

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Billing Concepts, Inc.		06/30/2011	CORPORATION: DELAWARE

**RECEIVING PARTY DATA**

<b>Name:</b>	Texas Capital Bank, National Association
<b>Street Address:</b>	745 East Mulberry, Suite 350
<b>City:</b>	San Antonio
<b>State/Country:</b>	TEXAS
<b>Postal Code:</b>	78212
<b>Entity Type:</b>	national banking association: UNITED STATES

**PROPERTY NUMBERS Total: 13**

Property Type	Number	Word Mark
Registration Number:	2405213	BC WEBTRACK
Registration Number:	2221736	BILLING CONCEPTS
Registration Number:	2405304	
Registration Number:	2399226	USBI
Registration Number:	1789626	USBI
Registration Number:	2214786	ZERO PLUS DIALING
Registration Number:	2405302	ZPDI
Registration Number:	1716366	ZPDI
Registration Number:	2829369	BC BETI
Registration Number:	3036175	BCPAY
Registration Number:	3094823	EZ-WI
Registration Number:	3223632	ENABILL
Registration Number:	3325350	BC WEBEDITOR

**CORRESPONDENCE DATA**

**900203453**

**TRADEMARK  
 REEL: 004633 FRAME: 0277**

**CH \$340.00 2405213**

Fax Number: (214)661-6630  
Phone: 214-953-5864  
Email: aolson@jw.com

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.*

Correspondent Name: Andrew D. Olsan  
Address Line 1: 901 Main Street, Suite 6000  
Address Line 4: Dallas, TEXAS 75202

ATTORNEY DOCKET NUMBER:	106916.999
NAME OF SUBMITTER:	Andrew D. Olsan
Signature:	/Andrew D. Olsan/
Date:	09/30/2011

**Total Attachments: 40**

source=Billing Concepts, Inc.SecurityAgreement#page1.tif  
source=Billing Concepts, Inc.SecurityAgreement#page2.tif  
source=Billing Concepts, Inc.SecurityAgreement#page3.tif  
source=Billing Concepts, Inc.SecurityAgreement#page4.tif  
source=Billing Concepts, Inc.SecurityAgreement#page5.tif  
source=Billing Concepts, Inc.SecurityAgreement#page6.tif  
source=Billing Concepts, Inc.SecurityAgreement#page7.tif  
source=Billing Concepts, Inc.SecurityAgreement#page8.tif  
source=Billing Concepts, Inc.SecurityAgreement#page9.tif  
source=Billing Concepts, Inc.SecurityAgreement#page10.tif  
source=Billing Concepts, Inc.SecurityAgreement#page11.tif  
source=Billing Concepts, Inc.SecurityAgreement#page12.tif  
source=Billing Concepts, Inc.SecurityAgreement#page13.tif  
source=Billing Concepts, Inc.SecurityAgreement#page14.tif  
source=Billing Concepts, Inc.SecurityAgreement#page15.tif  
source=Billing Concepts, Inc.SecurityAgreement#page16.tif  
source=Billing Concepts, Inc.SecurityAgreement#page17.tif  
source=Billing Concepts, Inc.SecurityAgreement#page18.tif  
source=Billing Concepts, Inc.SecurityAgreement#page19.tif  
source=Billing Concepts, Inc.SecurityAgreement#page20.tif  
source=Billing Concepts, Inc.SecurityAgreement#page21.tif  
source=Billing Concepts, Inc.SecurityAgreement#page22.tif  
source=Billing Concepts, Inc.SecurityAgreement#page23.tif  
source=Billing Concepts, Inc.SecurityAgreement#page24.tif  
source=Billing Concepts, Inc.SecurityAgreement#page25.tif  
source=Billing Concepts, Inc.SecurityAgreement#page26.tif  
source=Billing Concepts, Inc.SecurityAgreement#page27.tif  
source=Billing Concepts, Inc.SecurityAgreement#page28.tif  
source=Billing Concepts, Inc.SecurityAgreement#page29.tif  
source=Billing Concepts, Inc.SecurityAgreement#page30.tif  
source=Billing Concepts, Inc.SecurityAgreement#page31.tif  
source=Billing Concepts, Inc.SecurityAgreement#page32.tif  
source=Billing Concepts, Inc.SecurityAgreement#page33.tif  
source=Billing Concepts, Inc.SecurityAgreement#page34.tif  
source=Billing Concepts, Inc.SecurityAgreement#page35.tif

source=Billing Concepts, Inc.SecurityAgreement#page36.tif  
source=Billing Concepts, Inc.SecurityAgreement#page37.tif  
source=Billing Concepts, Inc.SecurityAgreement#page38.tif  
source=Billing Concepts, Inc.SecurityAgreement#page39.tif  
source=Billing Concepts, Inc.SecurityAgreement#page40.tif

## SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "**Security Agreement**") is entered into as of June 30, 2011 by and among BILLING CONCEPTS, INC., a Delaware corporation ("**Grantor**"), and TEXAS CAPITAL BANK, NATIONAL ASSOCIATION, a national banking association (together with its Affiliates, "**Agent**") on behalf of itself and the lenders (the "**Lenders**") from time to time a party to the Credit Agreement (as herein defined).

### RECITALS

WHEREAS, BILLING SERVICES GROUP NORTH AMERICA, INC., a Delaware corporation ("**Borrower**"), Agent, and the Lenders are entering into a Credit Agreement dated as of even date herewith (as it may be amended, restated or modified from time to time, the "**Credit Agreement**").

WHEREAS, Grantor is entering into this Security Agreement (as it may be amended, restated or modified from time to time, the "**Security Agreement**") in order to, among other things, induce Agent and the Lenders to enter into and extend credit to Borrower under the Credit Agreement.

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

#### 1. DEFINITIONS

1.1. **Reference to Security Agreement.** Unless otherwise specified, all references herein to Articles, Sections, Recitals, and Schedules refer to Articles and Sections of, and Recitals and Schedules to, this Security Agreement. All Schedules include amendments and supplements thereto from time to time.

1.2. **Principles of Construction.** Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neutral, as the context indicates is appropriate. Whenever the words "include," "includes" or "including" are used in this Security Agreement, they shall be deemed to be followed by the words "without limitation". All references to agreements and other contractual Instruments shall be deemed to include subsequent amendments, permitted assignments and other modifications thereto, but only to the extent such amendments, assignments and other modifications are not prohibited by the terms of any Loan Document. Furthermore, any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing, or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, or supplemented from time to time.

1.3. **Definitions.** Unless otherwise defined herein, or the context hereof otherwise requires, each term defined in either the Credit Agreement or the UCC is used in this Security Agreement with the same meaning; *provided that*, if the definition given to such term in the Credit Agreement conflicts with the definition given to such term in the UCC, the Credit

Agreement definition shall control to the extent legally allowable; and if any definition given to such term in Article 9 of the UCC conflicts with the definition given to such term in any other chapter of the UCC, the Article 9 definition shall prevail. As used herein, the following terms have the meanings indicated:

“**Account**” means any “*account*,” as such term is defined in *Section 9.102(a)(2)* of the UCC.

“**Account Debtor**” means any person who is obligated on a Receivable.

“**Call Record**” means a call record for direct dialed calls, operator-assisted third party calls, collect calls, telephone calling card calls, person-to-person calls, enhanced calls, credit card calls, charges to the local telephone bill created from digital content downloads and similar services, and such other calls and services originated by an end user through a customer and processed by the Grantor in the ordinary course of its business.

“**Cash Collateral Account**” has the meaning set forth in *Section 5.5*.

“**Chattel Paper**” means any “*chattel paper*”, as such term is defined in *Section 9.102(a)(11)* of the UCC, including all Electronic Chattel Paper and Tangible Chattel Paper.

“**Claims**” has the meaning set forth in *Section 6.18*.

“**Collateral**” has the meaning set forth in *Section 2.1*.

“**Collateral Note Security**” means all rights, titles, interests, and Liens Grantor may have, be, or become entitled to under all present and future loan agreements, security agreements, pledge agreements, deeds of trust, mortgages, guarantees, or other Documents assuring or securing payment of or otherwise evidencing the Collateral Notes, including those set forth on *Schedule 3.10*.

“**Collateral Notes**” means all rights, titles, and interests of Grantor in and to all promissory notes and other Instruments payable to Grantor, including all inter-company notes from the subsidiaries of Grantor and those set forth on *Schedule 3.10*.

“**Collateral Records**” means books, records, ledger cards, files, correspondence, customer lists, blueprints, technical specifications, manuals, computer software, computer printouts, tapes, disks and related data processing software and similar items 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.

“**Collateral Support**” means all property (real or personal) assigned, hypothecated or otherwise securing any Collateral and shall include any security agreement or other agreement granting a Lien or security interest in such real or personal property.

**“Commercial Tort Claims”** means any “*commercial tort claim*”, as such term is defined in *Section 9.102(a)(13)* of the UCC, including all commercial tort claims listed on *Schedule 3.10*.

**“Commodity Account”** means any “*commodity account*”, as such term is defined in *Section 9.102(a)(14)* of the UCC, and all sub-accounts thereof.

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

**“Control”** has the meaning set forth in *Sections 7.106, 8.106, 9.104, 9.105, 9.106, or 9.107* of the UCC, as applicable.

**“Controlled Foreign Corporation”** means “*controlled foreign corporation*” as defined in the Internal Revenue Code of 1986.

**“Copyright Licenses”** means any and all agreements providing for the granting of any right in or to Copyrights (whether Grantor is licensee or licensor thereunder), including each agreement referred to on *Schedule 3.17*.

**“Copyrights”** means all United States and foreign copyrights (including Community designs), including copyrights in software and databases, and all Mask Works (as defined under 17 U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, and, with respect to any and all of the foregoing: (a) all registrations and applications therefor, including the registrations and applications referred to on *Schedule 3.17*; (b) all extensions and renewals thereof; (c) all rights corresponding thereto throughout the world; (d) all rights to sue for past, present and future infringements thereof; and (e) all products and Proceeds of the foregoing, including any income, royalties, and awards and any claim by Grantor against third parties for past, present, or future infringement of any Copyright or any Copyright licensed under any Copyright License.

**“Deposit Accounts”** means any “*deposit account*”, as such term is defined in *Section 9.102(a)(29)* of the UCC, including those deposit accounts identified on *Schedule 3.10*, and any account which is a replacement or substitute for any of such accounts, together with all monies, Instruments, certificates, checks, drafts, wire transfer receipts, and other property deposited therein and all balances therein.

**“Documents”** means any “*document*”, as such term is defined in *Section 9.102(a)(30)* of the UCC.

**“Electronic Chattel Paper”** means any “*electronic chattel paper*”, as such term is defined in *Section 9.102(a)(31)* of the UCC.

**“Equipment”** means: (a) any “*equipment*”, as such term is defined in *Section 9.102(a)(33)* of the UCC; (b) all machinery, equipment, furnishings, Fixtures, and Vehicles; and (c) any and all additions, substitutions, and replacements of any of the foregoing.

wherever located, together with all attachments, components, parts, equipment, and accessories installed thereon or affixed thereto (in each case, regardless of whether characterized as equipment under the UCC).

**“Excluded Equity”** means any voting stock in excess of sixty-five percent (65%) of the outstanding voting stock of any Controlled Foreign Corporation, which, pursuant to the terms of the Credit Agreement, is not required to guaranty the Obligations. For the purposes of this definition, **“voting stock”** means, with respect to any issuer, the issued and outstanding shares of each class of stock of such issuer entitled to vote (within the meaning of *Treasury Regulations §1.956-2(c)(2)*).

**“Excluded Property”** means, collectively, (a) Excluded Equity, (b) Call Records, and (c) any permit or license or any Contractual Obligation of Grantor (i) that prohibits or requires the consent of any Person other than Borrower and its Affiliates which has not been obtained as a condition to the creation by Grantor of a Lien on any right, title or interest in such permit, license or Contractual Obligation related thereto or (ii) to the extent that any Requirement of Law applicable thereto prohibits the creation of a Lien thereon, but only, with respect to the prohibition in *clauses (i) and (ii)* of this definition, to the extent, and for as long as, such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by the UCC or any other Requirement of Law, (iii) any Property owned by Grantor that is subject to a purchase money Lien or a capital lease permitted under the Credit Agreement if the Contractual Obligation pursuant to which such Lien is granted (or in the document providing for such capital lease) prohibits or requires the consent of any Person other than Borrower and its Affiliates which has not been obtained as a condition to the creation of any other Lien on such equipment, and (iv) any “intent to use” Trademark applications for which a statement of use has not been filed (but only until such statement is filed); *provided, however*, **“Excluded Property”** shall not include any proceeds, products, substitutions, or replacements of Excluded Property (unless such proceeds, products, substitutions, or replacements would otherwise constitute Excluded Property).

**“Fixtures”** means any “*fixtures*”, as such term is defined in *Section 9.102(a)(41)* of the UCC.

**“General Intangibles”** means: (a) any “*general intangibles*”, as such term is defined in *Section 9.102(a)(42)* of the UCC; and (b) all interest rate or currency protection or hedging arrangements, computer software, computer programs, all tax refunds and tax refund claims, all licenses, permits, concessions and authorizations, all contract rights, all joint venture interests, partnership interests, or membership interests that do not constitute a Security, all Material Agreements, and all Intellectual Property (in each case, regardless of whether characterized as general intangibles under the UCC).

**“Goods”** means: (a) “*goods*”, as that term is defined in *Section 9.102(a)(44)* of the UCC; (b) all Inventory; and (c) all Equipment (in each case, regardless of whether characterized as goods under the UCC).

**“Grantor”** has the meaning set forth in the introductory paragraph.

**“Hedge Agreement”** means (a) any and all interest rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules and annexes, a **“Master Agreement”**) and (c) any and all Master Agreements and any and all related confirmations.

**“Instrument”** means any **“instrument”**, as such term is defined in *Section 9.102(a)(47)* of the UCC, including the Collateral Notes.

**“Intellectual Property”** means, collectively, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks, the Trademark Licenses, the Trade Secrets, and the Trade Secret Licenses.

**“Inventory”** means: (a) any **“inventory”**, as such term is defined in *Section 9.102(a)(48)* of the UCC; (b) all wrapping, packaging, advertising, and shipping materials; (c) all goods that have been returned, repossessed, or stopped in transit; (d) all Documents evidencing any of the foregoing; and (e) all computer programs embedded in any goods and all accessions thereto and products thereof (in each case, regardless of whether characterized as inventory under the UCC).

**“Letter-of-Credit Right”** means any **“letter-of-credit right”**, as such term is defined in *Section 9.102(a)(51)* of the UCC.

**“Material Agreements”** means: (a) all of Grantor’s rights, titles, and interests in, to, and under those contracts listed on *Schedule 3.10*, including all rights of Grantor to receive moneys due and to become due under or pursuant to the Material Agreements; (b) all rights of Grantor to receive Proceeds of any insurance, indemnity, warranty, or guaranty with respect to the Material Agreements; (c) all claims of Grantor for damages arising out of or for breach of or default under the Material Agreements; and (d) all rights of Grantor to compel performance and otherwise exercise all rights and remedies under the Material Agreements.

**“Maximum Liability”** has the meaning set forth in *Section 6.2(a)*.

**“Money”** means **“money”** as defined in *Section 1.201(b)(24)* of the UCC.

**“Obligations”** means **“Obligations”** as defined in the Credit Agreement.



“**Patent Licenses**” means all agreements providing for the granting of any right in or to Patents (whether Grantor is licensee or licensor thereunder), including each agreement referred to on **Schedule 3.17**.

“**Patents**” means all United States and foreign patents and certificates of invention, or similar industrial property rights, and applications for any of the foregoing, including: (a) each patent and patent application referred to on **Schedule 3.17**; (b) all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof; (c) all rights corresponding thereto throughout the world; (d) all inventions and improvements described therein; (e) all rights to sue for past, present and future infringements thereof; (f) all licenses, claims, damages, and Proceeds of suit arising therefrom; and (g) all products and Proceeds of the foregoing, including any income, royalties, and awards and any claim by Grantor against third parties for past, present, or future infringement of any Patent or any Patent licensed under any Patent License.

“**Permitted Liens**” means Liens permitted under **Section 4.2(f)**.

“**Proceeds**” means any “*proceeds*,” as such term is defined in **Section 9.102(a)(65)** of the UCC.

“**Receivables**” means the Accounts, Chattel Paper, Documents, Instruments, or Commercial Tort Claims, and any other rights or claims to receive Money which are General Intangibles or which are otherwise included as Collateral, together with all of the Grantor’s rights, if any, in all Collateral Support and Supporting Obligations related thereto.

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

“**Secured Obligations**” means the Obligations, whether or not (a) such Obligations arise or accrue before or after the filing by or against Grantor of a petition under the Bankruptcy Code, or any similar filing by or against Grantor under the laws of any jurisdiction, or any bankruptcy, insolvency, receivership or other similar proceeding, (b) such Obligations are allowable under **Section 502(b)(2)** of the Bankruptcy Code or under any other insolvency proceedings, (c) the right of payment in respect of such Obligations is reduced to judgment, or (d) such Obligations are liquidated, unliquidated, similar, dissimilar, related, unrelated, direct, indirect, fixed, contingent, primary, secondary, joint, several, or joint and several, matured, disputed, undisputed, legal, equitable, secured, or unsecured.

“**Securities Account**” means any “*securities account*”, as such term is defined in **Section 8.501(a)** of the UCC, and all sub-accounts thereof.

“**Security**” has the meaning set forth in **Section 8.102(a)(15)** of the UCC.

“**Security Agreement Supplement**” has the meaning set forth in **Section 4.21**.

**“Supporting Obligation”** means all *“supporting obligations”* as defined in Section 9.102(a)(78) of the UCC.

**“Tangible Chattel Paper”** means any *“tangible chattel paper”*, as such term is defined in Section 9.102(a)(79) of the UCC.

**“Trademark Licenses”** means any and all agreements providing for the granting of any right in or to Trademarks (whether Grantor is licensee or licensor thereunder), including each agreement referred to on *Schedule 3.17*.

**“Trademarks”** means all United States and foreign trademarks, trade names, corporate names, company names, business names, fictitious business names, Internet domain names, service marks, certification marks, collective marks, logos, other source or business identifiers, designs and general intangibles of a like nature, all registrations and applications for any of the foregoing, including: (a) the registrations and applications referred to on *Schedule 3.17*; (b) all extensions or renewals of any of the foregoing; (c) all of the goodwill of the business connected with the use of and symbolized by the foregoing; (d) the right to sue for past, present and future infringement or dilution of any of the foregoing or for any injury to goodwill; and (e) all products and Proceeds of the foregoing, including any income, royalties, and awards and any claim by Grantor against third parties for past, present, or future infringement of any Trademark or any Trademark licensed under any Trademark License.

**“Trade Secret Licenses”** means any and all agreements providing for the granting of any right in or to Trade Secrets (whether Grantor is licensee or licensor thereunder), including each agreement referred to on *Schedule 3.17*.

**“Trade Secrets”** means all trade secrets and all other confidential or proprietary information and know-how, whether or not such Trade Secret has been reduced to a writing or other tangible form, including all Documents and things embodying, incorporating, or referring in any way to such Trade Secret, including: (a) the right to sue for past, present and future misappropriation or other violation of any Trade Secret; and (b) all products and Proceeds of the foregoing, including any income, royalties, and awards and any claim by Grantor against third parties for past, present, or future infringement of any Trade Secrets or any Trade Secrets licensed under any Trade Secret License.

**“UCC”** means the Uniform Commercial Code as the same may, from time to time, be in effect in the State of Texas; *provided, however*, that in any event, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority (or terms of similar import in any applicable jurisdiction) of Agent’s security interest in any Collateral is governed by the Uniform Commercial Code (or other similar law) as in effect in a jurisdiction (whether within or outside the United States) other than the State of Texas, the term “UCC” shall mean the Uniform Commercial Code (or other similar law) as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority (or terms of similar import in such jurisdiction) and for purposes of definitions related to such provisions.

**“Vehicles”** means all present and future automobiles, trucks, truck tractors, trailers, semi-trailers, or other motor vehicles or rolling stock, now owned or hereafter acquired by Grantor.

## 2. GRANT OF SECURITY INTEREST

2.1. **Security Interest.** To secure the prompt and complete payment and performance of the Secured Obligations 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 or any similar provisions of other applicable laws), Grantor hereby grants to Agent, for the benefit of Lenders, a continuing security interest in, a Lien upon, and a right of set off against, and hereby assigns to Agent for the benefit of Lenders, as security, all personal property of Grantor, whether now owned or hereafter acquired or existing, and wherever located (together with all other collateral security for the Secured Obligations at any time granted to or held or acquired by Agent, collectively, the “*Collateral*”), including:

- (a) Accounts;
- (b) Chattel Paper;
- (c) Commercial Tort Claims;
- (d) Deposit Accounts, Securities Accounts, and Commodity Accounts;
- (e) Documents;
- (f) General Intangibles;
- (g) Goods;
- (h) Instruments;
- (i) Letter of Credit Rights;
- (j) Money;
- (k) Fixtures
- (l) Intellectual Property;
- (m) Material Agreements;
- (n) Vehicles;
- (o) to the extent not otherwise included above, all Collateral Records, Collateral Support, and Supporting Obligations relating to any of the foregoing; and
- (p) to the extent not otherwise included above, all accessions to, substitutions for, and all replacements, products, Proceeds of the foregoing, including Proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage, or destruction of any Collateral.

If the security interest granted hereby in any rights of Grantor under any contract included in the Collateral is expressly prohibited by such contract, then the security interest hereby granted therein nonetheless remains effective to the extent allowed by Article 9 of the UCC or other applicable law but is otherwise limited by that prohibition. Notwithstanding the foregoing, no Lien or security interest is hereby granted on any Excluded Property, and the term "Collateral" shall not include any Excluded Property; *provided that* (i) if and when any Property shall cease to be Excluded Property, a Lien on and security in such Property shall be deemed granted therein and (ii) immediately upon the amendment of the Internal Revenue Code to allow the pledge of a greater percentage of the voting power of capital stock in a Controlled Foreign Corporation without adverse tax consequences, the Collateral shall include, and the security interest granted by Grantor shall attach to, such greater percentage of capital stock of each Controlled Foreign Corporation. Furthermore, notwithstanding any contrary provision, Grantor agrees that, if, but for the application of this paragraph, granting a security interest in the Collateral would constitute a fraudulent conveyance under 11 U.S.C. § 548 or a fraudulent conveyance or transfer under any state fraudulent conveyance, fraudulent transfer, or similar law in effect from time to time (each a "**fraudulent conveyance**"), then the security interest remains enforceable to the maximum extent possible without causing such security interest to be a fraudulent conveyance, and this Security Agreement is automatically amended to carry out the intent of this sentence.

2.2. **Grantor Remains Liable.** Notwithstanding anything to the contrary contained herein, (a) Grantor shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of its respective duties and Obligations thereunder to the same extent as if this Security Agreement had not been executed, (b) the exercise by Agent and Lenders of any of their rights hereunder shall not release Grantor from any of its duties or Obligations under the contracts and agreements included in the Collateral, and (c) neither Agent nor Lenders Agent shall have any obligation or liability under any of the contracts and agreements included in the Collateral by reason of this Security Agreement, nor shall Agent be obligated to perform any of the Obligations or duties of Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

2.3. **Authorization to File Financing Statements.** Grantor hereby irrevocably authorizes Agent at any time and from time to time to file in any UCC jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by Subchapter E of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether Grantor is an organization, the type of organization and any organization identification number issued to Grantor and (B) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Grantor agrees to furnish any such information to Agent promptly upon request.

3. **REPRESENTATIONS AND WARRANTIES.** Grantor represents and warrants to Agent and Lenders that:

3.1. **Credit Agreement.** Certain representations and warranties in the Loan Documents to which Grantor is a party are applicable to Grantor or its assets or operations, and each such representation and warranty is true and correct.

3.2. **Title; Authorization; Enforceability; Perfection.** (a) Grantor has good and valid rights in and title to the Collateral with respect to which it has purported to grant a security interest hereunder, free and clear of all Liens except for Permitted Liens, and has full power and authority to grant to Agent, on behalf and for the benefit of the Lenders, the security interest in such Collateral; (b) the execution and delivery by Grantor of this Security Agreement has been duly authorized, and this Security Agreement constitutes a legal, valid and binding obligation of Grantor and creates a security interest enforceable against Grantor in all now owned and hereafter acquired Collateral; (c)(i) upon the filing of all UCC financing statements naming Grantor as “debtor” and Agent as “secured party” and describing the Collateral in the filing offices set forth opposite Grantor’s name on *Schedule 3.5* hereof, (ii) upon delivery of all Instruments, Chattel Paper, and Collateral Notes, (iii) upon sufficient identification of Commercial Tort Claims, (iv) upon execution of a control agreement establishing Agent’s Control with respect to any Deposit Account, Securities Account, or Commodity Account, (v) upon consent of the issuer or any nominated person with respect to Letter of Credit Rights, and (vi) to the extent not subject to Article 9 of the UCC, upon recordation of the security interests granted hereunder in Intellectual Property in the applicable intellectual property registries, including the United States Patent and Trademark Office and the United States Copyright Office, the security interests granted to Agent, on behalf and for the benefit of the Lenders, hereunder constitute valid and perfected first priority Liens (subject in the case of priority only to (1) Permitted Liens, and (2) the rights of the United States government (including any agency or department thereof) with respect to United States government Receivables on all of the Collateral).

3.3. **Conflicting Legal Requirements and Contracts.** Neither the execution and delivery by Grantor of this Security Agreement, the creation and perfection of the security interest in the Collateral granted hereunder, nor compliance with the terms and provisions hereof will (a) violate (i) any legal requirement binding on Grantor, (ii) Grantor’s organizational documents, or (iii) the provisions of any indenture, Instrument or agreement to which Grantor is a party or is subject, or by which it, or its property, is bound; or (b) conflict with or constitute a default under, or result in the creation or imposition of any Lien pursuant to, the terms of any such indenture, Instrument or agreement (other than any Lien of Agent) and the Lenders.

3.4. **Governmental Authority.** No authorization, approval, or other action by, and no notice to or filing with, any Governmental Authority is required either (a) for the pledge by Grantor of the Collateral pursuant to this Security Agreement or for the execution, delivery, or performance of this Security Agreement by Grantor, or (b) for the exercise by Agent of the voting or other rights provided for in this Security Agreement or the remedies in respect of the Collateral pursuant to this Security Agreement.

3.5. **Grantor Information.** Grantor’s exact legal name, jurisdiction of organization, type of entity, state issued organizational identification number and the location of its principal place of business, or chief executive office (or the principal residence if Grantor is a natural person) and of the books and records relating to the Receivables, are disclosed on *Schedule 3.5*;

Grantor has no other places of business except those set forth on *Schedule 3.5*. Except as noted on *Schedule 3.5* hereto, all such books, records, and Collateral are in Grantor's possession. Grantor does no, and has not done in the last five (5) years, business under any other name (including any trade-name or fictitious business name) except for those names set forth on *Schedule 3.5*. Except as provided on *Schedule 3.5*, Grantor has not changed its name, its jurisdiction of organization, its principal place of business, or its chief executive office (or principal residence if Grantor is a natural person) or its corporate structure in any way (e.g., by merger, consolidation, change in corporate form or otherwise) within the past five (5) years.

3.6. **Property Locations.** The Inventory, Equipment, and Fixtures are located solely at the locations described on *Schedule 3.6*. All of such locations are owned by Grantor except for locations (a) which are leased by Grantor as lessee and designated in *Part B* of *Schedule 3.6*, and (b) at which Inventory is held in a public warehouse or is otherwise held by a bailee or on consignment as designated in *Part C* of *Schedule 3.6*, with respect to which Inventory Grantor has delivered bailment agreements, warehouse receipts, financing statements or other Documents satisfactory to Agent to protect Agent's security interest in such Inventory.

3.7. **Litigation.** There is no litigation, investigation, or governmental proceeding threatened against Grantor or any of its properties which if adversely determined would result in a Material Adverse Event with respect to the Collateral or Grantor.

3.8. **No Financing Statements or Control Agreements.** Other than the financing statements and control agreements with respect to this Security Agreement, there are no other financing statements or control agreements covering any Collateral, other than those evidencing Permitted Liens.

3.9. **Maintenance of Collateral.** All tangible Collateral which is necessary to Grantor's business is in good repair and condition, ordinary wear and tear excepted, and none thereof is a Fixture except as specifically referred to herein on *Schedule 3.6*.

3.10. **Collateral.** *Schedule 3.10* accurately lists all Securities Accounts, Commodity Accounts, Deposit Accounts, Collateral Notes, Collateral Note Security, Commercial Tort Claims, Material Agreements, and all letters of credit, in which Grantor has any right, title, or interest. All information supplied by Grantor to Agent or any Lender with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is true, correct, and complete in all material respects.

3.11. **Deposit, Commodity, and Securities Accounts.** *Schedule 3.10* correctly identifies all Deposit Accounts, Commodity Accounts, and Securities Accounts in which Grantor has an interest and the institutions holding such accounts. Grantor is the sole account holder of each such account, and Grantor has not consented to, and is not otherwise aware of, any person (other than Agent) having Control over, or any other interest in, any such account or the property credited thereto.

3.12. **Receivables.**

(a) Each Receivable (i) is and will be the legal, valid and binding obligation of the Account Debtor in respect thereof, representing an unsatisfied obligation of such

Account Debtor, (ii) is and will be enforceable in accordance with its terms, (iii) is not and will not be subject to any setoffs, defenses, taxes, counterclaims (except with respect to refunds, returns and allowances in the ordinary course of business with respect to damaged merchandise), and (iv) is and will be in compliance with all applicable laws, whether federal, state, local or foreign.

(b) None of the Account Debtors in respect of any Receivable is the government of the United States, any agency or instrumentality thereof, any state or municipality or any foreign sovereign. No Receivable requires the consent of the Account Debtor in respect thereof in connection with the pledge hereunder, except any consent which has been obtained.

(c) The names of the Account Debtors, amounts owing, due dates and other information with respect to each Account or Chattel Paper are and will be correctly stated in all records of Grantor relating thereto and in all invoices and reports with respect thereto furnished to Agent by Grantor from time to time. As of the time when each Account or each item of Chattel Paper arises, the Grantor shall be deemed to have represented and warranted that such Account or Chattel Paper, as the case may be, and all records relating thereto, are genuine and in all respects what they purport to be.

3.13. **Letter of Credit Rights.** All letters of credit to which Grantor has rights is listed on *Schedule 3.10*, and Grantor has obtained the consent of each issuer or the nominated person of any letter of credit to the assignment of the Proceeds of the letter of credit to Agent for the benefit of the Lenders.

3.14. **Instruments; Chattel Paper; Collateral Notes; and Collateral Note Security.** All Instruments and Chattel Paper, including the Collateral Notes, have been delivered to Agent, together with corresponding endorsements duly executed by the Grantor in favor of Agent, and such endorsements have been duly and validly executed and are binding and enforceable against Grantor in accordance with their terms. Each Collateral Note and the Documents evidencing the Collateral Note Security are in full force and effect; there have been no renewals or extensions of, or amendments, modifications, or supplements to, any thereof about which Agent has not been advised in writing; and no "default" or "potential default" has occurred and is continuing under any such Collateral Note or Documents evidencing the Collateral Note Security, except as disclosed on *Schedule 3.10*.

3.15. **Material Agreements.** All Material Agreements to which Grantor is a party are set forth on *Schedule 3.10*. True and correct copies of all such Material Agreements have been furnished to Agent. Each Material Agreement is in full force and effect; there have been no amendments, modifications, or supplements to any Material Agreement of which Agent has not been advised in writing; and no default, breach, or potential default or breach has occurred and is continuing under any Material Agreement, except as disclosed on *Schedule 3.10*. No Material Agreement prohibits assignment or requires consent of or notice to any person in connection with the assignment to Agent hereunder, except such as has been given or made (or currently being sought by Grantor using its best efforts).

3.16. **Reserved.**

3.17. **Intellectual Property.**

(a) All of the Intellectual Property is subsisting, valid, and enforceable. The information contained on ***Schedule 3.17*** is true, correct, and complete. All issued Patents, Patent Licenses, Trademarks, Trademark Licenses, Copyrights, Copyright Licenses, Trade Secret, and Trade Secret Licenses of Grantor are identified on ***Schedule 3.17***.

(b) Grantor is the sole and exclusive owner of the entire and unencumbered right, title, and interest in and to the Intellectual Property purported to be owned by Grantor free and clear of any Liens, including any pledges, assignments, licenses, user agreements, and covenants by Grantor not to sue third persons, other than Permitted Liens.

(c) To the best of Grantor's knowledge, no third party is infringing, or in Grantor's reasonable business judgment, may be infringing, any of Grantor's rights under the Intellectual Property.

(d) Grantor has performed and will continue to perform all acts and has paid and will continue to pay all required fees and taxes to maintain each and every item of the Intellectual Property in full force and effect throughout the world, as applicable.

(e) Each of the Patents and Trademarks identified on ***Schedule 3.17*** has been properly registered with the United States Patent and Trademark Office and in corresponding offices throughout the world (where appropriate) and each of the Copyrights identified on ***Schedule 3.17*** has been properly registered with the United States Copyright Office and in corresponding offices throughout the world (where appropriate).

(f) To the best of Grantor's knowledge, no claims with respect to the Intellectual Property have been asserted and are pending (i) to the effect that the sale, licensing, pledge, or use of any of the products of Grantor's business infringes any other party's valid copyright, trademark, service mark, trade secret, or other intellectual property right, (ii) against the use by Grantor of any Intellectual Property used in Grantor's business as currently conducted, or (iii) challenging the ownership or use by Grantor of any of the Intellectual Property that Grantor purports to own or use, nor, to Grantor's knowledge, is there a valid basis for such a claim described in this ***Section 3.17***.

3.18. **Excluded Property.** Grantor hereby represents and warrants that the Excluded Property, when taken as a whole, is not material to the business operations or financial condition of Borrower and its Subsidiaries, taken as a whole.

The foregoing representations and warranties will be true and correct in all respects with respect to any additional Collateral or additional specific descriptions of certain Collateral delivered to Agent in the future by Grantor. The failure of any of these representations or



warranties or any description of Collateral therein to be accurate or complete shall not impair the security interest in any such Collateral.

4. **COVENANTS.** From the date of this Security Agreement, and thereafter until this Security Agreement is terminated:

4.1. **Loan Documents.** Grantor shall (a) comply with, perform, and be bound by all covenants and agreements in the Loan Documents that are applicable to it, its assets, or its operations, each of which is hereby ratified and confirmed (**INCLUDING THE INDEMNIFICATION AND RELATED PROVISIONS IN SECTIONS 11.8 and 13.2 OF THE CREDIT AGREEMENT AND SECTION 23 OF THE GUARANTY AGREEMENT**); AND (b) **CONSENT TO AND APPROVE THE VENUE AND SERVICE OF PROCESS IN SECTION 13.12 OF THE CREDIT AGREEMENT, AND WAIVER OF JURY TRIAL PROVISIONS OF SECTION 13.19 OF THE CREDIT AGREEMENT.**

4.2. **General.**

(a) **Inspection.** Grantor will permit Agent, by its representatives and agents (a) to inspect the Collateral, (b) to examine and make copies of the records of Grantor relating to the Collateral, and (c) to discuss the Collateral and the related records of Grantor with, and to be advised as to the same by, Grantor's officers, employees, and accountants (and, in the case of any Receivable, with any Account Debtor), all at such reasonable times and intervals as Agent may determine, and all at Grantor's expense.

(b) **Records and Reports; Notification of Default or Event of Default.** Grantor will maintain true, complete, and accurate books and records with respect to the Collateral, and furnish to Agent such reports relating to the Collateral at such intervals as Agent shall from time to time request. Grantor will give prompt notice in writing to Agent of the occurrence of any Default or Event of Default and of any other development, financial or otherwise, which might materially and adversely affect the Collateral. Grantor shall mark its books and records to reflect the security interest of Agent on behalf and for the benefit of Lenders under this Security Agreement.

(c) **Schedules.** Grantor shall immediately update any Schedules if any information therein shall become inaccurate or incomplete. The failure of property descriptions to be accurate or complete on any Schedule shall not impair Agent's and Lenders' security interest in such property.

(d) **Financing Statements and Other Actions; Defense of Title.** Grantor will deliver to Agent all financing statements and execute and deliver control agreements and other Documents and take such other actions as may from time to time be requested by Agent in order to maintain a first priority perfected security interest in and, in the case of Deposit Accounts, Letter-of-Credit-Rights, and Electronic Chattel Paper, Control of, the Collateral. Grantor will take any and all actions necessary to defend title to the Collateral against all persons and to defend the security interest of Agent and the Lenders in the Collateral and the priority thereof against any Lien not expressly permitted hereunder.

(e) **Disposition of Collateral.** Grantor will not sell, lease, license or otherwise dispose of the Collateral except (i) prior to the occurrence of an Event of Default, dispositions specifically permitted pursuant to the Credit Agreement, (ii) until such time following the occurrence of an Event of Default, as Grantor receives a notice from Agent instructing Grantor to cease such transactions, sales or leases of Inventory in the ordinary course of business, and (iii) until such time as Grantor receives a notice from Agent pursuant to **Section 5.4**, Proceeds of Inventory and Accounts collected in the ordinary course of business.

(f) **Liens.** Grantor will not create, incur, or suffer to exist any Lien on the Collateral except (i) the security interest created by this Security Agreement, and (ii) other Liens permitted pursuant to the Credit Agreement.

(g) **Change in Location, Jurisdiction of Organization or Name.** Grantor will not (i) have any Inventory, Equipment, Fixtures, or Proceeds or products thereof (other than Inventory and Proceeds thereof disposed of as permitted by **Section 4.2(e)**) at a location other than a location specified on **Schedule 3.6**, (ii) maintain records relating to the Receivables at a location other than at the location specified on **Schedule 3.10**, (iii) maintain a place of business at a location other than a location specified on **Schedule 3.6**, (iv) change its name or taxpayer identification number, (v) change its mailing address, or (vi) change its jurisdiction of organization, unless Grantor shall have given Agent not less than thirty (30) days' prior written notice thereof, and Agent shall have determined that such change will not adversely affect the validity, perfection or priority of Agent's security interest in the Collateral. Prior to making any of the foregoing changes, Grantor shall execute and deliver all such additional Documents and perform all additional acts as Agent, in its sole discretion, may request in order to continue or maintain the existence and priority of its security interest in all of the Collateral.

(h) **Taxes.** Grantor will pay when due all taxes, assessments and governmental charges and levies upon the Collateral, except those which are being contested in good faith by appropriate proceedings and with respect to which no Lien exists and as to which appropriate reserves are being maintained.

(i) **Compliance with Agreements.** Grantor shall comply in all material respects with all mortgages, deeds of trust, Instruments, and other agreements binding on it or affecting its properties or business.

(j) **Compliance with Legal Requirements.** Grantor shall comply with all applicable laws, rules, regulations, and orders of any court or Governmental Authority.

(k) **Other Financing Statements.** Grantor will not authorize any other financing statement naming it as debtor covering all or any portion of the Collateral, except as permitted by **Section 4.2(f)**.

#### 4.3. **Receivables.**

(a) **Certain Agreements on Receivables.** Grantor will not make or agree to make any discount, credit, rebate or other reduction in the original amount owing on a

Receivable or accept in satisfaction of a Receivable less than the original amount thereof, except that, prior to the occurrence of an Event of Default, Grantor may reduce the amount of Accounts arising from the sale of Inventory in accordance with its present policies and in the ordinary course of business.

(b) **Collection of Receivables.** Except as otherwise provided in this Security Agreement, Grantor will, at Grantor's sole expense, collect all amounts due or hereafter due to Grantor under the Receivables and enforce Grantor's rights under all Collateral Support or Supporting Obligation with respect to the Receivables.

(c) **Delivery of Invoices.** Grantor will deliver to Agent immediately upon its request after the occurrence of an Event of Default duplicate invoices with respect to each Account bearing such language of assignment as Agent shall specify.

(d) **Disclosure of Counterclaims on Receivables.** If (i) any discount, credit or agreement to make a rebate or to otherwise reduce the amount owing on a Receivable exists or (ii) if, to the knowledge of Grantor, any dispute, setoff, claim, counterclaim or defense exists or has been asserted or threatened with respect to a Receivable, Grantor will promptly disclose such fact to Agent in writing in connection with the inspection by Agent of any record of Grantor relating to such Receivable and in connection with any invoice or report furnished by Grantor to Agent relating to such Receivable.

#### 4.4. **Inventory and Equipment.**

(a) **Maintenance of Goods.** Grantor will do all things necessary to maintain, preserve, protect and keep the Inventory and the Equipment in good repair and working and saleable condition.

(b) **Insurance.** Grantor will (i) maintain fire and extended coverage insurance on the Inventory and Equipment containing a lender's loss payable clause in favor of Agent, and providing that said insurance will not be terminated except after at least thirty (30) days' written notice from the insurance company to Agent, (ii) maintain such other insurance on the Collateral for the benefit of Agent as Agent shall from time to time request, (iii) furnish to Agent upon the request of Agent from time to time the originals of all policies of insurance on the Collateral and certificates with respect to such insurance, and (d) maintain general liability insurance naming Agent as an additional insured.

(c) **Reserved.**

(d) **Safekeeping of Inventory; Inventory Covenants.** Neither Agent nor any Lender shall be responsible for (i) the safekeeping of the Inventory, (ii) any loss or damage thereto or destruction thereof occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value of Inventory, or (iv) any act or default of any carrier, warehouseman, bailee or forwarding agency or any other person in any way dealing with or handling the Inventory, except to the extent that Grantor incurs any loss, cost, claim or damage from any of the foregoing as a result of the gross negligence or willful misconduct of Agent or any Lender as determined by a court of competent

jurisdiction in final and nonappealable judgment. All risk of loss, damage, distribution or diminution in value of the Inventory shall, except as noted in the previous sentence, be borne by Grantors.

(e) **Records and Schedules of Inventory.** Grantor shall keep correct and accurate daily records on a first-in, first-out basis, itemizing and describing the kind, type, quality and quantity of Inventory, Grantor's cost therefor and selling price thereof, and the daily withdrawals therefrom and additions thereto and Inventory then on consignment, and shall, at the request of Agent, furnish to Agent daily copies of the working papers related thereto and, at the times required under the Credit Agreement, a current Borrowing Base Report, based on the FIFO cost assumption. A physical count of the Inventory shall be conducted no less often than annually and a report based on such count of Inventory shall promptly thereafter be provided to Agent together with such supporting information including invoices relating to Grantor's purchase of goods listed in said report, as Agent shall, in its sole and absolute discretion, request.

(f) **Certificates of Title.** With respect to any item of Equipment which is covered by a certificate of title and indication of a security interest on such certificate is required as a condition of perfection, upon the request of Agent, Grantor shall cause Agent's and Lenders' security interest to be properly indicated thereon.

4.5. **Reserved.**

4.6. **Accounts.** Agent may, in its sole discretion, at any time or times after an Event of Default has occurred, and without prior notice to Grantor, notify any or all Account Debtors that the Accounts have been assigned to Agent and that Agent has a security interest on behalf and for the benefit of Lenders therein. Agent may direct any or all Account Debtors to make all payments upon the Accounts directly to Agent. Agent shall furnish Grantor with a copy of such notice.

4.7. **Intellectual Property.**

(a) **Prosecution of Applications.** Grantor shall prosecute diligently all applications in respect of Intellectual Property, now or hereafter pending.

(b) **Federal Applications.** Except to the extent not required in Grantor's reasonable business judgment, Grantor shall make federal applications on all of its unpatented but patentable inventions and all of its registrable but unregistered Copyrights and Trademarks.

(c) **Maintenance of Rights.** Grantor shall preserve and maintain all of its material rights in the Intellectual Property and protect its Intellectual Property from infringement, unfair competition, cancellation, or dilution by all appropriate action necessary in Grantor's reasonable business judgment, including the commencement and prosecution of legal proceedings to recover damages for infringement and to defend and preserve its rights in the Intellectual Property.

(d) **No Abandonment.** Grantor may not abandon any of the Intellectual Property necessary to the conduct of its business in the exercise of Grantor's reasonable business judgment.

(e) **Licenses.** (i) Grantor shall not sell or assign any of its interest in any of the Intellectual Property other than in the ordinary course of business for full and fair consideration without the prior written consent of Agent; (ii) Grantor shall not grant any license or sublicense with respect to any of its Intellectual Property without the prior written consent of Agent; and (iii) Grantor shall maintain the quality of any and all products and services with respect to which the Intellectual Property is used.

(f) **No Conflicting Agreements.** Grantor shall not enter into any agreement, including any licensing agreement, that is or may be inconsistent with Grantor's Obligations under this Security Agreement or any of the other Loan Documents.

(g) **Additional Intellectual Property.** Grantor shall give Agent prompt written notice if Grantor shall obtain rights to or become entitled to the benefit of any Intellectual Property not identified on *Schedule 3.17*. Grantor shall execute and deliver any and all Patent Security Agreements, Copyright Security Agreements, or Trademark Security Agreements, each in form and substance satisfactory to Agent, as Agent may request to evidence Agent's and Lenders' Lien on such Intellectual Property.

(h) **Obligation upon Default.** On and after the occurrence of an Event of Default, Grantor shall use its reasonable efforts to obtain any consents, waivers, or agreements necessary to enable Agent and Lenders to exercise their rights and remedies with respect to the Intellectual Property.

4.8. **Collateral Notes and Collateral Note Security.** Without the prior written consent of Agent, Grantor may not (a) modify or substitute, or permit the modification, or substitution of, any Collateral Note or any Document evidencing the Collateral Note Security or (b) release any Collateral Note Security unless specifically required by the terms thereof.

4.9. **Instruments; Chattel Paper; and Documents.** Grantor will (a) deliver to Agent immediately upon execution of this Security Agreement the originals of all Chattel Paper and Instruments (if any then exists), (b) hold in trust for Agent upon receipt and immediately thereafter deliver to Agent any Chattel Paper and Instruments constituting Collateral, (c) mark conspicuously all Chattel Paper and Instruments (other than any delivered to Agent) with an appropriate reference to the security interest of Agent on behalf and for the benefit of Lenders, and (d) upon Agent's request, deliver to Agent (and thereafter hold in trust for Agent on behalf and for the benefit of Lenders upon receipt and immediately deliver to Agent) any Document evidencing or constituting Collateral.

4.10. **Deposit, Commodity, and Securities Accounts.** With respect to any Deposit Account, Commodity Account, or Securities Account, Grantor shall (a) maintain such accounts at the institutions described on *Schedule 3.10* or such additional institutions as have complied with *clause (b)* hereof; (b) within thirty (30) days of the Closing Date, deliver to each depository bank and security intermediary a letter in form and substance satisfactory to Agent with respect

to Agent's rights in such account and use its best efforts to obtain the execution of such letter by each institution stating that the pledge of such account has been recorded in the books and records of such institution and that Agent shall have exclusive Control over such account; (c) deliver to Agent all certificates or Instruments, if any, now or hereafter representing or evidencing such accounts, accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to Agent. Without Agent's consent, Grantor shall not establish any additional accounts, unless such accounts are subject to Agent's exclusive Control.

4.11. **Commercial Tort Claims.** If Grantor at any time holds or acquires a Commercial Tort Claim, Grantor shall (a) immediately forward to Agent written notification of any and all Commercial Tort Claims, including any and all actions, suits and proceedings before any court or Governmental Authority by or affecting Grantor; and (b) execute and deliver such statements, Documents and notices and do and cause to be done all such things as may be required by Agent, or required by law, including all things which may from time to time be necessary under the UCC to fully create, preserve, perfect and protect the priority of Agent's security interest in any Commercial Tort Claims.

4.12. **Letters-of-Credit Rights.** If Grantor is at any time a beneficiary under a letter of credit now or hereafter issued in favor of Grantor, Grantor shall promptly notify Agent thereof in writing and, at Agent's request, Grantor shall, pursuant to an agreement in form and substance satisfactory to Agent, either (a) arrange for the issuer or any confirmer of such letter of credit to consent to an assignment to Agent of the Proceeds of any drawing under the letter of credit or (b) arrange for Agent to become the transferee beneficiary of the letter of credit, with Agent agreeing, in each case, that the Proceeds of any drawing under the letter of credit are to be applied to the Secured Obligations as provided in the Credit Agreement.

4.13. **Fixtures.** For any Collateral that is a Fixture or an accession which has been attached to real estate or other goods prior to the perfection of the security interest of Agent, Grantor shall furnish Agent, upon reasonable demand, a disclaimer of interest in each such Fixture or accession and a consent in writing to the security interest of Agent therein, signed by all persons having any interest in such Fixture or accession by virtue of any interest in the real estate or other goods to which such Fixture or accession has been attached.

4.14. **Federal, State or Municipal Claims.** Grantor will notify Agent of any Collateral which constitutes a claim against a Governmental Authority, or any instrumentality or agency thereof, the assignment of which claim is restricted by federal, state or municipal law.

4.15. **Warehouse Receipts Non-Negotiable.** Grantor agrees that if any warehouse receipt or receipt in the nature of a warehouse receipt is issued with respect to any of its inventory, such warehouse receipt or receipt in the nature thereof shall not be "negotiable" (as such term is used in *Section 7-104* of the UCC).

4.16. **Mortgagee's and Landlord Waivers.** Grantor shall cause each mortgagee of real property owned by Grantor (upon request by Agent) and each landlord of real property leased by Grantor to execute and deliver Instruments satisfactory in form and substance to Agent

by which such mortgagee or landlord waives their rights, if any, in the Collateral and permits Agent to enter the subject property on and after the occurrence of an Event of Default.

4.17. **Lockboxes.** Upon request of Agent, Grantor shall execute and deliver to Agent irrevocable lockbox agreements in the form provided by or otherwise acceptable to Agent, which agreements shall be accompanied by an acknowledgment by the bank where the lockbox is located of the Lien of Agent granted hereunder and of irrevocable instructions to wire all amounts collected therein to a special collateral account at Agent.

4.18. **Use and Operation of Collateral.** Should any Collateral come into the possession of Agent, Agent may use or operate such Collateral for the purpose of preserving it or its value, pursuant to the order of a court of appropriate jurisdiction or in accordance with any other rights held by Agent in respect of such Collateral. Grantor covenants to promptly reimburse and pay to Agent, at Agent's request, the amount of all expenses (including the cost of any insurance and payment of taxes or other charges) incurred by Agent in connection with its custody and preservation of the Collateral, and all such expenses, costs, taxes, and other charges shall bear interest at the Default Rate until repaid and, together with such interest, shall be payable by Grantor to Agent upon demand and shall become part of the Secured Obligations. However, the risk of accidental loss or damage to, or diminution in value of, the Collateral is on Grantor, and neither Agent nor any Lender shall have any liability whatever for failure to obtain or maintain insurance, nor to determine whether any insurance ever in force is adequate as to amount or as to the risks insured. With respect to the Collateral that is in the possession of Agent, Agent shall have no duty to fix or preserve rights against prior parties to such Collateral and shall never be liable for any failure to use diligence to collect any amount payable in respect of such Collateral, but shall be liable only to account to Grantor for what it may actually collect or receive thereon. The provisions of this subparagraph are applicable whether or not an Event of Default has occurred.

4.19. **Certain Proceeds.** Notwithstanding any contrary provision herein, any and all Proceeds of any Collateral consisting of cash, checks and other non-cash items shall be part of the Collateral hereunder, and shall, if received by Grantor, be held in trust for the benefit of Agent and the Lenders, and shall forthwith be delivered to Agent (accompanied by proper instruments of assignment and/or stock and/or bond powers executed by Grantor in accordance with Agent's instructions) to be held on behalf of the Lenders, subject to the terms of this Security Agreement. Any cash Proceeds of the Collateral which come into the possession of Agent on and after the occurrence of an Event of Default (including insurance Proceeds) may, at Agent's option, be applied in whole or in part to the Secured Obligations (to the extent then due), be released in whole or in part to or on the written instructions of Grantor for any general or specific purpose, or be retained in whole or in part by Agent as additional Collateral. The provisions of this subparagraph are applicable whether or not an Event of Default has occurred.

4.20. **Further Assurances.** At any time and from time to time, upon the request of Agent, and at the sole expense of Grantor, Grantor shall promptly execute and deliver all such further Instruments and Documents and take such further actions as Agent may deem necessary or desirable (a) to assure Agent that its security interests hereunder are perfected with a first priority Lien, (b) to carry out the provisions and purposes of this Security Agreement, including (i) the filing of such financing statements as Agent may require, (ii) executing control

agreements with respect to the Collateral, in each case naming Agent on behalf and for the benefit of Lenders, as secured party, in form and substance satisfactory to Agent, (iii) furnishing to Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Agent may reasonably request, all in reasonable detail, (iv) the deposit of all certificates of title issuable with respect to any of the Collateral and noting thereon the security interest hereunder, (v) taking all actions required by law in any relevant UCC, or by other law as applicable in any foreign jurisdiction, and (vi) to ensure that a Lien and security interest is granted on any of the Excluded Property set forth in *clause (b)* of the definition of “**Excluded Property**”, Grantor shall use commercially reasonable efforts to obtain any required consents from any Person other than Borrower and its Affiliates with respect to any permit or license or any Contractual Obligation with such Person entered into by Grantor that requires such consent as a condition to the creation by Grantor of a Lien on any right, title or interest in such permit, license or Contractual Obligation related thereto. A carbon, photographic, or other reproduction of this Security Agreement or of any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement and may be filed as a financing statement.

4.21. **Additional Grantors.** Upon the execution and delivery by any person of a security agreement supplement in form and substance satisfactory to Agent (each a “**Security Agreement Supplement**”), (a) such person shall be and become Grantor hereunder and each reference in this Security Agreement and the other Loan Documents to “Grantor” shall also mean and be a reference to such person, and (b) the supplemental **Schedules 3.5, 3.6, 3.10, and 3.17** attached to each Security Agreement Supplement shall be incorporated into and become a part of **Schedules 3.5, 3.6, 3.10, and 3.17** respectively, hereto, and Agent may attach such supplemental exhibits to such Schedules; each reference to such Schedules means a reference to such Schedules as supplemented pursuant to each Security Agreement Supplement.

## 5. REMEDIES UPON EVENT OF DEFAULT

5.1. **Remedies.** On and after the occurrence of an Event of Default under the Credit Agreement or any other Loan Document, Agent may exercise any or all of the following rights and remedies on behalf of the Lenders:

(a) **Contractual Remedies.** Those rights and remedies provided in this Security Agreement, the Credit Agreement, or any other Loan Document, *provided that* this **Section 5.1(a)** shall not limit any rights or remedies available to Agent prior to the occurrence of an Event of Default.

(b) **Legal Remedies.** Those rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable law (including any law governing the exercise of a bank’s right of setoff or bankers’ lien) when a debtor is in default under a security agreement.

(c) **Disposition of Collateral.** Without notice except as specifically provided in **Section 5.2(c)** or elsewhere herein, sell, lease, assign, grant an option or options to



purchase or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, for cash, on credit or for future delivery, and upon such other terms as Agent may deem commercially reasonable. Neither Agent's compliance with any applicable state or federal law in the conduct of such sale, nor its disclaimer of any warranties relating to the Collateral, shall be considered to affect the commercial reasonableness of such sale. Grantor 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.

(d) **Distributions.** On and after the occurrence of an Event of Default, all payments and distributions made to Grantor upon or with respect to the Collateral shall be paid or delivered to Agent for the benefit of the Lenders, and Grantor agrees to take all such action as Agent may deem necessary or appropriate to cause all such payments and distributions to be made to Agent. Further, Agent shall have the right, at any time after the occurrence of any Event of Default, to notify and direct any issuer to thereafter make all payments, dividends, and any other distributions payable in respect thereof directly to Agent for the benefit of the Lenders. Such issuer shall be fully protected in relying on the written statement of Agent that it then holds a security interest which entitles it to receive such payments and distributions. Any and all Money and other property paid over to or received by Agent hereunder shall be retained by Agent as additional collateral hereunder and may be applied in accordance with *Section 5.10* hereof.

(e) **Use of Premises.** Agent shall be entitled to occupy and use any premises owned or leased by Grantor where any of the Collateral or any records relating to the Collateral are located until the Secured Obligations are paid or the Collateral is removed therefrom, whichever first occurs, without any obligation to pay Grantor for such use and occupancy.

5.2. **Grantor's Obligations Upon Event of Default.** Upon the request of Agent on and after the occurrence of an Event of Default, Grantor will:

(a) **Assembly of Collateral.** Assemble and make available to Agent the Collateral and all records relating thereto at any place or places specified by Agent.

(b) **Agent Access.** Permit Agent, by Agent's representatives and agents, to enter any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral and to remove all or any part of the Collateral.

(c) **Notice of Disposition of Collateral.** Grantor hereby waives notice of the time and place of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to Grantor, addressed as set forth in *Section 6.13*, at least ten (10) days prior to (i) the date of any such public sale or (ii) the time after which any such private sale or other disposition may be made. Agent shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. Subject to the

provisions of applicable law, Agent may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, to the extent permitted by law, be made at the time and place to which the sale was postponed, or Agent may further postpone such sale by announcement made at such time and place.

5.3. **Condition of Collateral; Warranties.** Neither Agent nor any Lender has any obligation to clean-up or otherwise prepare the Collateral for sale. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim any warranties of title or the like. This procedure will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

5.4. **Collection of Receivables.** On and after the occurrence of an Event of Default, Agent may at any time in its sole discretion, by giving Grantor written notice, elect to require that the Receivables be paid directly to Agent. In such event, Grantor shall, and shall permit Agent to, promptly notify the Account Debtors under the Receivables of Agent's interest therein and direct such Account Debtors to make payment of all amounts then or thereafter due under the Receivables directly to Agent. Upon receipt of any such notice from Agent, Grantor shall thereafter hold in trust for Agent and the Lenders, all amounts and Proceeds received by it with respect to the Receivables and immediately and at all times thereafter deliver to Agent all such amounts and Proceeds in the same form as so received, whether by cash, check, draft or otherwise, with any necessary endorsements. Agent shall hold and apply funds so received as provided by the terms of **Section 5.10**. If after the occurrence of an Event of Default, any Account Debtor fails or refuses to make payment on any Collateral when due, Agent is authorized, in its sole discretion, either in its own name or in the name of Grantor, to take such action as Agent shall deem appropriate for the collection of any amounts owed with respect to Collateral or upon which a delinquency exists. Grantor agrees that Agent may at any time and from time to time, if an Event of Default has occurred, compromise with the obligor on any Receivable, accept in full payment of any Receivable such amount as Agent in its sole discretion shall determine or abandon any Receivable, and any such action by Agent shall be commercially reasonable so long as Agent acts in good faith based on information known to it at the time it takes any such action. Regardless of any other provision hereof, however, neither Agent nor any Lender shall ever be liable for their failure to collect, or for its failure to exercise diligence in the collection of, any amounts owed with respect to Collateral, nor shall it be under any duty whatsoever to anyone except Grantor to account for funds that it shall actually receive hereunder.

5.5. **Cash Collateral Account.** On and after the occurrence of an Event of Default, Agent shall have, and Grantor hereby grants to Agent, the right and authority to transfer all funds on deposit in the Deposit Accounts to a "**Cash Collateral Account**" (herein so called) maintained with a depository institution acceptable to Agent and subject to the exclusive direction, domain, and Control of Agent, and no disbursements or withdrawals shall be permitted to be made by Grantor from such Cash Collateral Account. Such Cash Collateral Account shall be subject to the security interest in favor of Agent herein created, and Grantor hereby grants a security interest to Agent in and to, such Cash Collateral Account and all checks, drafts, and other items ever received by Grantor for deposit therein. Furthermore, if an Event of Default has occurred, Agent shall have the right, at any time in its discretion without notice to Grantor, (a) to transfer to or to register in the name of Agent or nominee any certificates of deposit or deposit

instruments constituting Deposit Accounts and shall have the right to exchange such certificates or Instruments representing Deposit Accounts for certificates or Instruments of smaller or larger denominations and (b) to take and apply against the Obligations any and all funds then or thereafter on deposit in the Cash Collateral Account or otherwise constituting Deposit Accounts.

5.6. **Intellectual Property.** For purposes of enabling Agent to exercise its rights and remedies under this Security Agreement and enabling Agent and its successors and assigns to enjoy the full benefits of the Collateral, Grantor hereby grants to Agent an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to Grantor) to use, license, or sublicense any of the Intellectual Property. Grantor shall provide Agent with reasonable access to all media in which any of the Intellectual Property may be recorded or stored and all computer programs used for the completion or printout thereof. This license shall also inure to the benefit of all successors, assigns, and transferees of Agent. On and after the occurrence of an Event of Default, Agent may require that Grantor assign all of its right, title, and interest in and to the Intellectual Property or any part thereof to Agent or such other person as Agent may designate pursuant to Documents satisfactory to Agent. If no Event of Default has occurred, Grantor shall have the exclusive, non-transferable right and license to use the Intellectual Property in the ordinary course of business and the exclusive right to grant to other persons licenses and sublicenses with respect to the Intellectual Property for full and fair consideration.

5.7. **Reserved.**

5.8. **Reserved.**

5.9. **Sales on Credit.** If Agent sells any of the Collateral upon credit, Grantor will be credited only with payments actually made by the purchaser, received by Agent, and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Grantor shall be credited with the Proceeds of the sale.

5.10. **Application of Proceeds.** On and after the occurrence of an Event of Default, the Proceeds of the Collateral shall be applied by Agent to payment of the Secured Obligations in accordance with the Credit Agreement. If the Proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Grantor shall be liable for the deficiency and the fees of any attorneys employed by Agent to collect such deficiency.

5.11. **Power of Attorney.** Grantor hereby appoints Agent and Agent's designee as its attorney, with power: (a) on and after the occurrence of an Event of Default, to endorse Grantor's name on any checks, notes, acceptances, money orders, or other forms of payment or security that come into Agent's possession; (b) to sign Grantor's name on any invoice, bill of lading, warehouse receipt, or other negotiable or non-negotiable Document constituting Collateral, on drafts against customers, on assignments of Accounts, on notices of assignment, financing statements, and other public records, and to file any such financing statements by electronic means with or without a signature as authorized or required by applicable law or filing procedure; (c) so long as any Event of Default has occurred, to notify the post office authorities to change the address for delivery of Grantor's mail to an address designated by Agent and to receive, open, and dispose of all mail addressed to Grantor; (d) to send requests for verification

of Accounts to customers or Account Debtors; (e) to complete in Grantor's name or Agent's name, any order, sale, or transaction, obtain the necessary Documents in connection therewith, and collect the Proceeds thereof; (f) to clear Inventory through customs in Grantor's name, Agent's name, or the name of Agent's designee, and to sign and deliver to customs officials powers of attorney in Grantor's name for such purpose; (g) to the extent that Grantor's authorization given in **Section 2.3** of this Security Agreement is not sufficient, to file such financing statements with respect to this Security Agreement, with or without Grantor's signature, or to file a photocopy of this Security Agreement in substitution for a financing statement, as Agent may deem appropriate and to execute in Grantor's name such financing statements and amendments thereto and continuation statements which may require Grantor's signature; and (h) subject to the terms and conditions of this Security Agreement and, if applicable, after Agent has determined that Grantor has failed to take any action required under the Credit Agreement, this Security Agreement or any other Loan Documents, to do all things reasonably necessary to carry out the terms and conditions of the Credit Agreement and this Security Agreement. Grantor ratifies and approves all acts of such attorney. Neither the Agent, the Lenders, nor their attorneys will be liable for any acts or omissions or for any error of judgment or mistake of fact or law except for their willful misconduct, gross negligence, or violation of law as determined by a court of competent jurisdiction in final and nonappealable judgment. This power, being coupled with an interest, is irrevocable until this Security Agreement is terminated in accordance with **Section 6.16**.

## **6. GENERAL PROVISIONS**

### **6.1. Joint and Several Obligations of Grantor.**

(a) Grantor is accepting joint and several liability hereunder with other persons that have executed or will execute a Security Agreement in consideration of the financial accommodation to be provided by the holders of the Secured Obligations, for the mutual benefit, directly and indirectly, of Grantor and in consideration of the undertakings of Grantor to accept joint and several liability for the Obligations of each of them.

(b) Grantor jointly and severally hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other grantors to a Security Agreement with respect to the payment and performance of all of the Secured Obligations, it being the intention of the parties hereto that all the Secured Obligations shall be the joint and several Obligations of Grantor and each such other grantor without preferences or distinction among them.

### **6.2. Limitation of Obligations.**

(a) The provisions of this Security Agreement are severable, and in any action or proceeding involving any applicable law affecting the rights of creditors generally, if the Obligations of Grantor under this Security Agreement would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of Grantor's liability under this Security Agreement, then, notwithstanding any other provision of this Security Agreement to the contrary, the amount of such liability shall,

without any further action by Grantor, Agent or Lenders, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the Grantor's "**Maximum Liability**"). This **Section 6.2** with respect to the Maximum Liability of Grantor is intended solely to preserve the rights of Agent or Lenders hereunder to the maximum extent not subject to avoidance under applicable law, and neither Grantor nor any other Person shall have any right or claim under this **Section 6.2(a)** with respect to the Maximum Liability, except to the extent necessary to ensure that the Obligations of Grantor hereunder shall not be rendered voidable under applicable law.

(b) Grantor agrees that the Secured Obligations may at any time and from time to time exceed the Maximum Liability of Grantor, without impairing this Security Agreement or affecting the rights and remedies of Agent and the Lenders. Nothing in this **Section 6.2(b)** shall be construed to increase Grantor's Obligations hereunder beyond its Maximum Liability.

(c) Notwithstanding any or all of the Secured Obligations becoming unenforceable against Grantor or the determination that any or all of the Secured Obligations shall have become discharged, disallowed, invalid, illegal, void or otherwise unenforceable as against Grantor (whether by operation of any present or future law or by order of any court or governmental agency), the Secured Obligations shall, for the purposes of this Security Agreement, continue to be outstanding and in full force and effect.

**6.3. NO RELEASE OF GRANTOR.** THE OBLIGATIONS OF GRANTOR UNDER THIS SECURITY AGREEMENT SHALL NOT BE REDUCED, LIMITED OR TERMINATED, NOR SHALL GRANTOR BE DISCHARGED FROM ANY OBLIGATION HEREUNDER, FOR ANY REASON WHATSOEVER (other than pursuant to **Section 6.16**), including (and whether or not the same shall have occurred or failed to occur once or more than once and whether or not Grantor shall have received notice thereof):

(a) (i) any increase in the principal amount of, or interest rate applicable to, (ii) any extension of the time of payment, observance or performance of, (iii) any other amendment or modification of any of the other terms and provisions of, (iv) any release, composition or settlement (whether by way of acceptance of a plan of reorganization or otherwise) of, (v) any subordination (whether present or future or contractual or otherwise) of, or (vi) any discharge, disallowance, invalidity, illegality, voidness or other unenforceability of, the Secured Obligations;

(b) (i) any failure to obtain, (ii) any release, composition or settlement of, (iii) any amendment or modification of any of the terms and provisions of, (iv) any subordination of, or (v) any discharge, disallowance, invalidity, illegality, voidness or other unenforceability of, any Loan Documents;

(c) (i) any failure to obtain or any release of, any failure to protect or preserve, (ii) any release, compromise, settlement or extension of the time of payment of any Obligations constituting, (iii) any failure to perfect or maintain the perfection or priority

of any Lien upon, (iv) any subordination of any Lien upon, or (v) any discharge, disallowance, invalidity, illegality, voidness or other unenforceability of any Lien or intended Lien upon, any collateral now or hereafter securing, the Secured Obligations or any other guaranties thereof;

(d) any termination of or change in any relationship between Grantor, Agent and the Lenders or the addition or release of any other grantor;

(e) any exercise of, or any failure or election not to exercise, delay in the exercise of, waiver of, or forbearance of or other indulgence with respect to, any right, remedy or power available to Agent and the Lenders, including (i) any election not to or failure to exercise any right of setoff, recoupment or counterclaim, (ii) any election of remedies effected by Agent and the Lenders, including the foreclosure upon any real estate constituting collateral, whether or not such election affects the right to obtain a deficiency judgment, and (iii) any election by Agent and the Lenders in any proceeding under the Bankruptcy Code of the application of *Section 1111(b)(2)* of the Bankruptcy Code; and

(f) ANY OTHER ACT OR FAILURE TO ACT OR ANY OTHER EVENT OR CIRCUMSTANCE THAT (i) VARIES THE RISK OF GRANTOR UNDER THIS SECURITY AGREEMENT OR (ii) BUT FOR THE PROVISIONS HEREOF, WOULD, AS A MATTER OF STATUTE OR RULE OF LAW OR EQUITY, OPERATE TO REDUCE, LIMIT OR TERMINATE THE OBLIGATIONS OF GRANTOR HEREUNDER OR DISCHARGE GRANTOR FROM ANY OBLIGATION HEREUNDER.

**6.4. Subordination of Certain Claims.** Any and all rights and claims of Grantor against Borrower or against any other Person or property, arising by reason of any payment by Grantor to Agent for the benefit of Lenders, pursuant to the provisions, or in respect, of this Security Agreement shall be subordinate, junior and subject in right of payment to the prior and indefeasible payment in full of all Secured Obligations to Agent and the Lenders, and until such time, Grantor defers all rights of subrogation, contribution or any similar right and until such time agree not to enforce any such right or remedy Agent and the Lenders may now or hereafter have against Borrower, any endorser or any other grantor of all or any part of the Secured Obligations and any right to participate in, or benefit from, any security given to Agent and the Lenders to secure any of the Secured Obligations. All Liens and security interests of Grantor, whether now or hereafter arising and howsoever existing, in assets of Borrower or any assets securing the Secured Obligations shall be and hereby are subordinated to the rights and interests of Agent and the Lenders, and in those assets until the prior and indefeasible final payment in full of all Secured Obligations to Agent for the benefit of Lenders. If any amount shall be paid to Grantor contrary to the provisions of this *Section 6.4* at any time when any of the Secured Obligations shall not have been indefeasibly paid in full, such amount shall be held in trust for the benefit of Agent and the Lenders and shall forthwith be turned over in kind in the form received to Agent and the Lenders (duly endorsed if necessary) to be credited and applied against the Secured Obligations, whether matured or unmatured, in accordance with the terms of the Credit Agreement.

6.5. **Recovered Payments.** The Secured Obligations shall be deemed not to have been paid, observed or performed, and Grantor's Obligations under this Security Agreement in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by Grantor is recovered from or paid over by or for the account of Agent or any Lender(s) for any reason, including as a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Secured Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or governmental agency, by any plan of reorganization or by settlement or compromise by Agent and/or the Lenders (whether or not consented to by Grantor) of any claim for any such recovery or payment over. Grantor hereby expressly waives the benefit of any applicable statute of limitations and agrees that it shall be liable hereunder whenever such a recovery or payment over occurs.

6.6. **No Waiver.** No delay or omission of Agent to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Event of Default, or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever shall be valid unless in writing signed by Agent (and other lenders, as may be required by the Credit Agreement) and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or by law afforded shall be cumulative and all shall be available to Agent and the Lenders until the Secured Obligations have been paid in full.

6.7. **Agent Performance of Grantor's Obligations.** Without having any obligation to do so, Agent may perform or pay any Obligation which Grantor has agreed to perform or pay in this Security Agreement and Grantor shall, jointly and severally with any other grantor of a Security Agreement securing the Secured Obligations, reimburse Agent for any amounts paid by Agent pursuant to this *Section 6.7*. Grantor's Obligation to reimburse Agent pursuant to the preceding sentence shall be a Secured Obligation payable on demand.

6.8. **Specific Performance of Certain Covenants.** Grantor acknowledges and agrees that a breach of any of the covenants contained in *Sections 4.2(d), 4.2(f), 4.9, 4.17, 5.4, 5.5, 5.6, 5.10, 5.11, or 6.9* will cause irreparable injury to Agent and the Lenders, that Agent and the Lenders have no adequate remedy at law in respect of such breaches and therefore agrees, without limiting the right of Agent to seek and obtain specific performance of other Obligations of Grantor contained in this Security Agreement, that the covenants of Grantor contained in the Sections referred to in this *Section 6.8* shall be specifically enforceable against Grantor.

6.9. **Dispositions Not Authorized.** Grantor is not authorized to sell or otherwise dispose of the Collateral except as set forth in *Section 4.2(e)* and notwithstanding any course of dealing between Grantor and Agent or other conduct of Agent, no authorization to sell or otherwise dispose of the Collateral (except as set forth in *Section 4.2(e)*) shall be binding upon Agent unless such authorization is in writing signed by Agent.

6.10. **Waivers.** Except to the extent expressly otherwise provided herein or in other Loan Documents and to the fullest extent permitted by applicable law, Grantor waives (a) any

right to require Agent or any Lender(s) to proceed against any other Person, to exhaust its rights in Collateral, or to pursue any other right which Agent or any Lender(s) may have; (b) with respect to the Secured Obligations, presentment and demand for payment, protest, notice of protest and nonpayment, notice of intent to accelerate, and notice of acceleration; and (c) all rights of marshaling in respect of any and all of the Collateral.

6.11. **Benefit of Agreement.** The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of Grantor, Agent, Lenders and their respective successors and assigns, except that Grantor shall have no right to assign its rights or delegate its Obligations under this Security Agreement or any interest herein, without the prior written consent of Agent (and other Lenders, as may be required by the Credit Agreement).

6.12. **Survival.** All representations and warranties of Grantor contained in this Security Agreement shall survive the execution and delivery of this Security Agreement. Without prejudice to the survival of any other Obligation of Grantor hereunder, the Obligations of Grantor under **Sections 6.14** and **6.18** shall survive termination of this Security Agreement.

6.13. **Sending Notices.** Whenever any notice is required or permitted to be given under the terms of this Security Agreement, the same shall, except as otherwise expressly provided for in this Security Agreement, be given in writing, and sent by: (a) certified mail, return receipt requested, postage pre paid; (b) a national overnight delivery service; (c) hand delivery with written receipt acknowledged; or (d) facsimile, followed by a copy sent in accordance with **clause (b) or (c)** of this **Section 6.13** sent the same day as the facsimile, in each case to the address or facsimile number (together with a contemporaneous copy to each copied addressee), as applicable, set forth on the signature page to this Security Agreement or in the Credit Agreement. Agent and Grantor shall not conduct communications contemplated by this Security Agreement by electronic mail or other electronic means, except by facsimile transmission as expressly provided in this **Section 6.13**, and the use of the phrase "in writing" or the word "written" shall not be construed to include electronic communications except by facsimile transmissions as expressly provided in this **Section 6.13**. Any notice required or given hereunder shall be deemed received the same Business Day if sent by hand delivery or facsimile, the next Business Day if sent by overnight courier, or three (3) Business Days after posting if sent by certified mail, return receipt requested; *provided that* any notice received after 5:00 p.m. Central Standard time on any Business Day or received on any day that is not a Business Day shall be deemed to have been received on the following Business Day.

6.14. **Taxes and Expenses.** Any taxes (including income taxes) payable or ruled payable by federal or state authority in respect of this Security Agreement shall be paid by Grantor, together with interest and penalties, if any. Grantor shall jointly and severally, along with any other grantors of a Security Agreement securing the Secured Obligations, reimburse Agent and/or any Lender(s) for any and all out-of-pocket expenses and internal charges (including reasonable attorneys', auditors' and accountants' fees and reasonable time charges of attorneys, paralegals, auditors and accountants who may be employees of Agent or any such Lender) paid or incurred by Agent and/or any Lender(s) in connection with the preparation, execution, delivery, and administration, of this Security Agreement and in the audit, analysis, administration, collection, preservation or sale of the Collateral (including the expenses and charges associated with any periodic or special audit of the Collateral). In addition, Grantor and



any other grantors of a Security Agreement securing the Secured Obligations shall be jointly and severally obligated to pay all of the costs and expenses incurred by Agent and/or any lender(s), including attorneys' fees and court costs, in obtaining or liquidating the Collateral, in enforcing payment of the Secured Obligations, or in the prosecution or defense of any action or proceeding by or against Agent, the Lenders, or Grantor concerning any matter arising out of or connected with this Security Agreement, any Collateral or the Secured Obligations, including any of the foregoing arising in, arising under or related to a case under any bankruptcy, insolvency or similar law. Any and all costs and expenses incurred by Grantor in the performance of actions required pursuant to the terms hereof shall be borne solely by Grantor.

6.15. **Headings.** The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

6.16. **Termination.** This Security Agreement shall continue in effect (notwithstanding the fact that from time to time there may be no Secured Obligations outstanding) until (a) the Credit Agreement has terminated pursuant to its express terms and (b) all of the Secured Obligations have been indefeasibly paid and performed in full and no commitments of Agent and Lenders which would give rise to any Secured Obligations are outstanding; *provided that* the termination of this Security Agreement under this **Section 6.16** is subject to **Section 6.5**.

6.17. **GOVERNING LAW.** THIS SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF TEXAS, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.

6.18. **Indemnity.** Grantor does hereby assume all liability for the Collateral, for the security interest of Agent and the Lenders, and for any use, possession, maintenance, and management of, all or any of the Collateral, including any taxes arising as a result of, or in connection with, the transactions contemplated herein, and agrees to assume liability for, and to indemnify and hold Agent and each Lender, their respective successors, assigns, agents, attorneys, and employees harmless from and against, any and all claims, causes of action, or liability, for injuries to or deaths of persons and damage to property, howsoever arising from or incident to such use, possession, maintenance, and management, whether such persons be agents or employees of Grantor or of third parties, or such damage be to property of Grantor or of others. Grantor does hereby indemnify, save, and hold Agent and each Lender and their respective successors, assigns, agents, attorneys, and employees harmless from and against, and covenants to defend Agent and each Lender against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses (collectively, "**Claims**"), including court costs and attorneys' fees, and any of the foregoing, **ARISING FROM THE NEGLIGENCE OF AGENT, ANY LENDER(S) OR ANY OF THEIR OFFICERS, EMPLOYEES, AGENTS, ADVISORS, OR REPRESENTATIVES**, howsoever arising or incurred because of, incident to, or with respect to Collateral or any use, possession, maintenance, or management thereof; *provided, however,* that the indemnity set forth in this **Section 6.18** will not apply to Claims caused by the gross negligence or willful misconduct of Agent, the Lenders, or any of their officers, employees, agents, advisors, or representatives, as determined by a court of competent jurisdiction in final and nonappealable judgment.

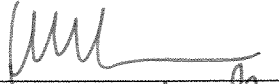
6.19. **FINAL AGREEMENT.** THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURE PAGE TO FOLLOW.**

IN WITNESS WHEREOF, Grantor and Agent have executed this Security Agreement as of the date first above written.

**GRANTOR:**

**BILLING CONCEPTS, INC.,**  
a Delaware corporation

By:   
Name: Naman Al Mipps  
Title: CFO

**AGENT:**

**TEXAS CAPITAL BANK, NATIONAL  
ASSOCIATION**, as agent on behalf of the Lenders

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, Grantor and Agent have executed this Security Agreement as of the date first above written.

**GRANTOR:**

**BILLING CONCEPTS, INC.,**  
a Delaware corporation

By: \_\_\_\_\_  
Name: Norman Phipps  
Title: CFO

**AGENT:**

**TEXAS CAPITAL BANK, NATIONAL  
ASSOCIATION**, as agent on behalf of the Lenders

By: \_\_\_\_\_  
Name: Clay Aderholt  
Title: Vice President

**SCHEDULE 3.5**

**GRANTOR INFORMATION**

1. Full Legal Name, Type of Organization, Jurisdiction of Organization, Chief Executive Office / Place of Business (or Residence if Grantor is a Natural Person) and Organizational Identification Number of each Grantor:

<b>Full Legal Name</b>	<b>Type of Organization</b>	<b>Jurisdiction of Organization</b>	<b>Chief Executive Office / Place of Business (or Residence if Grantor is a Natural Person)</b>	<b>Organization I.D.#</b>
Billing Concepts, Inc.	Corp.	Delaware	7411 John Smith Drive, Suite 1500, San Antonio, Texas 78229	2114581

2. Other Names (including any Trade-Name or Fictitious Business Name) under which each Grantor has conducted business for the past five (5) years:

<b>Full Legal Name</b>	<b>Trade Name or Fictitious Business Name</b>
Billing Concepts, Inc.	Zero Plus Dialing, ZPDI, U.S. Billing, Inc., USBI, BSG Clearing Solutions

3. Changes in Name, Jurisdiction of Organization, Chief Executive Office or Sole Place of Business (or Principal Residence if Grantor is a Natural Person) and Corporate Structure within past five (5) years:

<b>Full Legal Name</b>	<b>Trade Name or Fictitious Business Name</b>
Billing Concepts, Inc.	None.

4. Financing Statements:

<b>Name of Grantor</b>	<b>Filing Jurisdiction(s)</b>
Billing Concepts, Inc.	Delaware, Texas

**SCHEDULE 3.6**

**PROPERTY LOCATIONS**

1. Locations owned by Grantor

<b>Name of Grantor</b>	<b>Location of Equipment, Inventory, and Fixtures</b>
Billing Concepts, Inc.	None

2. Locations leased by Grantor as lessee

<b>Name of Grantor</b>	<b>Location of Equipment, Inventory, and Fixtures</b>
Billing Concepts, Inc.	7411 John Smith Drive, San Antonio, Texas 7829
Billing Concepts, Inc.	1970 South Alamo, San Antonio, Texas 78204
Billing Concepts, Inc.	19385 IH 35 North, Schertz, Texas 78154
Billing Concepts, Inc.	1950 N. Stemmons Freeway, Dallas, Texas 75207

3. Locations at which Inventory is held in a public warehouse or is otherwise held by a bailee or on consignment

<b>Name of Grantor</b>	<b>Location of Equipment, Inventory, and Fixtures</b>
Billing Concepts, Inc.	None

**SCHEDULE 3.10**

**COLLATERAL**

1. Deposit Accounts:

Grantor	Name of Depository Bank	Account Number	Account Name
Billing Concepts, Inc.	JP Morgan Chase	00101752013	None
Billing Concepts, Inc.	JP Morgan Chase	0707961553	None
Billing Concepts, Inc.	JP Morgan Chase	0754225233	None
Billing Concepts, Inc.	JP Morgan Chase	77-1053998	None

2. Collateral Notes:

Grantor	Issuer	Original Principal Amount	Outstanding Principal Balance	Issue Date	Maturity Date
Billing Concepts, Inc.	None	N/A	N/A	N/A	N/A

3. Collateral Note Security:

Name of Grantor	Collateral Notes Secured	Description of Collateral Note Security
Billing Concepts, Inc.	None	N/A

4. Commercial Tort Claims:

Name of Grantor	Commercial Tort Claims
Billing Concepts, Inc.	None

5. Material Agreements:

Name of Grantor	Material Agreements
Billing Concepts, Inc.	Billing and Collections Agreements with various local exchange carriers across the U.S.

6. **Letters of Credit:**

Name of Grantor	Description of Letters of Credit
Billing Concepts, Inc.	None



**SCHEDULE 3.17**

**INTELLECTUAL PROPERTY  
PATENTS AND PATENT LICENESSES**

1. Patents - None

Country	Patent No.	Issue Date	Inventor(s)	Title
N/A	N/A	N/A	N/A	N/A
<b>Pending Patent Applications</b>				
Country	Serial No.	Filing Date	Inventor(s)	Title
N/A	N/A	N/A	N/A	N/A
<b>Patent Applications in Preparation</b>				
Country	Docket No.	Expected Filing Date	Inventor(s)	Title
N/A	N/A	N/A	N/A	N/A

2. Patent Licenses - None

Country or Territory	Licensor	Licensee	Effective Date	Expiration Date	Subject Matter
N/A	N/A	N/A	N/A	N/A	N/A

**TRADEMARKS AND TRADEMARK LICENESSES**

3. Trademarks

<b>Registered Trademarks</b>			
Country	Trademark	Registration No.	Registration Date
U.S.	BC WEBTRACK	2405213	11/21/2000
U.S.	BILLING CONCEPTS	2221736	02/02/1999
Canada	BILLING CONCEPTS	TMA 528565	05/30/2000
Canada	BILLING CONCEPTS	TMA 531346	08/17/2000
U.S.	MISC. DESIGN	2405304	11/21/2000
U.S.	USBI	2399226	10/31/2000
U.S.	USBI & Design	1789626	08/24/1993
U.S.	ZERO PLUS DIALING	2214786	12/29/1998
U.S.	ZPDI	2405302	11/21/2000
U.S.	ZPDI & Design	1716366	09/15/1992
U.S.	BC BETI	2829369	04/06/2004
U.S.	BC PAY	3036175	12/27/2005

U.S.	EZ-WI	3094823	05/23/2006
U.S.	ENABILL	3223632	04/03/2007
U.S.	BC WEBEDITOR	3325350	10/30/2007

**Pending Trademark Applications**

Country	Trademark	Serial No.	Filing Date
None	None	None	None

**Trademark Applications in Preparation**

Country	Trademark	Docket No.	Expected Filing Date	Products/ Services
N/A	N/A	N/A	N/A	N/A

**4. Trademark Licenses - None**

Country or Territory	Trademark	Licensor	Licensee	Effective Date	Expiration Date
N/A	N/A	N/A	N/A	N/A	N/A

**COPYRIGHTS AND COPYRIGHT LICNESES**

**5. Copyrights/Mask Works - None**

Registered Copyrights/Mask Works				
Country	Registration No.	Registration Date	Author(s)	Title
N/A	N/A	N/A	N/A	N/A
Copyright/Mask Work Pending Registration Applications				
Country	Serial No.	Filing Date	Author(s)	Title
N/A	N/A	N/A	N/A	N/A
Copyright/Mask Work Registration Applications in Preparation				
Country	Docket No.	Expected Filing Date	Author(s)	Title
N/A	N/A	N/A	N/A	N/A

**6. Copyright/Mask Work Licenses - None**

Country or Territory	Licensor	Licensee	Effective Date	Expiration Date
N/A	N/A	N/A	N/A	N/A

**TRADE SECRETS AND TRADE SECRET LICENSES**

7. **Trade Secrets**

Name of Grantor	Description of Trade Secrets
Billing Concepts, Inc.	None

8. **Trade Secret Licenses - None**

Trade Secrets	Licensor	Licensee	Effective Date	Expiration Date
N/A	N/A	N/A	N/A	N/A

6155278v.1 106916/00999