ingredients.

If we are unable to expand operations in any of the new markets we have currently targeted, we may have difficulty achieving our long-term objectives.

A significant percentage of our revenue growth over the past decade has been attributable to our expansion into new markets. For example, the revenue growth we experienced in 2001 and 2002 was due in part to our successful expansion of operations into Singapore and Malaysia. Moreover, our growth over the next several years depends on our ability to successfully introduce our products and our distribution system into new markets, including China and Eastern Europe. In addition to the regulatory difficulties we may face in gaining access into these new markets,

we could face difficulties in achieving acceptance of our premium-priced products in developing markets. In the past, we have struggled to operate successfully in developing country markets, such as Latin America. This may also be the case in China and Eastern Europe and the other new markets into which we currently intend to expand. If we are unable to successfully expand our operations into these new markets, our opportunities to grow our business may be limited, and, as a result, we may not be able to achieve our long-term objectives.

Intellectual property rights are difficult to enforce in China.

Chinese commercial law is relatively undeveloped compared to most of our other major markets, and, as a result, we may have limited legal recourse in the event we encounter significant difficulties with patent or trademark infringers. Limited protection of intellectual property is available under Chinese law, and the local manufacturing of our products may subject us to an increased risk that unauthorized parties may attempt to copy or otherwise obtain or use our product formulations. As a result, we cannot assure you that we will be able to adequately protect our product formulations.

Adverse publicity concerning our business, marketing plan or products could harm our business and reputation.

The size of our distribution force and the results of our operations can be particularly impacted by adverse publicity regarding us, the legality of our distributor network, our products or the actions of our distributors. Specifically, we are susceptible to adverse publicity concerning:

- the legality of network marketing;
- the ingredients or safety of our or our competitors' products;
- regulatory investigations of us, our competitors and our respective products;
- the actions of our current or former distributors; and
- public perceptions of direct selling businesses generally.

In addition, in the past we have experienced negative publicity that has harmed our business in connection with regulatory investigations and inquiries. We may receive negative publicity in the future, and it may harm our business and reputation.

Although our distributors are independent contractors, improper distributor actions that violate laws or regulations could harm our business.

Distributor activities in our existing markets that violate governmental laws or regulations could result in governmental actions against us in markets where we operate. Except in China, our distributors are not employees and act independently of us. We implement strict policies and procedures to ensure our distributors will comply with legal requirements. However, given the size of our distributor force, we experience problems with distributors from time to time. For example, product claims made by some of our distributors in 1990 and 1991 led to an investigation by the FTC, which resulted in us entering into a consent decree with the FTC.

Failure of new products to gain distributor and market acceptance could harm our business.

A critical component of our business is our ability to develop new products that create enthusiasm among our distributor force. If we fail to introduce new products planned for introduction, our distributor productivity could be harmed. In addition, if any new products fail to gain market acceptance, are restricted by regulatory requirements or have quality problems, this would harm our results of operations. Factors that could affect our ability to continue to introduce new products include, among others, government regulations, the loss of key research and development staff from our divisions, the termination of third-party research and collaborative arrangements, proprietary protections of competitors that may limit our ability to offer comparable products and any failure to anticipate changes in consumer tastes and buying preferences.

Government inquiries, investigations and actions could harm our business.

From time to time, we receive formal and informal inquiries from various government regulatory authorities about our business and our compliance with local laws and regulations. Any determination that we or our distributors are not in compliance with existing laws or regulations could potentially harm our business. Even if governmental actions do not result in rulings or orders, they potentially could create negative publicity. Negative publicity could detrimentally affect our efforts to recruit or motivate distributors and attract customers and, consequently, could reduce revenue and net income.

In the early 1990s, we entered into consent decrees with the FTC and other state regulatory agencies relating to investigations of our distributors' product claims and practices. We believe that the negative publicity generated by this FTC action, as well as a separate action in the mid- 1990s, harmed our business and results of operations in the United States. As a result of the previous investigations, the FTC makes inquiries from time to time regarding our compliance with applicable laws and regulations and our consent decree. Any further actions by the FTC or other comparable state or federal regulatory agencies, in the United States or abroad, could have a further negative impact on us in the future.

In addition, we are susceptible to government-initiated campaigns that do not rise to the level of formal regulations. For example, the South Korean government, several South Korean trade groups and members of the South Korean media initiated campaigns in 1997 and 1998 urging South Korean consumers not to purchase luxury or foreign goods. We believe that these campaigns and the related media attention they received, together with the economic recession that occurred in the late 1990s in the South Korean economy, significantly harmed our South Korean business. We cannot assure you that similar government, trade group or media actions will not occur again in South Korea or in other countries where we operate or that such events will not similarly harm our operations.

The loss of key high-level distributors could negatively impact our distributor growth and our revenue.

As of September 30, 2003, we had approximately 610,00 active distributors and 27,000 executive distributors. Approximately 320 distributors currently occupy the highest distributor level under our Global Compensation Plan. These distributors, together with their extensive networks of downline distributors, account for substantially all of our revenue. As a result, the loss of a high-level distributor or a group of leading distributors in the distributor's network of downline distributors, whether by their own choice or through disciplinary actions by

us for violations of our policies and procedures, could negatively impact our distributor growth and our revenue.

Laws and regulations may prohibit or severely restrict our direct sales efforts and cause our revenue and profitability to decline.

Various government agencies throughout the world regulate direct sales practices. These laws and regulations are generally intended to prevent fraudulent or deceptive schemes, often referred to as "pyramid" schemes, that compensate participants for recruiting additional participants irrespective of product sales, use high pressure recruiting methods and/or do not involve legitimate products. The laws and regulations in our current markets often:

- impose order cancellations, product returns, inventory buy-backs and cooling-off rights for consumers and distributors;
- require us or our distributors to register with governmental agencies;
- impose reporting requirements to regulatory agencies; and/or
- require us to ensure that distributors are not being compensated based upon the recruitment of new distributors.

Complying with these widely varying and sometimes inconsistent rules and regulations can be difficult and require the devotion of significant resources on our part. If we are unable to continue business in existing markets or commence operations in new markets because of these laws, our revenue and profitability will decline. Countries where we currently do business could change their laws or regulations to negatively affect or prohibit completely direct sales efforts. In addition, government agencies and courts in the countries where we operate may use their powers and discretion in interpreting and applying laws in a manner that limits our ability to operate or otherwise harms our business. If any governmental authority were to bring a regulatory enforcement action against us that interrupts our business, revenue and earnings would likely suffer.

Challenges by private parties to the form of our network marketing system could harm our business.

We may be subject to challenges by private parties, including our distributors, to the form of our network marketing system or elements of our business. In the United States, the network marketing industry and regulatory authorities have generally relied on the implementation of distributor rules and policies designed to promote retail sales to protect consumers and to prevent inappropriate activities and to distinguish between legitimate network marketing distribution plans and unlawful pyramid schemes. We have adopted rules and policies based on case law, rulings of the FTC, discussions with regulatory authorities in several states and domestic and global industry standards. Legal and regulatory requirements concerning network marketing systems, however, involve a high level of subjectivity, are inherently fact-based and are subject to judicial interpretation. Because of the foregoing, we can provide no assurance that we would not be harmed by the application or interpretation of statutes or regulations governing network marketing, particularly in any civil challenge by a current or former distributor.

Increases in duties on our imported products in our markets outside of the United States could reduce our revenue and harm our competitive position.

Historically, we have imported most of our products into the countries in which they are ultimately sold. These countries impose various legal restrictions on imports and typically impose duties on our products. In any given country, regulators may increase duties on imports and, as a result, reduce our profitability and harm our competitive position relative to locally produced goods.

Governmental authorities may question our inter-company transfer pricing policies or change their laws in a manner that could increase our effective tax rate or otherwise harm our business.

As a U.S. company doing business in international markets through subsidiaries, we are subject to foreign tax and inter-company pricing laws, including those relating to the flow of funds between our company and our subsidiaries. Regulators in the United States and in foreign markets closely monitor our corporate structure and how we effect inter-company fund transfers. If regulators challenge our corporate structure, transfer pricing mechanisms or inter-company transfers, our operations may be harmed, and our effective tax rate may increase. Tax rates vary from country to country, and, if regulators determine that our profits in one jurisdiction may need to be increased, we may not be able to fully utilize all foreign tax credits that are generated, which will increase our effective tax rate. For example, our corporate income tax rate in the United States is 35%. If our profitability in a higher tax jurisdiction, such as Japan where the corporate tax rate is currently set at 42%, increases disproportionately to the rest of our business, our effective tax rate may increase. We cannot assure you that we will continue operating in compliance with all applicable customs, exchange control and transfer pricing laws, despite our efforts to be aware of and comply with such laws. If these laws change, we may need to adjust our operating procedures and our business may suffer.

The loss of suppliers could harm our business.

For approximately ten years, we have acquired ingredients and products from one unaffiliated supplier that currently manufactures approximately 37% of our Nu Skin personal care products. We currently rely on two unaffiliated suppliers, one of which supplies approximately 38% and the other of which supplies approximately 27% of our Pharmanex nutritional supplements. We obtain some of our nutritional supplements from sole suppliers in China. We also license the right to distribute some of our products from third parties. Because of the concentrated nature of our suppliers and manufacturers, the loss of any of these suppliers or manufacturers, or the failure of suppliers to meet our needs, could restrict our ability to produce or distribute some products and harm our revenue as a result.

We depend on our key personnel, and the loss of the services provided by any of our executive officers or other key employees could harm our business and results of operations.

Our success depends to a significant degree upon the continued contributions of our senior management, many of whom would be difficult to replace. These employees may voluntarily terminate their employment with us at any time. We may not be able to successfully retain existing personnel or identify, hire and integrate new personnel. If we lose the services of our executive officers or key employees for any reason, our business, financial condition and results of operations could be harmed.

Our markets are intensely competitive, and market conditions and the strengths of competitors may harm our business.

The markets for our Nu Skin and Pharmanex products are intensely competitive. Our results of operations may be harmed by market conditions and competition in the future. Many competitors have much greater name recognition and financial resources than we have, which may give them a competitive advantage. For example, our Nu Skin products compete directly with branded, premium retail products. We currently do not have significant patent or other proprietary protection, and our competitors may introduce products with the same ingredients that we use in our products. Because of regulatory restrictions concerning claims about the efficacy of dietary supplements, we may have difficulty differentiating our products from our competitors' products, and competing products entering the nutritional market could harm our nutritional supplement revenue.

We also compete with other network marketing companies for distributors. Some of these competitors have a longer operating history and greater visibility, name recognition and financial resources than we do. Some of our competitors have also adopted and could continue to adopt some of our successful business strategies, including our Global Compensation Plan for distributors. Consequently, to successfully compete in this market and attract and retain distributors, we must ensure that our business opportunities and compensation plans are financially rewarding. We cannot assure you that we will be able to successfully compete in this market.

There is uncertainty whether the SARS epidemic could return, particularly in those Asian markets most affected by the epidemic earlier in 2003.

It is difficult to predict the impact, if any, of a recurrence of SARS on our business. Although such an event could generate increased sales of health/immune supplements and certain personal care products, our direct selling and retail activities and results of operations could be harmed if the fear of SARS causes people to avoid public places and interaction with one another.

Product liability claims could harm our business.

We may be required to pay for losses or injuries purportedly caused by our products. Although we have had a very limited product claims history, we have recently experienced difficulty in finding insurers that are willing to provide product liability coverage at reasonable rates due to insurance industry trends and the rising cost of insurance generally. As a result, we have elected to self-insure our product liability risks for our core product lines. Until we elect and are able to obtain product liability insurance, if any of our products are found to cause any injury or damage, we will be subject to the full amount of liability associated with any injuries or damages. This liability could be substantial. We cannot predict if and when product liability insurance will be available to us on reasonable terms.

System failures could harm our business.

Because of our diverse geographic operations and our complex distributor compensation plan, our business is highly dependent on efficiently functioning information technology systems. These systems and operations are vulnerable to damage or interruption from fires, earthquakes, telecommunications failures and other events. They are also subject to break-ins, sabotage, intentional acts of vandalism and similar misconduct. Despite any precautions, the occurrence of a natural disaster or other unanticipated problems could result in interruptions in services and reduce our revenue and profits.

Risks Related to Our Class A Common Stock

The market price of our Class A common stock is subject to significant fluctuations due to a number of factors that are beyond our control.

Many factors could cause the market price of our Class A common stock to fall. Some of these factors include:

- fluctuations in our quarterly operating results;
- the sale of shares of Class A common stock by our original or significant stockholders;
- general trends in the market for our products;
- acquisitions by us or our competitors;
- economic and/or currency exchange issues in those foreign countries in which we operate;
- changes in estimates of our operating performance or changes in recommendations by securities analysts; and
- general business and political conditions.

Broad market fluctuations could also lower the market price of our Class A common stock regardless of our actual operating performance.

Our original stockholders, together with their family members, estate planning entities and affiliates, control approximately 44% of the combined stockholder voting power and their interests may be different from yours.

The original stockholders of our company, together with their family members and affiliates, have the ability to influence the election and removal of the board of directors and, as a result, future direction and operations of our company. Currently, these stockholders own approximately 44% of the combined voting power of the outstanding shares of both classes of common stock. Accordingly, they may influence decisions concerning business opportunities, declaring dividends, issuing additional shares of Class A common stock or other securities and the approval of any merger, consolidation or sale of all or substantially all of our assets. They may make decisions that are adverse to your interests.

Approximately 28 million shares, or 40% of our total outstanding shares, are restricted from immediate resale but may be sold into the market in the near future, which could affect the market price of our Class A common stock.

If our stockholders sell a substantial number of shares of our Class A common stock in the public market, the market price of our Class A common stock could fall. Several of our principal stockholders hold a large number of shares of the outstanding Class A common stock. Any decision by any of our principal stockholders to aggressively sell their shares could depress the market price of our Class A common stock.

As of November 1, 2003, we had approximately 70.3 million shares of common stock outstanding. All of these shares are freely tradable, except for approximately 28 million shares held by certain stockholders who sold shares to us in a recent transaction. Under the terms of the share repurchase, the selling stockholders agreed that they will not sell or otherwise dispose of

any shares of Class A common stock on the open market without the prior consent of a majority of our independent directors prior to October 22, 2005. This agreement is subject to the following exceptions:

- certain charitable donations to religious organizations;
- transfers to us;
- transfers of common stock to immediate family members or related persons or estate planning entities who agree to be bound by similar restrictions;
- transfers pursuant to an existing call option for 2.0 million shares granted by Sandra Tillotson or an existing put option for up to 3.5 million shares obtained by Ms. Tillotson in a recent transaction with an unaffiliated third party investor;
- the pledge of shares as security for loans for up to $10 million, provided certain conditions are met including the right of the company to purchase any shares upon the occurrence of an event a default at a price equal to 50% of the average closing price for the immediate 15 trading days prior to event of default.

These stockholders also agreed that, after the expiration of the two-year lock-up agreement in October 2005, they will be subject to the certain volume limitations with respect to open market transactions. In the event these lock-up restrictions were removed, the resulting sales could cause the price of our Class A common stock to decline.