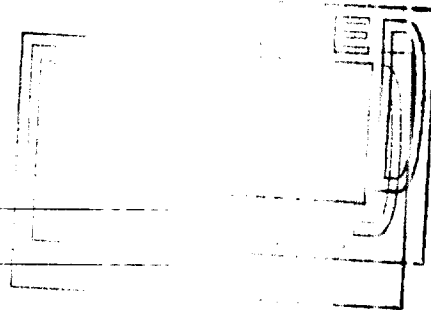


01-26-1999



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3R SHEET



M20 1.21.99

To the Honorable Commissioner of Patents and Trademarks:

Please record the attached original documents or copy thereof.

1. Name of conveying party:

TIERNAN COMMUNICATIONS, INC.

2. Name and address of receiving party:

Westar Capital
949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

Westar Capital II, LLC
949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

3. Submission Type:

New Assignment

4. Nature of conveyance:

Reimbursement and Security Agreement

Execution Date: January 6, 1999

5. Registration numbers:

See attached Schedule B

6. Name and address of party to whom correspondence concerning document should be mailed:

Christina Chang
Legal Assistant
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90017

7. Total number of applications and registrations involved: eighteen (18)

8. Total fee: \$720

9. Deposit Account Number:

N/A

10. Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Christina WH Chang

Name of Person Signing

Signature

January 19, 1999

Date

01/25/1999 BMBUYEN 00000071 5815338

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TOTAL NUMBER OF PAGES COMPRISING COVER SHEET: _____

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PATENT
REEL: 9703 FRAME: 0725

SCHEDULE B

PATENTS ISSUED

<u>Patent Description Title</u>	<u>Issue Date</u>	<u>Patent Number</u>	<u>Name of Inventor</u>	<u>Application Number</u>
Method and Apparatus for Determining a Location of a Subscriber Device in a Wireless Cellular Communications Systems	09/29/98	5,815,538	Conrad Grell, Jeremy Guralnick, Ilan J. Rothmuller, Chris Bennett, Michael Theiss-Aird	08 585,263

PATENT APPLICATIONS

<u>Description</u>	<u>Application Date</u>	<u>Application Number</u>
Fractionally-Spaced Adaptively Equalized Self-Recovering Digital Receiver for Amplitude-Phase Modulated Signals	01/21/97	08/ 784,607
Method for Universal Messaging and Multiplexing of Video, Audio and Data Streams	07/03/96	08/ 675,558
System and Method for Digitally Encoding and Compressing Analog Signals Carried in the Vertical Blanking Interval of a Television Signal	07/29/97	08/ 902,174
Apparatus and Method for Multi-Service Transport Multiplexing	10/06/97	08/ 944,902
Apparatus and Method for Multiplexing with Small Buffer Depth	09/02/98	09/ 145,118
Method and Apparatus for Video Compression with Reduced Delay	07/16/98	09/ 116,296
Method and Apparatus for High Data Rate BPSK Modulation and Demodulation using Trellis Coding	03/12/98	60/ 077,739
MPEG-2 Engine Based Scalable Architecture for MPEG-2 Compression	01/26/98	60/ 072,436
Method and Apparatus for Advanced Television Signal Encoding and Decoding Using MPEG-2 Engine Based Scalable Architecture	04/03/98	09/ 054,427
Universal Reed-Solomon Coder-Decoder	03/12/98	60/ 077,740
Decoding Algorithm for Dual-Mode Pragmatic TCH BPSK (Rate 2/3 and Rate 5/6) Modem with Simulations	01/09/98	60/ 070,869
Method and Apparatus for Scalable Redundancy Switching for Encoders	08/28/98	09/ 141,934

Description	Application Date	Application Number
45 Degree Phase Ambiguity Resolution for One Coded Bit Per Symbol BPSK Modulation	04/17/98	60/082,300
Digital Implementation of Chrominance Identification Signals in Vertical Blanking Interval for SECAM Video Broadcasting	04/17/98	60/082,398
Method and Apparatus for Generating Chrominance Identification Signals for Broadcasting	10/21/98	09/176,211
Dynamic Multiplexing for Optimal Channel Utilization	04/17/98	60/082,466
Method and Apparatus for Decoding High Order Trellis-Coded Modulation by Using Viterbi Decoder of OPSK	04/17/98	60/082,999

REIMBURSEMENT AND SECURITY AGREEMENT

This **REIMBURSEMENT AND SECURITY AGREEMENT** (this "**Agreement**") is dated as of January 6, 1999 and entered into by and between **TIERNAN COMMUNICATIONS, INC.**, a California corporation ("**Company**"), **WESTAR CAPITAL**, a California limited partnership ("**Westar L.P.**") and **WESTAR CAPITAL II, LLC**, a Delaware limited liability company ("**Westar LLC**" and, together with Westar L.P., "**Westar**").

PRELIMINARY STATEMENTS

A. Company is party to that certain Security and Loan Agreement dated as of October 15, 1996 (as amended, modified or otherwise supplemented from time to time, and any successor agreement, (the "**Loan Agreement**") with Imperial Bank, (together with its successors and assigns, the "**Lender**"), pursuant to which Lender has made and may in the future make loans to Company (the "**Loans**"). The Loan Agreement and all promissory notes, guaranties, security agreements, mortgages and other documents, instruments and agreements entered into by the Company or any of its affiliates from time to time pursuant to the Loan Agreement are referred to herein as the "**Loan Documents.**"

B. Company has requested that Westar enter into the Continuing Guaranty dated as of January 6, 1999 (said Guaranty, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Guaranty**") in favor of Lender pursuant to which Westar, subject to the terms and conditions set forth in the Guaranty, may guaranty certain Loans that may be made by Lender pursuant to the Loan Documents. Company has determined that the Guaranty will enable Company to obtain additional Loans which will be used by Company for its working capital and general corporate purposes and will benefit Company. For purposes hereof, this Agreement, the Guaranty and all other documents, instruments and agreements entered into by Company or any of their respective affiliates from time to time in connection therewith are referred to herein as the "**Basic Documents.**"

C. In order to induce Westar to enter into the Guaranty, Company has also agreed to issue to Westar LLC and its designated assigns certain warrants (as hereinafter defined, the "**Warrants**") to acquire the common stock, no par value of Company (the "**Common Stock**").

D. It is a condition precedent to the execution and delivery of the Guaranty by Westar that Company shall have granted the security interests and undertaken the other obligations contemplated by this Agreement. Furthermore, the parties have agreed that nothing herein shall adversely alter the subrogation, security and other rights of Westar under the Guaranty, including all such rights arising as a result of any payments made by Westar under the Guaranty.

NOW, THEREFORE, in consideration of the premises and in order to induce Westar to enter into the Guaranty and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Company hereby jointly and severally agrees with Westar as follows:

SECTION 1. Reimbursement Obligations and Other Covenants.

(a) Company consents to the execution, delivery and performance of the Guaranty by Westar and agrees that Westar and Lender may take actions under the Guaranty in their sole respective discretion without any further notice or consent by a Company or any of its affiliates, it being understood that Westar may in its sole discretion elect to guaranty Loans and to make Guaranty Payments (as defined below). Nothing herein or in the Guaranty or any other agreement constitutes a commitment or other undertaking by Westar to guaranty any Loans or other obligations under the Guaranty or otherwise

(b) Nothing herein shall adversely affect in any manner Westar's subrogation, security interests and other rights of every nature under the Guaranty, the Loan Agreement and the other Loan Documents (the "**Westar Subrogation Rights**"), it being understood that the Company intends and agrees, on its own behalf and on behalf of each of its subsidiaries, that Westar shall have the full benefit of all Westar Subrogation Rights and Loan Documents and that all of Westar's security interests and other rights under this Agreement are in addition to, and in no way limit, the Westar Subrogation Rights

(c) In the event Westar makes any payment or advance under the Guaranty, including but not limited to, any payment in respect of any Loan (any such payment in respect of a Loan or otherwise, a "**Guaranty Payment**"), Company shall immediately reimburse Westar on the same day in cash in an amount equal to the amount of such Guaranty Payment that has not otherwise been satisfied in cash through the Westar Subrogation Rights. In the event and to the extent the Company does not reimburse Westar for a Guaranty Payment on the date of such Guaranty Payment, Company agrees to pay interest to Westar on such unpaid portion on demand at an interest rate equal to 10% per annum.

(d) In addition to any amounts due under any other Basic Document, if Westar LLC or Westar L.P. collectively do not make a Debt or Equity Investment (as defined below) of at least \$6 million in Company as contemplated by the term sheet entitled "Outline of Principal Terms – Tiernan Communications, Inc." dated December 11, 1998, as amended by the governance provisions (the "Term Sheet") and Company enters into a Liquidity Transaction (as defined below) with any person other than Westar LLC or Westar L.P., then Company will pay Westar a cash fee equal to the maximum amount of the Guaranty (which initially is \$1,500,000) times 2% per month and further multiplied by the number of months before and after the date of any such Liquidity Transaction in which any Guaranty Payment balance is outstanding (such fee, the "**Additional Fee**"). The Additional Fee shall be payable on the date of any such Liquidity Transaction with respect to the portion of the Additional Fee accruing prior to the date of such Liquidity Transaction and shall be payable on the last day of each month thereafter with respect to the portion of such Additional Fee accruing on or prior to the date of such payment. A "**Debt or Equity Investment**" in Company shall include any purchase of debt or equity from the Company, but will not include Westar making a Guaranty Payment or the Warrants or Common Stock issued to Westar pursuant to the Warrants. A "**Liquidity Transaction**" includes any of the following: (i) any direct or indirect merger, sale or disposition of the Company or any material portion of its assets or (ii) any transaction or series of transactions pursuant to which the Company receives cash or other consideration in excess of \$250,000 in the aggregate through the issuance of any debt or equity other than from the Lender pursuant to the Loan Documents or

pursuant to the Warrants. Nothing herein or in the Guaranty or any other agreement constitutes a commitment or other undertaking by Westar to provide any Debt or Equity Investment or other transaction.

(e) Company shall reimburse Westar promptly for its reasonable expenses, including attorney's fees, relating to issuing the Guaranty and entering into this Agreement and other Basic Documents, including the Warrants, it being understood that Company shall be obligated to reimburse Westar after the date hereof as described in Section 18

(f) Company shall promptly deliver to Westar all notices of borrowing, borrowing base certificates and all other documents and written information delivered by Company or any of its affiliates to Lender pursuant to the Loan Documents. Company shall also promptly deliver monthly, quarterly and annual financial statements and any other information relating to any Company or any of their respective affiliates reasonably requested by Westar and upon reasonable notice which shall not be less than 5 business days. Company shall give Westar not less than three business days notice of any request by Company to borrow Loans under the Loan Agreement, which notice shall include all notices and certifications required to be submitted to Lender in connection with such Loan request. Company acknowledges and agrees that Westar has no obligation to guaranty or otherwise approve any such Loan request.

(g) Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, declare, make or pay any Restricted Junior Payment; provided that the Company may repurchase capital stock or options, warrants or other rights to purchase capital stock of the Company from an employee of Company upon the termination of employment of such employee in an amount not to exceed \$10,000 for any such employee and \$50,000 in the aggregate for all employees. For purposes hereof, "**Restricted Junior Payment**" means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of capital stock of Company now or hereafter outstanding, except a dividend payable solely in shares of that class of capital stock to the holders of that class or in options, warrants, or other rights to purchase such capital stock, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of capital stock of Company now or hereafter outstanding (other than in exchange for capital stock of Company or options, warrants or other rights to purchase such capital stock), or (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of capital stock of Company now or hereafter outstanding. Company will not form, acquire, maintain or permit to exist any subsidiaries except for Tiernan Communications Limited ("Tiernan Limited"), Tiernan Communications, FSC ("Tiernan FSC"), Tiernan Communications Europe, Inc. ("Tiernan Europe") and Omniplex, Inc. ("Omniplex") (collectively, the "Tiernan Subsidiaries"), without the written consent of Westar. Company represents and agrees that none of the Tiernan Subsidiaries owns or will own any assets except in the case of Tiernan Limited, fixed assets of nominal value necessary to maintain its activity as a foreign sales office of Company, and, in the case of Omniplex, a patent previously disclosed to Westar. Upon Westar's written request, Company shall pledge security interests in the equity securities of the Tiernan Subsidiaries held by the Company and shall cause Omniplex to pledge its patent and any other property to Westar pursuant to documentation in form and substance satisfactory to Westar. Company shall use the proceeds of all Loans guaranteed by Westar for working capital purposes

unless otherwise agreed in writing by Westar; provided that not more than \$600,000 of the initial \$900,000 of Loans guaranteed by Westar shall be used to pay vendors of Company

(h) Company shall not and will not permit any of its subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Indebtedness other than (w) the Indebtedness owed to the Lender outstanding as of the date hereof or guaranteed by Westar (x) Indebtedness listed on Schedule C annexed hereto, (y) Indebtedness incurred in the ordinary course of business of the Company pursuant to a capital lease, asset acquisition or other financing in an amount not to exceed \$50,000 in connection with any one transaction or \$250,000 in the aggregate, or (z) deposits from customers of the Company in the ordinary course of business. For purposes hereof, "**Indebtedness**," as applied to any Person, means (i) all indebtedness for borrowed money, (ii) that portion of obligations with respect to capital leases that is properly classified as a liability on a balance sheet in conformity with generally accepted accounting principles, (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (iv) any obligation owed for all or any part of the deferred purchase price of property or services (excluding any such obligations incurred under ERISA), which purchase price is (a) due more than six months from the date of incurrence of the obligation in respect thereof or (b) evidenced by a note or similar written instrument, and (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is non-recourse to the credit of that Person. The parties hereto agree that in no event shall Indebtedness include accrued liabilities for wages and benefits.

(i) All proceeds received by the Company from any Liquidity Transaction shall be directly and immediately applied to repay Loans guaranteed by Westar outstanding under the Loan Agreement and thereby reduce Westar's liability under the Guaranty, and, in connection therewith, the Company shall give to Lender the notice contemplated by Section 11 of the Guaranty to the extent applicable.

(j) Company shall cause an opinion of outside counsel to the Company to be delivered in form and substance reasonably satisfactory to Westar affirming that this Agreement has been duly authorized, executed and delivered by each Company and constitutes the valid, binding obligation of each Company, enforceable in accordance with its terms and also affirming the authorization and issuance of the Warrants and the authorization of the Common Stock and other customary matters requested by Westar, it being understood that such opinion may include customary assumptions and qualifications.

(k) Westar agrees that in the event Westar receives written notice from the Lender contemplated by clause(i) of the second paragraph of Section 3 of the Guaranty, it will notify Company of such notice; provided that Westar's failure to notify Company shall not result in any liability or claim in favor of Company or otherwise affect Company's obligations under this Agreement and the other Basic Documents to Westar.

(l) Westar agrees that, so long as no Event of Default has occurred under Sections 1(g), 1(h), 1(i), 1(m), 5, 6, 7(b), 7(c), 8(a), 10(a), 16(b)(v) or 16(b)(vi) of this Agreement, Westar shall not make a Guaranty Payment to Lender under clause (i) of the second paragraph of Section 3 of the Guaranty until the earlier of (i) the date that is on or after the

second Business Day prior to the date on which Westar is required to make a payment to Lender under the terms of clause (i) of Section 3 of the Guaranty or (ii) June 30, 1999; provided that in no event shall any determination by Westar under this Section 1(l) that is made in good faith or is based on a determination or demand by Lender result in any liability or claim in favor of Company or otherwise affect Company's obligations under this Agreement and the other Basic Documents to Westar.

(m) The Company agrees that if Westar and its affiliates exercise their right (which is not an obligation) to provide \$6 million or more to the Company in the form of an equity investment in the Company and provides, not later than 15 business days prior to the end of the exclusivity period (set forth in the Exclusivity Agreement dated as of the date hereof between the Company and Westar), definitive documentation to the Company in good faith consistent with the terms contemplated by the Term Sheet, the Company will accept such investment pursuant to such definitive documentation, provided however, that nothing herein shall diminish or affect the Company's right to negotiate in good faith reasonable and customary terms of such definitive documentation that are not inconsistent with the Term Sheet.

SECTION 2. Grant of Security. Company hereby assigns and grants to Westar, a security interest in, all of Company's right, title and interest in and to the following, in each case whether now or hereafter existing or in which Company now has or hereafter acquires an interest and wherever the same may be located (the "**Collateral**");

(i) all equipment in all of its forms, all parts thereof and all accessions thereto (any and all such equipment, parts and accessions being the "**Equipment**");

(ii) all inventory in all of its forms (including, but not limited to, (i) all goods held by Company for sale or lease or to be furnished under contracts of service or so leased or furnished, (ii) all raw materials, work in process, finished goods, and materials used or consumed in the manufacture, packing, shipping, advertising, selling, leasing, furnishing or production of such inventory or otherwise used or consumed in Company's business, (iii) all goods in which Company has an interest in mass or a joint or other interest or right of any kind, and (iv) all goods which are returned to or repossessed by Company and all accessions thereto and products thereof (all such inventory, accessions and products being the "**Inventory**") and all negotiable documents of title (including without limitation warehouse receipts, dock receipts and bills of lading) issued by any Person covering any Inventory (any such negotiable document of title being a "**Negotiable Document of Title**");

(iii) all accounts, contract rights, chattel paper, documents, instruments, general intangibles and other rights and obligations of any kind and all rights in, to and under all security agreements, leases and other contracts securing or otherwise relating to any such accounts, contract rights, chattel paper, documents, instruments, general intangibles or other obligations (any and all such accounts, contract rights, chattel paper, documents, instruments, general intangibles and other obligations being the "**Accounts**", and any and all such security agreements, leases and other contracts being the "**Related Contracts**");

(iv) all deposit accounts;

(v) all patents and patent applications and rights and interests in patents and patent applications under any domestic law that are presently, or in the future may be, owned by Company and all patents and patent applications and rights and interests in patents and patent applications under any domestic law that are presently, or in the future may be, held or used by Company in whole or in part (including, without limitation, the patents and patent applications listed in Schedule B annexed hereto, as the same may be amended pursuant hereto from time to time), all rights (but not obligations) corresponding thereto (including without limitation the right (but not the obligation) to sue for past, present and future infringements in the name of Company or in the name of Westar), and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing being collectively referred to as the "**Patents**"); it being understood that the rights and interest assigned hereby shall include, without limitation, all rights and interests pursuant to licensing or other contracts in favor of Company pertaining to patent applications and patents presently or in the future owned or used by third parties but, in the case of third parties which are not Affiliates of Company, only to the extent permitted by such licensing or other contracts and, if not so permitted, only with the consent of such third parties;

(vi) All trademarks, service marks, designs, logos, indicia, tradenames, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto (collectively, the "**Trademarks**") and rights and interests in Trademarks that are presently, or in the future may be, owned, held (whether pursuant to a license or otherwise) or used by Company, in whole or in part (including, without limitation, the Trademarks specifically identified in Schedule A annexed hereto, as the same may be amended pursuant hereto from time to time), all registrations that have been or may hereafter be issued or applied for thereon in the United States and any state thereof and in foreign countries (the "**Registrations**"), all common law and other rights in and to the Trademarks in the United States and any state thereof and in foreign countries (the "**Trademark Rights**"), all goodwill of Company's business symbolized by the Trademarks and associated therewith, including without limitation the documents and things described in this clause (vi) (the "**Associated Goodwill**"), and all proceeds of the Trademarks, the Registrations, the Trademark Rights and the Associated Goodwill, the right (but not the obligation) to register claims under any state or federal trademark law or regulation or any trademark law or regulation of any foreign country and to apply for, renew and extend the Trademarks, Registrations and Trademark Rights, the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of Company or in the name of Westar or otherwise for past, present and future infringements of the Trademarks, Registration or Trademark Rights and all rights (but not obligations) corresponding thereto in the United States and any foreign country, and the Associated Goodwill; it being understood that the rights and interests included herein shall include, without limitation, all rights and interests pursuant to licensing or other contracts in favor of Company pertaining to any Trademarks, Registrations or Trademark Rights presently or in the future owned, held or used by third parties but, in the case of third parties which are not Affiliates of Company, only to the extent permitted by such

licensing or other contracts or otherwise permitted by applicable law and, if not so permitted under any such contracts and applicable law, only with the consent of such third parties;

(vii) the following documents and things in Company's possession, or subject to Company's right to possession, related to (Y) the production, sale and delivery by Company, or by any Affiliate, licensee or subcontractor of Company, of products or services sold or delivered by or under the authority of Company in connection with the Trademarks, Registrations or Trademark Rights (which products and services shall, for purposes of this Agreement, be deemed to include, without limitation, products and services sold or delivered pursuant to merchandising operations utilizing any Trademarks, Registrations or Trademark Rights); or (Z) any retail or other merchandising operations conducted under the name of or in connection with the Trademarks, Registrations or Trademark Rights by Company or any Affiliate, licensee or subcontractor of Company:

(A) all lists and ancillary documents that identify and describe any of Company's customers, or those of its Affiliates, licensees or subcontractors, for products sold and services delivered under or in connection with the Trademarks or Trademark Rights, including without limitation any lists and ancillary documents that contain a customer's name and address, the name and address of any of its warehouses, branches or other places of business, the identity of the Person or Persons having the principal responsibility on a customer's behalf for ordering products or services of the kind supplied by Company, or the credit, payment, discount, delivery or other sale terms applicable to such customer, together with information setting forth the total purchases, by brand, product, service, style, size or other criteria, and the patterns of such purchases;

(B) all product and service specification documents and production and quality control manuals used in the manufacture or delivery of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights;

(C) all documents which reveal the name and address of any source of supply, and any terms of purchase and delivery, for any and all materials, components and services used in the production of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights; and

(D) all documents constituting or concerning the then current or proposed advertising and promotion by Company or its Affiliates, licensees or subcontractors of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights including, without limitation, all documents which reveal the media used or to be used and the cost for all such advertising conducted within the described period or planned for such products and services;

(vii) business names, licenses, copyrights, registrations and franchise rights, and all goodwill associated with any of the foregoing;

(viii) to the extent not included in any other paragraph of this Section 1, all other general intangibles (including without limitation tax refunds, rights to payment or performance, *choses in action* and judgments taken on any rights or claims included in the Collateral);

(ix) all plant fixtures, business fixtures and other fixtures and storage and office facilities, and all accessions thereto and products thereof;

(x) all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data processing software that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon; and

(xi) all proceeds, products, rents and profits of or from any and all of the foregoing Collateral and, to the extent not otherwise included, all payments under insurance (whether or not Westar is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral. For purposes of this Agreement, the term "**proceeds**" includes whatever is receivable or received when Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

SECTION 3. Security for Obligations. This Agreement secures, and the Collateral is collateral security for, the prompt payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)), of all obligations and liabilities of every nature of Company now or hereafter existing under or arising out of or in connection with this Agreement, the other Basic Documents and any other agreement, instrument or document entered into in connection herewith and all extensions or renewals thereof, whether for principal, interest (including without limitation interest, fees, and costs that, but for the filing of a petition in bankruptcy with respect to Company, would accrue on such obligations), reimbursement of amounts paid under the Guaranty, fees, expenses, indemnities or otherwise, whether voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations or liabilities that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from Westar as a preference, fraudulent transfer or otherwise (all such obligations and liabilities being the "**Secured Obligations**").

SECTION 4. Each Company Remains Liable. Anything contained herein to the contrary notwithstanding, (a) Company shall remain liable under any contracts and agreements included in the Collateral, to the extent set forth therein, to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Westar of any of its rights hereunder shall not release Company from any of its

duties or obligations under the contracts and agreements included in the Collateral, and (c) Westar shall not have any obligation or liability under any contracts and agreements included in the Collateral by reason of this Agreement or any other Basic Document, nor shall Westar be obligated to perform any of the obligations or duties of any Company thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

SECTION 5. Representations and Warranties. Each Company represents and warrants as follows:

(a) **Existence.** Company is duly organized, validly existing and in good standing under California laws, has all requisite power and authority to own and operate its properties and to transact the business in which it is now engaged and is in good standing under the laws of each jurisdiction where necessary to carry on its present business and operations, except in jurisdictions in which the failure to be in good standing has and will have no material adverse effect on Company. Tiernan Limited is a wholly-owned subsidiary of Company. Company has no other subsidiaries other than the Tiernan Subsidiaries.

(b) **Power, Authorization, Enforceable Obligations.** Company has all requisite power and authority to execute, deliver and perform this Agreement and any other Basic Document and all obligations required hereunder, to issue the Warrants and the Common Stock and has taken all necessary action to authorize its execution, delivery and performance of this Agreement, all obligations required hereunder and to issue the Warrants and the Common Stock. No consent of any other Person, including, without limitation, stockholders, other holders of equity interests and creditors of Company or any of its affiliates, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by Company or any of its affiliates in connection with this Agreement, the Guaranty or the execution, delivery, performance, validity or enforceability of this Agreement, the Guaranty, any obligation arising hereunder or thereunder or the issuance of the Warrants or Common Stock, except for such consents that have been obtained on or prior to the date hereof, filings required to perfect the security interests granted in the Collateral and a filing under Section 25102(f) of the California Corporations Code with the Department of Corporations. This Agreement has been, and each instrument or document required hereunder will be, executed and delivered by a duly authorized officer or other representative of Company, and this Agreement constitutes, and each instrument or document required hereunder when executed and delivered hereunder will constitute, the legally valid and binding obligation of Company, enforceable against Company in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws or equitable principles relating to or limiting creditors' rights generally.

(c) **No Legal Bar to this Agreement; Other Matters.** The execution, delivery and performance of this Agreement and the Guaranty, the issuance of the Warrants and Common Stock and the documents or instruments required hereunder and thereunder, and the use of the proceeds of the borrowings under the Loan Agreement, will not violate any provision of any existing law or regulation binding on Company or any of its affiliates, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on Company or any of its affiliates, or the certificate of incorporation or bylaws or other organizational document of

Company or any of its affiliates, or any securities issued by Company or any of its affiliates, or any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which Company or any of its affiliates is a party or by which Company or any of its affiliates or any of their respective assets may be bound, and will not result in, or require, the creation or imposition of any Lien on any of its properties, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking other than the Liens created by this Agreement and the Loan Documents, provided that no representation or warranty is made with respect to Company's real property lease of its premises. Except for events of default under the Loan Documents that the Lender has agreed to waive for the period of time set forth in the Loan Documents, as amended as of the date hereof, no event of default or event or occurrence that, with the passage of time would result in an event of default has occurred and is continuing with respect to any indebtedness of Company or any of its subsidiaries that has a principal amount of \$50,000 or more outstanding.

(d) Ownership of Collateral. Except for the interests disclosed in Schedule C annexed hereto, equipment leases and the security interest created by this Agreement, Company owns its Collateral free and clear of any Lien. Except with respect to the interests disclosed in Schedule C annexed hereto, equipment leases and related financings and such as may have been filed in favor of Westar relating to this Agreement, no effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office.

(e) Description of Collateral. A true and complete list of all Patents, Trademarks, Registrations and Trademark Rights owned, held (whether pursuant to a license or otherwise) or used by Company and its Subsidiaries is annexed hereto as Schedules A and B. All such Patents, Trademarks, Registrations and Trademark Rights are owned by Company.

(f) Location of Equipment and Inventory. All of the Equipment and Inventory is, as of the date hereof, located at the places specified in Schedule D annexed hereto.

(g) Office Locations; Other Names. The chief place of business, the chief executive office and the office where Company keeps its records regarding the Accounts is, and has been for the four month period preceding the date hereof, located at 5751 Copley Drive, San Diego, CA 92111. Company has not in the past done, and does not now do, business under any other name (including any trade-name or fictitious business name) except as set forth in the Loan Documents.

(h) Governmental Authorizations. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for either (i) the grant by Company of the security interests granted hereby, (ii) the execution, delivery or performance of this Agreement by Company, (iii) the exercise by Westar of its rights and remedies hereunder (except as may have been taken by or at the direction of Westar) or (iv) the issuance of the Warrants or the Common Stock except for a filing under Section 25102(f) of the California Corporations Code with the Department of Corporations.

(i) Perfection. This Agreement, together with filings with the United States Patent and Trademark Office, the Secretary of State of the State of California creates a valid,

perfected and, except for the interests disclosed in Schedule C annexed hereto, first priority security interest in the Collateral, securing the payment of the Secured Obligations, and all filings and other actions necessary to perfect such security interest have been duly made or taken.

(j) Trademarks. Company has assigned and granted to Westar a lien on and security interest in, among other assets, all of Company's equipment, inventory, accounts and general intangibles relating to the products and services sold or delivered under or in connection with the Trademarks such that, upon the occurrence and during the continuation of an Event of Default, Westar would be able to exercise its remedies consistent with this Agreement and applicable law to foreclose upon Company's business and use the Trademarks, the Registrations and the Trademark Rights in conjunction with the continued operation of such business, maintaining substantially the same product and service specifications and quality as maintained by Company, and benefit from the Associated Goodwill.

(k) There is no action, suit, proceeding or arbitration (whether or not purportedly on behalf of Company or any of its subsidiaries) at law or in equity or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or any arbitrator or panel of arbitrators, pending or, to the knowledge of Company, threatened against or affecting Company or any of its subsidiaries which, if adversely determined, could reasonably be expected to result in any material adverse effect on the business, assets or prospects of the Company (a "Material Adverse Effect"), and there is no basis known to Company for any such action, suit or proceeding.

(l) Company owns, or is licensed to use, all patents, trademarks, trade names, copyrights, technology, know-how and processes used in or necessary for the conduct of its business as currently conducted that are material to the condition (financial or other), business, or operations of Company ("Intellectual Property"). No claim has been asserted by any person with respect to the use of any such Intellectual Property, or challenging or questioning the validity or effectiveness of any such Intellectual Property and Company does not know of any valid basis for any such claim which, in either case, could reasonably be expected to result in a Material Adverse Effect. The use of such Intellectual Property by Company and its subsidiaries does not infringe on the rights of any person, subject to such claims and infringements as do not, in the aggregate, give rise to any liability on the part of any Company or any of its subsidiaries that could reasonably be expected to result in a Material Adverse Effect.

(m) Other Information. All information heretofore, herein or hereafter supplied to Westar by or on behalf of Company with respect to the Collateral is accurate and complete in all material respects

SECTION 6. Further Assurances.

(a) Company agrees that from time to time, at the expense of Company, Company will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Westar may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable Westar to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, Company will: (i) at the request of Westar after the

occurrence and during the continuance of an Event of Default, mark conspicuously each item of chattel paper included in the Accounts, each Related Contract and each of its records pertaining to the Collateral, with a legend, in form and substance satisfactory to Westar, indicating that such Collateral is subject to the security interest granted hereby, (ii) at the request of Westar after the occurrence and during the continuance of an Event of Default, deliver and pledge to Westar or Lender all promissory notes and other instruments (including checks) and all original counterparts of chattel paper constituting Collateral, duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Westar, (iii) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as Westar may request, in order to perfect and preserve the security interests granted or purported to be granted hereby, (iv) at the request of Westar, promptly after the acquisition by Company of any item of Equipment which is covered by a certificate of title under a statute of any jurisdiction under the law of which indication of a security interest on such certificate is required as a condition of perfection thereof, execute and file with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication of the security interest created hereunder on such certificate of title, (v) within 30 days after the end of each calendar quarter, deliver to Westar copies of all such applications or other documents filed during such calendar quarter and copies of all such certificates of title issued during such calendar quarter indicating the security interest created hereunder in the items of Equipment covered thereby, (vi) at any reasonable time, upon request by Westar, exhibit the Collateral to and allow inspection of the Collateral by Westar, or persons designated by Westar, and (vii) at Westar's request, appear in and defend any action or proceeding that may affect Company's title to or Westar's security interest in all or any part of the Collateral.

(b) Company hereby authorizes Westar to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of Company. Company agrees that a carbon, photographic or other reproduction of this Agreement or of a financing statement signed by Company shall be sufficient as a financing statement and may be filed as a financing statement in any and all jurisdictions. Company will furnish to Westar from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Westar may reasonably request, all in reasonable detail.

(c) If Company shall obtain rights to any new Patents, Trademarks, Registrations or Trademark Rights, the provisions of this Agreement shall automatically apply thereto. Company shall promptly notify Westar in writing of any rights to any new Patents, Trademarks or Trademark Rights acquired by Company after the date hereof and of any registrations issued or applications for registration made after the date hereof. Concurrently with the filing of an application for registration of any Patent or Trademark, Company shall execute, deliver and record in all places where this Agreement is recorded an appropriate security agreement, substantially in the form hereof, with appropriate insertions, or an amendment to this Agreement, in form and substance satisfactory to Westar, pursuant to which Company shall assign and grant a security interest to the extent of its interest in such registration as provided herein to Westar.

(d) Company hereby grants to Westar and its employees, representatives and agents the right to visit Company's and any of its affiliate's or subcontractor's plants, facilities and other places of business that are utilized in connection with the manufacture, production, inspection, storage or sale of products and services sold or delivered under any of the Trademarks, Registrations or Trademark Rights (or which were so utilized during the prior six month period), and to inspect the quality control and all other records relating thereto upon reasonable notice to Company as often as may be reasonably requested.

SECTION 7. Certain Covenants of Company. Company shall:

(a) not use or permit any Collateral to be used unlawfully or in violation of any provision of this Agreement or any applicable statute, regulation or ordinance or any policy of insurance covering the Collateral;

(b) notify Westar of any change in Company's name, identity or corporate structure within 15 days of such change;

(c) give Westar 30 days' prior written notice of any change in Company's chief place of business, chief executive office or residence or the office where Company keeps its records regarding the Accounts;

(d) if Westar gives value to enable Company to acquire rights in or the use of any Collateral, use such value for such purposes;

(e) pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Collateral, except to the extent the validity thereof is being contested in good faith; provided that Company shall in any event pay such taxes, assessments, charges, levies or claims not later than five days prior to the date of any proposed sale under any judgement, writ or warrant of attachment entered or filed against Company or any of the Collateral as a result of the failure to make such payment; and

(f) use consistent standards of high quality (which may be consistent with Company's past practices) in the manufacture, sale and delivery of products and services sold or delivered under or in connection with the Trademarks, Registrations and Trademark Rights, including, to the extent applicable, in the operation and maintenance of its merchandising operations.

SECTION 8. Special Covenants With Respect to Equipment and Inventory. Company shall:

(a) keep the Equipment and Inventory at the places therefor specified or Schedule D annexed hereto or, upon 30 days' prior written notice to Westar, at such other places in jurisdictions where all action that may be necessary or desirable, or that Westar may request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Westar to exercise and enforce its rights and remedies hereunder, with respect to such Equipment and Inventory shall have been taken.

(b) cause the Equipment to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and shall forthwith, or, in the case of any loss or damage to any of the Equipment when subsection (c) of Section 9 is not applicable, as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements and other improvements in connection therewith that are necessary or desirable to such end. Company shall promptly furnish to Westar a statement respecting any material loss or damage to any of the Equipment; and

(c) keep correct and accurate records of the Inventory, itemizing and describing the kind, type and quantity of Inventory, Company's cost therefor and (where applicable) the current list prices for the Inventory.

SECTION 9. Insurance

(a) Company shall, at its own expense, maintain insurance with respect to the Equipment and Inventory in such amounts, against such risks, in such form and with such insurers as shall be satisfactory to Westar from time to time. Such insurance shall include, without limitation, property damage insurance and liability insurance. Each policy for property damage insurance shall provide for all losses (except for losses of less than \$250,000 per occurrence) to be paid directly to Westar or to the Lender. Each policy shall in addition name Company and Westar as insured parties thereunder (without any representation or warranty by or obligation upon Westar) as their interests may appear and have attached thereto a loss payable clause acceptable to Westar that shall (i) contain an agreement by the insurer that any loss thereunder shall be payable to Westar notwithstanding any action, inaction or breach of representation or warranty by Company, (ii) provide that there shall be no recourse against Westar for payment of premiums or other amounts with respect thereto, and (iii) provide that at least 30 days' prior written notice of cancellation, material amendment, reduction in scope or limits of coverage or of lapse shall be given to Westar by the insurer. Company shall, if so requested by Westar, deliver to Westar original or duplicate policies of such insurance and, as often as Westar may reasonably request, a report of a reputable insurance broker with respect to such insurance. Further, Company shall, at the request of Westar, duly execute and deliver instruments of assignment of such insurance policies to comply with the requirements of Section 6(a) and cause the respective insurers to acknowledge notice of such assignment.

(b) Reimbursement under any liability insurance maintained by Company pursuant to this Section 9 may be paid directly to the Person who shall have incurred liability covered by such insurance. In case of any loss involving damage to Equipment or Inventory when subsection (c) of this Section 9 is not applicable, Company shall make or cause to be made the necessary repairs to or replacements of such Equipment or Inventory, and any proceeds of insurance maintained by Company pursuant to this Section 9 shall be paid to such Company as reimbursement for the costs of such repairs or replacements.

(c) Subject to the Loan Documents, upon (i) the occurrence and during the continuation of any Event of Default or (ii) the actual or constructive loss (in excess of \$250,000 per occurrence) of any Equipment or Inventory, all insurance payments in respect of such Equipment or Inventory shall be paid to and applied by Westar as specified in Section 18.

SECTION 10. Special Covenants with respect to Accounts and Related

Contracts.

(a) Company shall keep its chief place of business and chief executive office and the office where it keeps its records concerning the Accounts and Related Contracts at the location therefor specified in Section 5 or, upon 30 days' prior written notice to Westar, at such other location in a jurisdiction where all action that may be necessary or desirable, or that Westar may request, in order to perfect and protect any security interest granted or purported to be granted hereby, or to enable Westar to exercise and enforce its rights and remedies hereunder, with respect to such Accounts and Related Contracts shall have been taken. Company will hold and preserve such records and will permit representatives of Westar at any time during normal business hours to inspect and make abstracts from such records, and Company agrees to render to Westar, at Company's cost and expense, such clerical and other assistance as may be reasonably requested with regard thereto. Promptly upon the request of Westar, Company shall deliver to Westar complete and correct copies of each Related Contract. Company shall, for not less than 5 years from the date on which such Account arose, maintain (i) complete records of each Account, including records of all payments received, credits granted and merchandise returned, and (ii) all documentation relating thereto.

(b) Except as otherwise provided in this subsection (c), Company shall continue to collect, at its own expense, all amounts due or to become due to Company under the Accounts and Related Contracts. In connection with such collections, Company may take (and, at Westar's direction, shall take) such action as Company or Westar may deem necessary or advisable to enforce collection of amounts due or to become due under the Accounts; provided, however, that Westar shall have the right at any time, following the occurrence and during the continuance of an Event of Default and upon written notice to Company of its intention to do so, to notify the account debtors or obligors under any Accounts of the assignment of such Accounts to Westar and to direct such account debtors or obligors to make payment of all amounts due or to become due to Company thereunder directly to Lender or Westar, to notify each Person maintaining a lockbox or similar arrangement to which account debtors or obligors under any Accounts have been directed to make payment to remit all amounts representing collections on checks and other payment items from time to time sent to or deposited in such lockbox or other arrangement directly to Westar and, upon such notification and at the expense of Company, to enforce collection of any such Accounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as Company might have done. After receipt by Company of the notice from Westar referred to in the proviso to the preceding sentence, subject only to the prior rights of Lender, (i) all amounts and proceeds (including checks and other instruments) received by Company in respect of the Accounts and the Related Contracts shall be received in trust for the benefit of Westar hereunder, shall be segregated from other funds of Company and shall be forthwith paid over or delivered to Westar in the same form as so received (with any necessary endorsement) to be held as cash Collateral and applied as provided by Section 17, and (ii) Company shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon.

SECTION 11. Deposit Accounts. Upon the occurrence and during the continuation of an Event of Default, Westar may exercise dominion and control over, and refuse

to permit further withdrawals (whether of money, securities, instruments or other property) from any deposit accounts maintained with Westar constituting part of the Collateral.

SECTION 12. License of Patents, Trademarks, Copyrights, etc. Company hereby assigns, transfers and conveys to Westar, effective only upon the occurrence and during the continuance of any Event of Default, the nonexclusive right and license to use all trademarks, tradenames, copyrights, patents or technical processes owned or used by Company that relate to the Collateral and any other collateral granted by Company as security for the Secured Obligations, together with any goodwill associated therewith, all to the extent necessary to enable Westar to use, possess and realize on the Collateral and to enable any successor or assign to enjoy the benefits of the Collateral. This right and license shall inure to the benefit of a successors, assigns and transferees of Westar and its successors, assigns and transferees, whether by voluntary conveyance, operation of law, assignment, transfer, foreclosure, deed in lieu of foreclosure or otherwise. Such right and license is granted free of charge, without requirement that any monetary payment whatsoever be made to Company.

SECTION 13. Westar Appointed Attorney-in-Fact. Company hereby irrevocably appoints Westar as Company's attorney-in-fact, with full authority in the place and stead of Company and in the name of Company, Westar or otherwise, from time to time in Westar's discretion following the occurrence and during the continuance of an Event of Default to take any action and to execute any instrument that Westar may deem necessary or advisable to accomplish the purposes of this Agreement and the other Basic Documents, including without limitation:

- (a) to obtain and adjust insurance required to be maintained by Company or paid to Westar pursuant to Section 9;
- (b) to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;
- (c) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clauses (a) and (b) above;
- (d) to file any claims or take any action or institute any proceedings that Westar may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of Westar with respect to any of the Collateral;
- (e) to pay or discharge taxes or Liens (other than Liens permitted under this Agreement or the Loan Agreement) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Westar in its sole discretion, any such payments made by Westar to become joint and several obligations of Company to Westar, due and payable immediately without demand;
- (f) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications and notices in connection with Accounts and other documents relating to the Collateral; and

(g) generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Westar were the absolute owner thereof for all purposes, and to do, at Westar's option and Company's expense, at any time or from time to time, all acts and things that Westar deems necessary to protect, preserve or realize upon the Collateral and Westar's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as any Company might do.

SECTION 14. Westar May Perform. If Company fails to perform any agreement contained herein, Westar may itself perform, or cause performance of, such agreement, and the expenses of Westar incurred in connection therewith shall be payable by Company under Section 18.

SECTION 15. Standard of Care. The powers conferred on Westar hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Westar shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Westar shall be deemed to have exercised reasonable care in the custody and preservation of Collateral in its possession if such Collateral is accorded treatment substantially equal to that which Westar accords its own property.

SECTION 16. Remedies. If any Event of Default shall have occurred and be continuing:

(a) Westar may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code as in effect in any relevant jurisdiction (the "Code") (whether or not the Code applies to the affected Collateral), and also may (a) require any Company to, and each Company hereby agrees that it will at its expense and upon request of Westar forthwith, assemble all or part of the Collateral as directed by Westar and make it available to Westar at a place to be designated by Westar that is reasonably convenient to both parties, (b) enter onto the property where any Collateral is located and take possession thereof with or without judicial process, (c) prior to the disposition of the Collateral, store, process, repair or recondition the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent Westar deems appropriate, (d) take possession of Company's premises or place custodians in exclusive control thereof, remain on such premises and use the same and Company's equipment for the purpose of completing any work in process, taking any actions described in the preceding clause (c) and collecting any Secured Obligation, and (e) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of Westar's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as may deem commercially reasonable. Westar may be the purchaser of any or all of the Collateral at any such sale and Westar shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price for any Collateral payable by Westar at such sale. Each purchaser at any such sale shall hold the

property sold absolutely free from any claim or right on the part of Company, and Company hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Company agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to Company of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Westar shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Westar may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Company hereby waives any claims against Westar arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if Westar accepts the first offer received and does not offer such Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Company shall be liable for the deficiency and the fees of any attorneys employed by Westar to collect such deficiency.

(b) Within five Business Days after written notice from Westar, Company shall make available to Westar, to the extent within Company's power and authority, such personnel in Company's employ on the date of such Event of Default as Westar may reasonably designate, by name, title or job responsibility, to permit Company to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by Company under or in connection with the Trademarks, Registrations and Trademark Rights, such persons to be available to perform their prior functions on Westar's behalf and to be compensated by Westar at Company's expense on a per diem, pro-rata basis consistent with the salary and benefit structure applicable to each as of the date of such Event of Default.

For purposes hereof, "Event of Default" means the occurrence of any one or more of the following events:

(i) failure to pay any Secured Obligation or any Loan when due, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; or failure to pay any interest on any Secured Obligation or Loan or any other amount due under this Agreement or the Loan Agreement within three days after the date due; or

(ii) failure of Company to pay when due any principal of or interest on any items of Indebtedness (other than indebtedness referred to in clause (i) above) with an aggregate principal amount of \$100,000 or more, in each case after any applicable grace period; or (ii) breach or default by Company with respect to any Loan Document or any other term of any items of indebtedness with an aggregate principal amount of \$100,000 or more or any loan agreement, mortgage, indenture or other agreement relating to such indebtedness, if the effect of such breach or default is to cause, or permit any holder thereof to cause, that indebtedness to become or be declared due and payable prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; or

(iii) failure of Company to perform or comply with any term or condition contained in this Agreement or any other Basic Document; or

(iv) any representation, warranty, certification or other statement made by Company in this Agreement or in any statement or certificate at any time given by Company in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect on the date as of which made; or

(v) (A) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of Company or any of its Subsidiaries in an involuntary case under the United States Bankruptcy Code (the "**Bankruptcy Code**") or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (B) an involuntary case shall be commenced against Company or any of their respective subsidiaries under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver liquidator, sequestrator, trustee, custodian or other officer having similar powers over Company or any of their respective subsidiaries, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Company or any of their respective subsidiaries for all or substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any such event described in this clause (B) shall continue for 60 days unless dismissed, bonded or discharged; or

(vi) (A) Company or any of their respective subsidiaries shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or Company or any of their respective subsidiaries shall make any assignment for the benefit of creditors; or (B) Company or any of their respective subsidiaries shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the Board of Directors of Company or any of their respective subsidiaries (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clause (A) above or this clause (B).

SECTION 17. Application of Proceeds. Except as expressly provided elsewhere in this Agreement, all proceeds received by Westar in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of Westar, be held by Westar as Collateral for, and/or then, or at any other time thereafter, applied in full or in part by Westar against, the Secured Obligations in the following order of priority:

FIRST: To the payment of all costs and expenses of such sale, collection or other realization, including reasonable compensation to Westar and its agents and counsel, and all other expenses, liabilities and advances made or incurred by Westar in connection therewith, and all amounts for which Westar is entitled to indemnification hereunder and all advances made by Westar hereunder for the account of Company, and to the payment of all costs and expenses paid or incurred by Westar in connection with the exercise of any right or remedy hereunder, all in accordance with Section 18;

SECOND: To the payment of all other Secured Obligations in such order as Westar shall elect; and

THIRD: To the payment to or upon the order of Company, or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, of any surplus then remaining from such proceeds.

SECTION 18. Indemnity and Expenses.

(a) Company agrees to indemnify Westar from and against any and all costs, claims, damages, demands, losses, liabilities and expenses (including attorneys' fees) in any way relating to, growing out of or resulting from this Agreement, the Guaranty, any other Basic Documents and the transactions contemplated hereby and thereby (including, without limitation, enforcement of this Agreement and the Westar Subrogation Rights), except to the extent such claims, losses or liabilities result solely from Westar's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction

(b) Company shall pay to Westar upon demand the amount of any and all costs and expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, that Westar may incur in connection with (i) the preparation, negotiation and issuance of the Warrants and the Common Stock; (ii) the administration of this Agreement, the Guaranty and the other Basic Documents (iii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (iv) the exercise or enforcement of any of the rights of Westar under any Basic Documents, including the Westar Subrogation Rights, or (v) the failure by Company to perform or observe any of the provisions hereof or thereof.

SECTION 19. Suretyship Waivers by Company, etc.

(a) Company agrees that its obligations under the Basic Documents and the Westar Subrogation Rights are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of such obligations. In furtherance of the foregoing and without limiting the generality thereof, Company agrees as follows: (i) Westar may from time to time, without notice or demand and without affecting the validity or enforceability of this Agreement, any other Basic Document or the Westar Subrogation Rights or giving rise to any limitation, impairment or discharge of Company's liability hereunder or under any other Basic Document or the Westar Subrogation Rights, (A) renew, extend, accelerate or

otherwise change the time, place, manner or terms of payment of any Secured Obligations or, the Guaranty, or any Westar Subrogation Rights, (B) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, any Secured Obligations, the Guaranty or any Westar Subrogation Rights, or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations, (C) request and accept guaranties of any Secured Obligations and take and hold other security for the payment of any Secured Obligations, (D) release, exchange, compromise, subordinate or modify, with or without consideration, any other security for payment of any Secured Obligations, the Guaranty, any Westar Subrogation Rights, any guaranties of any Secured Obligations, the Guaranty, any Westar Subrogation Rights or any other obligation of any Person with respect to any Secured Obligations, the Guaranty or any Westar Subrogation Rights, (E) enforce and apply any other security now or hereafter held by or for the benefit of any Secured Obligations, the Guaranty, any Westar Subrogation Rights and direct the order or manner of sale thereof, or exercise any other right or remedy that Westar may have against any such security, as Westar in its discretion may determine, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and (F) exercise any other rights available to Westar under the any Basic Document, at law or in equity; and (ii) this Agreement, the other Basic Documents, and the obligations of Company hereunder and thereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full of the Secured Obligations), including without limitation the occurrence of any of the following, whether or not Company shall have had notice or knowledge of any of them: (A) any failure to assert or enforce or agreement not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy with respect to any Secured Obligations, the Guaranty, any Westar Subrogation Rights, or any agreement relating thereto, or with respect to any guaranty of or other security for the payment of any Secured Obligations, the Guaranty, any Westar Subrogation Rights, (B) any waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Secured Obligations, any Basic Document or any agreement or instrument executed pursuant thereto, or of any guaranty or other security for the Secured Obligations, the Guaranty, the Westar Subrogation Rights, (C) any Secured Obligations, the Guaranty, any Westar Subrogation Rights or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect, (D) the application of payments received from any source to the payment of indebtedness other than the Secured Obligations, even though Westar might have elected to apply such payment to any part or all of the Secured Obligations, the Guaranty, any Westar Subrogation Rights, (E) any failure to perfect or continue perfection of a security interest in any other collateral which secures any of any Secured Obligations, the Guaranty, or any Westar Subrogation Rights, (F) any defenses, set-offs or counterclaims which Company may allege or assert against Westar in respect of any Secured Obligations, the Guaranty, or any Westar Subrogation Rights, including but not limited to failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury, and (G) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Company as an obligor in respect of any Secured Obligations or the Guaranty or any Westar Subrogation Rights.

(b) Company hereby waives, for the benefit of Westar: (i) any right to require Westar, as a condition of payment or performance by any Company, to (A) proceed against any guarantor of any Secured Obligations or Westar Subrogation Rights or any other Person, (B) proceed against or exhaust any other security held from any guarantor of any Secured Obligations or Westar Subrogation Rights or any other Person, (C) proceed against or have resort to any balance of any deposit account or credit on the books of Westar in favor of any other Person, or (D) pursue any other remedy in the power of Westar whatsoever; (ii) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Company including, without limitation, any defense based on or arising out of the lack of validity or the unenforceability of any Secured Obligations or Westar Subrogation Rights or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Person from any cause other than payment in full of any Secured Obligations or Westar Subrogation Rights, as the case may be; (iii) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (iv) any defense based upon Westar's errors or omissions in the administration of any Secured Obligations or Westar Subrogation Rights or any Basic Document, except behavior which amounts to bad faith; (v) (A) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of any Basic Document or any Westar Subrogation Rights and any legal or equitable discharge of any Company's obligations under any Basic Document or any Westar Subrogation Rights, (B) the benefit of any statute of limitations affecting any Company's liability under or the enforcement of any Basic Document or any Westar Subrogation Rights, (C) any rights to set-offs, recoupments and counterclaims, and (D) promptness, diligence and any requirement that Westar protect, secure, perfect or insure any other security interest or lien or any property subject thereto; (vi) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, notices of default under any Basic Document or any Westar Subrogation Rights or any agreement or instrument related thereto, notices of any renewal, extension or modification of any Secured Obligations, any Basic Document or any Westar Subrogation Rights or any agreement related thereto, notices of any extension of credit or payment under the Guaranty or any other Basic Document or any Westar Subrogation Rights to any Company and notices of any of the matters referred to in the preceding paragraph and any right to consent to any thereof; and (vii) to the fullest extent permitted by law, any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of any Basic Document or any Westar Subrogation Rights.

(c) As used in this Section 19(c), any reference to "the principal" includes each Company, and any reference to "the creditor" includes Westar. In accordance with Section 2856 of the California Civil Code (a) each Company waives any and all rights and defenses available to any Company by reason of Sections 2787 to 2855, inclusive, 2899 and 3433 of the California Civil Code, including without limitation any and all rights or defenses any Company may have by reason of protection afforded to the principal with respect to any of the Secured Obligations, or to any guarantor of any of the Secured Obligations with respect to any of such guarantor's obligations under its guaranty, in either case pursuant to the antideficiency or other laws of the State of California limiting or discharging the principal's indebtedness or such guarantor's obligations, including without limitation Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure; and (b) Company waives all rights and defenses arising out

of an election of remedies by the creditor, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for any of the Secured Obligations, has destroyed Company's rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise; and even though that election of remedies by the creditor, such as nonjudicial foreclosure with respect to security for an obligation of any guarantor of any of the Secured Obligations, has destroyed Company's rights of contribution against such guarantor. No other provision of this Agreement shall be construed as limiting the generality of any of the covenants and waivers set forth in this Section 19(c).

(d) Until the Secured Obligations shall have been paid in full and Guaranty shall have expired or been cancelled, Company shall withhold exercise of (i) any claim, right or remedy, direct or indirect, that Company now has or may hereafter have against any other person or any of its assets in connection with any Basic Document or the performance by Company of its obligations hereunder, in each case whether such claim, right or remedy arises in equity under contract, by statute (including without limitation under California Civil Code Section 2847, 2848 or 2849), under common law or otherwise and including without limitation (A) any right of subrogation, reimbursement or indemnification that Company now has or may hereafter have against any other person, (B) any right to enforce, or to participate in, any claim, right or remedy that Westar now has or may hereafter have against any other person, and (C) any benefit of, and any right to participate in, any other collateral or security now or hereafter held by Westar and (ii) any right of contribution Company may have against any guarantor of any Secured Obligations. Company further agrees that, to the extent the waiver of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification Company may have against any other person or against any other collateral or security, and any rights of contribution Company may have against any such guarantor, shall be junior and subordinate to any rights Westar or Lender may have against Company, to all right, title and interest Westar or Lender may have in any such other collateral or security, and to any right Westar or Lender may have against any such guarantor.

SECTION 20. Continuing Security Interest; Transfer of Loans. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until the payment in full of the Secured Obligations and the cancellation or termination of the Guaranty, (b) be binding upon Company and its successors and assigns, and (c) inure, together with the rights and remedies of Westar hereunder, to the benefit of Westar and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (c), Westar may assign or otherwise transfer any Secured Obligations held by it to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to Westar herein or otherwise. Upon the payment in full of all Secured Obligations and the cancellation or termination of the Guaranty, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to Company. Upon any such termination Westar will, at Company's expense, execute and deliver to Company such documents as Company shall reasonably request to evidence such termination.

SECTION 21. Amendments; Etc. No amendment, modification, termination or waiver of any provision of this Agreement and no consent to any departure by Company therefrom, shall in any event be effective unless the same shall be in writing and signed by

Westar and, in the case of any such amendment or modification, by Company. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

SECTION 22. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service, upon receipt of telefacsimile or telex, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed. For the purposes hereof, the address of each party hereto shall be as set forth under such party's name on the signature pages hereof or, as to either party, such other address as shall be designated by such party in a written notice delivered to the other party hereto.

SECTION 23. Failure or Indulgence Not Waiver; Remedies Cumulative. No failure or delay on the part of Westar in the exercise of any power, right or privilege hereunder shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude any other or further exercise thereof or of any other power, right or privilege. All rights and remedies existing under this Agreement are cumulative to and not exclusive of, any rights or remedies otherwise available.

SECTION 24. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 25. Headings. Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 26. Governing Law; Terms. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, EXCEPT TO THE EXTENT THAT THE CODE PROVIDES THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF CALIFORNIA. Unless otherwise defined herein or in the Credit Agreement, terms used in Articles 8 and 9 of the Uniform Commercial Code in the State of California are used herein as therein defined.

SECTION 27. Consent to Jurisdiction and Service of Process. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST COMPANY ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF CALIFORNIA, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT COMPANY ACCEPTS FOR

ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE NONEXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. Company hereby agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to Company at its address provided in Section 22, such service being hereby acknowledged by Company to be sufficient for personal jurisdiction in any action against Company in any such court and to be otherwise effective and binding service in every respect. Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of Westar to bring proceedings against Company in the courts of any other jurisdiction.

SECTION 28. Waiver of Jury Trial. COMPANY AND WESTAR HEREBY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Company and Westar each acknowledge that this waiver is a material inducement for Company and Westar to enter into a business relationship that Company and Westar have already relied on this waiver in entering into this Agreement and that each will continue to rely on this waiver in their related future dealings. Company and Westar further warrant and represent that each has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

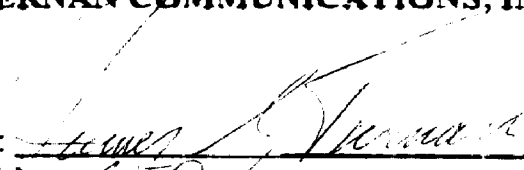
SECTION 29. Interest and Charges. It is not the intention of any parties to this Agreement to make an agreement in violation of the laws of any applicable jurisdiction relating to usury. Regardless of any provision in this Agreement, no holder of the Secured Obligations relating to the making of Guaranty Payments (the "Reimbursement Obligations") shall ever be entitled to receive, collect or apply, as interest on Reimbursement Obligations, any amount in excess of the Highest Lawful Rate. If any holder or participant ever receives, collects or applies, as interest, any such excess, such amount which would be excessive interest shall be deemed a partial repayment of principal and treated hereunder as such; and if principal is paid in full, any remaining excess shall be paid to Company. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the Highest Lawful Rate, Company and the holders of the Reimbursement Obligations shall, to the maximum extent permitted under applicable law, (a) characterize any nonprincipal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effect thereof, and (c) amortize prorate, allocate and spread in equal parts, the total amount of interest throughout the entire term of the Reimbursement Obligations so that the interest rate is uniform throughout the entire term of the Reimbursement Obligations; provided however, that if the Reimbursement Obligations

are paid and performed in full, and if the interest received for the actual period of existence thereof exceeds the Highest Lawful Rate, the holders of the Reimbursement Obligations shall refund to the Reimbursement Obligations the amount of such excess or credit the amount of such excess against the total principal amount of the Reimbursement Obligations owing, and, in such event, the holders of the Reimbursement Obligations shall not be subject to any penalties provided by any laws for contracting for, charging or receiving interest in excess of the Highest Lawful Rate. For purposes hereof, "Highest Lawful Rate" means at the particular time in question the maximum rate of interest which under applicable law, the holders of the Reimbursement Obligations are then permitted to charge. If the maximum rate of interest which, under applicable law, the holders of the Reimbursement Obligations are permitted to charge on the Reimbursement Obligations shall change after the date hereof, the Highest Lawful Rate shall be automatically increased or decreased, as the case may be, from time to time as the effective time of such change in the Highest Lawful Rate without notice to the Company.

SECTION 30. Counterparts. This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

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

TIERNAN COMMUNICATIONS, INC.

By: 
Title: CEO

Notice Address: 5751 Copley Drive
San Diego, CA 92111

WESTAR CAPITAL II, LLC

By: Westar Capital Associates II, LLC

By: _____
Title: _____

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

WESTAR CAPITAL

By: Westar Capital Associates L.P.

By: _____
Title: _____

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

STATE OF CALIFORNIA)
) SS.:
COUNTY OF San Diego)

On January 15, 1999, before me, Kathleen Redding, a Notary Public in and for said State, personally appeared James Tiernan personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Kathleen Redding (Seal)



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


TIERNAN COMMUNICATIONS, INC.

By: _____
Title: _____

Notice Address: 5751 Copley Drive
San Diego, CA 92111

WESTAR CAPITAL II, LLC


By: Westar Capital Associates II LLC

By: 
Title: Member

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

WESTAR CAPITAL

By: Westar Capital Associates L.P.

By: 
Title: Partner

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

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

TIERNAN COMMUNICATIONS, INC.

By: _____
Title: _____

Notice Address: 5751 Copley Drive
San Diego, CA 92111

WESTAR CAPITAL II, LLC

By: Westar Capital Associates II, LLC

By: Alan B. Sullivan
Title: Member

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

WESTAR CAPITAL

By: Westar Capital Associates L.P.

By: Alan B. Sullivan
Title: Partner

Notice Address: 949 South Coast Drive
Suite 650
Costa Mesa, CA 92626

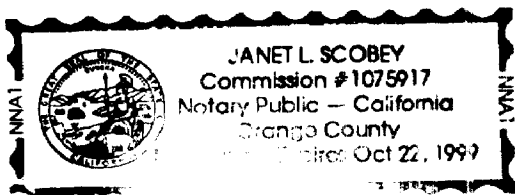
STATE OF CALIFORNIA)
) SS.
COUNTY OF Orange)

On January - 6, 1999, before me, Janet L. Scobey, a Notary Public in and for said State, personally appeared Alvin Sellers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Janet L. Scobey (Seal)

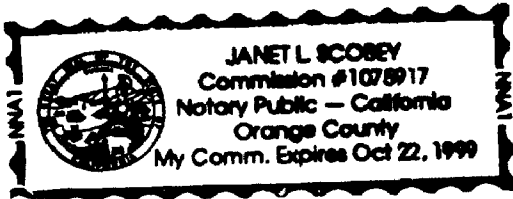


STATE OF CALIFORNIA)
) SS.
COUNTY OF Orange)

On January 6, 1999, before me, Janet L. Scooby, a Notary Public in and for said State, personally appeared Alan Sellers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Janet L. Scooby (Seal)



**SCHEDULE A
TO
REIMBURSEMENT AND SECURITY AGREEMENT**

REGISTERED TRADEMARKS

<u>Trademark</u>	<u>Filing Date</u>	<u>Registration No.</u>
Tiernan Communications	October 20, 1998	2,196,960

SCHEDULE B**TO REIMBURSEMENT AND SECURITY AGREEMENT**PATENTS ISSUED

<u>Patent Description/Title</u>	<u>Issue Date</u>	<u>Patent Number</u>	<u>Name of Inventor</u>	<u>Application Number</u>
Method and Apparatus for Determining a Location of a Subscriber Device in a Wireless Cellular Communications Systems	09/29/98	5,815,538	Conrad Grell, Jeremy Guralnick, Ilan J. Rothmuller, Chris Bennett, Michael Theiss-Aird	08/585,261

PATENT APPLICATIONS

<u>Description</u>	<u>Application Date</u>	<u>Application Number</u>
Fractionally-Spaced Adaptively Equalized Self-Recovering Digital Receiver for Amplitude-Phase Modulated Signals	01/21/97	08/784,607
Method for Universal Messaging and Multiplexing of Video, Audio and Data Streams	07/03/96	08/675,358
System and Method for Digitally Encoding and Compressing Analog Signals Carried in the Vertical Blanking Interval of a Television Signal	07/29/97	08/902,74
Apparatus and Method for Multi-Service Transport Multiplexing	10/06/97	08/944,902
Apparatus and Method for Multiplexing with Small Buffer Depth	09/02/98	09/145,18
Method and Apparatus for Video Compression with Reduced Delay	07/16/98	09/116,196
Method and Apparatus for High Data Rate B PSK Modulation and Demodulation using Trellis Coding	03/12/98	60/077,739
MPEG-2 Engine Based Scalable Architecture for MPEG-2 Compression	01/26/98	60/072,436
Method and Apparatus for Advanced Television Signal Encoding and Decoding Using MPEG-2 Engine Based Scalable Architecture	04/03/98	09/054,427
Universal Reed-Solomon Coder-Decoder	03/12/98	60/077,740
Decoding Algorithm for Dual-Mode Pragmatic TCH BPSK (Rate 2/3 and Rate 5/6) Modem with Simulations	01/09/98	60/070,869
Method and Apparatus for Scalable Redundancy Switching for Encoders	08/28/98	09/141,934

Description	Application Date	Application Number
45 Degree Phase Ambiguity Resolution for One Coded Bit Per Symbol BPSK Modulation	04/17/98	60 082 200
Digital Implementation of Chrominance Identification Signals in Vertical Blanking Interval for SECAM Video Broadcasting	04/17/98	60 082 198
Method and Apparatus for Generating Chrominance Identification Signals for Broadcasting	10/21/98	09 76 121
Dynamic Multiplexing for Optimal Channel Utilization	04/17/98	60 082 146
Method and Apparatus for Decoding High Order Trellis-Coded Modulation by Using Viterbi Decoder of OPSK	04/17/98	60 082 199

**SCHEDULE C
TO REIMBURSEMENT AND SECURITY AGREEMENT**

Existing Indebtedness*

Imperial Line of Credit	1,479,671
Imperial L/T debt	868,125
Jim Tiernan - Subordinate	213,686
Chris Bennett - Subordinate	49,634
Fred Harris - Subordinate	66,178
Brian Trexel	26,444
Accrued payroll	149,500
Accrued vacation	280,700
Accrued commissions	43,305
Deferred revenue	34,820
Sales tax payable	47,941
Use tax payable	45,241
Shareholder notes	15,000
Other	<u>3,000</u>
	<u><u>3,423,245</u></u>

*The amounts set forth in this Schedule C are stated as of November 30, 1998. There have been no material changes to such amounts since November 30, 1998.

Existing Liens and Encumbrances

Existing liens are disclosed in the UCC Search Report effective December 8, 1998

**SCHEDULE D
TO REIMBURSEMENT AND SECURITY AGREEMENT**

Locations of Equipment and Inventory:

Property Location

Tiernan's principal place of business is 5751 Copley Drive, San Diego, CA 92121. All material property is at this location.

Tiernan has a small subsidiary, Tiernan Communications Limited, located at 8, Orrel Court, Wilsom Road, Alton GU34 2YT, United Kingdom. Tiernan is also in the process of closing a small office in Belgium. There is less than \$200,000 of combined property between the UK and Belgian locations.