

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON D.C. 20549

FORM 10-Q

(Mark One)

[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 1995

OR

[] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number 0-12477

AMGEN INC.

(Exact name of registrant as specified in its charter)

Delaware

95-3540776

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

1840 Dehavilland Drive, Thousand Oaks, California 91320-1789

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (805) 447-1000

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

As of June 30, 1995, the registrant had 263,477,780(A) shares of Common Stock, \$.0001 par value, outstanding.

(A)All share numbers have been adjusted retroactively to reflect a two-for-one split of the Common Stock to be effected in the form of a 100 percent stock dividend to be distributed on August 15, 1995 to stockholders of record on August 1, 1995.

AMGEN INC.

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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

The information in this report for the three and six months ended June 30, 1995 and 1994, is unaudited but includes all adjustments (consisting only of normal recurring accruals) which Amgen Inc. ("Amgen" or the "Company") considers necessary for a fair presentation of the results of operations for those periods.

The condensed financial statements should be read in conjunction with the Company's financial statements and the notes thereto contained in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1994.

Interim results are not necessarily indicative of results for the full fiscal year.

AMGEN INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share data)
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30, 1995	June 30, 1994	June 30, 1995	June 30, 1994
Revenues:				
Product sales	\$462,533	\$388,575	\$873,770	\$734,306
Corporate partner revenues	21,535	18,838	41,311	32,829
Royalty income	9,644	7,272	17,997	11,548
Total revenues	493,712	414,685	933,078	778,683
Operating expenses:				
Cost of sales	76,438	64,394	143,011	117,677
Research and development	108,358	80,230	222,241	153,955
Marketing and selling ..	69,880	59,591	128,641	112,764
General and administrative	34,538	30,186	69,176	58,494
Loss of affiliates, net	13,320	8,627	26,005	15,884
Total operating expenses	302,534	243,028	589,074	458,774
Operating income	191,178	171,657	344,004	319,909
Other income (expense):				
Interest and other income	18,361	3,724	31,260	9,235
Interest expense, net ..	(3,750)	(2,747)	(7,534)	(5,387)
Total other income (expense)	14,611	977	23,726	3,848
Income before income taxes	205,789	172,634	367,730	323,757
Provision for income taxes	68,085	65,170	121,402	122,833
Net income	\$137,704	\$107,464	\$246,328	\$200,924

See accompanying notes.
(Continued on next page)

AMGEN INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (Continued)

(In thousands, except per share data)
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	1995	1994	1995	1994
	-----	-----	-----	-----
Earnings per share:				
Primary	\$.49	\$.38	\$.88	\$.72
Fully diluted	\$.49	\$.38	\$.87	\$.72
Shares used in calculation of:				
Primary earnings per share	278,830	279,218	279,230	280,972
Fully diluted earnings per share	280,298	279,262	281,534	280,972

See accompanying notes.

AMGEN INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except per share data)
(Unaudited)

	June 30, 1995	December 31, 1994
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 194,858	\$ 211,323
Marketable securities	655,790	485,358
Trade receivables, net	218,307	194,712
Inventories	80,304	98,004
Deferred tax assets, net	70,176	70,176
Other current assets	52,530	56,065
	-----	-----
Total current assets	1,271,965	1,115,638
Property, plant and equipment at cost, net	677,981	665,314
Investments in affiliated companies.....	74,339	82,263
Other assets.....	135,828	130,932
	-----	-----
	\$2,160,113	\$1,994,147
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 38,069	\$ 30,476
Commercial paper	99,120	99,667
Other accrued liabilities	444,883	406,287
	-----	-----
Total current liabilities	582,072	536,430
Long-term debt.....	181,200	183,407
Contingencies		
Stockholders' equity:		
Common stock, \$.0001 par value; 750,000 shares authorized; outstanding - 263,478 shares in 1995 and 264,655 shares in 1994	26	26
Additional paid-in capital	769,019	719,297
Retained earnings	627,796	554,987
	-----	-----
Total stockholders' equity	1,396,841	1,274,310
	-----	-----
	\$2,160,113	\$1,994,147
	=====	=====

See accompanying notes.

AMGEN INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)
(Unaudited)

	Six Months Ended June 30,	
	1995	1994
	-----	-----
Cash flows from operating activities:		
Net income	\$246,328	\$ 200,924
Depreciation and amortization	42,373	36,865
Other non-cash expenses	72	2,679
Deferred income taxes	-	3,536
Loss of affiliates, net	26,005	15,884
Cash provided by (used in):		
Trade receivables, net	(23,595)	(15,962)
Inventories	17,700	(5,027)
Other current assets	3,535	5,929
Accounts payable	7,593	(6,065)
Accrued liabilities	38,622	(21,396)
	-----	-----
Net cash provided by operating activities	358,633	217,367
	-----	-----
Cash flows from investing activities:		
Purchases of property, plant and equipment	(55,040)	(65,637)
Proceeds from maturities of marketable securities	48,445	61,239
Proceeds from sales of marketable securities	604,072	1,001,761
Purchases of marketable securities ..	(822,949)	(935,167)
Decrease (increase) in investments in affiliated companies	5,366	(17,647)
Increase in other assets	(4,896)	(10,305)
	-----	-----
Net cash (used in) provided by investing activities	(225,002)	34,244
	-----	-----

See accompanying notes.
(Continued on next page)

AMGEN INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)

(In thousands)
(Unaudited)

Six Months Ended
June 30,
1995 1994

	-----	-----
Cash flows from financing activities:		
Decrease in commercial paper	\$ (547)	\$ (10,033)
Proceeds from issuance of long-term debt	-	12,499
Repayment of long-term debt	(2,233)	(1,061)
Net proceeds from issuance of common stock upon the exercise of stock options	40,782	11,797
Tax benefit related to stock options.	8,868	7,400
Net proceeds from issuance of common stock upon the exercise of warrants	-	15,330
Repurchases of common stock	(173,519)	(150,481)
Other	(23,447)	(14,004)
	-----	-----
Net cash used in financing activities	(150,096)	(128,553)
	-----	-----
Increase in cash and cash equivalents.	(16,465)	123,058
Cash and cash equivalents at beginning of period	211,323	128,505
	-----	-----
Cash and cash equivalents at end of period	\$194,858	\$ 251,563
	=====	=====

See accompanying notes.

AMGEN INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
June 30, 1995

1. Summary of significant accounting policies

Business

Amgen Inc. ("Amgen" or the "Company") is a global biotechnology company that develops, manufactures and markets human therapeutics based on advanced cellular and molecular biology.

Principles of consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries as well as affiliated companies for which the Company has a controlling financial interest and exercises control over their operations ("majority controlled affiliates"). All material intercompany transactions and balances have been eliminated in consolidation. Investments in affiliated companies which are 50% owned and/or where the Company exercises significant influence over operations are accounted for using the equity method. All other equity investments are accounted for under the cost method. The caption "Loss of affiliates, net" includes Amgen's equity in the operating results of affiliated companies and the minority interest others hold in the operating results of Amgen's majority controlled affiliates.

Inventories

Inventories are stated at the lower of cost or market. Cost is determined in a manner which approximates the first-in, first-out (FIFO) method. Inventories are shown net of applicable reserves and allowances. Inventories consist of the following (in thousands):

	June 30, 1995	December 31, 1994
	-----	-----
Raw materials	\$ 9,508	\$10,943
Work in process	40,933	54,032
Finished goods	29,863	33,029
	-----	-----
	\$80,304	\$98,004
	=====	=====

Product sales

Product sales consist of two products, EPOGEN(R) (Epoetin alfa) and NEUPOGEN(R) (Filgrastim).

Quarterly NEUPOGEN(R) sales volume in the United States is influenced by a number of factors including underlying demand, seasonality of cancer chemotherapy administration and wholesaler

inventory management practices. Wholesaler inventory reductions tend to reduce domestic NEUPOGEN(R) sales in the first quarter each year. NEUPOGEN(R) sales in the European Union ("EU") have experienced a decline in the third quarter in prior years due to seasonality.

As a result of an agreement between Amgen and Ortho Pharmaceutical Corporation, a subsidiary of Johnson & Johnson ("Johnson & Johnson") covering the U.S. market for the Company's Epoetin alfa product, Amgen does not recognize product sales it makes into the contractual market of Johnson & Johnson and does recognize the product sales made by Johnson & Johnson into Amgen's contractual market. These sales amounts, and adjustments thereto, are derived from third-party data on shipments to end users and their usage (see Note 4, "Contingencies - Johnson & Johnson arbitration").

Income taxes

Income taxes are accounted for in accordance with Statement of Financial Accounting Standards ("SFAS") No. 109 (Note 3).

Earnings per share

Earnings per share are computed in accordance with the treasury stock method. Primary and fully diluted earnings per share are based upon the weighted average number of common shares and dilutive common stock equivalents during the period in which they were outstanding. Common stock equivalents include outstanding options under the Company's stock option plans and warrants to purchase shares of the Company's common stock. The warrants expired on June 30, 1994.

Basis of presentation

The financial information for the three and six months ended June 30, 1995 and 1994 is unaudited but includes all adjustments (consisting only of normal recurring accruals) which the Company considers necessary for a fair presentation of the results of operations for these periods. Interim results are not necessarily indicative of results for the full fiscal year.

Reclassification

Certain prior period amounts have been reclassified to conform to the current period presentation.

2. Debt

As of June 30, 1995, \$99.1 million of commercial paper was outstanding. These borrowings generally had maturities of three months or less and had effective interest rates averaging 6.1%.

During the three months ended June 30, 1995, the Company replaced its existing unsecured credit facility with a new unsecured

credit facility (the "credit facility"). The credit facility includes a commitment expiring on June 23, 2000 for up to \$150.0 million of borrowings under a revolving line of credit (the "revolving line commitment") and a commitment expiring on December 5, 1997 for up to an additional \$73.0 million of letters of credit (the "letters of credit commitment"). As of June 30, 1995, \$150.0 million was available under the revolving line commitment for borrowing and to support the Company's commercial paper program. Also, as of June 30, 1995, letters of credit totaling \$73.0 million were issued and outstanding to secure the Company's promissory notes and accrued interest thereon. Borrowings under the revolving line commitment bear interest at various rates which are a function of, at the Company's option, either the prime rate of a major bank, the federal funds rate or a Eurodollar base rate. Under the terms of the credit facility, the Company is required to meet a minimum interest coverage ratio and maintain a minimum level of tangible net worth. In addition, the credit facility contains limitations on investments, liens and sale/leaseback transactions.

Long-term debt consists of the following (in thousands):

	June 30, 1995	December 31, 1994
Medium Term Notes	\$113,000	\$113,000
Promissory notes	68,200	68,200
Other obligations	19	2,252
	-----	-----
	181,219	183,452
Less current portion	(19)	(45)
	-----	-----
	\$181,200	\$183,407
	=====	=====

The Company has registered \$200.0 million of unsecured medium term debt securities ("Medium Term Notes") of which \$113.0 million were outstanding at June 30, 1995. These Medium Term Notes bear interest at fixed rates averaging 5.8% and mature in two to eight years.

3. Income taxes

The provision for income taxes consists of the following (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	1995	1994	1995	1994
Federal	\$61,639	\$56,026	\$110,177	\$105,887
State	6,446	9,144	11,225	16,946
	-----	-----	-----	-----
Total	\$68,085	\$65,170	\$121,402	\$122,833
	=====	=====	=====	=====

The decrease in the current year tax rate is due to tax benefits from the sale of products manufactured in the Puerto Rico fill-and-finish facility which began in the first quarter of 1995.

4. Contingencies

Johnson & Johnson arbitration

In September 1985, the Company granted Johnson & Johnson an exclusive license under certain patented technology and know-how of the Company to sell erythropoietin throughout the United States for all human uses except dialysis and diagnostics.

In January 1989, Johnson & Johnson initiated arbitration proceedings with respect to a number of disputes which had arisen between Amgen and Johnson & Johnson as to the respective rights and obligations of the parties under the various agreements between them. Amgen filed a cross petition for arbitration raising additional disputes for resolution by the arbitrator. The scope of the arbitration covered erythropoietin, hepatitis B vaccine and interleukin-2.

In April 1990, the arbitrator ruled that Johnson & Johnson must purchase from Amgen all of Johnson & Johnson's actual United States sales requirements of recombinant human erythropoietin. In December 1990, the U.S. Food and Drug Administration approved Amgen's application to name Johnson & Johnson a distributor of Epoetin alfa under the trademark PROCRI(R). In January 1991, Johnson & Johnson began distributing Epoetin alfa.

In June 1991, the arbitrator issued an opinion awarding Johnson & Johnson \$164 million on its claims regarding erythropoietin. In September 1992, the arbitrator found that Johnson & Johnson had breached its obligations regarding hepatitis B vaccine and interleukin-2, and in January 1993 awarded the Company approximately \$90 million in damages against Johnson & Johnson. In January 1993, the Company paid Johnson & Johnson the sum of \$82.4 million, representing the difference between the damages awarded Johnson & Johnson as a result of its erythropoietin claims, and the amounts awarded Amgen against Johnson & Johnson as a result of its hepatitis B vaccine and interleukin-2 claims, plus interest. Johnson & Johnson returned to the Company the rights to develop and market hepatitis B vaccine and interleukin-2 in March 1991.

The Company and Johnson & Johnson are required to compensate each other for Epoetin alfa sales which either party makes into the other party's contractual market. The Company has established and is employing an accounting methodology to assign the proceeds of sales of EPOGEN(R) and PROCRI(R) in Amgen's and Johnson & Johnson's respective contractual markets. Johnson & Johnson has disputed the methodology employed by the Company, which is the subject of the current arbitration proceeding, and is proposing an alternative methodology for adoption by the arbitrator. If, as a result of the arbitration proceeding, a methodology different from that currently employed by the Company is instituted to assign the proceeds of sales between the parties, it may yield results that are different from the

results of the accounting methodology currently employed by the Company. As a result of the arbitration, it is possible that the Company would recognize a different level of EPOGEN(R) sales than are currently being recognized. As a result of the arbitration, the Company may be required to pay additional compensation to Johnson & Johnson for sales during prior periods, or Johnson & Johnson may be required to pay compensation to the Company for such prior period sales. Due to the uncertainties of any arbitrated result, the Company has established net liabilities that exceed the amounts paid to Johnson & Johnson.

A trial date has been reset for March 1, 1996 before the arbitrator regarding the accounting methodologies and compensation for sales by Johnson & Johnson into Amgen's contractual market and sales by Amgen into Johnson & Johnson's contractual market. Discovery as to these issues is in progress.

Synergen litigation

Acquisition litigation

The Company and its wholly owned subsidiary, Amgen Boulder Inc. (formerly Synergen, Inc.), have been named as defendants in several lawsuits filed in connection with the Company's December 1994 acquisition of Synergen (the "Acquisition"). One suit, brought by plaintiffs seeking to represent a class of Synergen warrant holders who claim to have been deprived of the benefit of their warrants, includes a request for general damages in the sum of \$34.3 million and also names Amgen Boulder Development Corporation as a defendant. The balance of the suits have been brought by plaintiffs who seek to represent a class of stockholders of Synergen common stock. These plaintiffs seek an unspecified amount of compensatory damages, an order rescinding the Acquisition and related equitable relief based upon allegations that the defendants breached their fiduciary duties by failing to maximize stockholder value and defrauded the plaintiffs by omitting to disclose allegedly material information concerning Synergen's future prospects.

ANTRIL(TM) litigation

Several lawsuits have been filed against Synergen alleging misrepresentations in connection with its research and development of ANTRIL(TM) for the treatment of sepsis. One suit brought by three Synergen stockholders alleges violations of state securities laws, fraud and misrepresentation and seeks an unspecified amount of compensatory damages and punitive damages. Another suit, proposed as a class action, filed by a limited partner of a partnership with which Synergen is affiliated, seeks rescission of certain payments

made to one of the defendants (or unspecified damages not less than \$50.0 million) and treble damages based on a variety of allegations. Broker-dealers who acted as market makers in Synergen options have also filed a suit claiming in excess of \$3.2 million in trading losses.

While it is not possible to predict accurately or determine the eventual outcome of the Johnson & Johnson arbitration, the Synergen litigation or various other legal proceedings (including patent disputes) involving Amgen, the Company believes that the outcome of these proceedings will not have a material adverse effect on its financial statements.

5. Capital stock

During the six months ended June 30, 1995, the Company acquired 5.0 million shares of its common stock at a total cost of \$173.5 million under its common stock repurchase program. At June 30, 1995, \$157.7 million of the amount approved by the Board of Directors remained available for repurchase through December 31, 1995. Stock repurchased under the program has been retired and such repurchases offset the dilutive effect of the Company's stock option and stock purchase plans.

In July 1995, the Board of Directors approved a two-for-one split of the Company's Common Stock to be effected in the form of a 100 percent stock dividend. The dividend will be distributed on August 15, 1995, to stockholders of record on August 1, 1995. Accordingly, the condensed consolidated financial statements and accompanying notes have been retroactively adjusted to give recognition to this stock split.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Liquidity and Capital Resources

Cash provided by operating activities has been and is expected to continue to be the Company's primary source of funds. During the six months ended June 30, 1995, operations provided \$358.6 million of cash compared with \$217.4 million during the same period last year. The Company had cash, cash equivalents and marketable securities of \$850.6 million at June 30, 1995, compared with \$696.7 million at December 31, 1994.

Capital expenditures totaled \$55.0 million for the six months ended June 30, 1995, compared with \$65.6 million for the same period a year ago. Over the next few years, the Company expects to spend approximately \$100.0 million to \$200.0 million per year on capital projects to expand the Company's global operations.

The Company receives cash from the exercise of employee stock options. During the six months ended June 30, 1995, stock options

and their related tax benefits provided \$49.7 million of cash compared with \$19.2 million for the same period last year. Proceeds from the exercise of stock options and their related tax benefits will vary from period to period based upon fluctuations in the market value of the Company's stock relative to the exercise price of such options, among other factors.

The Company has a common stock repurchase program to offset the dilutive effect of its employee benefit stock option and stock purchase plans. Since its inception in 1992 through June 30, 1995, the Company has repurchased \$767.3 million of its common stock and is authorized to purchase up to an additional \$157.7 million through December 31, 1995. During the six months ended June 30, 1995, the Company purchased 5.0 million shares of common stock at a cost of \$173.5 million compared with 7.0 million shares purchased at a cost of \$150.5 million during the same period last year.

To provide for financial flexibility and increased liquidity, the Company has established several sources of debt financing. The Company has filed a shelf registration statement with the Securities and Exchange Commission under which it could issue up to \$200.0 million of Medium Term Notes. At June 30, 1995, \$113.0 million of Medium Term Notes were outstanding which mature in two to eight years. The Company has a commercial paper program which provides for short-term borrowings up to an aggregate face amount of \$200.0 million. At June 30, 1995, \$99.1 million of commercial paper was outstanding, generally with maturities of three months or less. The Company also has a \$150.0 million revolving line of credit, principally to support the Company's commercial paper program. No borrowings on this line of credit were outstanding at June 30, 1995.

The Company invests its cash in accordance with a policy that seeks to maximize returns while ensuring both liquidity and minimal risk of principal loss. The policy limits investments to certain types of instruments issued by institutions with investment grade credit ratings, and places restrictions on maturities and concentration by type and issuer. The Company's fixed income investments are subject to the risk of market interest rate fluctuations, and all of the Company's investments are subject to risks associated with the ability of the issuers to perform their obligations under the instruments.

The Company has a program to manage certain portions of its exposure to fluctuations in foreign currency exchange rates. These exposures primarily result from European sales. The Company hedges the related receivables with foreign currency forward contracts, which typically mature within six months. The Company uses foreign currency option and forward contracts which generally expire within 12 months to hedge certain anticipated future cash flows related to these sales. At June 30, 1995, outstanding option and forward contracts totaled \$38.6 million and \$66.9 million, respectively.

The Company believes that existing funds, cash generated from operations, and existing sources of debt financing will be adequate to satisfy its working capital and capital expenditure requirements and to support its common stock repurchase program for the

foreseeable future. However, the Company may raise additional capital from time to time to take advantage of favorable conditions in the markets or in connection with the Company's corporate development activities.

Results of Operations

Product sales

Product sales increased 19% for both the three and six months ended June 30, 1995, compared with the same periods last year.

NEUPOGEN(R) (Filgrastim)

The Company's worldwide NEUPOGEN(R) sales were \$247.0 million and \$459.4 million for the three and six months ended June 30, 1995, respectively. These amounts represent increases of 16.5% and 16.7%, respectively, over the same periods last year.

Domestic sales of NEUPOGEN(R) were \$175.8 million and \$323.1 million for the three and six months ended June 30, 1995, respectively. These amounts represent increases of \$17.4 million and \$32.7 million, or 11.0% and 11.3%, respectively, over the same periods last year. These increases were primarily due to increased penetration of the market for colony-stimulating factors.

International sales of NEUPOGEN(R), primarily in Europe, were \$71.2 million and \$136.2 million for the three and six months ended June 30, 1995, respectively. These amounts represent increases of \$17.6 million and \$32.9 million, or 32.7% and 31.9%, respectively, over the same periods last year. Three factors, each contributing approximately one third of reported sales growth, account for these increases: increased market penetration, the favorable effects of strengthened foreign currencies, and the inclusion of sales from three additional countries as the result of Austria, Sweden, and Finland joining the EU on January 1, 1995. Prior to the entry of these countries into the EU, F. Hoffmann La Roche paid the Company royalties on sales in these countries under a license agreement. The Company's overall share of the colony-stimulating factor market in the EU has decreased slightly since the introduction in 1994 of competing colony stimulating factor products.

Quarterly NEUPOGEN(R) sales volume in the United States is influenced by a number of factors including underlying demand, seasonality of cancer chemotherapy administration and wholesaler inventory management practices. Wholesaler inventory reductions tend to reduce domestic NEUPOGEN(R) sales in the first quarter each year. In prior years, NEUPOGEN(R) sales in the EU have experienced a decline to varying degrees in the third quarter due to seasonality.

EPOGEN(R) (Epoetin alfa)

EPOGEN(R) sales were \$215.5 million and \$414.4 million for the three and six months ended June 30, 1995, respectively, increases of \$39.0 million and \$73.8 million or 22.1% and 21.7% over the same periods last year.

These increases were primarily due to an increase in the U.S. dialysis patient population, the administration of higher doses of EPOGEN(R) per patient, and, to a lesser extent, increased penetration of the dialysis market.

Cost of sales

Cost of sales as a percentage of product sales was 16.5% and 16.4% for the three and six months ended June 30, 1995, respectively, compared with 16.6% and 16.0% for the same periods last year. Cost of sales as a percentage of product sales is expected to decline slightly in the second half of the current year when benefits of the Puerto Rico fill-and-finish facility are realized.

Research and development

During the three and six months ended June 30, 1995, research and development expenses increased \$28.1 million and \$68.3 million, or 35.1% and 44.4%, respectively, compared with the same periods last year. These increases are primarily due to an expansion of the Company's internal research and development staff, partially as a result of the acquisition of Synergen. In addition, the current year six month period includes a \$20 million signing payment made in the first quarter to The Rockefeller University for an exclusive license to certain technologies. Annual research and development expenses are expected to increase at a rate exceeding the anticipated annual product sales growth rate due to planned increases in internal efforts on new product discovery and development and increases in external research collaboration costs, including acquisitions of product and technology rights.

Marketing and selling

Marketing and selling expenses increased \$10.3 million and \$15.9 million, or 17.3% and 14.1%, respectively, during the three and six months ended June 30, 1995 compared with the same periods last year. These increases primarily reflect marketing efforts to improve NEUPOGEN(R) market penetration and EPOGEN(R) marketing efforts to bring more patients within the target hematocrit range. Future marketing and selling expenses combined with future general and administrative expenses are expected to have an aggregate annual growth rate lower than the anticipated annual growth in product sales.

General and administrative

General and administrative expenses increased \$4.4 million and \$10.7 million, or 14.4% and 18.3%, respectively, during the three and six months ended June 30, 1995 compared with the same periods last year. These increases are primarily due to staff-related expenses. Future general and administrative expenses combined with future marketing and selling expenses are expected to have an aggregate annual growth rate lower than the anticipated annual growth in product sales.

Interest and other income

Interest and other income increased \$14.6 million or 393.0% and \$22.0 million or 238% during the three and six months ended June 30, 1995, respectively, compared with the same periods last year. These increases are primarily due to: 1) capital gains realized in the

Company's investment portfolio during the current year periods while capital losses were incurred in the prior year periods, and 2) higher interest rates earned by the Company's investment portfolio during the current year periods. Capital gains and losses realized will fluctuate from period to period.

Income taxes

The Company's effective tax rate for the three and six months ended June 30, 1995 was 33.1% and 33.0% compared to 37.8% and 37.9%, respectively, for the same periods last year. These decreases in the tax rate were due to tax benefits from the sale of products manufactured in the Puerto Rico fill-and-finish facility which began in the first quarter of 1995. These tax benefits are expected to result in an annualized effective tax rate of 32%-34%.

Financial Outlook

Worldwide NEUPOGEN(R) sales for 1995 are expected to grow at a double digit rate but lower than the 1994 growth rate. Future NEUPOGEN(R) sales increases are dependent primarily upon further penetration of existing markets, the timing and nature of additional indications for which the product may be approved, and the effects of competitive products. In addition, international NEUPOGEN(R) sales will continue to be subject to changes in foreign currency exchange rates and increased competition.

EPOGEN(R) sales for 1995 are anticipated to grow at an annual rate approaching 20%. The Company anticipates that increases in both the U.S. dialysis patient population and dosing will continue to drive EPOGEN(R) sales. EPOGEN(R) sales may be affected also by future changes in reimbursement rates or the basis for reimbursement by the federal government.

The Company expects double digit earnings growth in 1995 primarily as a result of the anticipated increases in product sales, increases realized in interest and other income, and the decrease in the 1995 tax rate. Estimates of future product sales and earnings, however, are necessarily speculative in nature and are difficult to predict with accuracy.

Legal Matters

The Company is engaged in arbitration proceedings with one of its licensees and various legal proceedings relating to Synergen. For a discussion of these matters see Note 4 to the Condensed Consolidated Financial Statements.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

The Company is engaged in arbitration proceedings with one of its licensees. For a complete discussion of this matter see Note 4 to the Condensed Consolidated Financial Statements - "Johnson & Johnson arbitration". Other legal proceedings are also reported in

Note 4 to the Condensed Consolidated Financial Statements and in the Company's Form 10-K for the year ended December 31, 1994, with material developments since that report described below except to the extent otherwise reported in the Company's Form 10-Q for the period ended March 31, 1995. While it is not possible to predict accurately or to determine the eventual outcome of these matters, the Company believes that the outcome of these legal proceedings will not have a material adverse effect on the financial statements of the Company.

Synergen litigation

Acquisition litigation

In Glick v. Synergen, Inc., et al., a lawsuit brought by a class of Synergen warrant holders who claim to have been deprived of the benefit of their warrants as the result of the Company's 1994 acquisition of Synergen, Inc., the plaintiffs have filed a third amended complaint. Previously, this action had been dismissed by the court with leave to amend the complaint. The third amended complaint added Amgen Boulder Development Corporation as a defendant, dropped former officers and directors of Synergen as defendants and added claims for breach of contract and fraud.

ANTRIL(TM) litigation

A new lawsuit, Susquehanna Investment Group, et al. v. Amgen Boulder, Inc., et al., has been filed in the United States District Court in Denver, Colorado against Amgen Boulder, Inc. (formerly Synergen, Inc.) alleging misrepresentations in connection with the research and development of ANTRIL(TM) for the treatment of sepsis. This suit, filed on May 19, 1995, is brought by broker-dealers who acted as market makers in Synergen options. The plaintiffs claim in excess of \$3.2 million in trading losses on option positions as the result of the alleged misrepresentations.

Erythropoietin patent litigation

Johnson & Johnson has filed a petition for certiorari with the United States Supreme Court requesting review of an April 5, 1995 decision by the United States Court of Appeals for the Federal Circuit. This decision upheld rulings made in December 1992 by the United States District Court for the District of Massachusetts and described in the Company's Form 10-K for the year ended December 31, 1994.

Item 4. Submission of Matters to a Vote of Security Holders

The Company held its Annual Meeting of Stockholders on May 9, 1995. The three matters voted upon at the meeting were to elect three directors to hold office until the 1998 Annual Meeting of Stockholders, to approve the Company's Amended and Restated 1991 Equity Incentive Plan, and to ratify the selection of Ernst & Young LLP as the independent auditors of the Company for the year ending December 31, 1995.

The following votes were cast for or were withheld with respect to each of the nominees: Mr. Steven Lazarus: 233,695,044 votes for and 1,374,586 votes withheld; Mr. Edward J. Ledder: 233,671,300 votes for and 1,398,330 votes withheld; and Dr. Gilbert S. Omenn: 233,696,080 votes for and 1,373,550 votes withheld. All nominees were declared to have been elected as directors to hold office until the 1998 Annual Meeting of Stockholders. No abstentions or broker non-votes were cast for the election of directors.

With respect to the proposal to approve the Company's Amended and Restated 1991 Equity Incentive Plan, 123,810,578 votes were cast for the proposal, 67,409,952 votes were cast against the proposal and 2,865,206 votes abstained. 40,983,894 broker non-votes were cast in connection with the proposal. The Company's Amended and Restated 1991 Equity Incentive Plan was declared to have been approved.

With respect to the proposal to ratify the selection of Ernst & Young LLP as the Company's independent auditors, 233,895,390 votes were cast for the proposal, 479,764 votes were cast against the proposal and 594,476 votes abstained. No broker non-votes were cast in connection with the proposal. The selection of Ernst & Young LLP as the Company's independent auditors for the year ending December 31, 1995 was declared to have been ratified.

Item 5. Other Information

In July 1995, the Board of Directors approved a two-for-one split of the Company's Common Stock to be effected in the form of a 100 percent stock dividend. The dividend will be distributed on August 15, 1995 to stockholders of record on August 1, 1995.

Item 6. Exhibits and Reports on Form 8-K

- (a) Reference is made to the Index to Exhibits included herein.
- (b) Reports on Form 8-K

No reports on Form 8-K were filed during the three months ended June 30, 1995.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Amgen Inc.
(Registrant)

Date: 8/11/95

By:/s/ Robert S. Attiyeh

Robert S. Attiyeh
Senior Vice President Finance
and Corporate Development, and
Chief Financial Officer

Date: 8/11/95

By:/s/ Larry A. May

Larry A. May
Vice President, Corporate
Controller and Chief
Accounting Officer

AMGEN INC.

INDEX TO EXHIBITS

Exhibit No.	Description
3.1	Restated Certificate of Incorporation. (7)
3.2	Certificate of Amendment to Restated Certificate of Incorporation, effective as of July 24, 1991. (14)
3.3	Bylaws, as amended to date. (20)
4.1	Indenture dated January 1, 1992 between the Company and Citibank N.A., as trustee. (15)
4.2	Forms of Commercial Paper Master Note Certificates. (19)
10.1*	Company's 1991 Equity Incentive Plan, as amended. (16)
10.2*	Company's 1984 Stock Option Plan, as amended, and forms of Incentive Stock Option Grant and Nonqualified Stock Option Grant used in connection therewith. (16)
10.3	Shareholder's Agreement of Kirin-Amgen, Inc., dated May 11, 1984, between the Company and Kirin Brewery Company, Limited (with certain confidential information deleted therefrom). (1)
10.4	Amendment Nos. 1, 2, and 3, dated March 19, 1985, July 29, 1985 and December 19, 1985, respectively, to the Shareholder's Agreement of Kirin-Amgen, Inc., dated May 11, 1984 (with certain confidential information deleted therefrom). (3)
10.5	Product License Agreement, dated September 30, 1985, and Technology License Agreement, dated, September 30, 1985 between the Company and Ortho Pharmaceutical Corporation (with certain confidential information deleted therefrom). (2)
10.6	Product License Agreement, dated September 30, 1985, and Technology License Agreement, dated September 30, 1985 between Kirin-Amgen, Inc. and Ortho Pharmaceutical Corporation (with certain confidential information deleted therefrom). (3)
10.7*	Company's Employee Stock Purchase Plan, amended April 1, 1992. (17)
10.8	Agreement, dated February 12, 1986, between the Company and Sloan-Kettering Institute for Cancer Research (with certain confidential information deleted therefrom). (4)
10.9	Amendment No. 2, dated November 13, 1990, to Agreement, dated February 12, 1986, between the Company and Sloan-Kettering Institute for Cancer Research (with certain confidential information deleted therefrom). (13)
10.10	Research, Development Technology Disclosure and License Agreement PPO, dated January 20, 1986, by and between the Company and Kirin Brewery Co., Ltd. (4)
10.11	Research Collaboration Agreement, dated August 31, 1990, between Amgen Inc. and Regeneron Pharmaceuticals, Inc. (with certain confidential information deleted therefrom). (13)
10.12	Amendment Nos. 4 and 5, dated October 16, 1986 (effective July 1, 1986) and December 6, 1986 (effective July 1, 1986), respectively, to the Shareholders

- Agreement of Kirin-Amgen, Inc. dated May 11, 1984 (with certain confidential information deleted therefrom). (5)
- 10.13 Assignment and License Agreement, dated October 16, 1986, between the Company and Kirin-Amgen, Inc. (with certain confidential information deleted therefrom). (5)
- 10.14 G-CSF European License Agreement, dated December 30, 1986, between Kirin-Amgen, Inc. and the Company (with certain confidential information deleted therefrom). (5)
- 10.15 Research and Development Technology Disclosure and License Agreement: GM-CSF, dated March 31, 1987, between Kirin Brewery Company, Limited and the Company (with certain confidential information deleted therefrom). (5)
- 10.16* Company's 1987 Directors' Stock Option Plan, as amended. (13)
- 10.17 Cross License Agreement, dated June 1, 1987, between Amgen Inc. and Amgen Clinical Partners, L.P. (6)
- 10.18 Development Agreement, dated June 1, 1987, between Amgen Inc. and Amgen Clinical Partners, L.P. (6)
- 10.19 Joint Venture Agreement, dated June 1, 1987, between Amgen Inc. and Amgen Clinical Partners, L.P. (6)
- 10.20 Partnership Purchase Option Agreement, dated June 1, 1987, between Amgen Inc. and Amgen Clinical Partners, L.P. (6)
- 10.21* Company's 1988 Stock Option Plan, as amended. (16)
- 10.22* Company's Retirement and Savings Plan, amended and restated as of January 1, 1993. (17)
- 10.23 Amendment, dated June 30, 1988, to Research, Development, Technology Disclosure and License Agreement: GM-CSF dated March 31, 1987, between Kirin Brewery Company, Limited and the Company. (7)
- 10.24 Amending Agreement, dated June 30, 1988, to Development Agreement, Partner Purchase Option Agreement, Cross License Agreement and Joint Venture Agreement, dated June 1, 1987, between the Company and Amgen Clinical Partners, L.P. (7)
- 10.25 Agreement on G-CSF in the EU, dated September 26, 1988, between Amgen Inc. and F. Hoffmann-La Roche & Co. Limited Company (with certain confidential information deleted therefrom). (9)
- 10.26 Supplementary Agreement to Agreement dated January 4, 1989 to Agreement on G-CSF in the EU, dated September 26, 1988, between the Company and F. Hoffmann-La Roche & Co. Limited Company, (with certain confidential information deleted therefrom). (9)
- 10.27 Agreement on G-CSF in Certain European Countries, dated January 1, 1989, between Amgen Inc. and F. Hoffmann-La Roche & Co. Limited Company (with certain confidential information deleted therefrom). (9)
- 10.28 Rights Agreement, dated January 24, 1989, between Amgen Inc. and American Stock Transfer and Trust Company, Rights Agent. (8)
- 10.29 First Amendment to Rights Agreement, dated January 22, 1991, between Amgen Inc. and American Stock Transfer and Trust Company, Rights Agent. (11)

- 10.30 Second Amendment to Rights Agreement, dated April 2, 1991, between Amgen Inc. and American Stock Transfer and Trust Company, Rights Agent. (12)
- 10.31 Deed of Trust and Security Agreement, dated June 1, 1989, between the Company and UNUM Life Insurance Company of America. (10)
- 10.32 Note, dated June 1, 1989, between the Company and UNUM Life Insurance Company of America. (10)
- 10.33 Agency Agreement, dated November 21, 1991, between Amgen Manufacturing, Inc. and Citicorp Financial Services Corporation. (17)
- 10.34 Agency Agreement, dated May 21, 1992, between Amgen Manufacturing, Inc. and Citicorp Financial Services Corporation. (17)
- 10.35 Guaranty, dated July 29, 1992, by the Company in favor of Merck Sharp & Dohme Quimica de Puerto Rico, Inc. (17)
- 10.36 936 Promissory Note No. 01, dated December 11, 1991, issued by Amgen Manufacturing, Inc. (17)
- 10.37 936 Promissory Note No. 02, dated December 11, 1991, issued by Amgen Manufacturing, Inc. (17)
- 10.38 936 Promissory Note No. 001, dated July 29, 1992, issued by Amgen Manufacturing, Inc. (17)
- 10.39 936 Promissory Note No. 002, dated July 29, 1992, issued by Amgen Manufacturing, Inc. (17)
- 10.40 Guaranty, dated November 21, 1991, by the Company in favor of Citicorp Financial Services Corporation. (17)
- 10.41 Lease and Agreement relating to Lease, dated March 27, 1986 and April 1, 1986, respectively, for 2003 Oak Terrace Lane between 2001 Hillcrest Partnership and the Company. (20)
- 10.42 Partnership Purchase Agreement, dated March 12, 1993, between the Company, Amgen Clinical Partners, L.P., Amgen Development Corporation, the Class A limited partners and the Class B limited partner. (18)
- 10.43* Amgen Supplemental Retirement Plan dated June 1, 1993. (21)
- 10.44 Promissory Note of Mr. Kevin W. Sharer, dated June 4, 1993. (21)
- 10.45 Promissory Note of Mr. Larry A. May, dated February 24, 1993. (22)
- 10.46* First Amendment dated October 26, 1993 to the Company's Retirement and Savings Plan. (22)
- 10.47* Amgen Performance Based Management Incentive Plan. (22)
- 10.48 Agreement and Plan of Merger, dated as of November 17, 1994, among Amgen Inc., Amgen Acquisition Subsidiary, Inc. and Synergen, Inc. (23)
- 10.49 Third Amendment to Rights Agreement, dated as of February 21, 1995, between Amgen Inc. and American Stock Transfer Trust and Trust Company (24)
- 10.50 Credit Agreement, dated as of June 23, 1995, among Amgen Inc., the Borrowing Subsidiaries named therein, the Banks named therein, Swiss Bank Corporation and ABN AMRO Bank N.V., as Issuing Banks, and Swiss Bank Corporation, as Administrative Agent.
- 11 Computation of per share earnings.
- 27 Financial Data Schedule.

* Management contract or compensatory plan or arrangement

- (1) Filed as an exhibit to the Annual Report on Form 10-K for the year ended March 31, 1984 on June 26, 1984 and incorporated herein by reference.
- (2) Filed as an exhibit to Quarterly Report on Form 10-Q for the quarter ended September 30, 1985 on November 14, 1985 and incorporated herein by reference.
- (3) Filed as an exhibit to Quarterly Report on Form 10-Q for the quarter ended December 31, 1985 on February 3, 1986 and incorporated herein by reference.
- (4) Filed as an exhibit to Amendment No. 1 to Form S-1 Registration Statement (Registration No. 33-3069) on March 11, 1986 and incorporated herein by reference.
- (5) Filed as an exhibit to the Form 10-K Annual Report for the year ended March 31, 1987 on May 18, 1987 and incorporated herein by reference.
- (6) Filed as an exhibit to the Quarterly Report on Form 10-Q for the quarter ended June 30, 1987 on August 12, 1987 and incorporated herein by reference.
- (7) Filed as an exhibit to Form 8 amending the Quarterly Report on Form 10-Q for the quarter ended June 30, 1988 on August 25, 1988 and incorporated herein by reference.
- (8) Filed as an exhibit to the Form 8-K Current Report dated January 24, 1989 and incorporated herein by reference.
- (9) Filed as an exhibit to the Annual Report on Form 10-K for the year ended March 31, 1989 on June 28, 1989 and incorporated herein by reference.
- (10) Filed as an exhibit to the Quarterly Report on Form 10-Q for the quarter ended June 30, 1989 on August 14, 1989 and incorporated herein by reference.
- (11) Filed as an exhibit to the Form 8-K Current Report dated January 22, 1991 and incorporated herein by reference.
- (12) Filed as an exhibit to the Form 8-K Current Report dated April 12, 1991 and incorporated herein by reference.
- (13) Filed as an exhibit to the Annual Report on Form 10-K for the year ended March 31, 1991 on July 1, 1991 and incorporated herein by reference.
- (14) Filed as an exhibit to the Form 8-K Current Report dated July 24, 1991 and incorporated herein by reference.
- (15) Filed as an exhibit to Form S-3 Registration Statement dated December 19, 1991 and incorporated herein by reference.
- (16) Filed as an exhibit to the Annual Report on Form 10-K for the year ended December 31, 1991 on March 30, 1992 and incorporated herein by reference.
- (17) Filed as an exhibit to the Annual Report on Form 10-K for the year ended December 31, 1992 on March 30, 1993 and incorporated herein by reference.
- (18) Filed as an exhibit to the Form 8-A dated March 31, 1993 and incorporated herein by reference.
- (19) Filed as an exhibit to the Form 10-Q for the quarter ended March 31, 1993 on May 17, 1993 and incorporated herein by reference.
- (20) Filed as an exhibit to the Form 10-Q for the quarter ended June 30, 1993 on August 16, 1993 and incorporated herein by reference.

- (21) Filed as an exhibit to the Form 10-Q for the quarter ended September 30, 1993 on November 12, 1993 and incorporated herein by reference.
- (22) Filed as an exhibit to the Annual Report on Form 10-K for the year ended December 31, 1993 on March 25, 1994 and incorporated herein by reference.
- (23) Filed as an exhibit to the Form 8-K Current Report dated November 18, 1994 on December 2, 1994 and incorporated herein by reference.
- (24) Filed as an exhibit to the Form 8-K Current Report dated February 21, 1995 on March 7, 1995 and incorporated herein by reference.

AMGEN INC.
 COMPUTATION OF PER SHARE EARNINGS
 PRIMARY COMPUTATION
 (In thousands except per share data)
 (Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	1995	1994	1995	1994
Net income	\$137,704	\$107,464	\$246,328	\$200,924
Applicable common and common stock equivalent shares:				
Weighted average shares of common stock outstanding during the period	263,992	265,894	264,602	266,904
Incremental number of shares outstanding during the period resulting from the assumed exercises of stock options and warrants	14,838	13,324	14,628	14,068
Weighted average shares of common stock and common stock equivalents outstanding during the period	278,830	279,218	279,230	280,972
Earnings per common share primary	\$.49	\$.38	\$.88	\$.72

EXHIBIT 11

AMGEN INC.
 COMPUTATION OF PER SHARE EARNINGS
 FULLY DILUTED COMPUTATION
 (In thousands except per share data)
 (Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	1995	1994	1995	1994
Net income	\$137,704	\$107,464	\$246,328	\$200,924
Applicable common and common stock equivalent shares:				
Weighted average shares of common stock outstanding during the period	263,992	265,894	264,604	266,904
Incremental number of shares outstanding during the period resulting from the				

assumed exercises of stock options and warrants	16,306	13,368	16,930	14,068
	-----	-----	-----	-----
Weighted average shares of common stock and common stock equivalents outstanding during the period	280,298	279,262	281,534	280,972
	=====	=====	=====	=====
Earnings per common share fully diluted ...	\$.49	\$.38	\$.87	\$.72
	=====	=====	=====	=====

CREDIT AGREEMENT

Dated as of June 23, 1995

among

Amgen Inc.,

The Borrowing Subsidiaries Herein Named,

The Banks Herein Named,

and

Swiss Bank Corporation, New York Branch,
as Administrative Agent and as an Issuing Bank

CREDIT AGREEMENT

Dated as of June 23, 1995

This CREDIT AGREEMENT ("Agreement") is dated as of June 23, 1995 and is entered into by and among Amgen Inc., a Delaware corporation (the "Company"), each of the Borrowing Subsidiaries listed on Schedule 1.1 hereto, Swiss Bank Corporation, San Francisco Branch, Citicorp USA, Inc., and each other lender whose name is set forth on the signature pages hereof as a Bank (collectively, the "Banks" and individually, a "Bank"), Swiss Bank Corporation, New York Branch and ABN AMRO Bank N.V., Los Angeles International Branch, as Issuing Banks, and Swiss Bank Corporation, New York Branch, as Administrative Agent. In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE 1
DEFINITIONS AND ACCOUNTING TERMS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Adjusted Net Income" means, with regard to any fiscal period, Net Income for that fiscal period (a) plus any extraordinary losses sustained by the Company and its Subsidiaries during that period, (b) minus any extraordinary gains realized by the Company and its Subsidiaries during that period.

"Administrative Agent" means Swiss Bank Corporation, New York Branch, when acting in its capacity as the administrative agent under any of the Loan Documents.

"Administrative Agent's Office" means the Administrative Agent's address as set forth on the signature pages of this Agreement, or such other address as the Administrative Agent

hereafter may designate by written notice to the Company and the Banks.

"Advance" means any Advance made or to be made by any Bank to any Borrower as provided in Article 2, and includes each Base Rate Advance, each Eurodollar Rate Advance and each Competitive Advance.

"Affiliate" means, as to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person. As used in this definition, "control" (and the correlative terms, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"Agreement" means this Credit Agreement, either as originally executed or as it may from time to time be supplemented, modified, amended, restated or extended in accordance with Section 13.2.

"Agreement to Participate" means an Agreement to Participate, substantially in the form of Exhibit A.

"Anniversary Date" has the meaning set forth in Section 2.8

"Applicable Percentage" means, with respect to Eurodollar Rate Loans, the Commitment Fee and the LC Reimbursement Fee, the per annum percentage corresponding to the tier for the Company's Ratings as specified in the following table:

Rate Spread and Fees

	Tier I -----	Tier II -----	Tier III -----	Tier IV -----
	AA- and Aa3 or better	A- and A3 or better	BBB and Baa2 or better	BBB- or Baa3
Eurodollar Rate Spread	.300%	.325%	.150%	.700%
Commitment Fee	.100%	.110%	.150%	.250%
LC Reimbursement Fee	.300%	.325%	.500%	.700%

Ratings indicated are the Company's senior unsecured long-term debt ratings by Standard & Poor's Ratings Group and Moody's Investors Service, Inc., respectively.

"Assignment Agreement" means an Assignment Agreement in substantially the form of Exhibit J, executed by a Bank and an assignee of all or part of that Bank's interest hereunder.

"Bank" has the meaning set forth in the introductory paragraph.

"Banking Day" means any Monday, Tuesday, Wednesday, Thursday or Friday, other than a day on which banks are authorized or required to be closed in California or New York.

"Base Rate", for any day, means the higher of (i) the rate of interest in effect on such day as publicly announced by the Administrative Agent from time to time as its prime commercial lending rate (such prime rate is not intended to be the lowest rate of interest charged by the Administrative Agent) and (ii) the sum of 0.50% per annum and the rate of interest determined by the Administrative Agent to be the average overnight federal funds rate.

"Base Rate Advance" means an Advance made hereunder that bears interest as set forth in Section 3.1(b) and designated as a Base Rate Advance in accordance with Article 2.

"Base Rate Loan" means a Loan made hereunder that bears interest as set forth in Section 3.1(b) and designated as a Base Rate Loan in accordance with Article 2.

"Base Rate Period" means, as to each Base Rate Loan, the period commencing on the date specified by the Borrower pursuant to Section 2.1(b) and ending on the date specified by the Borrower in its Request for Loan, but not later than thirty days after the date the Loan is made; provided that:

- (a) The first day of any Base Rate Period shall be a Banking Day;
- (b) Any Base Rate Period that would otherwise end on a day that is not a Banking Day shall be extended to the next succeeding Banking Day; and
- (c) No Base Rate Period shall extend beyond the Maturity Date.

"Borrower" means the Company and any Borrowing Subsidiary; "Borrowers" means the Company and each other Borrower, collectively.

"Borrowing Subsidiary" means any of the Subsidiaries of Borrower identified on Schedule 1.1 hereto and any Eligible Subsidiary that is a party to this Agreement as of the date hereof or any Eligible Subsidiary that has executed an Agreement to Participate pursuant to Section 12.1.

"Capital Lease" means, as to any Person, a lease of any Property by that Person as lessee that is, or should be in accordance with Financial Accounting Standards Board Statement No. 13, recorded as a "capital lease" on the balance sheet of that Person prepared in accordance with Generally Accepted Accounting Principles.

"Cash" means, when used in connection with any Person, all monetary and non-monetary items owned by that Person that are treated as cash in accordance with Generally Accepted Accounting Principles, except for amounts held by, or on deposit with, another Person as cash collateral or other security.

"Certificate of a Senior Officer" means a certificate signed by a Senior Officer of the Person providing the certificate.

"Closing Date" means the time and Banking Day on which the conditions set forth in Section 8.1 are satisfied.

"Co-Arrangers" means SBC Capital Markets Inc. and Citicorp USA, Inc., in their capacity as co-arrangers.

"Code" means the Internal Revenue Code of 1986, as amended or replaced and as in effect from time to time.

"Commitment" means the aggregate of the Tranche A Commitment and the Tranche B Commitment, as such Commitments may be reduced in accordance with Section 2.5. The respective Pro Rata Shares of the Banks with respect to the Commitments are set forth in Schedule 2.1.

"Committed Advance" means an Advance made to any Borrower by any Bank in accordance with such Bank's Pro Rata Share of the Tranche A Commitment pursuant to Section 2.1.

"Committed Advance Note" means any of the promissory notes made by the Borrowers in favor of a Bank to evidence revolving Committed Advances made by that Bank under the Tranche A Commitment, substantially in the form of Exhibit B, as originally executed or as the same may from time to time be supplemented, modified, amended, renewed or extended.

"Common Stock" means the \$.0001 par value common stock of the Company.

"Company" has the meaning set forth in the introductory paragraph.

"Competitive Advance" means an Advance made to any Borrower by any Bank not in accordance with that Bank's Pro Rata Share of the Tranche A Commitment pursuant to Section 2.4.

"Competitive Advance Note" means any of the promissory notes made by a Borrower in favor of a Bank to evidence Competitive Advances made by that Bank, substantially in the form of Exhibit C, either as originally executed or as the same may from time to time be supplemented, modified, amended, renewed or extended.

"Competitive Bid" means a written bid to provide a Competitive Advance substantially in the form of Exhibit D, signed by a Responsible Official of a Bank and properly completed to provide all information required to be included therein.

"Competitive Bid Request" means (a) a written request submitted by a Borrower to one or more of the Banks to provide a Competitive Bid, substantially in the form of Exhibit E, signed by a Senior Officer and properly completed to provide all information required to be included therein or (b), at the election of such Borrower, a telephonic request by such Borrower to the Administrative Agent for one or more of the Banks to provide a Competitive Bid which, if so made, shall be made by an Assistant Treasurer or Senior Officer of such Borrower and shall include the substance of Exhibit E and shall be promptly confirmed in writing by a Senior Officer of such Borrower.

"Compliance Certificate" means a certificate in the form of Exhibit F, properly completed and signed by a Senior Officer of the Company.

"Consolidated Subsidiary" means, as of any date of determination and with respect to any Person, any Subsidiary of that Person whose financial data is, in accordance with Generally Accepted Accounting Principles, reflected in that Person's consolidated financial statements.

"Contractual Obligation" means, as to any Person, any provision of any outstanding Securities issued by that Person or of any material agreement, instrument or undertaking to which that Person is a party or by which it or any of its Property is bound.

"Cross-Default Amount" means, as of any date of determination, an amount equal to the lesser of (i) \$50,000,000 or (ii) 5% of Tangible Net Worth as of the last day of the then most recently ended Fiscal Quarter with respect to which the Company has delivered the financial statements required by Section 7.1(a) or, if the Company is delinquent in the delivery of such financial statements with respect to the most recently ended Fiscal Quarter, 5% of Tangible Net Worth as reasonably determined by the Administrative Agent.

"Current ERISA Affiliate", as applied to any Person, means (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member.

"Debtor Relief Laws" means the Bankruptcy Code of the United States of America, as amended from time to time, and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws from time to time in effect affecting the rights of creditors generally.

"Default" means any Event of Default or any event that, with the giving of any applicable notice or passage of time specified in Section 9.1, or both, would be an Event of Default.

"Default Rate" means the interest rate described in Section 3.9

"Designated Deposit Account" means a deposit account designated by a Borrower in its Request for Loan submitted with respect to each Loan.

"Distribution" means, with respect to any shares of capital stock or any warrant or right to acquire shares of capital stock or any other equity security issued by a Person, (a) the retirement, redemption, purchase, or other acquisition for value (other than for common stock of such Person) by such Person of any such security, (b) the declaration or (without duplication) payment by such Person of any dividend in cash or in Property (other than in common stock of such Person) on or with respect to any such security, (c) any Investment by such Person in the holder of any such security where such Investment is made in lieu of, or to avoid characterization as, a Distribution described in clauses (a) or (b) above, and (d) any other payment by such Person constituting a distribution under applicable laws with respect to such security. Notwithstanding the foregoing, "Distribution" shall not include a repurchase by the Company of its Common Stock.

"dollars" or "\$" means United States dollars.

"Eligible Subsidiary" means any of the wholly-owned Subsidiaries of the Company listed on Schedule 1.2.

"Employee Benefit Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is, or was at any time, maintained or contributed to by the Company or any of its ERISA Affiliates.

"Environmental Laws" means all plans, policies or decrees binding on the Company and its Subsidiaries in accordance with applicable statutes, ordinances, orders, rules or regulations and all statutes, ordinances, orders, rules or regulations and the like, in each case, relating to (i) environmental matters, including, without limitation, those relating to fines, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from the release or threatened release of hazardous materials, (ii) the generation, use, storage, transportation or disposal of hazardous materials, or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to the Company or any of its Subsidiaries or any of their respective properties, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. S 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. S 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. S 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. S 1251 et seq.), the Clean Air Act (42 U.S.C. S 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. S 2601 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. S 136 et seq.), the Occupational Safety and Health Act (29 U.S.C. S 651 et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. S 11001 et seq.), each as amended or supplemented, and any analogous future or present local, state and federal statutes

and regulations promulgated pursuant thereto, each as in effect as of the date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974, and any regulations issued pursuant thereto, as amended or replaced and as in effect from time to time.

"ERISA Affiliate", as applied to any Person, means (i) any corporation which is, or was at any time, a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is, or was at any time, a member; (ii) any trade or business (whether or not incorporated) which is, or was at any time, a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is, or was at any time, a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is, or was at any time, a member.

"ERISA Event" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC, or the penalty for failure to provide such notice, has been waived by regulation or by PBGC technical update); (ii) the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Code) or the failure to make by its due date a required installment under Section 412(m) of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by the Company or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability pursuant to Sections 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (vi) the imposition of liability on the Company or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the

application of Section 4212(c) of ERISA; (vii) the withdrawal by the Company or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by the Company or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (viii) the occurrence of an act or omission which could give rise to the imposition on the Company or any of its ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Code or under Section 409 or 502(c), (i) or (l) or 4071 of ERISA in respect of any Employee Benefit Plan; (ix) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan other than a Multiemployer Plan or the assets thereof, or against Company or any of its ERISA Affiliates in connection with any such Employee Benefit Plan; (x) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code; or (xi) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Code or pursuant to ERISA with respect to any Pension Plan.

"Eurodollar Banking Day" means any Banking Day on which dealings in dollar deposits are conducted by and among banks in the Eurodollar Market.

"Eurodollar Lending Office" means, as to each Bank, its office or branch so designated by written notice to the Company and the Administrative Agent as its Eurodollar Lending Office. If no Eurodollar Lending Office is designated by a Bank, its Eurodollar Lending Office shall be its office at its address for purposes of notices hereunder.

"Eurodollar Market" means, with respect to any Eurodollar Rate Loan, the London interbank offer market for U.S. dollar deposits.

"Eurodollar Obligations" means eurocurrency liabilities, as defined in Regulation D.

"Eurodollar Period" means, as to each Eurodollar Rate Loan, the period commencing on the date specified by the Borrower pursuant to Section 2.1(b) and ending 1, 2, 3 or 6 months thereafter, as specified by the Borrower in the applicable Request for Loan; provided that:

- (a) The first day of any Eurodollar Period shall be a Eurodollar Banking Day;
- (b) Any Eurodollar Period that would otherwise end on a day that is not a Eurodollar Banking Day shall be extended to the next succeeding Eurodollar Banking Day unless such Eurodollar Banking Day falls in another calendar month, in which case such Eurodollar Period shall end on the next preceding Eurodollar Banking Day; and
- (c) No Eurodollar Period shall extend beyond the Maturity Date.

"Eurodollar Rate" means, with respect to any Eurodollar Rate Loan, the average interest rate per annum (determined solely by the Administrative Agent and rounded upward to the next 1/100 of 1%) at which deposits in dollars are offered to prime banks by the Reference Banks in the Eurodollar Market at or about 10:00 a.m. London time, two (2) Eurodollar Banking Days before the first day of the applicable Eurodollar Period in an aggregate amount approximately equal to the amount of the Eurodollar Rate Loan to be made by such Reference Bank and for a period of time comparable to the number of days in the applicable Eurodollar Period; provided that, if one Reference Bank is unable to provide its offered quotation to the Administrative Agent, the Eurodollar Rate shall be determined on the basis of the rates quoted by the remaining Reference Bank. The determination of the Eurodollar Rate by the Administrative Agent shall be conclusive in the absence of manifest error.

"Eurodollar Rate Advance" means an Advance made hereunder that bears interest as set forth in Section 3.1(c) and designated as a Eurodollar Rate Advance in accordance with Article 2.

"Eurodollar Rate Loan" means a Loan made hereunder that bears interest as set forth in Section 3.1(c) and designated as a Eurodollar Rate Loan in accordance with Article 2.

"Eurodollar Reserve Percentage" means, with respect to any Eurodollar Rate Loan, the percentage applicable as of the date of determination of the Eurodollar Rate representing the aggregate reserve requirements of any Bank (disregarding any offsetting amounts that may be available to such Bank to decrease such requirements to the extent that such offsetting amounts arose out of transactions other than those contemplated by this Agreement) under Regulation D and any other applicable Laws with respect to Eurodollar Obligations in an aggregate amount equal to the amount of such Bank's Pro Rata Share of such Eurodollar Rate Loan and for a time period comparable to the number of months in the applicable Eurodollar Period. The determination by any Bank of any applicable Eurodollar Reserve Percentage shall be presumed correct in the absence of manifest error.

"Event of Default" shall have the meaning provided in Section 9.1.

"Existing Loan Documents" means the loan documents executed in connection with that certain Credit Agreement dated as of November 15, 1991, as amended, between the Company, the borrowing subsidiaries therein named, the lenders therein named, Swiss Bank Corporation, New York Branch, as issuing bank and Swiss Bank Corporation, New York Branch and Citicorp USA, Inc., as co-agents for themselves and such lenders.

"Fiscal Quarter" means the fiscal quarter of the Company consisting of a three month fiscal period ending on each March 31, June 30, September 30 and December 31.

"Fiscal Year" means the fiscal year of the Company consisting of a twelve month fiscal period ending on each December 31.

"Generally Accepted Accounting Principles" means, as of any date of determination, accounting principles set forth as "generally accepted" in then currently effective Statements of the Auditing Standards Board of the American Institute of Certified Public Accountants, or, if no such Statements are then in effect, that are then approved by such other entity as may be approved by a significant segment of the accounting profession in the United States of America. The term "Generally Accepted Accounting Principles" shall be read in each instance as if the words "consistently applied" followed immediately thereafter, meaning that the accounting principles applied are consistent in all material respects (except for changes concurred in by the Company's independent public accountants) to those applied at prior dates or for prior periods.

"Governmental Agency" means (a) any foreign, federal, state, county or municipal government, or political subdivision thereof, (b) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, (c) any court or administrative tribunal or (d) with respect to any Person, any arbitration tribunal or other nongovernmental authority to whose jurisdiction that Person has consented.

"Indebtedness" means, as to any Person, (a) all indebtedness of such Person for borrowed money, (b) that portion of the obligations of such Person under Capital Leases which is properly recorded as a liability on a balance sheet of that Person prepared in accordance with Generally Accepted Accounting Principles, (c) to the extent of the outstanding Indebtedness thereunder, any obligation of such Person that is evidenced by a promissory note or other instrument representing an extension of credit to such Person, whether or not for borrowed money, (d) any obligation of such Person for the deferred purchase price of Property or services (other than trade or other accounts payable in the ordinary course of business), (e) any obligation of such Person of the nature described in clauses (a), (b), (c) or (d) above that is secured by a Lien on assets of such Person, whether or not that Person has assumed such obligation or whether or not such obligation is non-recourse to the credit of such Person, but only to the extent of the fair market value of the assets so subject to the Lien, (f) obligations of such Person arising under acceptance facilities or under facilities for the discount of accounts receivable of such Person, (g) any obligation of such Person to reimburse the issuer of any letter of credit issued for the account of such Person upon which a draw has been made and (h) in the case of the Company, any obligations of the Company under a Swap Agreement. As of any date of determination, the amount of the Company's Indebtedness pursuant to any Swap Agreement shall be equal to 1% of the notional amount of that Swap Agreement times the number of years then remaining in the term of that Swap Agreement.

"Intangible Assets" means assets that are considered intangible assets under Generally Accepted Accounting Principles, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, unamortized deferred charges, unamortized debt discount, capitalized research and development costs and other intangible assets.

"Interest Charges" means, as of the last day of any fiscal period, the sum of (a) all interest, fees, charges and related expenses paid or payable (without duplication) for that fiscal period to a lender in connection with borrowed money or the deferred purchase price of assets that is treated as interest in accordance with Generally Accepted Accounting Principles excluding interest paid or payable (without duplication) for that fiscal period on any intercompany loans, plus (b) the portion of rent paid or payable (without duplication) for that fiscal period under Capital Leases that should be treated as interest in accordance with Generally Accepted Accounting Principles.

"Interest Charge Coverage Ratio" means, as of the last day of any Fiscal Quarter, the ratio of (a) Adjusted Net Income for the fiscal period consisting of that Fiscal Quarter and the three immediately preceding Fiscal Quarters plus (i) Interest Charges of the Company and its Consolidated Subsidiaries for such fiscal period, plus (ii) depreciation and amortization expense of the Company and its Consolidated Subsidiaries for such fiscal period, plus (iii) provisions for taxes based on income of the Company and its Consolidated Subsidiaries for such fiscal period, to (b) Interest Charges of the Company and its Consolidated Subsidiaries for such fiscal period.

"Interest Period" means (a) with respect to any Eurodollar Rate Loan, the related Eurodollar Period, and (b) with respect to any Base Rate Loan, the related Base Rate Period.

"Investment" means, when used in connection with any Person, any investment by or of that Person, whether by means of purchase or other acquisition of capital stock or other Securities of any other Person or by means of loan, advance, capital contribution, guaranty or other debt or equity participation or interest, or otherwise, in any other Person, including any partnership and joint venture interests of such Person in any other Person. "Investment" shall include (a) a repurchase by the Company of its Common Stock, (b) all payments by the Company or any Subsidiary to any Person as a buyout of royalty obligations to that Person and (c) all acquisitions by the Company or any Subsidiary of technology and/or distribution rights. The amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Issuing Bank" means, as to each Tranche A Letter of Credit, the Tranche A Issuing Bank and as to each Tranche B Letter of Credit, the Tranche B Issuing Bank.

"Laws" means, collectively, all foreign, federal, state and local statutes, treaties, rules, regulations, ordinances, codes and administrative or controlling precedents of any Governmental Agency.

"LC Issuance Fee" means a fee payable to the Issuing Banks as provided in Section 3.4.

"LC Reimbursement Fee" means a fee payable to the Administrative Agent, for the pro rata benefit of the Banks, as provided in Section 3.5.

"Letters of Credit" means the Tranche A Letters of Credit and/or the Tranche B Letters of Credit, as the context may require.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, lien or charge of any kind, whether voluntarily incurred or arising by operation of Law or otherwise, affecting any Property, including any agreement to grant any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security interest, and/or the filing of or agreement to give any financing statement (other than a precautionary financing statement with respect to a lease that is not in the nature of a security interest) under the Uniform Commercial Code or comparable Law of any jurisdiction with respect to any Property.

"Loan" means any group of Committed Advances made at any one time by the Banks pursuant to Article 2.

"Loan Documents" means, collectively, this Agreement, the Notes, any Request for Loan, any Agreement to Participate, any Letter of Credit, any Request for Letter of Credit, any Competitive Bid Request and any other certificates or agreements heretofore or hereafter executed by a Senior Officer of any Borrower in connection with this Agreement and delivered by any Borrower to the Administrative Agent, an Issuing Bank or any Bank, in each case either as originally executed or as the same may from time to time be supplemented, modified, amended, restated, extended or supplanted.

"Majority Banks" means, as of any date of determination, Banks whose aggregate Pro Rata Shares are at least 51% of the Commitment then in effect or if the Commitment is not then in

effect, Banks to which at least 51% of the aggregate Total Outstandings is owed.

"Material Adverse Effect" means a circumstance or set of circumstances or events affecting the business, operations or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, that have a material adverse effect, individually or in the aggregate, upon the ability (i) of the Company and its Subsidiaries, taken as a whole, to perform under the Loan Documents or (ii) of any of the Banks to enforce the Obligations under the Loan Documents.

"Maturity Date" means either the Tranche A Maturity Date or the Tranche B Maturity Date, as the context requires.

"Multiemployer Plan" means a "multiemployer plan", as defined in Section 3(37) of ERISA, to which the Company or any of its ERISA Affiliates is contributing, or ever has contributed, or to which the Company or any of its ERISA Affiliates has, or ever has had, an obligation to contribute.

"Net Income" means, with respect to any fiscal period, the consolidated net income of the Company and its Subsidiaries for that period, determined in accordance with Generally Accepted Accounting Principles; provided that there shall be excluded from Net Income (i) any income or loss of a Person accrued prior to the date upon which such Person, or the assets of such Person, was acquired by or merged into the Company or any of its Subsidiaries; (ii) any income of a Subsidiary of the Company to the extent that declaration or payment of dividends or other Distributions by that Subsidiary is not permitted by any Contractual Obligation or Requirement of Law applicable to that Subsidiary; (iii) any charges taken in respect of payments to any Person as a buyout of royalty obligations to that Person; and (iv) any charges taken in connection with the acquisition of technology and/or distribution rights.

"Notes" means, collectively, the Committed Advance Notes and the Competitive Advance Notes.

"Obligations" means all present and future obligations of every kind or nature of the Borrowers at any time and from time to time owed to the Co-Arrangers, the Administrative Agent, the Issuing Banks or the Banks or any one or more of them under any one or more of the Loan Documents, whether due or to become due, matured or unmatured, liquidated or unliquidated, or contingent or

noncontingent, including obligations of performance as well as obligations of payment, and including interest that accrues after the commencement of any proceeding under any Debtor Relief Law by or against the Company or any Subsidiary of the Company.

"Other Taxes" means any present or future stamp or documentary taxes and any other excise or property taxes, or similar charges or levies, which arise from any payment made pursuant to this Agreement or under any Loan Document or from the execution or delivery of, or otherwise with respect to, this Agreement or any other Loan Document.

"Pension Plan" means any Employee Benefit Plan other than a Multiemployer Plan, that is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"Permitted Encumbrances" means:

(a) inchoate Liens incident to construction or maintenance of real property, or Liens incident to construction or maintenance of real property, now or hereafter filed of record for which adequate reserves have been set aside and which are being contested in good faith by appropriate proceedings and have not proceeded to judgment, provided that, by reason of nonpayment of the obligations secured by such Liens, no such real property is subject to a material risk of loss or forfeiture;

(b) Liens for taxes and assessments on real property which are not yet past due, or Liens for taxes and assessments on real property for which adequate reserves have been set aside and are being contested in good faith by appropriate proceedings and have not proceeded to judgment, provided that, by reason of non-payment of the obligations secured by such Liens, no such real property is subject to a material risk of loss or forfeiture;

(c) easements, exceptions, reservations, or other agreements granted or entered into after the date hereof for the purpose of pipelines, conduits, cables, wire communication lines, power lines and substations, streets, trails, walkways, drainage, irrigation, water, and sewerage purposes, dikes, canals, ditches, the removal of oil, gas, coal, or other minerals, and other like purposes affecting real property which in the aggregate do not materially burden or impair the fair market value or use of such real property for the purposes for which it is or may reasonably be expected to be held;

(d) rights reserved to or vested in any Governmental Agency by Law to control or regulate, or obligations or duties under Law to any Governmental Agency with respect to, the use of any real property;

(e) rights reserved to or vested in any Governmental Agency by Law to control or regulate, or obligations or duties under Law to any Governmental Agency with respect to, any right, power, franchise, grant, license, or permit;

(f) present or future zoning laws and ordinances or other laws and ordinances restricting the occupancy, use, or enjoyment of real property;

(g) statutory Liens, other than those described in clauses (a) or (b) above, arising in the ordinary course of business with respect to obligations which are not delinquent or are being contested in good faith by appropriate proceedings, provided that, if delinquent, adequate reserves have been set aside with respect thereto and, by reason of nonpayment, no Property is subject to a material risk of loss or forfeiture;

(h) Liens consisting of pledges or deposits to secure obligations under workers' compensation laws or similar legislation, including Liens of judgments thereunder which are not currently dischargeable;

(i) Liens consisting of pledges or deposits of Property to secure performance in connection with operating leases made in the ordinary course of business to which the Company or a Subsidiary is a party as lessee, provided the aggregate value of all such pledges and deposits in connection with any such lease does not at any time exceed 16-2/3% of the annual fixed rentals payable under such lease;

(j) Liens consisting of deposits of Property to secure statutory obligations of the Company or a Subsidiary of the Company in the ordinary course of its business;

(k) Liens consisting of deposits of Property to secure (or in lieu of) surety, appeal or customs bonds in proceedings to which the Company or a Subsidiary of the Company is a party in the ordinary course of its business, but not in excess of \$10,000,000; and

(1) purchase money security interests or mortgages taken or retained by a seller of collateral to secure all or part of its purchase price.

"Person" means any entity, whether an individual, trustee, corporation, general partnership, limited partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, Governmental Agency, or otherwise.

"PBG" means the Pension Benefit Guaranty Corporation (or any successor thereto).

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Pro Rata Share" means, with respect to each Bank, with respect to the Tranche A Commitment and the Tranche B Commitment, and any Loan made under any portion of the Commitment, the percentage set forth opposite the name of that Bank and that portion of the Commitment on Schedule 2.1.

"Reference Banks" means Citibank, N.A. and Swiss Bank Corporation, New York Branch.

"Regulation D" means Regulation D, as at any time amended, of the Board of Governors of the Federal Reserve System, or any other regulation in substance substituted therefor.

"Regulation U" means Regulation U, as at any time amended, of the Board of Governors of the Federal Reserve System, or any other regulation in substance substituted therefor.

"Request for Letter of Credit" means a written request for a Letter of Credit substantially in the form of Exhibit H, together with the standard form of application for letter of credit used by the applicable Issuing Bank, signed by a Senior Officer of the Borrower and properly completed to provide all information required to be provided therein.

"Request for Loan" means a written request for a Loan substantially in the form of Exhibit I, signed by a Senior Officer of the Borrower and properly completed to provide all information required to be included therein.

"Requirement of Law" means, as to any Person, the articles or certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any Law,

or judgment, award, decree, writ or determination of a Governmental Agency, 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.

"Responsible Official" means (a) when used with reference to a Person other than an individual, any corporate officer of such Person, general partner of such Person, corporate officer of a corporate general partner of such Person, or corporate officer of a corporate general partner of a partnership that is a general partner of such Person, or any other responsible official thereof duly acting on behalf thereof, and (b) when used with reference to a Person who is an individual, such Person. Any document or certificate hereunder that is signed or executed by a Responsible Official of a Person shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of that Person.

"Securities" means any capital stock, share, voting trust certificate, bond, debenture, note or other evidence of indebtedness, limited partnership interest, or any warrant, option or other right to purchase or acquire any of the foregoing.

"Senior Officer" means the (a) chief executive officer, (b) chief operating officer, (c) chief financial officer, (d) corporate controller, or (e) treasurer, in each case whatever the title nomenclature may be, of the Person designated.

"Shareholders' Equity" means, as of any date of determination, shareholders' equity as of that date determined in accordance with Generally Accepted Accounting Principles; provided that there shall be excluded from Shareholders' Equity any amount attributable to capital stock that is, directly or indirectly, required to be redeemed or repurchased by the issuer thereof at a specified date or upon the occurrence of specified events or at the election of the holder thereof.

"Subsidiary" means, as of any date of determination and with respect to any Person, any corporation, partnership or joint venture, whether now existing or hereafter organized or acquired: (a) in the case of a corporation, of which a majority of the securities having ordinary voting power for the election of directors or other governing body (other than securities having such power only by reason of the happening of a contingency) are at the time beneficially owned by such Person and/or one or more Subsidiaries of such Person, or (b) in the case of a partnership

or joint venture, of which such Person or a Subsidiary of such Person is a general partner or joint venturer or of which a majority of the partnership or other ownership interests are at the time beneficially owned by such Person and/or one or more of its Subsidiaries, excluding any partnership or joint venture over which the Person or Subsidiary of such Person does not exercise actual control.

"Swap Agreement" means a written agreement between the Company and one or more financial institutions providing for "swap", "collar" or other interest rate protection (other than "caps") with respect to any Indebtedness.

"Tangible Net Worth" means, as of any date of determination, the Shareholders' Equity of the Company and its Consolidated Subsidiaries on that date, minus the book value of any Intangible Assets of the Company and its Consolidated Subsidiaries on that date.

"Taxes" means any and all present and future taxes, duties, levies, imposts, deductions, charges or withholdings with respect to any payment by any Borrower pursuant to this Agreement or under any other Loan Document, and all liabilities with respect thereto, excluding (i) taxes imposed on the net income of any Bank or the Administrative Agent, and franchise or similar taxes imposed on any Bank or the Administrative Agent, by a jurisdiction under the laws of which such Bank or the Administrative Agent, as the case may be, is organized or in which its principal executive office is located or, in the case of each Bank, in which its applicable lending office is located and (ii) in the case of each Bank, any United States withholding tax imposed on such payments but only to the extent that such Bank is subject to United States withholding tax at the time such Bank first becomes a party to this Agreement.

"Total Outstandings" means, as of any date of determination, the sum on that date of (a) the aggregate principal Indebtedness evidenced by the Notes, plus (b) the aggregate then undrawn portion of Letters of Credit which are issued and outstanding, plus (c) the aggregate unreimbursed drawings under Letters of Credit.

"Tranche A Commitment" means (A) the aggregate commitment of the Banks (i) to make Committed Advances pursuant to Section 2.1(a) in an aggregate principal amount up to \$150,000,000 and (ii) to purchase an undivided interest in any Tranche A Letters of Credit issued pursuant to Section 2.6(a)(2), and (B)

the commitment of the Tranche A Issuing Bank to issue Tranche A Letters of Credit in face amounts at any one time not exceeding the amount permitted by Section 2.6(a)(2).

"Tranche A Issuing Bank" means Swiss Bank Corporation, New York Branch.

"Tranche A Letters of Credit" means any letters of credit issued by the Tranche A Issuing Bank pursuant to Section 2.6(a)(2), either as originally executed or as the same may from time to time be supplemented, modified, amended, renewed, extended or supplanted.

"Tranche A Maturity Date" means June 23, 2000, unless otherwise extended pursuant to Section 2.8.

"Tranche B Commitment" means the aggregate commitment of Swiss Bank Corporation, New York Branch, as a Tranche B Issuing Bank, to issue Tranche B Letters of Credit in face amounts at any one time not exceeding \$30,000,000 and of ABN AMRO Bank N.V., Los Angeles International Branch, as a Tranche B Issuing Bank, to issue Tranche B Letters of Credit in face amounts at any one time not exceeding \$43,000,000 and the aggregate commitment of the Banks to purchase an undivided interest in any such Tranche B Letters of Credit up to an aggregate principal amount of \$73,000,000.

"Tranche B Issuing Bank" means either ABN AMRO Bank N.V., Los Angeles International Branch, or Swiss Bank Corporation, New York Branch.

"Tranche B Letters of Credit" means any letters of credit issued by either Tranche B Issuing Bank pursuant to Section 2.6(a)(1), either as originally executed or as the same may from time to time be supplemented, modified, amended, renewed, extended or supplanted.

"Tranche B Maturity Date" means December 5, 1997.

"type" when used with respect to any Loan or Advance, means the designation of whether such Loan or Advance is a Base Rate Loan or Advance, a Eurodollar Rate Loan or Advance or a Competitive Advance.

"Unused Portion" means the Commitment, the Tranche A Commitment or the Tranche B Commitment, as the context requires,

less Total Outstandings as to the Commitment, the Tranche A Commitment or the Tranche B Commitment, as the case may be.

1.2 Use of Defined Terms. Any defined term used in the plural shall refer to all members of the relevant class, and any defined term used in the singular shall refer to any one or more of the members of the relevant class.

1.3 Accounting Terms. All accounting terms not specifically defined in this Agreement shall be construed in conformity with, and all financial data required to be submitted by this Agreement shall be prepared in conformity with, Generally Accepted Accounting Principles applied on a consistent basis, except as otherwise specifically prescribed herein and except for changes concurred in by the Company's independent public accountants. In the event that Generally Accepted Accounting Principles change during the term of this Agreement such that the financial covenants contained in Sections 6.7 and 6.8 would then be calculated in a different manner or with different components, (a) the Borrowers and the Banks agree to negotiate to amend this Agreement in such respects as are necessary to conform those covenants as criteria for evaluating the Company's financial condition to substantially the same criteria as were effective prior to such change in Generally Accepted Accounting Principles and (b) the Company shall be deemed to be in compliance with the financial covenants contained in such Sections during the 60 day period following any such change in Generally Accepted Accounting Principles if and to the extent that the Company would have been in compliance therewith under Generally Accepted Accounting Principles as in effect immediately prior to such change.

1.4 Rounding. Any financial ratios required to be maintained by the Company pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed in this Agreement and rounding the result up or down to the nearest number (with a round-up if there is no nearest number) to the number of places by which such ratio is expressed in this Agreement.

1.5 Exhibits and Schedules. All Exhibits and Schedules to this Agreement, either as originally existing or as the same may from time to time be supplemented, modified or amended, are incorporated herein by this reference. A matter disclosed on any Schedule shall be deemed disclosed on all Schedules.

1.6 References to "the Company and its Subsidiaries". Any reference herein to "the Company and its Subsidiaries" or the like shall refer solely to the Company during such times, if any, as the Company shall have no Subsidiaries.

1.7 Miscellaneous Terms. The term "or" is disjunctive; the term "and" is conjunctive. The term "shall" is mandatory; the term "may" is permissive. Masculine terms also apply to females; feminine terms also apply to males. The term "including" is by way of example and not limitation.

ARTICLE 2
LOANS AND LETTERS OF CREDIT

2.1 Committed Advances - General

(a) Subject to the terms and conditions set forth in this Agreement, at any time and from time to time from the Closing Date through the Tranche A Maturity Date, each Bank shall, according to its Pro Rata Share of the Tranche A Commitment, make Committed Advances to the Borrowers under the Tranche A Commitment in such amounts as the Borrowers may request that do not exceed in the aggregate at any one time outstanding the amount of that Bank's Pro Rata Share of the Tranche A Commitment; provided that, giving effect to the Loan of which such Advance is a part, (i) the Total Outstandings shall not exceed the Commitment and (ii) the sum of all Committed Advances then outstanding plus the sum of all Competitive Advances then outstanding plus the face amount of all Tranche A Letters of Credit then outstanding plus the sum of all unreimbursed drawings under Tranche A Letters of Credit shall not exceed the Tranche A Commitment. Subject to the limitations set forth herein, the Borrowers may borrow and repay under the Tranche A Commitment without premium or penalty.

(b) Subject to the next sentence, each Loan under this Section 2.1 shall be made pursuant to a Request for Loan which shall specify the requested (i) date of such Loan, (ii) type of Loan, (iii) amount of such Loan and (iv) Interest Period for such Loan. Unless the Administrative Agent has notified, in its sole and absolute discretion, the Borrowers to the contrary, a Loan may be requested by telephone by an Assistant Treasurer or Senior Officer of the Borrower, in which case the Borrower shall promptly confirm such request

by transmitting a telecopy of, or at the Administrative Agent's request by mailing, a Request for Loan executed by a Senior Officer of such Borrower conforming to the preceding sentence to the Administrative Agent.

(c) Promptly following receipt of a Request for Loan (or the receipt of a substitute request permitted under the second sentence of Section 2.1(b)), the Administrative Agent shall notify each Bank by telephone or telecopier (the method of notice shall be at the Administrative Agent's option) of the date and type of the Loan, the applicable Interest Period and the amount of that Bank's Pro Rata Share of the Loan. Not later than 2:00 p.m., New York time, on the date specified for any Loan subject to the provisions of Sections 2.2 and 2.3, each Bank shall make its Pro Rata Share of the Loan in immediately available funds available to the Administrative Agent at the Administrative Agent's Office. Upon fulfillment of the applicable conditions set forth in Article 8 and subject to the provisions of Sections 2.2 and 2.3, all Advances shall be credited in immediately available funds to the Designated Deposit Account.

(d) Each Loan under the Tranche A Commitment shall be in a minimum amount of \$3,000,000 and multiples of \$1,000,000 in excess of that amount.

(e) The Committed Advances made by each Bank under its Pro Rata Share of the Tranche A Commitment shall be evidenced by that Bank's Committed Advance Note in the form set forth as Exhibit B.

(f) A Request for Loan shall be irrevocable upon the Administrative Agent's first notification thereof.

(g) If no Request for Loan (or telephonic request for Loan referred to in the second sentence of Section 2.1(b), if applicable) has been made within requisite notice periods set forth in Sections 2.2 and 2.3 in connection with a Loan which, if made, would not increase the outstanding principal Indebtedness evidenced by the Notes, then the Borrower shall be deemed to have requested a Base Rate Loan in an amount equal to the amount necessary to cause the outstanding principal Indebtedness evidenced by the Notes to remain the same and, subject to Section 8.3, the Banks shall make the Advances necessary to make such Loan notwithstanding Sections 2.1(b) and 2.2.

2.2 Base Rate Loans. Each request by a Borrower for a Base Rate Loan shall be made pursuant to a Request for Loan (or telephonic request for Loan referred to in the second sentence of Section 2.1(b), if applicable) received by the Administrative Agent, at the Administrative Agent's Office, not later than 11:00 a.m., New York time, on the first day of the applicable Base Rate Period. All Loans shall constitute Base Rate Loans unless properly designated as Eurodollar Rate Loans pursuant to Section 2.3. Each Base Rate Loan shall consist of Committed Advances.

2.3 Eurodollar Rate Loans.

(a) Each request by a Borrower for a Eurodollar Rate Loan shall be made pursuant to a Request for Loan (or telephonic request for Loan referred to in the second sentence of Section 2.1(b), if applicable) received by the Administrative Agent, at the Administrative Agent's Office, not later than 1:00 p.m., New York time, at least three (3) Eurodollar Banking Days before the first day of the applicable Eurodollar Period.

(b) On the second Eurodollar Banking Day before the first day of the applicable Eurodollar Period, the Administrative Agent shall determine the applicable Eurodollar Rate (which determination shall be conclusive in the absence of manifest error) and prior to 1:00 p.m., New York time on that same day shall give notice of the same to the Borrower and the Banks by telephone or telecopier (the method of notice shall be at the Administrative Agent's option).

(c) Unless all of the Banks otherwise consent, no Eurodollar Rate Loan may be requested during the continuance of a Default or Event of Default.

(d) Each Eurodollar Rate Loan shall consist of Committed Advances.

(e) Prior to the submission of a Request for Loan with respect to a Eurodollar Rate Loan, any Borrower may request the Administrative Agent to provide a non-binding estimate of the Eurodollar Rate that would then apply in the event the Borrower submitted a Request for Loan.

2.4 Competitive Advances.

(a) Subject to the terms and conditions hereof, at any time and from time to time from the Closing Date through the day that is thirty-one (31) days prior to the Tranche A Maturity Date, each Bank may in its sole and absolute discretion make Competitive Advances to a Borrower pursuant to this Section in such principal amounts as the Borrower may request pursuant to a Competitive Bid Request, provided that, after giving effect to the making of each such Competitive Advance, (i) the aggregate principal amount of the Indebtedness evidenced by the Competitive Advance Notes and the Committed Advance Notes shall not exceed the Tranche A Commitment, (ii) the sum of all Committed Advances then outstanding plus the sum of all Competitive Advances then outstanding plus the face amount of all Tranche A Letters of Credit then outstanding plus the sum of all unreimbursed drawings under Tranche A Letters of Credit shall not exceed the Tranche A Commitment, and (iii) Total Outstandings shall not exceed the Commitment. Any Bank may submit a Competitive Bid in an amount greater than, less than or equal to its respective Pro Rata Share of the Tranche A Commitment, up to the amount of the Competitive Bid Request.

(b) Each Borrower shall request Competitive Advances by submitting a Competitive Bid Request to the Administrative Agent by telephone or telecopier, to be received by the Administrative Agent not later than 12:00 p.m., New York time, one Banking Day prior to the date of the proposed Competitive Advance, which Competitive Bid Request shall specify the relevant date, amount and maturity for the proposed Competitive Advance and shall otherwise be completed to the satisfaction of the Administrative Agent.

(c) Each Competitive Bid Request shall be made for a Competitive Advance with a maturity of not less than seven (7) nor more than 180 days. No Competitive Bid Request may be made for a Competitive Advance which has a maturity date which is later than the Banking Day immediately preceding the Tranche A Maturity Date.

(d) Each Competitive Bid Request shall be in a minimum amount of \$3,000,000 and multiples of \$1,000,000 in excess thereof.

(e) Immediately following receipt of a Competitive Bid Request (or a telephonic request in accordance with Section 2.4(b)), the Administrative Agent shall notify each Bank by

telephone or telecopier (the method of notice shall be at the Administrative Agent's option) of the relevant date, amount and maturity and of the other relevant terms of the requested Competitive Advance.

(f) Each Bank receiving a Competitive Bid Request may, in its sole and absolute discretion, make or not make a Competitive Bid responsive to the Competitive Bid Request. For purposes of this paragraph, a Competitive Bid shall be deemed responsive if it offers a Competitive Advance which is of an amount which is less than or equal to that specified in the Competitive Bid Request and if it comports in all other respects to the Competitive Bid Request. If the Bank which is then Administrative Agent determines, in its sole discretion, to submit a Competitive Bid with respect to a Competitive Bid Request, it shall submit its Competitive Bid to the Borrower by telecopier not later than 10:15 a.m., New York time, on the Banking Day of the proposed Competitive Advance. Each other Competitive Bid shall be submitted to the Administrative Agent via telecopier not later than 10:45 a.m., New York time, on the date of the requested Competitive Advance, and the Administrative Agent shall promptly thereafter notify the Borrower by telephone or telecopier (the method of notification shall be at the Administrative Agent's option) of the Competitive Bids. The Borrower shall maintain the confidentiality of any Competitive Bid made by the Administrative Agent pending receipt by the Borrower of all other Competitive Bids.

(g) Each Competitive Bid shall specify the stated fixed interest rate (on the basis of a year of 360 days times the actual number of days elapsed). A Competitive Bid once submitted to a Borrower shall be irrevocable prior to the time that the Borrower is required to accept such Competitive Bid as described in clause (h) below.

(h) A Borrower may accept or reject any Competitive Bid in its sole and absolute discretion at any time prior to 11:15 a.m., New York time, on the Banking Day of the proposed Competitive Advance; provided that (a) acceptance of a Competitive Bid shall be by telephone, promptly confirmed by the Borrower in writing by telecopier communicated to a Responsible Official of the Administrative Agent, (which shall immediately notify the relevant Bank as provided in clause (i) below) (b) the Borrower may not accept any

Competitive Bid which quotes an interest rate which is higher than a rejected Competitive Bid unless the rejected Competitive Bid is for an amount which is less than that specified in the applicable Competitive Bid Request and (c) without the consent of the Bank offering a Competitive Bid, the Borrower may not accept any fractional portion of the amount specified in that Competitive Bid.

(i) A Bank whose Competitive Bid has been accepted by a Borrower shall make the Competitive Advance in accordance with the Competitive Bid Request and with its Competitive Bid, subject to the applicable conditions set forth in this Agreement and during the period when such Competitive Advance is outstanding, the Pro Rata Share of the Tranche A Commitment of each Bank shall be deemed reduced by its Pro Rata Share of the principal amount of each such Competitive Advance.

(j) Promptly upon acceptance of a Competitive Bid, the Administrative Agent shall notify each relevant Bank by telephone or telecopier of the acceptance of that Bank's Competitive Bid and shall promptly notify each Bank whose Competitive Bid is not accepted that its Competitive Bid has not been accepted. Not later than 2:00 p.m., New York time, on the date of the Competitive Advance, and upon fulfillment of the applicable conditions set forth in Article 8, the Bank shall fund the Competitive Advance in immediately available funds to the Administrative Agent at the Administrative Agent's Office. Upon receipt of such funds, the Administrative Agent shall promptly credit the amount of the Competitive Advance to the Designated Deposit Account.

(k) Unless all of the Banks otherwise consent, (i) no Competitive Advances may be requested during the continuance of an Event of Default, and (ii) not more than twelve (12) Competitive Advances may be outstanding at any time.

(l) The Competitive Advances made by each Bank shall be evidenced by that Bank's Competitive Advance Note.

2.5 Voluntary Reduction of Commitment. The Company shall have the right, at any time and from time to time, without penalty or charge, upon at least two (2) days' prior written notice to the Administrative Agent, to voluntarily reduce, permanently and irrevocably, in a minimum amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof, or to terminate, all or

a portion of the then Unused Portion of the Commitment; provided that any such reduction or termination shall be accompanied by a designation of whether the Tranche A Commitment or the Tranche B Commitment is to be reduced or terminated and if all or a portion of the Tranche A Commitment is being terminated, payment of all accrued and unpaid commitment fees with respect to the portion of the Tranche A Commitment being reduced or terminated.

2.6 Letters of Credit.

(a) (1) As of the date hereof, Swiss Bank Corporation, New York Branch has issued Tranche B Letters of Credit in the aggregate amount of \$30,000,000, which Tranche B Letters of Credit have an expiry date of April 30, 1997. Subject to the terms and conditions hereof, at any time and from time to time from the Closing Date through the day that is thirty (30) days before the Tranche B Maturity Date, ABN AMRO Bank N.V., Los Angeles International Branch shall issue such Tranche B Letters of Credit as a Borrower may request by delivering a Request for Letters of Credit to ABN AMRO Bank N.V., Los Angeles International Branch; provided that, giving effect to such Tranche B Letters of Credit, (i) the aggregate effective face amounts of all outstanding Tranche B Letters of Credit will not exceed the Tranche B Commitment, (ii) Total Outstandings will not exceed the Commitment and (iii) the aggregate face amounts of all outstanding Tranche B Letters of Credit issued by Swiss Bank Corporation, New York Branch, shall not exceed \$30,000,000 and the aggregate face amounts of all outstanding Tranche B Letters of Credit issued by ABN AMRO Bank N.V., Los Angeles International Branch, shall not exceed \$43,000,000. In no event shall the term of any Tranche B Letter of Credit extend beyond the Tranche B Maturity Date. The initial Tranche B Letter of Credit issued by ABN AMRO Bank N.V., Los Angeles International Branch may be issued in a minimum amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof. Any subsequent Tranche B Letters of Credit issued by ABN AMRO Bank N.V., Los Angeles International Branch may be issued in a minimum amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof. The issuance of any Tranche B Letter of Credit shall constitute irrevocable usage of the Tranche B Commitment in the amount of such Tranche B Letter of Credit. If any Tranche B Letter of Credit is reduced or retired, or expires or is terminated or cancelled, the Tranche B Commitment shall

not be reinstated by the amount of any such reduction, retirement, expiration, termination or cancellation.

(2) Subject to the terms and conditions hereof, at any time and from time to time from the Closing Date through the date that is thirty (30) days before the Tranche A Maturity Date, the Tranche A Issuing Bank shall issue such Tranche A Letters of Credit as a Borrower may request by delivering a Request for Letters of Credit to the Tranche A Issuing Bank; provided that, giving effect to such Tranche A Letter of Credit, (i) the aggregate effective face amounts of all outstanding Tranche A Letters of Credit will not exceed \$50,000,000, (ii) the sum of all Committed Advances then outstanding plus the sum of all Competitive Advances then outstanding plus the face amount of all Tranche A Letters of Credit then outstanding plus the sum of all unreimbursed drawings under Tranche A Letters of Credit shall not exceed the Tranche A Commitment, and (iii) Total Outstandings will not exceed the Commitment. Tranche A Letters of Credit issued under the Tranche A Commitment may be issued for terms up to five (5) years from the date of issuance but in no event shall the term of any such Tranche A Letter of Credit extend beyond the Tranche A Maturity Date. Each Tranche A Letter of Credit shall be in a minimum amount of \$500,000. The issuance of any Tranche A Letter of Credit shall constitute usage of the Tranche A Commitment. Subject to the limitations set forth herein, the Borrowers may request Tranche A Letters of Credit, reimburse drawings under Tranche A Letters of Credit and request further Tranche A Letters of Credit without premium or penalty.

(b) Each Request for Letter of Credit shall be submitted to the applicable Issuing Bank at least three (3) Banking Days prior to the date when the issuance of a Letter of Credit is requested. Upon issuance of a Letter of Credit, the applicable Issuing Bank shall promptly notify the Banks of the amount and terms thereof. Any Letter of Credit issued shall conform with the applicable Issuing Bank's policies regarding form and substance.

(c) Upon the issuance of a Letter of Credit, each Bank shall be deemed to have irrevocably purchased from the applicable Issuing Bank, without recourse to or warranty from such Issuing Bank, a pro rata undivided participation in the Letter of Credit, in an amount equal to that Bank's Pro Rata Share of the Tranche A Commitment or Tranche B Commitment, as

the case may be. Without limiting the scope and nature of each Bank's participation in any Letter of Credit, to the extent that an Issuing Bank has not been reimbursed by the Borrower, in accordance with Section 2.6(d), for any payment made by such Issuing Bank under any Letter of Credit, each Bank shall reimburse such Issuing Bank promptly upon demand for the amount of such payment in accordance with its Pro Rata Share of the Tranche A Commitment or Tranche B Commitment, as the case may be. The obligation of each Bank to so reimburse an Issuing Bank shall be absolute and unconditional and shall not be affected by the occurrence of an Event of Default or any other occurrence or event. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse an Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit together with interest as hereinafter provided.

(d) After any drawing on a Letter of Credit, such Issuing Bank shall notify the Borrower and the Administrative Agent by telephone or telecopier of such drawing by 2:00 p.m., New York time, on the date such payment is to be made and the Borrower shall reimburse such Issuing Bank, in immediately available funds for any amount paid or to be paid by such Issuing Bank under such Letter of Credit by 4:00 p.m., New York time on the date of such notice.

(e) If the Borrower fails to make the payment required by Section 2.6(d), the Administrative Agent shall notify the Banks by telephone or telecopier (the method of notification shall be at the Administrative Agent's option) of the unreimbursed amount of such payment. Each Bank irrevocably and unconditionally agrees (irrespective of the occurrence of an Event of Default or any other circumstance) that it shall make available to the Administrative Agent (for the account of the applicable Issuing Bank) an amount equal to its respective participation in same day funds, at the Administrative Agent's Office, not later than the close of business (New York time) on the date notified by the Administrative Agent. In the event that any Bank fails to make available to the Administrative Agent the amount of such Bank's participation in such Letter of Credit as provided above, such Issuing Bank (through the Administrative Agent) shall be entitled to recover such amount on demand from such Bank together with interest thereon, for each day from the

date of such payment until the date such amount is paid to such Issuing Bank, at the rate per annum equal to the Base Rate plus 1%; provided that if such failure is solely the result of an administrative error (which determination shall be made by the Administrative Agent in its sole discretion) or is solely the result of the Bank receiving notice too late in the day to make payment to the Administrative Agent on that day, then the interest rate for the first day of such delay shall be the overnight federal funds rate. Any amount made available by a Bank to the Administrative Agent as such Bank's participation in such Letter of Credit shall constitute a demand loan to the Borrower bearing interest at a rate per annum equal to (i) from the date of any payment made by the applicable Issuing Bank through the date ten days after such payment, the Base Rate, and (ii) thereafter, the Base Rate plus 2%; provided, that if a Bank is prevented from making such demand loans by the provisions of the United States Bankruptcy Code or otherwise, the amount so paid to the Issuing Bank by such Bank shall constitute a funding and purchase by it of a participation in such Letter of Credit disbursement by the Issuing Bank and all obligations of the Borrower with respect thereto, including interest thereon to the extent accruing from the date of such purchase. The Administrative Agent shall promptly pay to the applicable Issuing Bank all funds paid by the Banks to reimburse such Issuing Bank for the payment made by it under the Letter of Credit.

(f) The issuance of any supplement, modification, amendment, renewal, or extension to or of any Letter of Credit shall be treated for the purposes of Article 8 the same as the issuance of a new Letter of Credit.

(g) If, for any reason, a Bank fails to pay its liability on a Letter of Credit in accordance with the provisions of Section 2.6(e), then the applicable Issuing Bank shall be automatically subrogated to the right of such defaulting Bank to any prepayment, in full, of any loan created by virtue of a drawing on such Letter of Credit, or such defaulting Bank's right to any reimbursement by the Borrower with respect to any drawing, or any other right of such defaulting Bank in connection with or resulting from the drawing on such Letter of Credit, prior to distribution of any payments hereunder to the defaulting Bank.

(h) The obligation of the Borrowers to reimburse an Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, and the obligations of the Banks under their respective participations under the Letters of Credit, shall be absolute, unconditional, and irrevocable and shall not be affected by any of the following circumstances:

(i) any lack of validity or enforceability of the Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) any amendment or waiver of or any consent to departure from the Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(iii) the existence of any claim, setoff, defense, or other rights which any Borrower may have at any time against any Bank, any beneficiary of the Letter of Credit (or any persons or entities for whom any such beneficiary may be acting) or any other Person, whether in connection with the Letter of Credit, this Agreement, or any other agreement or instrument relating thereto, or any unrelated transactions;

(iv) any demand, statement, or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid, or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever so long as any such document appeared to comply with the terms of the Letter of Credit;

(v) the solvency or financial responsibility of any party issuing any documents in connection with a Letter of Credit;

(vi) any failure or delay in notice of shipments or arrival of any property;

(vii) any error in the transmission of any message relating to a Letter of Credit not caused by such Issuing Bank, or any delay or interruption in any such message;

(viii) any error, neglect or default of any correspondent of any Bank in connection with a Letter of Credit;

(ix) any consequence arising from acts of God, war, insurrection, disturbances, labor disputes, emergency conditions or other causes beyond the control of such Issuing Bank;

(x) so long as such Issuing Bank in good faith determines that the draft, contract or document appears to comply with the terms of the Letter of Credit, the form, accuracy, genuineness or legal effect of any contract or document referred to in any document submitted to such Issuing Bank in connection with a Letter of Credit; and

(xi) where such Issuing Bank has acted in good faith and without gross negligence or willful misconduct and observed general banking usage, any other circumstance whatsoever.

(i) Each Issuing Bank shall be entitled to the protection accorded to the Administrative Agent pursuant to Section 10.6, mutatis mutandis.

(j) The Tranche A Issuing Bank may in its sole discretion replace any Bank with respect to such Bank's entire respective Pro Rata Share of the Tranche A Commitment and/or Tranche B Commitment, if the senior unsecured long-term debt rating of such Bank or any bank controlling such Bank falls below Standard & Poor's Ratings Group "A-" rating or Moody's Investors Service, Inc. "A3" rating with a bank (which may be one or more of the Banks) reasonably acceptable to the Company; provided, that notwithstanding the foregoing any such replacement with respect to any Bank's Pro Rata Share of the Tranche B Commitment shall require the approval, in its sole discretion, of ABN AMRO Bank N.V., Los Angeles International Branch. Any such replacement shall be accomplished by an assignment by such replaced Bank of its entire respective Pro Rata Share of the Tranche A Commitment and/or Tranche B Commitment to the replacement Bank pursuant to the provisions of Section 13.8. The Issuing Banks will promptly notify each Bank of any such substitution.

(k) As between the Borrower and each Issuing Bank, the Borrower assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, the respective beneficiaries of the Letters of Credit. In furtherance and not in limitation of the foregoing, each Issuing Bank shall not be responsible: (1) for the validity, genuineness or legal effect of any document submitted by any party in connection with the issuance of or any drawing under the Letters of Credit, even if it should in fact prove to be in any or all respects invalid, fraudulent or forged; (2) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (3) for errors in interpretation of technical terms; (4) for the misapplication by the beneficiary of any Letter of Credit of the proceeds of any drawing under such Letter of Credit; provided that none of the events set forth in the foregoing clauses (1) through (4) shall have been caused by the gross negligence or wilful misconduct of such Issuing Bank; and (5) for any consequences arising from causes beyond the control of such Issuing Bank. None of the above shall affect, impair, or prevent the vesting of any of the Issuing Banks' rights or powers hereunder. In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by an Issuing Bank under or in connection with the Letters of Credit, if taken or omitted in good faith, without gross negligence or willful misconduct, shall not put such Issuing Bank under any resulting liability to the Borrowers or the Banks.

(1) Each Issuing Bank shall have no obligation whatsoever to make any factual or legal determinations as to the correctness of any demand or payment under any Letter of Credit strictly complying with the terms of such Letter of Credit before such Issuing Bank makes any payment under the Letter of Credit. The Borrowers and the Banks hereby waive (A) diligence, presentment, demand, protest or notice of any kind, (B) any requirement that an Issuing Bank exhaust any right or remedy against the Borrowers, the Administrative Agent, any other participant in the credit, or any other Person, and (C) any claim or defense based on any time or other indulgence granted to the Borrower, the Administrative Agent or any other Person and any right of subrogation to any rights or remedies of an Issuing Bank in respect of any of the Letters of Credit or any defense that an Issuing Bank has impaired any such right of subrogation.

(m) In the event that any payment made by or on behalf of the Borrower pursuant to or in connection with any Letter of Credit is rescinded or must otherwise be restored or returned to the Borrower or other relevant party, as applicable, including as a result of any insolvency, bankruptcy or reorganization or similar proceedings in respect of the Borrower, the obligations of the Banks under this Section 2.6(m) in respect of such rescinded, restored or returned payment shall be reinstated in full and the Banks shall be liable to indemnify the applicable Issuing Bank hereunder as fully as if such payment had never been made. The provision of this Section 2.6(m) shall survive the payment of the obligations of the Borrowers under the Letters of Credit.

(n) All amounts to be paid to an Issuing Bank by the Banks under this Agreement shall be paid by the Banks to the Administrative Agent for the account of such Issuing Bank, without any set-off or counterclaim whatsoever and free and clear of any without deduction for or on account of any taxes, duties or other charges whatsoever, and without any liability therefor.

2.7 Administrative Agent's Right to Assume Funds Available for Advances. Unless the Administrative Agent shall have been notified by any Bank no later than the Banking Day prior to the funding by the Administrative Agent of any Loan that such Bank does not intend to make available to the Administrative Agent such Bank's Pro Rata Share of the total amount of such Loan, the Administrative Agent may assume that such Bank has made such amount available to the Administrative Agent on the date of the Loan and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. Unless the Administrative Agent shall have been notified by the appropriate Bank no later than one hour prior to the funding by the Administrative Agent of any Competitive Advance by the Administrative Agent on behalf of that Bank such Bank does not intend to make available to the Administrative Agent such Bank's Competitive Advance the Administrative Agent may assume that such Bank has made such amount available to the Administrative Agent and the Administrative Agent may in reliance upon such assumption, make available to the Borrower a corresponding amount. If the Administrative Agent has made funds available to the Borrower based on such assumptions and such corresponding amount is not in

fact made available to the Administrative Agent by such Bank, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Bank, which demand shall be made in a reasonably prompt manner. If such Bank does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent promptly shall notify the Borrower and the Borrower shall pay such corresponding amount to the Administrative Agent. The Administrative Agent also shall be entitled to recover from such Bank interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to the actual cost to the Administrative Agent of funding such amount as notified by the Administrative Agent to such Bank. Nothing herein shall be deemed to relieve any Bank from its obligation to fulfill its Pro Rata Share of the Commitment or to prejudice any rights that the Administrative Agent or the Borrower may have against any Bank as a result of any default by such Bank hereunder.

2.8 Extension of Tranche A Maturity Date. In the event that: (a) the Company requests in writing no more than 90 days but no less than 60 days prior to any anniversary of the Closing Date (an "Anniversary Date") prior to the Tranche A Maturity Date that the Tranche A Maturity Date be extended for one year; (b) each Bank shall have determined in its sole discretion to consent to such extension; and (c) the Administrative Agent shall have delivered a written notice of such determination to the Company no less than 15 days prior to such Anniversary Date, then the Tranche A Maturity Date shall be extended for an additional one-year period. Any Bank that shall not have indicated its determination under this Section 2.8 to the Administrative Agent on or prior to the 15th day prior to such Anniversary Date shall be deemed not to have consented to such extension.

ARTICLE 3
PAYMENTS AND FEES

3.1 Principal and Interest.

(a) Interest shall be payable on the outstanding daily unpaid principal amount of each Loan and each Competitive Advance from the date thereof until payment in full is made and shall accrue and be payable at the rates set forth herein before and after default, before and after maturity, before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law, with interest on overdue interest to bear interest at the Default Rate to the fullest extent permitted by applicable Laws.

(b) Interest accrued on each Base Rate Loan shall be due and payable on the last day of the applicable Base Rate Period. Except as otherwise provided in Section 3.9, the unpaid principal amount of any Base Rate Loan shall bear interest at a fluctuating rate per annum equal to the Base Rate. Each change in the interest rate hereunder shall take effect simultaneously with the corresponding change in the Base Rate. Each change in the Base Rate shall be effective as of 12:01 a.m., New York time, on the Banking Day on which the change in the Base Rate is announced, unless otherwise specified in such announcement, in which case the change shall be effective as so specified.

(c) Interest accrued on each Eurodollar Rate Loan the Eurodollar Period for which is three months or less shall be due and payable on the last day of the applicable Eurodollar Period. Interest accrued on each other Eurodollar Rate Loan shall be due and payable on the date which is three months after the date such Eurodollar Rate Loan was made and on the last day of the Eurodollar Period. Except as otherwise provided in Section 3.9, the unpaid principal amount of any Eurodollar Rate Loan shall bear interest at a rate per annum equal to the Eurodollar Rate for that Eurodollar Rate Loan plus the Applicable Percentage. Each change in the Applicable Percentage shall be effective as of the date of the public announcement or publication by Standard & Poor's Ratings Group or Moody's Investors Service, Inc. of a change in the Company's senior unsecured long-term debt ratings. Each Bank claiming a right to payment of a Eurodollar Reserve Percentage in connection with any Eurodollar Rate Loan shall deliver to the Company and the Administrative Agent a statement setting forth in reasonable detail the amount of the Eurodollar Reserve Percentage and the calculation of the increased amount payable by the Company in respect of that Bank's Pro Rata Share of such Eurodollar Rate Loan. The Company shall pay to the Administrative Agent, for the account of such Bank, the amount of the Eurodollar Reserve Percentage set forth in such Bank's statement together with each payment of interest on the applicable Eurodollar Rate Loan.

(d) Interest accrued on each Competitive Advance shall be due and payable on the maturity date of the Competitive Advance. Except as otherwise provided in Section 3.9, the unpaid principal amount of each Competitive Advance shall bear interest at the rate specified in the relevant Competitive Bid.

(e) If not sooner paid, the principal Indebtedness evidenced by the Notes shall be payable as follows:

(i) the principal amount of each Loan shall be payable on the last day of the Interest Period for such Loan, and in any event on the Tranche A Maturity Date; and

(ii) the principal amount of each Competitive Advance shall be payable on the maturity date of that Competitive Advance.

(f) The Committed Advance Notes may, at any time and from time to time, voluntarily be paid or prepaid in whole or in part without premium or penalty, except that with respect to any voluntary prepayment under this subsection, (i) any partial prepayment shall be in minimum amount of \$5,000,000 and multiples of \$1,000,000 in excess thereof, (ii) the Administrative Agent shall have received written notice of any prepayment by 11:00 a.m. (New York time) on the date of prepayment (which shall be a Banking Day), in the case of a Base Rate Loan, and by 1:00 p.m. (New York time) three (3) Banking Days before the date of prepayment, in the case of a Eurodollar Rate Loan, which notice shall identify the date and amount of the prepayment and the Loan(s) being prepaid, (iii) each prepayment of principal shall be accompanied by payment of interest accrued through the date of payment on the amount of principal paid and (iv) in any event, any payment or prepayment of all or any part of any Loan on a day other than the last day of the applicable Interest Period shall be subject to Section 3.8(c).

(g) The Competitive Advance Notes may not be voluntarily prepaid in whole or in part without the consent of the holder thereof. In the event of any prepayment of the Competitive Advance Notes in violation of this Section, the Company shall pay to the affected Bank such amounts as are

necessary, in the reasonable estimation of that Bank, to compensate that Bank for the effect of such prepayment.

3.2 Commitment Fee. On the last day of each Fiscal Quarter and on the Tranche A Maturity Date and, if earlier, the date of termination of the Tranche A Commitment in its entirety, the Company shall pay to the Administrative Agent, for the account of each Bank according to its Pro Rata Share of the Tranche A Commitment, commitment fees equal to the Applicable Percentage times the average daily Unused Portion of the Tranche A Commitment during the Fiscal Quarter then ending. Each change in the Applicable Percentage shall be effective on the date of the public announcement or publication by Standard & Poor's Ratings Group or Moody's Investors Service, Inc. of a change in the Company's senior unsecured long-term debt ratings.

3.3 Co-Arranger Fees and Agency Fees. On the date of this Agreement, the Company shall pay to the Co-Arrangers fees in the amounts agreed upon by letter agreements dated the date hereof between the Company and the Co-Arrangers. Such fees are for the sole account of the Co-Arrangers and are fully earned upon receipt and non-refundable. On the date of this Agreement and on each anniversary thereof, the Company shall pay to the Administrative Agent, agency fees in the amounts agreed upon by letter agreements dated the date hereof between the Company and the Administrative Agent. The agency fees are for the sole account of the Administrative Agent and are fully earned upon receipt and non-refundable.

3.4 LC Issuance Fee. The Company shall pay, on the last day of each Fiscal Quarter, a LC Issuance Fee to the Administrative Agent for the account of each Issuing Bank, in the amounts agreed upon by letter agreements dated the date hereof between the Company and each Issuing Bank. The LC Issuance Fees are for the sole account of the applicable Issuing Bank and are fully earned upon receipt and non-refundable.

3.5 LC Reimbursement Fee. The Company shall pay, on the last day of each Fiscal Quarter, a LC Reimbursement Fee to the Administrative Agent, for the pro rata benefit of the Banks in accordance with their respective Pro Rata Shares of the Tranche A Commitment and the Tranche B Commitment, in an amount equal to the average daily face amount of Letters of Credit outstanding during such Fiscal Quarter times the Applicable Percentage. Each change in the Applicable Percentage shall be effective on the date of the public announcement or publication by Standard & Poor's Ratings

Group or Moody's Investors Service, Inc. of a change in the Company's senior unsecured long-term debt ratings.

3.6 LC Drawing Fee. The Company shall pay a drawing fee to each Issuing Bank in the amount of \$250 for each drawing under any of its Letters of Credit, payable on the date of such drawing.

3.7 Capital Adequacy. If any Bank (including an Issuing Bank) determines in good faith that compliance with any Law or regulation or with any guideline or request from any central bank or other Governmental Agency (whether or not having the force of Law) has or would have the effect of reducing the rate of return on the capital of such Bank or any corporation controlling such Bank as a consequence of, or with reference to, such Bank's Pro Rata Share of any portion of the Commitment or its making or maintaining of Advances, or its issuance of any Letter of Credit, below the rate which such Bank or such other corporation could have achieved but for such compliance (taking into account the policies of such Bank or corporation with regard to capital), then the Company shall from time to time, upon demand by such Bank (with a copy of such demand to the Administrative Agent), immediately pay to such Bank additional amounts sufficient to compensate such Bank or other corporation for such reduction. A certificate as to such amounts, setting forth in reasonable detail the basis for such calculations, submitted to the Company and the Administrative Agent by such Bank, shall be conclusive and binding for all purposes, absent manifest error. Each Bank agrees promptly to notify the Company and the Administrative Agent of any circumstances that would cause the Company to pay additional amounts pursuant to this Section, provided that the failure to give such notice shall not affect the Company's obligation to pay such additional amounts hereunder. If any Bank shall have been compensated pursuant to this Section 3.7, the Company shall have the right, upon 30 days prior notice to the Administrative Agent, with the assistance (but not the obligation) of the Administrative Agent, to seek a substitute bank or banks (which may be one or more of the Banks) satisfactory to the Company, the Administrative Agent and the Issuing Banks to assume the Commitment of such Bank and to purchase the Notes of such Bank and all amounts owing to such Bank in respect of Advances and Letters of Credit under this Agreement pursuant to Section 13.8.

3.8 Increased Costs.

(a) If, after the date hereof, by reason of (i) the adoption of any Law by any Governmental Agency, central branch or comparable authority with respect to activities in the Eurodollar Market, or (ii) any change in the interpretation or administration of any existing Law by any Governmental Agency, central bank or comparable authority charged with the interpretation or administration thereof, or (iii) compliance by any Bank or its Eurodollar Lending Office or an Issuing Bank with any request or directive (whether or not having the force of Law) of any such Governmental Agency, central bank or comparable authority, or (iv) the existence or occurrence of circumstances affecting the Eurodollar Market generally that are beyond the reasonable control of the Banks:

(1)(A) any reserve (including, without limitation, any reserve imposed by the Board of Governors of the Federal Reserve System), special deposit or similar requirements shall be imposed, modified or deemed applicable against assets of, deposits with or for the account of, or credit extended by, any Bank or its Eurodollar Lending Office or an Issuing Bank; or

(B) any Bank or its Eurodollar Lending Office or the Eurodollar Market or an Issuing Bank shall have imposed on it any other condition affecting any Advance, any of its Notes, its obligation to make Advances or this Agreement, or its obligation to make or maintain Letters of Credit hereunder, or any of the same shall otherwise be adversely affected;

and the result of any of the foregoing, as determined by such Bank, increases the cost to such Bank or its Eurodollar Lending Office of making or maintaining any Advance or in respect of any Advance, any of its Notes or its obligation to make Advances or the issuance or maintenance of any Letter of Credit or reduces the amount of any sum received or receivable by such Bank or its Eurodollar Lending Office with respect to any Advance, any of its Notes or its obligation to make Advances (assuming such Bank's Eurodollar Lending Office had funded 100% of its Eurodollar Rate Advance in the Eurodollar Market) or in respect of Letters of Credit or its participation therein, then, upon demand by such Bank or the applicable Issuing Bank (with a copy to the Administrative

Agent), the Company shall pay to such Bank or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Bank or such Issuing Bank, as the case may be, for such increased cost or reduction. A statement of any Bank or an Issuing Bank claiming compensation under this subsection and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. Each Bank and each Issuing Bank agree to endeavor promptly to notify the Company of any event of which it has actual knowledge (and, in any event, within 90 days from the date on which it obtained such knowledge), occurring after the Closing Date, which will entitle such Bank or such Issuing Bank to compensation pursuant to this Section, and agrees to designate a different Eurodollar Lending Office if such designation will avoid the need for or reduce the amount of such compensation and will not, in the judgment of such Bank or such Issuing Bank, otherwise be disadvantageous to such Bank or such Issuing Bank. If any Bank claims compensation under this Section, the Company may at any time, upon at least four (4) Banking Days' prior notice to the Administrative Agent and Banks and upon payment in full of the amounts provided for in this Section through the date of such payment plus any fee required by Section 3.8(c), pay in full all Advances or request that all Eurodollar Rate Advances be converted to Base Rate Advances or all Base Rate Advances be converted to Eurodollar Rate Advances. If any Bank shall have been compensated pursuant to this Section 3.8(a), the Company shall have the right, upon 30 days prior notice to the Administrative Agent, with the assistance (but not the obligation) of the Administrative Agent, to seek a substitute bank or banks (which may be one or more of the Banks) satisfactory to the Company, the Administrative Agent and the Issuing Banks to assume the Commitment of such Bank and to purchase the Notes of such Bank and all amounts owing to such Bank in respect of Advances and Letters of Credit under this Agreement pursuant to Section 13.8.

(2) in the opinion of any Bank, it shall be unlawful, impossible or impracticable for such Bank or its Eurodollar Lending Office to make, maintain or fund its portion of any Eurodollar Rate Loan, or the authority of such Bank to purchase or sell, or to take deposits of, dollars in the Eurodollar Market, or to determine or charge interest rates based upon the Eurodollar Rate shall be materially

restricted, then such Bank shall so notify the Administrative Agent and the other Banks, and such Bank's obligation to make Eurodollar Rate Advances shall be suspended for the duration of such illegality, impossibility or impracticability and the Administrative Agent forthwith shall give notice thereof to the Company and such Bank shall make a Base Rate Advance as part of any successive Eurodollar Rate Loan. Upon receipt of such notice, the outstanding principal amount of all Eurodollar Rate Advances made by such Bank, together with accrued interest thereon, automatically shall be converted to Base Rate Advances with Interest Periods corresponding to the Eurodollar Loans of which such Eurodollar Rate Advances were a part on either (A) the last day of the Eurodollar Period(s) applicable to such Eurodollar Rate Advances if the affected Bank may lawfully continue to maintain and fund such Eurodollar Rate Advances to such day(s) or (B) immediately if the affected Bank may not lawfully continue to fund and maintain such Eurodollar Rate Advances to such day(s), provided that in such event the conversion shall not be subject to payment of a fee under Section 3.8(c).

(b) If, with respect to any proposed Eurodollar Rate Loan:

(i) the Administrative Agent reasonably determines that, by reason of circumstances affecting the Eurodollar Market generally that are beyond the reasonable control of the Banks, deposits in dollars (in the applicable amounts) are not being offered to each of the Banks in the Eurodollar Market for the applicable Eurodollar Period; or

(ii) the Majority Banks advise the Administrative Agent that the Eurodollar Rate as determined by the Administrative Agent (1) does not represent the effective pricing to such Banks for deposits in dollars in the Eurodollar Market in the relevant amount for the applicable Eurodollar Period, or (2) will not adequately and fairly reflect the cost to such Banks of making the applicable Eurodollar Rate Advances;

then the Administrative Agent forthwith shall give notice thereof to the Company and the Banks, whereupon until the Administrative Agent notifies the Company that the

circumstances giving rise to such suspension no longer exist, the obligation of the Banks to make any future Eurodollar Rate Advances shall be suspended. If at the time of such notice there is then pending a Request for Loan that specifies a Eurodollar Rate Loan, such Request for Loan shall be deemed to specify a Base Rate Loan.

(c) The Company shall compensate each Bank for any loss sustained by that Bank in connection with the liquidation or re-employment of funds, excluding any loss of margin, and, without duplication, all actual out-of-pocket expenses (excluding allocations of any expense internal to such Bank) reasonably attributable thereto that such Bank may sustain: (i) if for any reason (other than a default by that Bank) a borrowing of any Eurodollar Rate Loan does not occur on a date or in the amount specified therefor in a Request for Loan or a telephonic request for loan, (ii) if any prepayment or other principal payment or any conversion (other than as a result of a conversion required under Section 3.8(a)(2)) of any of its Eurodollar Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Loan, or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by the Company. Each Bank's determination of any amount payable under this Section 3.8(c) shall be conclusive in the absence of manifest error. Each Bank shall submit an invoice to the Administrative Agent of the amount payable by the Company under this Section 3.8(c) setting forth in reasonable detail the basis for such amount and the Administrative Agent shall notify the Company of such amount. The Company shall pay such amount to the Administrative Agent for the account of the relevant Bank, and the Administrative Agent shall promptly pay each relevant Bank the portion of the amount owed to it.

3.9 Late Payments. If any installment of principal or interest or any fee or cost or other amount payable under any Loan Document to the Administrative Agent, either Issuing Bank or any Bank is not paid when due, it shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the sum of the Base Rate plus 2% per annum, to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including, without limitation, interest on past due interest) shall be compounded daily and shall be payable on demand, to the fullest extent permitted by applicable Laws.

3.10 Computation of Interest and Fees. Computation of interest on Base Rate Loans shall be calculated on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. Computation of all fees and interest on Eurodollar Rate Loans and Competitive Advances shall be calculated on the basis of a year of 360 days and the actual number of days elapsed. Any Advance that is repaid on the same day on which it is made shall bear interest for one day.

3.11 Non-Banking Days. If any payment to be made by a Borrower or any other party under any Loan Document shall come due on a day other than a Banking Day, payment shall instead be considered due on the next succeeding Banking Day and the extension of time shall be reflected in computing the amount of such payment.

3.12 Manner and Treatment of Payments.

(a) Each payment hereunder or on the Notes or under any other Loan Document shall be made to the Administrative Agent, at the Administrative Agent's Office, for the account of each of the appropriate Banks or the applicable Issuing Bank, as the case may be, in immediately available funds not later than 2:00 p.m., New York time, on the day of payment (which must be a Banking Day). All payments received after 2:00 p.m., New York time, on any particular Banking Day, shall be deemed received on the next succeeding Banking Day. The amount of all payments received by the Administrative Agent for the account of each Bank or either Issuing Bank shall be promptly paid by the Administrative Agent to the applicable Bank or the applicable Issuing Bank, as the case may be, in immediately available funds. All payments shall be made in lawful money of the United States of America.

(b) Prior to the occurrence of any Event of Default, each payment or prepayment received by the Administrative Agent on account of any Loan or Competitive Advance shall be applied:

(i) To the Notes, pro rata in accordance with the aggregate principal Indebtedness owed to each Bank under the Notes,

(ii) Notwithstanding clause (i) above, any payment by a Borrower which is designated as a prepayment of a Competitive Advance Note shall be applied to such Competitive Advance Note, provided that (A) the consent of the affected Bank to such prepayment has been obtained and (B) the payment of all amounts due with respect to the Loan Documents on the date of such prepayment shall have been provided for to the satisfaction of the Administrative Agent.

(c) Each Bank shall use its best efforts to keep a record of Advances made by it and payments received by it with respect to its Notes and, subject to Section 10.6(g), such record shall be presumptive evidence of the amounts owing. Notwithstanding the foregoing sentence, no Bank shall be liable to any party for any failure to keep such a record.

(d) (i) Each payment of any amount payable by any Borrower to or for the account of any Bank under this Agreement or any other Loan Document shall be made free and clear of, and without reduction by reason of, any Taxes or Other Taxes. To the extent that a Borrower is obligated by applicable Laws to make any deduction or withholding on account of Taxes or Other Taxes, from any amount payable to any Bank under this Agreement, such Borrower shall (i) make such deduction or withholding and pay the same to the relevant Governmental Agency and (ii) pay such additional amount as is necessary to result in Bank's receiving, after all required deductions (including deductions applicable to additional sums payable under this Section 3.12(d)) an amount equal to the amount to which that Bank would have been entitled under this Agreement or other Loan Document absent such deduction.

(ii) If and when receipt of a payment under this Section 3.12(d) results in an excess payment or credit to that Bank on account of the relevant Taxes or Other Taxes, that Bank shall refund such excess to such Borrower.

(iii) Each Bank organized under the laws of a jurisdiction outside the United States, within twenty (20) Banking Days of its execution and delivery of this Agreement in the case of each Bank listed on the signature pages hereof and on or prior to the date on which it becomes a Bank in the case of each other Bank, but in no event less than ten (10) Banking Days prior to

the next succeeding Interest Payment Date, and from time to time thereafter if requested in writing by any Borrower, shall provide any Borrower and the Administrative Agent with Internal Revenue Service Form 1001 or 4224, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Bank is entitled to benefits under an income tax treaty to which the United States is a party which exempts the Bank from withholding tax or reduces the rate of withholding tax in payments of interest for the account of such Bank or certifying that the income receivable pursuant to this Agreement and the other Loan Documents is effectively connected with the conduct of a trade or business in the United States; provided, however that should a Bank, which is otherwise exempt from or subject to a reduced rate of withholding tax, become subject to Taxes because of its failure to deliver a form required hereunder, each Borrower shall take such steps as such Bank shall reasonably request to assist such Bank to recover such Taxes.

(iv) For any period with respect to which a Bank has failed to provide the Borrower or the Administrative Agent with the appropriate form pursuant to Section 3.12(d)(iii) (unless such failure is due to a change in treaty, law or regulation occurring subsequent to the date on which such form originally was required to be provided), such Bank shall not be entitled to indemnification under Section 3.12(d)(i) with respect to Taxes imposed by the United States.

(v) If a Borrower is required to pay additional amounts to or for the account of any Bank pursuant to this Section 3.12, then such Bank will change the jurisdiction of its applicable lending office if, in the judgment of such Bank, such change (i) will eliminate or reduce any such additional payment that may thereafter accrue and (ii) is not otherwise disadvantageous to such Bank.

3.13 Funding Sources. Nothing in this Agreement shall be deemed to obligate any Bank to obtain the funds for any Loan or Advance in any particular place or manner or to constitute a representation by any Bank that it has obtained or will obtain the funds for any Loan or Advance in any particular place or manner.

Each of the Borrowers agree that, for purposes of any determination to be made under Section 3.8 or the definition of Eurodollar Reserve Percentage, each Bank shall be deemed to have funded its Eurodollar Rate Advances with dollar deposits in the London interbank market.

3.14 Failure to Charge Not Subsequent Waiver. Any decision by any Bank not to require payment of any interest (including interest arising under Section 3.9), fee, cost or other amount payable under any Loan Document, or to calculate any amount payable by a particular method, on any occasion shall in no way limit or be deemed a waiver of such Bank's right to require full payment of any interest (including interest arising under Section 3.9), fee, cost or other amount payable under any Loan Document, or to calculate an amount payable by another method, on any other or subsequent occasion.

3.15 Administrative Agent's Right to Assume Payments Will be Made by Borrower. Unless the Administrative Agent shall have been notified by a Borrower prior to the date on which any payment to be made by that Borrower hereunder is due that such Borrower does not intend to remit such payment, the Administrative Agent may, in its discretion, assume that such Borrower has remitted such payment when so due and the Administrative Agent may, in its discretion and in reliance upon such assumption, make available to each Bank on such payment date an amount equal to such Bank's share of such assumed payment. If a Borrower has not in fact remitted such payment to the Administrative Agent, each Bank shall forthwith on demand repay to the Administrative Agent the amount of such assumed payment made available to such Bank, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Bank to the date such amount is repaid to the Administrative Agent at a rate per annum equal to the actual cost to the Administrative Agent of funding such amount as notified by the Administrative Agent to such Bank.

3.16 Fee Determination Detail. The Administrative Agent, the applicable Issuing Bank and any Bank, shall provide reasonable detail to the Company regarding the manner in which the amount of any payment to the Banks, or that Bank, under Article 3 has been determined.

3.17 Letter of Credit Illegality. In the event that it shall become unlawful for an Issuing Bank to give effect to all or any part of its obligations under this Agreement, such Issuing Bank shall give the Administrative Agent, the Company and each Bank prompt notice thereof and the following provisions shall apply:

(i) in the case of it becoming unlawful for an Issuing Bank to issue any Letter of Credit, such Issuing Bank shall have no obligation to issue such Letter of Credit; and

(ii) in the case of it becoming unlawful for an Issuing Bank to issue or maintain any Letter of Credit, the Administrative Agent shall attempt on a best efforts basis to induce another bank or financial institution (including any Bank) to serve as a replacement Issuing Bank with respect to any Letter of Credit of such Issuing Bank; provided that all documentation in respect of the release of the replaced Issuing Bank from its obligations hereunder and under any such Letter of Credit shall be in form and substance satisfactory to the replaced Issuing Bank, the Administrative Agent and the Company. Upon designation of a replacement Issuing Bank, the replaced Issuing Bank shall be discharged from all further duties and obligations hereunder and under the Loan Documents, except that the provisions of this Agreement shall continue in effect for the benefit of the replaced Issuing Bank in respect of any actions taken by it or omitted to be taken by it while it was acting as an Issuing Bank hereunder.

3.18 Survivability. All of the Company's obligations under Sections 3.7 and 3.8 shall survive for thirty (30) days following the termination of this Agreement; provided, however, that such obligations shall not, from and after the termination of this Agreement, be deemed Obligations for any purpose under the Loan Documents.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Each Borrower represents and warrants to the Banks that:

4.1 Existence and Qualification; Power; Compliance With Laws. Each of such Borrower and its Subsidiaries is a corporation duly formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation. Each of such Borrower and its Subsidiaries is duly qualified to transact business, and

is in good standing, in any jurisdiction in which the conduct of its business or the ownership or leasing of its Properties makes such qualification or registration necessary, except where the failure so to qualify or register and to be in good standing would not constitute a Material Adverse Effect. Each of such Borrower and its Subsidiaries has all requisite corporate power and authority to conduct its business and to own and lease its Properties. Each Borrower has all requisite corporate power and authority to execute and deliver each Loan Document to which it is a party and to perform its Obligations. All outstanding shares of capital stock of each Borrower are duly authorized, validly issued, fully paid, nonassessable and issued in compliance with all applicable state and federal securities and other Laws. Each of such Borrower and its Subsidiaries has obtained all authorizations, consents, approvals, orders, licenses and permits from, and has accomplished all filings, registrations and qualifications with, or obtained exemptions from any of the foregoing from, any Governmental Agency that are necessary for the transaction of its business, except where the failure so to comply, file, register, qualify or obtain exemptions does not constitute a Material Adverse Effect.

4.2 Authority; Compliance With Other Agreements and Instruments and Government Regulations. The execution, delivery and performance of the Loan Documents by such Borrower have been duly authorized by all necessary corporate action, and do not:

(a) Require any consent or approval not heretofore obtained of any partner, director, stockholder, security holder or creditor of such Borrower;

(b) Result in or require the creation or imposition of any Lien upon or with respect to any Property now owned or leased or hereafter acquired by such Borrower;

(c) Violate, to the best knowledge of such Borrower, any Requirement of Law applicable to such Borrower;

(d) Result (or, with the giving of notice or passage of time or both, would result) in a breach of or default under, or cause or permit the acceleration of any obligation owed under any Contractual Obligation to which such Borrower is a party or by which such Borrower or any of its Property is bound or affected;

except where failure to receive such consent or approval or creation of such Lien or violation of, or default under, any such Requirement of Law or Contractual Obligation would not constitute a Material Adverse Effect.

4.3 No Governmental Approvals Required. Subject to the representations of the Banks contained in Section 13.8, no authorization, consent, approval, order, license or permit from, or filing, registration or qualification with, any Governmental Agency is required to authorize or permit under applicable Laws the execution, delivery and performance of the Loan Documents by such Borrower.

4.4 Subsidiaries. Schedule 4.4 hereto correctly sets forth (i) the names, the form of legal entity, number of shares of capital stock issued and outstanding, jurisdictions of organization and chief executive offices of all Subsidiaries of such Borrower and (ii) the names, the form of legal entity, equity percentage ownership, and jurisdictions of organization of each partnership and joint venture that is excluded from the definition of the term "Subsidiary" but as to which the Company or a Subsidiary owns 50% or more of the ownership interests.

4.5 Financial Statements. The Company has furnished to the Banks the audited consolidated financial statements of the Company and its Consolidated Subsidiaries as at December 31, 1994 and for the twelve months then ended and unaudited consolidated financial statements of the Company and its Subsidiaries as at March 31, 1995 and for the three months then ended. Such financial statements fairly present the financial condition and the results of operations of the Company and its Subsidiaries as at such dates and for such periods in accordance with Generally Accepted Accounting Principles.

4.6 No Other Liabilities; No Material Adverse Effect. The Company and its Consolidated Subsidiaries do not have any material liability or material contingent liability not reflected or disclosed in the balance sheet or notes thereto described in Section 4.5, other than liabilities and contingent liabilities arising in the ordinary course of business subsequent to March 31, 1995. There has been no event or circumstance that constitutes a Material Adverse Effect with respect to the Company and its Subsidiaries since March 31, 1995.

4.7 Title to and Location of Property. The Company and its Subsidiaries have good and valid title to all the Property reflected in the balance sheet described in Section 4.5 except for those defects in title that would not result in a Material Adverse Effect, other than Property subsequently sold or disposed of in the ordinary course of business, free and clear of all Liens, other than (i) Liens permitted by Section 6.5 and (ii) Liens that would not constitute a Material Adverse Effect.

4.8 Intangible Assets. To the Company's knowledge, the Company and its Subsidiaries own, possess the right to use or can obtain on reasonable terms a license to use to the extent necessary in their respective businesses, all trademarks, trade names, copyrights, patents, computer software, licenses and other Intangible Assets required to conduct their businesses as currently conducted and, in each case, which are material to the financial condition or operations of the Company and its Subsidiaries taken as a whole. Neither the Company nor any Subsidiary has received any notice of infringement with respect to any of the foregoing that would, if the subject of an unfavorable ruling, constitute a Material Adverse Effect.

4.9 Governmental Regulation. No Borrower is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, the Investment Company Act of 1940 or to any other Law limiting or regulating its ability to incur Indebtedness for money borrowed.

4.10 Litigation. Except for (a) any matter fully covered (subject to applicable deductibles and retentions) by insurance for which the insurance carrier has assumed full responsibility, (b) matters described in public documents filed with Governmental Agencies and previously delivered to the Banks, and (c) matters disclosed on Schedule 4.10 hereto, there are no actions, suits, proceedings or investigations pending as to which the Company or any of its Subsidiaries have been served or have received notice or, to the best knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries or any Property of any of them before any Governmental Agency which could reasonably be expected to constitute a Material Adverse Effect.

4.11 Binding Obligations. Each of the Loan Documents will, when executed and delivered by such Borrower, constitute the legal, valid and binding obligation of such Borrower, enforceable against such Borrower in accordance with its terms, except as

enforcement may be limited by Debtor Relief Laws or equitable principles relating to the granting of specific performance and other equitable remedies as a matter of judicial discretion.

4.12 No Default. No event has occurred and is continuing that is a Default or Event of Default.

4.13 Employee Benefit Plans.

(a) The Company and each of its ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan, except where the failure to be in such compliance or to perform such obligation would not constitute a Material Adverse Effect.

(b) No ERISA Event that would constitute a Material Adverse Effect has occurred or is reasonably expected to occur.

(c) Except to the extent required under Section 4980B of the Code, no Employee Benefit Plan maintained by the Company or any of its Current ERISA Affiliates provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employees of the Company or any of its Current ERISA Affiliates.

(d) As of the most recent valuation date for any Pension Plan with respect to which the Company or a Subsidiary has any financial liability (including potential joint and several liability) in the event any such Pension Plan were to terminate, the amount of unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities), does not exceed \$30,000,000.

4.14 Regulation U. No part of the proceeds of any Advance hereunder will be used to purchase or carry, or to extend credit to others for the purpose of purchasing or carrying, any "margin stock" (as such term is defined in Regulation U) in violation of Regulation U. Neither the Company nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any such "margin stock."

4.15 Disclosure. All written information heretofore supplied by the Company to the Administrative Agent for the purposes of this Agreement is true and accurate in all material respects on the date as of which such information is stated. The Company has disclosed to the Administrative Agent all facts which materially and adversely may, in the good faith opinion of the Company, affect (to the extent the Company can reasonably foresee) the financial condition of the Company and its Subsidiaries, taken as a whole, or the ability of the Company to perform its obligations under this Agreement.

4.16 Tax Liability. Each of the Company and its Subsidiaries has filed or caused to be filed all tax returns which are required to have been filed by it, and has paid or caused to be paid, or made provision for the payment of, all taxes with respect to the periods, Property or transactions covered by said returns, or pursuant to any assessment received by the Company or any of its Subsidiaries, except (a) taxes for which the Company has been fully indemnified, (b) such taxes, if any, as are being contested in good faith by appropriate proceedings and as to which adequate reserves have been established and maintained and (c) where the failure to so file or pay would be immaterial to the financial condition, business or prospects of the Company. To the best knowledge of the Company, there is no tax assessment contemplated or proposed by any Governmental Agency against the Company or any of its Subsidiaries that would constitute a Material Adverse Effect.

4.17 Environmental Matters. As of the Closing Date, except as set forth in the Company's annual report on Form 10-K for the year ended December 31, 1994 to the Securities and Exchange Commission, or as disclosed in Schedule 4.17 annexed hereto, (a) the Company and each Subsidiary have complied with all Environmental Laws, except to the extent that the failure to so comply would not be reasonably likely to result in a Material Adverse Effect, (b) the Company's and its Subsidiaries' facilities do not manage any hazardous wastes, hazardous substances, hazardous materials, toxic substances or toxic pollutants in any manner that would result in a violation of any Environmental Law, except for violations that would not be reasonably likely to result in a Material Adverse Effect and (c) the Company is aware of no events, conditions or circumstances involving environmental

pollution or contamination or public or employee health or safety, in each case applicable to it or its Subsidiaries, that has resulted or would be reasonably likely to result in a Material Adverse Effect.

ARTICLE 5
AFFIRMATIVE COVENANTS
(OTHER THAN INFORMATION AND REPORTING REQUIREMENTS)

So long as any Advance remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of the Commitment remains in force, each Borrower shall, and shall cause each of its Subsidiaries to, unless the Administrative Agent (acting on the direction of the Majority Banks) otherwise consents in writing:

5.1 Payment of Taxes and Other Potential Liens. Pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon any of them, upon their respective Property or any part thereof, or upon their respective income or profits or any part thereof, except that the Company and its Subsidiaries shall not be required to pay or cause to be paid any tax, assessment, charge or levy that is not yet past due, or is being contested in good faith by appropriate proceedings, so long as the relevant entity has established and maintains adequate reserves for the payment of the same and by reason of such nonpayment and contest no material item or portion of Property of the Company and its Subsidiaries, taken as a whole, is in jeopardy of being seized, levied upon or forfeited.

5.2 Preservation of Existence. Preserve and maintain their respective existences in the jurisdiction of their formation and all authorizations, rights, franchises, privileges, consents, approvals, orders, licenses, permits, or registrations from any Governmental Agency that are necessary for the transaction of their respective business, and qualify and remain qualified to transact business in each jurisdiction in which such qualification is necessary in view of their respective business or the ownership or leasing of their respective Properties except where the failure to maintain such preservation or maintenance of existence, authorizations, rights, franchises, privileges, consents, approvals, orders, licenses, permits or registration or to do so qualify would not constitute a Material Adverse Effect and; provided that a merger permitted under Section 6.2 shall not

constitute a violation of this covenant. Nothing herein contained shall prevent the termination of the business or corporate existence of any Subsidiary (other than a Borrower) that, in the judgment of the Company, is no longer necessary or desirable, as long as immediately after giving effect to any such transaction, no Default shall have occurred and be continuing.

5.3 Maintenance of Properties. Maintain, preserve and protect all of their respective depreciable Properties in good order and condition, subject to wear and tear in the ordinary course of business, and not permit any waste of their respective Properties, except that any failure to so maintain, preserve or protect such Properties that does not constitute a Material Adverse Effect shall not constitute a violation of this covenant.

5.4 Maintenance of Insurance. Maintain liability, casualty and other insurance (subject to customary deductibles and retentions), with responsible insurance companies in such amounts and against such risks as is carried by responsible companies engaged in similar businesses and owning similar assets in the general areas in which the Company and its Subsidiaries operate; provided that, notwithstanding the foregoing, the Company may self-insure for earthquake risk.

5.5 Compliance With Laws. Comply with all Requirements of Law noncompliance with which constitutes a Material Adverse Effect, except that the Company and its Subsidiaries need not comply with a Requirement of Law then being contested by any of them in good faith by appropriate proceedings.

5.6 Visitation. Upon reasonable notice permit the Administrative Agent or representatives of any Bank at the Administrative Agent's or such Bank's expense to visit any of its major properties and to discuss its affairs and finances with its officers and independent public accountants, all at such reasonable times and as often as may reasonably be requested.

5.7 Keeping of Records and Books of Account. Keep adequate records and books of account reflecting all financial transactions in conformity with Generally Accepted Accounting Principles, and in material conformity with all applicable requirements of any Governmental Agency having regulatory jurisdiction over the Company or any of its Subsidiaries.

5.8 Compliance With Agreements. Promptly and fully comply with all Contractual Obligations, except that the Company and its Subsidiaries need not comply with Contractual Obligations then being contested by any of them in good faith by appropriate proceedings or if the failure to comply with such Contractual Obligations does not constitute a Material Adverse Effect.

5.9 Use of Proceeds. Use the proceeds of Advances only for general corporate purposes of the Borrowers. Use the Tranche A Letters of Credit only for trade, commercial and standby letters of credit in the ordinary course of business. Use the Tranche B Letters of Credit only to provide liquidity and credit support for the private placement in Puerto Rico by Amgen Manufacturing, Inc., a Puerto Rican corporation and a wholly owned subsidiary of the Company.

ARTICLE 6

NEGATIVE COVENANTS

So long as any Advance remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of the Commitment remains in force, the Company shall not, and shall not permit any of its Subsidiaries to, unless the Administrative Agent (acting on the direction of the Majority Banks) otherwise consents in writing:

6.1 Change in Nature of Business. Make any material change in the nature of the business of the Company and its Subsidiaries, taken as a whole, as at present conducted.

6.2 Mergers. Merge, consolidate or amalgamate with or into any Person, or convey substantially all of its Properties and assets to another Person, unless each of the following conditions are met:

(a) no Default or Event of Default exists or would exist immediately following the consummation of such merger, consolidation, amalgamation or conveyance;

(b) in a merger, consolidation or amalgamation of the Company with another Person or Persons, the Company is the surviving entity;

(c) in the case of a conveyance of Properties and assets, the Properties and assets conveyed do not consist of substantially all of the Properties and assets of the Company and its Subsidiaries taken as a whole; and

(d) the Company and any Borrowers surviving the merger, consolidation or amalgamation continue in compliance with all the terms and conditions set forth in this Agreement.

6.3 Acquisitions of Securities of the Company. Make any Investment in or acquisition of Securities of the Company so long as an Event of Default is continuing other than repurchases of Securities of the Company from terminated employees or consultants.

6.4 Distributions. Make any Distribution, whether from capital, income or otherwise, and whether in Cash or other Property, except:

(a) Distributions by Subsidiaries of the Company to the Company or to a wholly owned Subsidiary of the Company;

(b) repurchases of Securities of the Company from terminated employees or consultants; and

(c) any other Distribution if, after the making of such Distribution, there shall not exist a Default or an Event of Default.

6.5 Liens; Negative Pledges; Sales and Leasebacks. Create, incur, assume or suffer to exist any Lien of any nature upon or with respect to any of their respective Properties, whether now owned or hereafter acquired, or engage in any sale and leaseback transaction with respect to its Property, except:

(a) Permitted Encumbrances;

(b) Liens in favor of the Administrative Agent or the Banks under the Loan Documents;

(c) Liens existing on the date hereof and listed on Schedule 6.5 and Liens on the same Property which secure Indebtedness which replaces or refinances the Indebtedness originally secured by those Liens; provided that the obligations secured thereby are not increased;

(d) pre-existing Liens on assets acquired by the Company or any of its Subsidiaries after the Closing Date; and

(e) Liens securing Indebtedness or obligations (including sale and leaseback transactions to which the Company or any Subsidiary is a party as vendor and lessee) incurred after the date hereof the outstanding amount of which Indebtedness or obligation does not in the aggregate exceed 35% of consolidated total assets of the Company (measured as of the last day of the most recently ended Fiscal Quarter).

6.6 Transactions with Affiliates. Enter into any transaction of any kind which is material to the Company and its Subsidiaries taken as a whole with any Affiliate of the Company other than (a) transactions between or among the Company and its Subsidiaries or between or among its Subsidiaries and (b) transactions on terms at least as favorable to the Company or its Subsidiaries as would be the case in an arm's-length transaction between unrelated parties of equal bargaining power.

6.7 Interest Charge Coverage Ratio. Permit the Interest Charge Coverage Ratio, as of the last day of each Fiscal Quarter, to be less than 3.00 to 1.00.

6.8 Tangible Net Worth. Permit Tangible Net Worth, as of the last day of each Fiscal Quarter, to be less than \$900,000,000 plus the sum of the following amounts calculated separately for each Fiscal Quarter in the Calculation Period and aggregated for all Fiscal Quarters in the Calculation Period: (a) 25% of the net cash proceeds of any issuance by the Company of equity securities during each such Fiscal Quarter plus (b) 25% of Net Income (but not less than \$0) for each such Fiscal Quarter minus (c) any funds used by the Company to repurchase the Company's equity securities during each such Fiscal Quarter. The term "Calculation Period" means the period commencing January 1, 1995 and ending as of the last day of the Fiscal Quarter for which the calculation is being made.

ARTICLE 7 INFORMATION AND REPORTING REQUIREMENTS

7.1 Financial and Business Information. So long as any Advance remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of the Commitment remains in force,

the Company shall, unless the Administrative Agent (with the approval of the Majority Banks) otherwise consents in writing, deliver to the Banks and the Administrative Agent, at the Company's sole expense:

(a) As soon as practicable, and in any event within 45 days after the end of each Fiscal Quarter (other than the fourth Fiscal Quarter in any Fiscal Year), (i) the consolidated balance sheets of the Company and its Subsidiaries as at the end of such Fiscal Quarter, (ii) consolidated statements of income and (iii) consolidated statements of cash flow, in each case described in clauses (ii) and (iii) of the Company and its Subsidiaries for such Fiscal Quarter and for the portion of the Fiscal Year ended with such Fiscal Quarter, all in reasonable detail. Such financial statements shall be certified by a Senior Officer of the Company as fairly presenting the financial condition, results of operations and changes in financial position of the Company and its Subsidiaries in accordance with Generally Accepted Accounting Principles (other than any requirement for footnote disclosures), as at such date and for such periods, subject only to normal year-end accruals and audit adjustments;

(b) As soon as practicable, and in any event within 90 days after the end of each Fiscal Year, (i) the consolidated balance sheets of the Company and its Subsidiaries as at the end of such Fiscal Year, (ii) consolidated statements of income of the Company and its Subsidiaries for such Fiscal Year and (iii) consolidated statements of cash flow of the Company and its Subsidiaries for such Fiscal Year, all in reasonable detail. Such financial statements shall be prepared in accordance with Generally Accepted Accounting Principles, and such consolidated balance sheet and consolidated statements shall be accompanied by a report and opinion of Ernest & Young or other independent public accountants of recognized national standing selected by the Company, which report and opinion shall be prepared in accordance with generally accepted auditing standards as at such date;

(c) Promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the shareholders of the Company, and copies of all annual, regular, periodic and

special reports and registration statements which the Company or a Subsidiary of the Company may file or be required to file under Sections 13 or 15(d) of the Securities Exchange Act of 1934;

(d) As soon as practicable, and in any event within five (5) Banking Days after a Senior Officer of the Company obtains actual knowledge of the existence of any condition or event which constitutes a Default or Event of Default, written notice specifying the nature and period of existence thereof and specifying what action the Company or any of its Subsidiaries is taking or proposes to take with respect thereto;

(e) Upon the reasonable request of the Administrative Agent, and concurrently with the delivery of the consolidated financial statements described herein, consolidating financial statements of the types described in Sections 7.1(a) and 7.1(b);

(f) Promptly upon becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event defined in clauses (i) through (vii) or (xi) of the definition thereof involving Title IV or ERISA that could reasonably be expected to result in material liability to the Company or its Subsidiaries or any ERISA Event that could reasonably be expected to result in a Material Adverse Effect, a written notice specifying the nature thereof, what action the Company or any of its ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto;

(g) With reasonable promptness, copies of (a) each Schedule B (Actuarial Information) to the annual report, if any (Form 5500 Series), filed by the Company or any of its Current ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan; (b) all notices received by the Company or any of its Current ERISA Affiliates from the sponsor of a Multiemployer Plan to which a Current ERISA Affiliate contributes concerning an ERISA Event defined in clauses (i) through (vii) or (xi) of the definition thereof; and (c) such other documents or governmental reports or filings relating to any Employee Benefit Plan as the Administrative Agent shall reasonably request; and

(h) Such other material information directly related to any Borrower's ability to meet its Obligations hereunder as from time to time may be reasonably requested by the Administrative Agent or the Majority Banks.

7.2 Compliance Certificates. So long as any Advance remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of the Commitment remains outstanding, the Company shall, unless the Majority Banks otherwise consent, deliver to the Administrative Agent, at the Company's sole expense, concurrently with the financial statements required pursuant to Sections 7.1(a) and 7.1(b), a Compliance Certificate signed by a Senior Officer of the Company, including calculations as set forth therein.

ARTICLE 8 CONDITIONS

8.1 Conditions to Effectiveness. The Credit Agreement and the Commitments of the Banks hereunder shall be effective on the date on which each of the following conditions precedent, (unless the Administrative Agent, acting at the direction of the Majority Banks, otherwise consents in writing) shall have been satisfied:

(a) The Administrative Agent shall have received all of the following, each of which shall be originals unless otherwise specified, each in form and substance satisfactory to the Administrative Agent, the Issuing Banks and the Banks:

(1) executed counterparts of this Agreement, sufficient in number for distribution to the Banks and the Borrowers;

(2) the Committed Advance Notes dated the Closing Date and executed by each Borrower in favor of each Bank, each in a principal amount equal to that Bank's Pro Rata Share of the Tranche A Commitment;

(3) the Competitive Advance Notes dated the Closing Date and executed by each Borrower in favor of each Bank, each in the principal amount of \$150,000,000;

(4) A certified copy of the Certificate of Incorporation of each Borrower, together with a good standing certificate from the Secretary of State of the State of incorporation of each Borrower and, to the extent generally available, a certificate or other evidence of good standing as to payment of any applicable franchise or similar taxes from the appropriate taxing authority of each of such states, each dated a recent date prior to the Closing Date;

(5) Copies of each Borrower's Bylaws, certified as of the Closing Date by the corporate secretary or an assistant secretary of each such Borrower;

(6) Resolutions of the Board of Directors of each Borrower approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which each such Borrower is a party, certified as of the Closing Date by the corporate secretary or an assistant secretary of each such Borrower as being in full force and effect without modification or amendment;

(7) Signature and incumbency certificates of the officers of each Borrower executing this Agreement and the other Loan Documents;

(8) the favorable written legal opinion of Thomas E. Workman, Jr., Esq., General Counsel to the Company, substantially in the form of Exhibit G-1, together with copies of any officer's certificate or legal opinion of another counsel or law firm specifically identified and expressly relied upon by such counsel in its opinion;

(9) the favorable written legal opinion of O'Melveny & Myers, counsel to the Administrative Agent, substantially in the form of Exhibit G-2;

(10) a Certificate of a Senior Officer of the Company certifying that the conditions specified in Sections 8.1(b), 8.1(c), and 8.1(d) have been satisfied; and

(11) such other assurances, certificates, documents, consents or opinions as the Administrative Agent reasonably may require.

(b) The representations and warranties of the Borrowers contained in Article 4 shall be true and correct.

(c) Each Borrower shall be in compliance with all the terms and provisions of the Loan Documents.

(d) The Company shall have repaid in full the indebtedness to the lenders under the Existing Loan Documents, as well as all interest, costs, fees and expenses associated therewith, and the commitment to lend under the Existing Loan Documents shall have been terminated.

(e) The Company shall have paid to the Co-Arrangers and the Administrative Agent the fees payable on the date of this Agreement referred to in Section 3.3.

8.2 Any Increasing Advance and Any Letter of Credit. The obligation of each Bank to make any Competitive Advance (including the initial Advance), after acceptance of a Competitive Bid of such Bank in accordance with Section 2.4, or to make any Committed Advance which would increase the aggregate principal amount of Committed Advances of such Bank, and the obligation of an Issuing Bank to issue any Letter of Credit (including the initial Letter of Credit), is subject to the following conditions precedent (unless the Administrative Agent, acting at the direction of the Majority Banks, otherwise consents in writing):

(a) except as disclosed by the Company and approved in writing by the Administrative Agent, acting at the direction of the Majority Banks, the representations and warranties contained in Article 4, other than Sections 4.4, 4.7 and 4.10, and the first sentence of Section 4.6, shall be true and correct in all material respects on and as of the date of the Advance or the issuance of the Letter of Credit, as the case may be, as though made on that date (except to the extent such representations and warranties specifically relate to an earlier date in which case they shall be true and correct in all material respects as of such earlier date);

(b) except for (a) any matter fully covered (subject to applicable deductibles and retentions) by insurance for which the insurance carrier has assumed full responsibility, and (b) matters described in clauses (b) or (c) of Section 4.10

on the Closing Date, there shall be no actions, suits, proceedings or investigations pending as to which the Company or any of its Subsidiaries have been served or have received notice or, to the best knowledge of the Company, threatened against the Company or any of its Subsidiaries or any Property of any of them before any Governmental Agency which could reasonably be expected to constitute a Material Adverse Effect.

(c) the Administrative Agent shall have timely received a Request for Loan in compliance with Article 2 (or telephonic request for loan referred to in the second sentence of Section 2.1(b), if applicable) or Request for Letter of Credit in compliance with Article 2, if applicable; and

(d) the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, such other assurances, certificates, documents or consents related to the foregoing as the Administrative Agent reasonably may require.

8.3 Any Advance. The obligation of each Bank to make any Advance is subject to the following conditions precedent (unless the Administrative Agent, acting on the direction of the Majority Banks, otherwise consents in writing): (a) the representations and warranties contained in Sections 4.1 (only with respect to the Borrowers), 4.2, 4.3, 4.9, 4.11 and 4.14 shall be true and correct in all material respects on the date of such Advance as though made on that date (except to the extent such representations and warranties specifically relate to an earlier date in which case they shall be true and correct in all material respects as of such earlier date), (b) no event has occurred and is then continuing that is an Event of Default and (c) the Administrative Agent shall have timely received a Request for Loan in compliance with Article 2 (or telephonic request for loan referred to in the second sentence of Section 2.1(b), if applicable).

ARTICLE 9

EVENTS OF DEFAULT AND REMEDIES UPON EVENT OF DEFAULT

9.1 Events of Default. The existence or occurrence of any one or more of the following events, whatever the reason

therefor and under any circumstances whatsoever, shall constitute an "Event of Default":

(a) Any Borrower fails to pay any principal on any of the Notes, or any portion thereof, on the date when due; or

(b) Any Borrower (i) fails to pay any interest on any of the Notes, or any portion thereof, or (ii) fails to pay any other fee or amount payable to the Administrative Agent, the Banks or the Issuing Banks under any Loan Document, or any portion thereof, in each case within five (5) Banking Days after demand therefor; or

(c) Any failure to comply with Section 7.1(d) that is materially adverse to the interests of the Administrative Agent or the Banks; or

(d) Any Borrower fails to perform or observe any other covenant or agreement contained in any Loan Document on its part to be performed or observed within thirty (30) days after the giving of notice by the Administrative Agent or the Majority Banks of such Default; provided, however, that any failure to observe any of the covenants contained in Sections 6.2 and 6.4, shall constitute an immediate Event of Default hereunder; provided, further, that any failure to observe any of the covenants contained in Section 6.5 shall constitute an Event of Default upon notice from the Administrative Agent (acting on the direction of the Majority Banks) to the Company; and provided further that any failure to observe any of the covenants contained in Sections 6.7 and 6.8 shall constitute an Event of Default five (5) Banking Days after knowledge by the Company of such Default (other than as a result of the giving of notice by the Administrative Agent or the Majority Banks as hereinafter provided) or, if earlier, the giving of notice by the Administrative Agent or the Majority Banks of such Default; or

(e) Any representation or warranty made in this Agreement, any Notes, any Request for Loan, any Agreement to Participate, any Request for Letter of Credit or any Competitive Bid Request was, based on the facts and circumstances reasonably known to the Borrower at the time such representation and warranty was made, incorrect when made or reaffirmed in any respect that is materially adverse to the interests of the Banks; or

(f) The Company or any of its Subsidiaries (i) fails to pay the principal, or any principal installment, or any interest or fees or any other amount of any present or future indebtedness (other than under the Notes) for borrowed money in an amount in excess of the Cross-Default Amount, or any guaranty of present or future indebtedness for borrowed money in an aggregate amount in excess of the Cross-Default Amount, on its part to be paid, when due (or within any stated grace period), whether at the stated maturity, upon acceleration, by reason of required prepayment or otherwise or (ii) fails to perform or observe any other material term, covenant or agreement on its part to be performed or observed, or suffers any event to occur, and such failure or event continues after the applicable grace period, if any, and is not waived, in connection with any present or future indebtedness for borrowed money in an amount in excess of the Cross-Default Amount, or of any guaranty of present or future indebtedness for borrowed money in excess of the Cross-Default Amount, if as a result of such failure or sufferance any holder or holders thereof (or an agent or trustee on its or their behalf) has the right to declare such indebtedness due before the date on which it otherwise would become due; or

(g) Any Loan Document, at any time after its execution and delivery and for any reason other than the agreement of the Banks or satisfaction in full of all the Obligations, ceases to be in full force and effect or is declared by a court of competent jurisdiction to be null and void, invalid or unenforceable in any respect which, in any such event in the reasonable opinion of the Majority Banks, is materially adverse to the interests of the Banks; or any Borrower denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind same; or

(h) A judgment against the Company or any of its Subsidiaries is entered for the payment of money in excess of \$30,000,000 and, absent procurement of a stay of execution, such judgment remains unstayed, unbonded or unsatisfied for thirty (30) calendar days after the date of entry of judgment; or

(i) The Company, any Borrower or any other Subsidiary of the Company the Shareholder's Equity of which, as shown on the most recent consolidated balance sheet, equals or exceeds 10% of the Shareholder's Equity of the Company and its Consolidated Subsidiaries as shown on such consolidated balance sheet, institutes or consents to any proceeding under a Debtor Relief Law relating to it or to all or any part of its Property, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any part of its Property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of that Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under a Debtor Relief Law relating to any such Person or to all or any part of its Property is instituted without the consent of that Person and continues undismissed or unstayed for sixty (60) calendar days; or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against all or any material part of the Property of any such Person and is not released, vacated or fully bonded within sixty (60) calendar days after its issue or levy; or any order for relief shall be entered in respect of the Company or any Borrower or any such Subsidiary; or

(j) (i) Any Person or two or more Persons acting in concert shall acquire beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) directly or indirectly, of securities of the Company (or other securities convertible into such securities) representing 30% or more of the combined voting power of all securities of the Company entitled to vote in the election of directors, other than securities having such power only by reason of the happening of a contingency; or (ii) during any period of up to 12 consecutive months, commencing before or after the date of this Agreement, individuals who at the beginning of such 12-month period were directors of the Company, or whose nomination for election to the Board of Directors of the Company was recommended or approved by a vote of at least a majority of the directors then still in office who were directors of the Company on the first day of such period, shall cease for any reason to constitute a majority of the Board of Directors of the Company; (iii) or

any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement which upon consummation will result in its or their acquisition of, control over securities of the Company (or other securities convertible into such securities) representing 30% or more of the combined voting power of all securities of the Company entitled to vote in the election of directors, other than securities having such power only by reason of the happening of a contingency; provided, however, that there shall not be an Event of Default pursuant to subsections (i) or (iii) above with respect to any Persons who on the date hereof meet the requirements set forth in said subsections (i) or (iii); or

(k) there shall occur one or more ERISA Events which individually or in the aggregate results in or might reasonably be expected to result in liability of the Company, a Subsidiary or any of their Current ERISA Affiliates in excess of \$30,000,000 during the term of this Agreement; or there shall exist an amount of unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans with respect to which the Company or a Subsidiary has any financial liability, including potential joint and several liability in the event any such Pension Plan were to terminate (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities), which exceeds \$30,000,000.

9.2 Remedies Upon Event of Default. Without limiting any other rights or remedies of the Administrative Agent, the Issuing Banks or the Banks provided for elsewhere in this Agreement, or the Loan Documents, or by applicable Law, or in equity, or otherwise:

(a) Upon the occurrence, and during the continuance, of any Event of Default other than an Event of Default described in Section 9.1(i):

(1) the commitment to make Advances, issue Letters of Credit and all other obligations of the Administrative Agent, the Banks or the Issuing Banks and all rights of the Borrowers and any other Parties under the Loan Documents shall be suspended without notice to

or demand upon any Borrower, which are expressly waived by the Borrowers, except that the Majority Banks (or all of the Banks, in the case of an Event of Default described in Sections 9.1(a) or 9.1(b)) may waive the Event of Default or, without waiving, determine, upon terms and conditions satisfactory to the Majority Banks (or all of the Banks, as the case may be), to reinstate the Commitment and make further Advances and issue additional Letters of Credit, which waiver or determination shall apply equally to, and shall be binding upon, all the Banks and the Issuing Banks; and

(2) the Majority Banks may request each Issuing Bank to, and each Issuing Bank thereupon shall, demand immediate deposit by the Borrowers into an account designated by the applicable Issuing Bank of Cash in an amount equal to the aggregate effective face amount of all outstanding Letters of Credit issued by it; and

(3) the Majority Banks may request the Administrative Agent to, and the Administrative Agent thereupon shall, terminate the Commitment and declare all or any part of the unpaid principal of all Notes, all interest accrued and unpaid thereon and all other amounts payable under the Loan Documents to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are expressly waived by the Borrowers.

(b) Upon the occurrence of any Event of Default described in Section 9.1(i):

(1) the commitment to make Advances, issue Letters of Credit and all other obligations of the Administrative Agent or the Banks and all rights of the Borrowers and any other Parties under the Loan Documents shall terminate without notice to or demand upon any Borrower, which are expressly waived by the Borrowers; and

(2) an amount equal to the aggregate effective face amount of all outstanding Letters of Credit shall be forthwith due and payable to the Issuing Banks, without

protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are waived by the Borrowers; and

(3) the unpaid principal of all Notes, all interest accrued and unpaid thereon and all other amounts payable under the Loan Documents shall be forthwith due and payable, without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are expressly waived by the Borrowers.

(c) Upon the occurrence of any Event of Default, the Banks and the Administrative Agent, or any of them, without notice to or demand upon any Borrower, which are expressly waived by the Borrowers, may proceed to protect, exercise and enforce their rights and remedies under the Loan Documents against the Borrowers and any other party and such other rights and remedies as are provided by Law or equity.

(d) The order and manner in which the Banks' rights and remedies are to be exercised shall be determined by the Majority Banks in their sole discretion, and all payments received by the Administrative Agent and the Banks, or any of them, shall be applied first to the costs and expenses (including attorneys' fees and disbursements) of the Administrative Agent, acting as Administrative Agent, and of the Banks, and thereafter paid pro rata to the Banks in the same proportions that the aggregate Obligations owed to each Bank under the Loan Documents bear to the aggregate Obligations owed under the Loan Documents to all the Banks, without priority or preference among the Banks. Regardless of how each Bank may treat payments for the purpose of its own accounting, for the purpose of computing the Borrowers' Obligations hereunder and under the Notes, payments shall be applied first, to the costs and expenses of the Administrative Agent, acting as Administrative Agent, and the Banks, as set forth above, second, to the payment of accrued and unpaid interest due under any Loan Documents to and including the date of such application (ratably, and without duplication, according to the accrued and unpaid interest due under each of the Loan Documents), and third, to the payment of all other amounts (including principal and fees) then owing to the Administrative Agent or the Banks under the Loan Documents. No application of payments will cure any Event of

Default, or prevent acceleration, or continued acceleration, of amounts payable under the Loan Documents, or prevent the exercise, or continued exercise, of rights or remedies of the Banks hereunder or thereunder or at law or in equity.

(e) Upon the occurrence of an Event of Default resulting from or resulting in the default by the Company in the repayment of its Eurodollar Rate Loans when required by the terms of this Agreement, the Company shall compensate each Bank in accordance with Section 3.8(c).

ARTICLE 10

THE ADMINISTRATIVE AGENT

10.1 Appointment and Authorization. Each Bank hereby irrevocably appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Administrative Agent by the terms thereof or are reasonably incidental, as determined by it, thereto. This appointment and authorization is intended solely for the purpose of facilitating the servicing of the Advances and does not constitute appointment of the Administrative Agent as trustee for any Bank or as representative of any Bank for any other purpose and, except as specifically set forth in the Loan Documents to the contrary, the Administrative Agent shall take such action and exercise such powers only in an administrative and ministerial capacity. The Administrative Agent is the agent of the Banks only and does not assume any agency relationship with any Borrower, express or implied.

10.2 Administrative Agent and Affiliates. The Administrative Agent and its Affiliates (and each successor Administrative Agent) have the same rights and powers under the Loan Documents as any other Bank and may exercise the same as though it were not the Administrative Agent to the extent either the Administrative Agent or an Affiliate has executed this Agreement as a Bank or has executed an Assignment Agreement as Assignee. The Administrative Agent and its Affiliates (and each successor Administrative Agent) may accept deposits from, lend money to and generally engage in any kind of banking, trust or other business with any Borrower, any subsidiary thereof, or any Affiliate of the Company or any Subsidiary thereof, without any duty to account therefor to the Banks. Swiss Bank Corporation

(and each successor Administrative Agent) need not account to any Bank for any monies received by it for reimbursement of its costs and expenses as Administrative Agent hereunder, or for any monies received by it or any Affiliate in its capacity as a Bank hereunder. The Administrative Agent shall not be deemed to hold a fiduciary relationship with any Bank and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Administrative Agent.

10.3 Proportionate Interest of the Banks in any Collateral. The Administrative Agent, on behalf of all the Banks, shall hold in accordance with the Loan Documents all items of any collateral or interests therein received or held by the Administrative Agent. Subject to the Administrative Agent's and the Banks' rights to reimbursement for their costs and expenses hereunder (including attorneys' fees and disbursements and other professional services) and subject to the application of payments in accordance with Section 9.2(d), each Bank shall have an interest in any collateral or interests therein in the same proportions that the aggregate Obligations owed such Bank under the Loan Documents bear to the aggregate Obligations owed under the Loan Documents to all the Banks, without priority or preference among the Banks.

10.4 Banks' Credit Decisions. Each Bank agrees that it has, independently and without reliance upon either Co-Arranger, the Administrative Agent, any other Bank or the directors, officers, agents, employees or attorneys of either Co-Arranger or the Administrative Agent or of any other Bank, and instead in reliance upon information supplied to it by or on behalf of the Borrowers and upon such other information as it has deemed appropriate, made its own independent credit analysis and decision to enter into this Agreement. Each Bank also agrees that it shall, independently and without reliance upon either Co-Arranger or the Administrative Agent, any other Bank or the directors, officers, agents, employees or attorneys of either Co-Arranger or the Administrative Agent or of any other Bank, continue to make its own independent credit analyses and decisions in acting or not acting under the Loan Documents.

10.5 Action by the Administrative Agent.

(a) The Administrative Agent may assume that no Default has occurred and is continuing, unless the Administrative

Agent has failed to receive any payment due from any Borrower hereunder within the time required under subsection 9.1(a) or subsection 9.1(b), or the Administrative Agent has received notice from the Company stating the nature of the Default or has received notice from a Bank stating the nature of the Default and that such Bank considers the Default to have occurred and to be continuing.

(b) The Administrative Agent has only those obligations under the Loan Documents as are expressly set forth therein.

(c) Except for any obligation expressly set forth in the Loan Documents and as long as the Administrative Agent may assume that no Event of Default has occurred and is continuing, the Administrative Agent may, but shall not be required to, exercise its discretion to act or not act, except that the Administrative Agent shall be required to act or not act upon the instructions of the Majority Banks (or of all the Banks, to the extent required by Section 13.2) and those instructions shall be binding upon the Administrative Agent and all the Banks, provided that the Administrative Agent shall not be required to act or not act if to do so would be contrary to any Loan Document or to applicable Law or would result, in the reasonable judgment of the Administrative Agent, in substantial risk of liability to the Administrative Agent.

(d) If the Administrative Agent has received a notice specified in clause (a), the Administrative Agent shall give notice thereof to the Banks and shall act or not act upon the instructions of the Majority Banks (or of all the Banks, to the extent required by Section 13.2), provided that the Administrative Agent shall not be required to act or not act if to do so would be contrary to any Loan Document or to applicable Law or would result, in the reasonable judgment of the Administrative Agent, in substantial risk of liability to the Administrative Agent, and except that if the Majority Banks (or all the Banks, if required under Section 13.2) fail, for five (5) Banking Days after the receipt of notice from the Administrative Agent, to instruct the Administrative Agent, then the Administrative Agent, in its sole discretion, may act or not act as it deems advisable for the protection of the interests of the Banks.

(e) The Administrative Agent shall have no liability to any Bank for acting, or not acting, as instructed by the Majority Banks (or all the Banks, if required under Section 13.2), notwithstanding any other provision hereof.

10.6 Liability of the Administrative Agent. Neither the Administrative Agent, nor any of its directors, officers, agents, employees or attorneys shall be liable for any action taken or not taken by them under or in connection with the Loan Documents, except for their own gross negligence or willful misconduct. Without limitation on the foregoing, the Administrative Agent and its directors, officers, agents, employees and attorneys:

(a) May treat the payee of any Note as the holder thereof until the Administrative Agent receives notice of the assignment or transfer thereof, in form satisfactory to the Administrative Agent, signed by the payee, and may treat each Bank as the owner of that Bank's interest in the Obligations for all purposes of this Agreement until the Administrative Agent receives notice of the assignment or transfer thereof, in form satisfactory to the Administrative Agent, signed by that Bank.

(b) May consult with legal counsel (including in-house legal counsel), accountants (including in-house accountants) and other professionals or experts selected by it, or with legal counsel, accountants or other professionals or experts for the Company and/or its subsidiaries or the Banks, and shall not be liable for any action taken or not taken by it in good faith in accordance with any advice of such legal counsel, accountants or other professionals or experts.

(c) Shall not be responsible to any Bank for any statement, warranty or representation made in any of the Loan Documents or in any notice, certificate, report, request or other statement (written or oral) given or made in connection with any of the Loan Documents.

(d) Except to the extent expressly set forth in the Loan Documents, shall have no duty to ask or inquire as to the performance or observance by the Company or its Subsidiaries of any of the terms, conditions or covenants of any of the Loan Documents or to inspect any collateral or the Property, books or records of the Company or its Subsidiaries.

(e) Will not be responsible to any Bank for the due execution, legality, validity, enforceability, genuineness, effectiveness, sufficiency or value of any Loan Document, any other instrument or writing furnished pursuant thereto or in connection therewith, or any collateral.

(f) Will not incur any liability by acting or not acting in reliance upon any Loan Document, notice, consent, certificate, statement, request or other instrument or writing believed by it to be genuine and signed or sent by the proper party or parties.

(g) Will not incur any liability for any arithmetical error in computing any amount paid or payable by the Company or any Subsidiary or Affiliate thereof or paid or payable to or received or receivable from any Bank under any Loan Document, including, without limitation, principal, interest, commitment fees, Advances and other amounts; provided that, promptly upon discovery of such an error in computation, the Administrative Agent, the Banks and (to the extent applicable) the Company and/or its Subsidiaries or Affiliates shall make such adjustments as are necessary to correct such error and to restore the parties to the position that they would have occupied had the error not occurred; provided further that, the obligations of Borrowers under this Section 10.6(g) shall survive for sixty (60) days following the termination of this Agreement and such obligations shall not, from and after the termination of this Agreement, be deemed Obligations for any purpose under the Loan Documents.

10.7 Indemnification. Each Bank shall, ratably in accordance with its Pro Rata Share of the Commitment, indemnify and hold the Administrative Agent, the Co-Arrangers and their directors, officers, agents, employees and attorneys harmless against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, without limitation, attorneys' fees and disbursements) that may be imposed on, incurred by or asserted against them in any way relating to or arising out of the Loan Documents (other than losses incurred by reason of the failure of the Borrowers to pay the indebtedness represented by the Notes and interest thereon) or any action taken or not taken by them as Administrative Agent or Co-Arrangers thereunder, except such as result from its own gross negligence or willful misconduct. Without limitation on the foregoing, each

Bank shall reimburse the Administrative Agent and each Co-Arranger upon demand for that Bank's ratable share of any cost or expense incurred by the Administrative Agent and such Co-Arranger in connection with the negotiation, preparation, execution, delivery, amendment, waiver, restructuring, reorganization (including a bankruptcy reorganization), enforcement or attempted enforcement of the Loan Documents, to the extent that the Company or any other party is required by Section 13.3 to pay that cost or expense but fails to do so upon demand. Nothing in this Section shall entitle the Administrative Agent and the Co-Arrangers to recover any amount from the Banks if and to the extent that such amount has theretofore been recovered from the Company or any of its Subsidiaries.

10.8 Successor Administrative Agent. If the Administrative Agent determines that for it to continue as the Administrative Agent would result in a conflict of interest affecting the Administrative Agent, or would create an unacceptable risk of significant liability of the Administrative Agent to a third party, or would otherwise be inadvisable under prevailing standards of banking prudence, it may resign as such at any time upon prior written notice to the Company and the Banks, to be effective upon a successor's acceptance of appointment as Administrative Agent. The Administrative Agent may also resign as such absent such a determination by it with the consent of the Company, which shall not be unreasonably withheld, to be likewise effective. The Majority Banks at any time may remove the Administrative Agent by written notice to that effect to be effective on such date as the Majority Banks designate. In either event: (a) the Majority Banks, with the written consent of the Company (such consent not to be unreasonably withheld), shall appoint a successor Administrative Agent, who must be from among the Banks, provided that any resigning Administrative Agent shall be entitled to appoint a successor Administrative Agent from among the Banks, subject to acceptance of appointment by that successor Administrative Agent, if the Majority Banks have not appointed a successor Administrative Agent within thirty (30) days after the date the resigning Administrative Agent gave notice of resignation; (b) upon a successor acceptance of appointment as Administrative Agent, the successor will thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning Administrative Agent or the removed Administrative Agent; and (c) upon the effectiveness of any resignation or removal, the resigning Administrative Agent or the removed Administrative Agent thereupon will be discharged from its

duties and obligations thereafter arising under the Loan Documents other than obligations arising as a result of any action or inaction of the resigning Administrative Agent or the removed Administrative Agent prior to the effectiveness of such resignation or removal. Notwithstanding the foregoing, no consent of the Company shall be required under this Section 10.8 in connection with any change in the Administrative Agent at any time when an Event of Default has occurred and is continuing under this Agreement.

10.9 No Obligations of Borrowers. Nothing contained in this Article 10 shall be deemed to impose upon the Borrowers any obligation in respect of the due and punctual performance by the Administrative Agent of its obligations to the Banks under any provision of this Agreement, and the Borrowers shall have no liability to the Administrative Agent or any of the Banks in respect of any failure by the Administrative Agent or any Bank to perform any of its obligations to the Administrative Agent or the Banks under this Agreement. Without limiting the generality of the foregoing, where any provision of this Agreement relating to the payment of any amounts due and owing under the Loan Documents provides that such payments shall be made by a Borrower to the Administrative Agent for the account of the Banks, such Borrower's obligations to the Banks in respect of such payments shall be deemed to be satisfied upon the making of such payments to the Administrative Agent in the manner provided by this Agreement.

10.10 Co-Arrangers. The Co-Arrangers shall have no duties or obligations under the Loan Documents or otherwise in connection with the Loans.

ARTICLE 11

COMPANY GUARANTY

11.1 The Guaranty. The Company hereby unconditionally guaranties the due and punctual payment of all obligations (including, without limitation, the obligation to pay the principal amount of and interest on each Advance) of each Borrowing Subsidiary arising under this Agreement when due, whether by required prepayment, declaration, demand or otherwise (including amounts which would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. S 362(a)) (the "Borrowing Subsidiary Obligations"), and agrees to pay any and all costs and expenses (including fees and

disbursements of counsel and allocated costs of internal counsel) incurred by the Administrative Agent and the Banks in enforcing any rights under this Article 11. The obligations of the Company under this Article 11, as they may be amended, modified or supplemented from time to time, are sometimes referred to in this Article 11 as this "Guaranty".

The Company agrees that this Guaranty constitutes a guaranty of payment when due and not of collection and waives any right to require that any resort be had by the Administrative Agent or any Bank to any security held for payment of the Borrowing Subsidiary Obligations or to any balance of any deposit account or credit on the books of the Administrative Agent or any Bank in favor of the Company or any Borrowing Subsidiary or any other Person.

The Company agrees, in furtherance of the foregoing and not in limitation of any other right which the Administrative Agent or any Bank may have at law or in equity against the Company by virtue hereof, upon the failure of any Borrowing Subsidiary to pay any of its Borrowing Subsidiary Obligations when and as the same shall become due, whether by required prepayment, declaration, demand or otherwise (including amounts which would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. S 362(a)), the Company will forthwith pay, or cause to be paid, in cash, to the Administrative Agent for the ratable benefit of the Banks an amount equal to the sum of the unpaid principal amount of such Borrowing Subsidiary Obligations then due as aforesaid, accrued and unpaid interest on such Borrowing Subsidiary Obligations (including, without limitation, interest which, but for the filing of a petition in bankruptcy with respect to such Borrowing Subsidiary (including without limitation, the Company), would accrue on such Borrowing Subsidiary Obligations).

11.2 Guaranty Unconditional. The obligations of the Company under this Guaranty shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, compromise, waiver or release in respect of any obligation of any Borrowing Subsidiary under this Agreement, by operation of law or otherwise;

(b) any modification or amendment of or supplement to this Agreement;

(c) any release, non-perfection or invalidity of any direct or indirect security for any obligation of any Borrowing Subsidiary under this Agreement;

(d) the failure of the Administrative Agent or any Bank to assert any claim or demand or to enforce any right or remedy against any Borrowing Subsidiary, the Company or any other Person under the provisions of this Agreement or any other agreement or otherwise;

(e) any change in the corporate existence, structure or ownership of any Borrowing Subsidiary or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Borrowing Subsidiary or its assets or any resulting release or discharge of any obligation of any Borrowing Subsidiary contained in this Agreement;

(f) the existence of any claim, set-off or other rights which the Company may have at any time against any other Borrower, the Administrative Agent, any Bank or any other Person, whether in connection herewith or any unrelated transactions;

(g) the invalidity or unenforceability relating to or against any Borrowing Subsidiary for any reason of this Agreement, or any provision of applicable law or regulation purporting to prohibit the payment by any Borrowing Subsidiary of the principal of or interest on any Advance or any other amount payable by any Borrowing Subsidiary under this Agreement, or the termination of any Borrowing Subsidiary's status as a Borrowing Subsidiary hereunder;

(h) the termination of a Borrowing Subsidiary's status hereunder as a "Borrower" pursuant to Section 12.2;

(i) any other act or omission to act or delay of any kind by any Borrowing Subsidiary, the Administrative Agent, any Bank or any other Person or any other circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the obligations of the Company hereunder.

The obligations of the Company under this Guaranty shall not be subject to any reduction, limitation, impairment or termination for any reason, including, without limitation, any claim of waiver, release, surrender, alteration or compromise of any of the Borrowing Subsidiary Obligations, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Borrowing Subsidiary Obligations, discharge of any Borrowing Subsidiary from any of the Borrowing Subsidiary Obligations in a bankruptcy or similar proceeding, or otherwise. Without limiting the generality of the foregoing, the obligations of the Company under this Guaranty shall not be discharged or impaired or otherwise affected by the failure of the Administrative Agent or any Bank to assert any claim or demand or to enforce any remedy under this Agreement or any document or instrument executed by any Borrowing Subsidiary in connection herewith, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Borrowing Subsidiary Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of the Company or which would otherwise operate as a discharge of the Company as a matter of law or equity.

11.3 Discharge Only Upon Payment in Full; Reinstatement in Certain Circumstances. The obligations of the Company under this Article 11 shall remain in full force and effect until the Commitments shall have terminated, all Letters of Credit have expired and the principal of and interest on the Advances and all other amounts payable by the Borrowers under this Agreement shall have been paid in full. If at any time any payment of the principal of or interest on any Advance or any other amount payable by the Borrowers under this Agreement is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, the obligations of the Company under this Article 11 shall be reinstated as though such payment had been due but not made at such time.

11.4 Waivers by the Company. With respect to this Article 11, the Company hereby waives for the benefit of the Administrative Agent and the Banks:

(a) any right to require the Administrative Agent or any Bank, as a condition of payment or performance by the Company under this Guaranty to (i) proceed against any Borrowing Subsidiary, any other guarantor of the obligations

of any Borrowing Subsidiary under any other agreement or guaranty or any other Person, (ii) proceed against or exhaust any security held from any Borrowing Subsidiary, any other guarantor or any other Person, or (iii) pursue any other remedy in the power of the Administrative Agent or any Bank whatsoever;

(b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Borrowing Subsidiary including, without limitation, any defense based on or arising out of the lack of validity or unenforceability of the Borrowing Subsidiary Obligations or any agreement or instrument relating thereto or by reason of the cessation from any cause of the liability of any Borrowing Subsidiary other than indefeasible payment in full of the Borrowing Subsidiary Obligations;

(c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal, or based upon the Administrative Agent's or any Bank's errors or omissions in the administration of the Borrowing Subsidiary Obligations, except behavior which amounts to bad faith;

(d) any (i) principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Guaranty, any legal or equitable discharge of its obligations hereunder and the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof, (ii) rights to set-offs, recoupments and counterclaims, (iii) rights to deferral or modification of the Company's obligations hereunder by reason of any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, (iv) promptness, diligence and any requirement that the Administrative Agent or any Bank protect, secure, perfect or insure any security interest or lien or any property subject thereto or exhaust any right or take any action against any Borrowing Subsidiary or any other Person or any collateral;

(e) notice, demand, presentment, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance of this Guaranty, notices of default under this Agreement or any agreement or instrument

related thereto, notice of any renewal, extension or modification of the Borrowing Subsidiary Obligations or any agreement related thereto, notice of any other extension of credit to any Borrowing Subsidiary; and

(f) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerates guarantors or sureties, or which may conflict with the terms of this Guaranty including, without limitation, the provisions of California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2846, 2847, 2848, 2849, 2850, 2899 and 3433.

11.5 Subrogation, Etc. Upon payment by the Company of any sum to the Administrative Agent for the ratable benefit of any Bank as provided above, so long as any of the Borrowing Subsidiary Obligations of a Borrowing Subsidiary shall remain outstanding hereunder, all rights of the Company against such Borrowing Subsidiary arising as a result thereof, by way of right of subrogation or otherwise, shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full of all the Borrowing Subsidiary Obligations of that Borrowing Subsidiary to the Administrative Agent and the Banks. In furtherance of the foregoing, and not in limitation thereof, the Company agrees that until the Borrowing Subsidiary Obligations of a Borrowing Subsidiary shall have been paid in full, the Commitment has terminated and all Letters of Credit issued for the account of such Borrowing Subsidiary have expired, the Company shall withhold exercise of any right of subrogation, or any right to enforce any remedy which the Administrative Agent or any Bank may have against that Borrowing Subsidiary. If any amount shall be paid to the Company on account of such subrogation rights at any time prior to the date when the Borrowing Subsidiary Obligations of such Borrowing Subsidiary have been paid in full, the Commitment has terminated and all Letters of Credit issued for the account of such Borrowing Subsidiary have expired, such amount shall be held in trust for the benefit of the Banks and shall be paid to the Administrative Agent for the benefit of the Banks to be credited and applied upon the Borrowing Subsidiary Obligations of such Borrowing Subsidiary, whether matured or unmatured, in accordance with the terms of the Credit Agreement or to be held by the Administrative Agent for the benefit of the Banks as collateral security for any Obligations thereafter existing.

ARTICLE 12
ADDITIONAL BORROWERS; TERMINATION OF BORROWERS

12.1 Agreement to Participate. Any Eligible Subsidiary may become a party to this Agreement and become a "Borrower" for all purposes hereof on any date after the date hereof upon the satisfaction of the following conditions:

(a) receipt by the Administrative Agent on or before such date of an Agreement to Participate executed by such Eligible Subsidiary and acknowledged and consented to by the Administrative Agent and the Company;

(b) receipt by the Administrative Agent of a certificate dated such date from the senior financial officer of such Eligible Subsidiary to the effect that (i) no Default has occurred and is continuing on such date, (ii) the representations and warranties of such Eligible Subsidiary and its Subsidiaries contained in the Agreement to Participate executed by such Eligible Subsidiary are true, correct and complete on and as of such date, and (iii) such Eligible Subsidiary is a wholly-owned Subsidiary set forth in Schedule 1.2 have been satisfied;

(c) receipt by the Administrative Agent on or before such date of such additional documents it may reasonably request relating to the existence of such Eligible Subsidiary, the corporate power and authority of such Eligible Subsidiary, the validity of such Eligible Subsidiary's obligations under the Agreement to Participate executed by such Eligible Subsidiary and under this Agreement, and other matters relevant thereto and hereto, all in form and substance satisfactory to the Administrative Agent; and

(d) receipt by the Administrative Agent on or before such date of the Committed Advance Notes dated such date and executed by such Eligible Subsidiary, one Note in favor of each Bank in a principal amount equal to that Bank's Pro Rata Share of the Tranche A Commitment, and the Competitive Advance Notes dated such date and executed by such Eligible Subsidiary in favor of each Bank, each in the principal amount of Tranche A Commitment.

Each Bank hereby authorizes the Administrative Agent to sign on such Bank's behalf an Agreement to Participate delivered pursuant to clause (a) above, and the Company and each Bank hereby agree that, upon satisfaction by any Eligible Subsidiary of the conditions set forth in the preceding clauses (a), (b) and (c), such Eligible Subsidiary shall become a "Borrower" hereunder for all purposes hereof. The Administrative Agent shall promptly notify the Banks of whenever an Eligible Subsidiary becomes a Borrower.

12.2 Notice of Termination. Any Borrower, other than the Company, that has no Advances outstanding to any Bank and is not the account party on any Letter of Credit, may cease to be a "Borrower" for the purposes of this Agreement (and all commitments as to such Borrower shall thereupon terminate) upon notice, in form and substance satisfactory to the Administrative Agent, by such Borrower to the Administrative Agent; provided that such notice shall not affect any obligation of such Borrower theretofore incurred. The Administrative Agent shall send prompt written notice to each Bank of any Borrower ceasing, pursuant to this subsection, to be a Borrower.

ARTICLE 13 MISCELLANEOUS

13.1 Cumulative Remedies; No Waiver. The rights, powers, privileges and remedies of the Administrative Agent, the Issuing Banks and the Banks provided herein or in any Note or other Loan Document are cumulative and not exclusive of any right, power, privilege or remedy provided by Law or equity. No failure or delay on the part of the Administrative Agent, the Issuing Banks or any Bank in exercising any right, power, privilege or remedy may be, or may be deemed to be, a waiver thereof; nor may any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of the same or any other right, power, privilege or remedy. The terms and conditions of Article 8 hereof are inserted for the sole benefit of the Administrative Agent, the Issuing Banks and the Banks; the same may be waived in whole or in part, with or without terms or conditions, in respect of any Loan, Competitive Advance or Letter of Credit without prejudicing the Administrative Agent's, either Issuing Bank's or the Banks' rights to assert them in whole or in part in respect of any other Loan, Competitive Advance or Letter of Credit.

13.2 Amendments; Consents. No amendment, modification, supplement, extension, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, and no consent to any departure by any Borrower or any other party therefrom, may in any event be effective unless the same shall be in writing and signed by the Majority Banks (or signed by the Administrative Agent at the direction of the Majority Banks) (and, in the case of amendments, modifications or supplements of or to any Loan Document to which a Borrower is a party, the approval in writing of such Borrower), and then only in the specific instance and for the specific purpose given; and, without the approval in writing of all the Banks, no amendment, modification, supplement, termination, waiver or consent may be effective:

(a) To amend or modify the principal of, or the amount of principal or principal prepayments with respect to, any Note, or to decrease the rate of interest payable on any Note or the amount of any commitment fee payable to any Bank, or any other fee or amount payable to any Bank under the Loan Documents;

(b) To postpone any date fixed for any payment of principal of, prepayment of principal of or any installment of interest on, any Note or any installment of any commitment fee, or any other fee or amount payable to any Bank under the Loan Documents, or to extend the term of the Commitments, or to release any collateral for the Obligations;

(c) To amend or modify the provisions of the definitions of "Commitment", "Tranche A Commitment", "Tranche B Commitment", "Tranche A Maturity Date", "Tranche B Maturity Date", or "Majority Banks"; or this Section;

(d) To release any guarantor; or

(e) To amend or modify any provision of this Agreement that expressly requires the consent or approval of all the Banks.

In addition, no amendment, modification, supplement, termination, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Banks required above to take such action, affect the rights or duties of the Administrative Agent acting in such capacity under this Agreement or any Note. No amendment, modification, supplement, termination, waiver or consent shall, unless in writing and signed by (i) the

Tranche A Issuing Bank, affect any provisions hereof relating to the Tranche A Letters of Credit or (ii) the Tranche B Issuing Banks, affect any provisions hereof relating to the Tranche B Letters of Credit or the Tranche B Commitment. Any amendment, modification, supplement, termination, waiver or consent pursuant to this Section shall apply equally to, and shall be binding upon, all the Banks, the Issuing Banks, the Administrative Agent and each Borrower. Copies of all amendments, modifications, supplements, terminations, waivers and consents shall be distributed to the Administrative Agent, each Bank, the Issuing Banks and each Borrower.

13.3 Costs, Expenses and Taxes. The Company shall pay on demand the reasonable costs and expenses of the Co-Arrangers and the Administrative Agent in connection with the negotiation, preparation, execution and delivery of the Loan Documents (including, without limitation, the reasonable legal fees and out-of-pocket expenses of O'Melveny & Myers), and, if a Borrower requests the amendment, waiver, refinancing, restructuring or reorganization of the Loan Documents or if any Default has occurred and remains continuing, of the Administrative Agent, the Issuing Banks and the Banks in connection with any amendment, waiver, refinancing, restructuring, reorganization (including a bankruptcy reorganization) and in any event enforcement or attempted enforcement of the Loan Documents, and any matter related thereto, including, without limitation, out-of-pocket expenses and the reasonable fees and out-of-pocket expenses of any legal counsel, independent public accountants and other outside experts retained by the Administrative Agent, the Issuing Banks or any Bank, and including, without limitation, any costs, expenses or fees incurred or suffered by the Administrative Agent, the Issuing Banks or any Bank in connection with or during the course of any bankruptcy or insolvency proceedings of the Company or any Subsidiary thereof. The Company shall pay any and all documentary and other taxes (other than income or gross receipts taxes generally applicable to banks) and all costs, expenses, fees and charges payable or determined to be payable in connection with the filing or recording of this Agreement, any other Loan Document or any other instrument or writing to be delivered hereunder or thereunder, or in connection with any transaction pursuant hereto or thereto, and shall reimburse, hold harmless and indemnify the Co-Arrangers, the Administrative Agent, the Issuing Banks and the Banks from and against any and all loss, liability or legal or other expense with respect to or resulting from any delay in paying or failure to pay any tax, cost, expense, fee or charge or

that any of them may suffer or incur by reason of the failure of any party (other than the Co-Arrangers, the Administrative Agent, the Issuing Banks or any Bank) to perform any of its Obligations. Any amount payable to the Co-Arrangers, the Administrative Agent, the Issuing Banks or any Bank under this Section shall bear interest from the second Banking Day following the date of demand for payment at the Default Rate.

13.4 Nature of Banks' Obligations. The obligations of the Banks hereunder are several and not joint or joint and several. Nothing contained in this Agreement or any other Loan Document and no action taken by the Administrative Agent, the Issuing Banks or the Banks or any of them pursuant hereto or thereto may, or may be deemed to, make the Banks a partnership, an association, a joint venture or other entity, either among themselves or with the Company or any Affiliate of the Company. Each Bank's obligation to make any Advance pursuant hereto is several and not joint or joint and several, and is not conditioned upon the performance by all other Banks of their obligations to make Advances. If any Bank defaults in its obligation to make any Advance to a Borrower after the fulfillment of all conditions precedent to that Advance, then the Company may terminate this Agreement with respect to that Bank upon fulfillment of each of the following conditions:

(i) the Borrower shall have paid to the affected Bank the principal amount of all outstanding Advances made by that Bank, together with all accrued but unpaid interest, costs, fees and expenses related thereto; and

(ii) the Company shall have notified the Administrative Agent and each of the Banks of the termination.

A default by any Bank will not increase the amount of the Commitment attributable to any other Bank, and any Bank not in default may, if it desires, assume in such proportion as the nondefaulting Banks agree the obligations of any Bank in default, but is not obligated to do so. Should the Company elect, as aforesaid, to terminate this Agreement with respect to any Bank, then the Commitment shall automatically be reduced by a percentage equal to the Pro Rata Share of the Commitment of the affected Bank, and the remaining Bank or Banks shall have that Pro Rata Share in the reduced Commitment which is allocable to their Advances.

13.5 Survival. All representations and warranties contained herein or in any other Loan Document, or in any certificate or other writing delivered by or on behalf of any one or more of the Parties to any Loan Document, will survive the making of the Advances hereunder and the execution and delivery of the Notes, and have been or will be relied upon by the Administrative Agent, the Issuing Banks and each Bank, notwithstanding any investigation made by the Administrative Agent, the Issuing Banks or any Bank or on their behalf. The obligations of the Company under Sections 3.7 and 3.8 shall survive for thirty (30) days following the termination of this Agreement and the repayment of the Notes.

13.6 Notices. Except as otherwise expressly provided in the Loan Documents, all notices, requests, demands, directions and other communications provided for hereunder or under any other Loan Document must be in writing and must be mailed, telegraphed, telecopied or delivered to the appropriate party at the address set forth on the signature pages of this Agreement or other applicable Loan Document or, as to any party to any Loan Document, at any other address as may be designated by it in a written notice sent to all other parties to such Loan Document in accordance with this Section. Except as otherwise expressly provided in any Loan Document, if any notice, request, demand, direction or other communication required or permitted by any Loan Document is given by mail it will be effective on the earlier of receipt or the fifth calendar day after deposit in the United States mail with first class or airmail postage prepaid; if given by telegraph or cable, when delivered to the telegraph company with charges prepaid; if given by telecopier, when sent; or if given by personal delivery, when delivered.

13.7 Execution of Loan Documents. Unless the Administrative Agent otherwise specifies with respect to any Loan Document, this Agreement and any other Loan Document may be executed in any number of counterparts and any party hereto or thereto may execute any counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts of this Agreement or any other Loan Document, as the case may be, when taken together will be deemed to be but one and the same instrument. The execution of this Agreement or any other Loan Document by any party hereto or thereto will not become effective until counterparts hereof or thereof, as the case may be, have been executed by all the parties hereto or thereto.

13.8 Binding Effect; Assignment. This Agreement and the other Loan Documents shall be binding upon and shall inure to the benefit of the parties hereto and thereto and their respective successors and assigns, except that a Borrower and/or its Affiliates may not assign their rights hereunder or thereunder or any interest herein or therein without the prior written consent of all the Banks. Each Bank shall have the right in accordance with this Section to sell, assign, pledge or transfer all or any portion of its rights hereunder or under the Note of that Bank and to grant any participation or other interest herein or therein; provided that no such sale, assignment, pledge, transfer or participation grant shall make any assignment which would have the effect of result in requiring registration under the Securities Act of 1933, as amended, or qualification under any state securities laws. Each Bank represents that it is not acquiring the Notes with a view to the distribution thereof within the meaning of the Securities Act of 1933, as amended (subject to any requirement that disposition of the Notes must be within the control of such Bank). Any Bank may assign, from time to time, any or all of its rights and obligations hereunder and all or any portion of its share of the Commitments to an Affiliate of that Bank or, with the approval of the Company (which approval will not be unreasonably withheld), to any other financial institution acceptable to the Administrative Agent, subject to the assumption by the assignee of the share of the Commitments so assigned. Any assignment shall also require (i) the consent of the Tranche A Issuing Bank, and (ii) to the extent such assignment is of amounts under the Tranche B Commitment, the consent of ABN AMRO Bank N.V., Los Angeles International Branch. Banks may not assign more than 50% of their respective Pro Rata Share of the Commitments as in effect on the date of this Agreement, except that a Bank may assign all or any portion of its Pro Rata Share of the Commitments to an Affiliate of that Bank. Any such assignment shall be evidenced by an Assignment Agreement substantially in the form of Exhibit J, executed by each of the parties and a copy of which shall be delivered to the Administrative Agent. Upon such execution and delivery, from and after the effective date specified in each Assignment Agreement (y) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment Agreement, have the rights and obligations of a Bank hereunder and (z) the Bank assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, relinquish its rights and be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all or the

remaining portion of an assigning Bank's rights and obligations under this Agreement, such Bank shall cease to be a party hereto). The Pro Rata Share of each Bank of the Commitments hereunder shall be modified to reflect the Pro Rata Share of the Commitment of such assignee and, if any such assignment occurs while any Loan is outstanding new Notes shall, upon surrender of the assigning Bank's Notes, be issued to such assignee and to the assigning Bank as necessary to reflect the new Pro Rata Share of the Commitments of the Bank and of assignee. Notwithstanding any other provision set forth in this Agreement, any Bank may assign, as collateral or otherwise, all or any portion of its rights under this Agreement (including without limitation, rights to payments of principal and/or interest under the Notes held by it), but not its obligations, to any Federal Reserve Bank or any Affiliate in order that such Affiliate may assign such rights to any Federal Reserve Bank, in each case, without notice to or consent from any Borrower or the Administrative Agent; provided, however, that such Federal Reserve Bank or Affiliate shall not, by reason of such assignment, become a "Bank" hereunder for any purpose whatsoever and any such Bank shall not be released from any of its obligations hereunder as a result of such assignment. Any Bank may grant, from time to time, a participation interest in the rights of that Bank under its Note and this Agreement to any financial institution, without notice to or the approval of the Administrative Agent or the Borrowers. The grant of such a participation interest shall be on such terms as the granting Bank determines are appropriate, provided only that (a) the holder of such a participation interest shall not have any of the rights of a Bank under this Agreement except, if the participation agreement so provides, (A) rights under Sections 3.7 and 3.8, provided that the aggregate amount that the Company shall be required to pay under Sections 3.7 and 3.8 with respect to any Pro Rata Share of any Commitment or any Loan (including amounts paid to participants) shall not exceed the amount that the Company would have had to pay if no participation agreements had been entered into, and (B) rights under Section 3.9 and (b) the consent of the holder of such a participation interest shall not be required for amendments or waivers of provisions of the Loan Documents other than those which (i) increase the monetary amount of the Commitment, (ii) decrease any fee or any other monetary amount payable to the Banks, (iii) extend the date upon which any monetary amount is payable to the Banks, or (iv) release any guarantor. No participant shall constitute a "Bank" under this Agreement or any Loan Document, and the Borrowers shall continue to deal solely and directly with the Administrative Agent and the Banks.

13.9 Setoff Rights. If an Event of Default has occurred and is continuing, the Administrative Agent, an Issuing Bank or any Bank (but only with the consent of the Majority Banks) may, to the extent permitted by applicable Laws, exercise its rights under applicable Laws to setoff and apply any funds in any deposit account maintained with it by any Borrower and/or any Property of any Borrower in its possession against the Obligations.

13.10 Sharing of Setoffs. Each Bank severally agrees that if it, through the exercise of any right of setoff, banker's lien or counterclaim against any Borrower, or otherwise, receives payment, through any means, of the Obligations held by it that is in excess of that Bank's proportionate share of the Total Outstandings as applied to such payment, then: (a) The Bank exercising the right of setoff, banker's lien or counterclaim or otherwise receiving such payment shall purchase, and shall be deemed to have simultaneously purchased, from the other Bank a participation in the Obligations held by the other Bank and shall pay to the other Bank a purchase price in an amount so that the share of the Obligations held by each Bank after the exercise of the right of setoff, banker's lien or counterclaim or receipt of payment shall be in the same proportion that existed prior to the exercise of the right of setoff, banker's lien or counterclaim or receipt of payment; and (b) Such other adjustments and purchases of participations shall be made from time to time as shall be equitable to ensure that all of the Banks share any payment obtained in respect of the Obligations ratably in accordance with each Bank's share of the Obligations immediately prior to, and without taking into account, the payment; provided that, if all or any portion of a disproportionate payment obtained as a result of the exercise of the right of setoff, banker's lien, counterclaim or otherwise is thereafter recovered from the purchasing Bank by any Borrower or any Person claiming through or succeeding to the rights of any Borrower, the purchase of a participation shall be rescinded and the purchase price thereof shall be restored to the extent of the recovery, but without interest. Each Bank that purchases a participation in the Obligations pursuant to this Section shall from and after the purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Bank were the original owner of the Obligations purchased. Each Borrower expressly consents to the foregoing

arrangements and agrees that any Bank holding a participation in an Obligation so purchased may exercise any and all rights of setoff, banker's lien or counterclaim with respect to the participation as fully as if the Bank were the original owner of the Obligation purchased; provided, however, that each Bank agrees that it shall not exercise any right of set off, banker's lien or counterclaim without first obtaining the consent of the Majority Banks.

13.11 Indemnity by the Company. The Company agrees to indemnify, save and hold harmless each Co-Arranger, each Issuing Bank, the Administrative Agent and each Bank and their Affiliates, directors, officers, agents, attorneys, advisors and employees (collectively the "Indemnitees") from and against: (a) Any and all claims, demands, actions or causes of action if the claim, demand, action or cause of action arises out of or relates to the Commitment, the use or contemplated use of proceeds of any Advance, any drawing under any Letter of Credit, any transaction contemplated by this Agreement, or any relationship or relationship alleged to exist by any Borrower, its Affiliates or any other third party of any Indemnitee to any Borrower related to this Agreement; (b) Any administrative or investigative proceeding by any Governmental Agency arising out of or related to a claim, demand, action or cause of action described in clause (a) above; and (c) Any and all liabilities, losses, costs or expenses (including attorneys' fees and disbursements and other professional services) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action or cause of action; provided that no Indemnitee shall be entitled to indemnification for any loss caused by its own gross negligence or willful misconduct. If any claim, demand, action or cause of action is asserted against any Indemnitee, such Indemnitee shall promptly notify the Company, but the failure to so promptly notify the Company shall not affect the Company's obligations under this Section unless such failure materially prejudices the Company's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by the Company in writing, such Indemnitee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit the Company to participate in such contest. Any Indemnitee that proposes to settle or compromise any claim or proceeding for which the Company may be liable for payment of indemnity hereunder shall give the Company written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such

claim or proceeding and shall obtain the Company's prior consent. In connection with any claim, demand, action or cause of action covered by this Section against more than one Indemnitee, all such Indemnitees shall be represented by the same legal counsel selected by the Indemnitees and reasonably acceptable to the Company; provided that, if such legal counsel determines in good faith that representing all such Indemnitees would or could result in a conflict of interest under Laws or ethical principles applicable to such legal counsel or that a defense or counterclaim is available to an Indemnitee that is not available to all such Indemnitees, then to the extent reasonably necessary to avoid such a conflict of interest or to permit unqualified assertion of such a defense or counterclaim, each Indemnitee shall be entitled to separate representation by legal counsel selected by that Indemnitee and reasonably acceptable to the Company, with all such legal counsel using reasonable efforts to avoid unnecessary duplication of effort by counsel for all Indemnitees; provided further that the amount of the legal fees to be reimbursed by the Company shall be limited to an amount reasonably determined following consultation among the Company, the Administrative Agent, the Banks and their respective legal counsel, to be equal to the amount that would have been expended if the Indemnitees have been represented by one counsel. Any obligation or liability of the Company to any Indemnitee under this Section shall survive the expiration or termination of this Agreement and the repayment of all Advances and the payment and performance of all other Obligations owed to the Banks.

13.12 Nonliability of the Banks. Each Borrower acknowledges and agrees that:

(a) Any inspections of any Property of any Borrower made by or through the Administrative Agent or the Banks are for purposes of administration of the Loan Documents only and no Borrower is entitled to rely upon the same;

(b) By accepting or approving anything required to be observed, performed, fulfilled or given to the Administrative Agent or the Banks pursuant to the Loan Documents, neither the Administrative Agent nor the Banks shall be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not constitute a warranty or

representation to anyone with respect thereto by the Administrative Agent or the Banks;

(c) The relationship between the Borrowers and the Administrative Agent, the Issuing Banks and the Banks is, and shall at all times remain, solely that of borrowers and lenders; none of the Administrative Agent, the Issuing Banks or the Banks shall under any circumstance be construed to be partners or joint venturers of any Borrower or its Affiliates; none of the Administrative Agent, the Issuing Banks or the Banks shall under any circumstance be deemed to be in a relationship of confidence or trust or a fiduciary relationship with any Borrower or its Affiliates, or to owe any fiduciary duty to any Borrower or its Affiliates; none of the Administrative Agent, the Issuing Banks or the Banks undertake or assume any responsibility or duty to any Borrower or its Affiliates to select, review, inspect, supervise, pass judgment upon or inform any Borrower or its Affiliates of any matter in connection with their Property or the operations of any Borrower or its Affiliates; each Borrower and its Affiliates shall rely entirely upon their own judgment with respect to such matters; and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by the Administrative Agent, the Issuing Banks or the Banks in connection with such matters is solely for the protection of the Administrative Agent, the Issuing Banks and the Banks and neither the Borrowers nor any other Person is entitled to rely thereon; and

(d) The Administrative Agent, the Issuing Banks and the Banks shall not be responsible or liable to any Person for any loss, damage, liability or claim of any kind relating to injury or death to Persons or damage to Property caused by the actions, inaction or negligence of the Company and/or its Affiliates and the Company hereby indemnifies and holds the Administrative Agent, the Issuing Banks and the Banks harmless from any such loss, damage, liability or claim.

13.13 No Third Parties Benefited. This Agreement is made for the purpose of defining and setting forth certain obligations, rights and duties of the Borrowers, the Administrative Agent, the Issuing Banks and the Banks in connection with the Loans, Advances and Letters of Credit, and is made for the sole benefit of the Borrowers, the Administrative Agent, the Issuing Banks and the Banks, and the Administrative

Agent's, the Issuing Banks' and the Banks' successors and assigns. Except as provided in Sections 13.8 and 13.11, no other Person shall have any rights of any nature hereunder or by reason hereof.

13.14 Confidentiality. Each Bank agrees to hold any confidential information that it may receive from any Borrower pursuant to this Agreement in confidence: except for disclosure: (a) To other Banks; (b) To legal counsel, accountants and other professional advisors to any Borrower or any Bank; (c) To regulatory officials having jurisdiction over that Bank; (d) As required by Law or legal process or in connection with any legal proceeding to which that Bank and that Borrower are adverse parties; and (e) To Affiliates of that Bank or to another financial institution, in each case, in connection with a disposition or proposed disposition to that financial institution of all or part of that Bank's interests hereunder or a participation interest in its Note, provided that such disclosure is made subject to an appropriate confidentiality agreement on terms substantially similar to this Section. For purposes of the foregoing, "confidential information" shall mean any information respecting the Company or its Subsidiaries reasonably considered by the Company to be confidential, other than (i) information previously filed with any Governmental Agency and available to the public, (ii) information previously published in any public medium from a source other than, directly or indirectly, that Bank, and (iii) information previously disclosed by a Borrower to any Person not associated with that Borrower without a written confidentiality agreement substantially similar to this Section. Nothing in this Section shall be construed to create or give rise to any fiduciary duty on the part of the Administrative Agent, the Issuing Banks or the Banks to the Borrowers.

13.15 Further Assurances. The Company and its Subsidiaries shall, at their expense and without expense to the Banks, the Issuing Banks or the Administrative Agent, do, execute and deliver such further acts and documents as any Bank, the Issuing Banks or the Administrative Agent from time to time reasonably requires for the assuring and confirming unto the Banks, the Issuing Banks or the Administrative Agent of the rights hereby created or intended now or hereafter so to be, or for carrying out the intention or facilitating the performance of the terms of any Loan Document.

13.16 Removal of Bank. As of the date any Bank is removed at the request of the Company, whether pursuant to Section 3.7, Section 3.8 or otherwise, (i) all obligations of such Bank under this Agreement shall be released and terminated and (ii) such Bank's Pro Rata Share of the Commitment shall be terminated, including such Bank's participation in any Letter of Credit. The removal of any such Bank shall be subject to the satisfaction of the following conditions:

(a) The Company shall compensate any such Bank so replaced for (i) any breakage costs incurred due to the removal of such Bank, as determined by such Bank in good faith, and (ii) all accrued interest and fees owing to such Bank pursuant to this Agreement as of the date such Bank is so replaced; and

(b) Such Bank shall receive payment of principal of all Advances made to any Borrower hereunder.

13.17 Integration. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and supersedes all prior agreements, written or oral, on the subject matter hereof. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control and govern; provided that the inclusion of supplemental rights or remedies in favor of the Administrative Agent, the Issuing Banks or the Banks in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

13.18 Governing Law. Each Loan Document shall be governed by, and construed and enforced in accordance with, the Laws of the state of California applicable to contracts made and performed in such state.

13.19 Severability of Provisions. Any provision in any Loan Document that is held to be inoperative, unenforceable or invalid as to any party or in any jurisdiction shall, as to that party or jurisdiction, be inoperative, unenforceable or invalid without affecting the remaining provisions or the operation, enforceability or validity of that provision as to any other party or in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

13.20 Independent Covenants. Each covenant in Articles 5, 6 and 7 is independent of the other covenants in those Articles; the breach of any such covenant shall not be excused by the fact that the circumstances underlying such breach would be permitted by another such covenant.

13.21 Headings. Article and Section headings in this Agreement and the other Loan Documents are included for convenience of reference only and are not part of this Agreement or the other Loan Documents for any other purpose.

13.22 Time of the Essence. Time is of the essence of the Loan Documents.

13.23 WAIVER OF JURY TRIAL. EACH BORROWER, THE ADMINISTRATIVE AGENT, EACH BANK AND THE ISSUING BANKS HEREBY AGREES TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE LOAN DOCUMENTS, OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION AND THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Each Borrower, the Administrative Agent, each Bank and the Issuing Banks acknowledge that this waiver is a material inducement to enter into a business relationship, that each has already relied on the waiver in entering into this Agreement, and that each will continue to rely on the waiver in their related future dealings. Each Borrower, the Administrative Agent, each Bank and the Issuing Banks further warrant and represent that each has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, THE LOAN DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOAN. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

THE COMPANY:

AMGEN INC.

By: /s/Kathryn E. Falberg
Title: Treasurer

Address:

Amgen Inc.
Amgen Center
1840 DeHavilland Drive
Thousand Oaks, California 91320-1789

Attn: Treasurer
cc: Secretary

Telecopier: (805) 499-8011
Telephone: (805) 447-1000

BORROWING SUBSIDIARIES:

AMGEN MANUFACTURING, INC.

By: /s/Kathryn E. Falberg
Title: Treasurer

Address:

Amgen Inc.
Amgen Center
1840 DeHavilland Drive
Thousand Oaks, California 91320-1789

Attn: Treasurer
cc: Secretary

Telecopier: (805) 499-8011
Telephone: (805) 447-1000

THE ADMINISTRATIVE AGENT:

SWISS BANK CORPORATION,
NEW YORK BRANCH

By: /s/James R. Williams
Title: Director, Credit Risk Management

By: /s/Gary Riddell
Title: Director, Credit Risk Management

Address:

222 Broadway
New York, New York 10038

Attn: Client Services Department

Telecopier: (212) 574-3478
Telephone: (212) 574-3480

THE ISSUING BANKS:

SWISS BANK CORPORATION,
NEW YORK BRANCH

By: /s/James R. Williams
Title: Director, Credit Risk Management

By: /s/Gary Riddell
Title: Director, Credit Risk Management

Address:

Swiss Bank Tower
10 East 50th Street
New York, New York 10022

Attn: Letter of Credit Department

Telecopier: (212) 574-3679
Telephone: (212) 574-3637

ABN AMRO BANK N.V., LOS ANGELES
INTERNATIONAL BRANCH

By: /s/Eileen M. Coleman
Title: Assistant Vice President

By: /s/John A. Miller
Title: Vice President

Address:

300 S. Grand Avenue
Suite 1115
Los Angeles, CA 90071

Attn: Letter of Credit Department

Telecopier: (213) 687-2061
Telephone: (213) 687-2306

THE BANKS:

SWISS BANK CORPORATION,
SAN FRANCISCO BRANCH

By: /s/David L. Parrott
Title: Associate Director, Merchant
Banking

By: /s/Hans-Ueli Surber
Title: Executive Director, Merchant
Banking

Address:

101 California Street
Suite 1700
San Francisco, California 94111

Attn: David Parrot

Telecopier: (415) 989-7570
Telephone: (415) 774-3336

CITICORP USA, INC.

By: /s/Barbara A. Cohen
Title: Vice President

Address:

725 Figueroa Street
Los Angeles, California 90017

Attn: Deborah Ironson/Banker

Telecopier: (213) 623-3592
Telephone: (213) 239-1424

ABN AMRO BANK N.V., LOS ANGELES
INTERNATIONAL BRANCH

By: /s/Eileen M. Coleman
Title: Assistant Vice President

By: /s/John A. Miller
Title: Vice President

Address:

300 S. Grand Avenue
Suite 1115
Los Angeles, California 90071

Attn: Ellen Coleman
John Miller

Telecopier: (213) 687-2061
Telephone: (213) 687-2306

BANCA COMMERCIALE ITALIANA, LOS ANGELES
FOREIGN BRANCH

By: /s/Iacopo Navone
Title: Vice President and Manager

Address:

555 S. Flower Street, 43rd Floor
Los Angeles, California 90071

Attn: Jack Wityak

Telecopier: (213) 624-0457
Telephone: (213) 624-0440

BANK OF MONTREAL

By: /s/J. Donald Higgins
Title: Managing Director

Address:

601 S. Figueroa Street
Suite 4900
Los Angeles, California 90017

Attn: Grace Labatt

Telecopier: (213) 239-0680
Telephone: (213) 239-0607

THE SANWA BANK, LIMITED, LOS ANGELES BRANCH

By: /s/Gil S. Realon
Title: Vice President

Address:

601 S. Figueroa Street (W5-4)
Los Angeles, California 90017

Attn: Gil S. Realon
U.S. Banking Department

Telecopier: (213) 823-4912 or
(213) 896-7475
Telephone: (213) 896-7494

NATIONSBANK OF TEXAS, N.A.

By: /s/Michelle Shafroth
Title: Senior Vice President

Address:

444 South Flower Street
Suite 1500
Los Angeles, California 90071

Attn: Michele Shafroth

Telecopier: (213) 624-5812
Telephone: (213) 236-4907

FIRST INTERSTATE BANK OF CALIFORNIA

By: /s/Gregory P. Brown
Title: Vice President

By: /s/Judy A. Maahs
Title: Assistant Vice President

Address:

707 Wilshire Boulevard W16-13
Los Angeles, California 90071

Attn: Gregory P. Brown

Telecopier: (213) 614-2569
Telephone: (213) 614-3084

6-MOS

	DEC-31-1995	
	JUN-30-1995	
		194,858
		655,790
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