



CREDIT APPLICATION /PERSONAL GUARANTY

NOTE: Pages One (1) through five (5) need to be completed & returned to Allen Brothers

CORPORATE NAME _____ BUSINESS NAME _____
ADDRESS _____ CITY _____ ST _____ ZIP _____
BUS. PHONE _____ FAX _____
DRIVER LIC# _____ STATE _____
CIGARETTE LICENSE # _____ FEDERAL TAX ID # _____
E-MAIL ADDRESS: _____ BUSINESS HOURS: _____

TYPE OF OWNERSHIP:

☐ Corporation: State of Incorporation _____ Date of Incorporation _____ Years in Business _____

Name of Officer		
Home Address		
City, St, Zip		
Home Phone		
Social Security #		
Occupation/DOB		

☐ Partnership ☐ Individual

Name of Owner/Partners		
Home Address		
City, St, Zip		
Home Phone		
Social Security #		

Business Checking Acct # _____ Bank Name _____



TRADE REFERENCES/ LIST Cigarette, Cigar, Beverage, Grocery Dairy VENDORS

Name
Address
City, St, Zip
Telephone

Name
Address
City, St, Zip
Telephone

Other Stores Owned? Address:

TERMS & CONDITIONS:

- Terms: ☐ C.O.D. ☐ 7 Days Net ☐ Other _____

NOTE: *Initial orders are C.O.D. CASH unless, in advanced, approved by the credit department*

- A late penalty of 1½% per month may be assessed on any unpaid balance, which is overdue according to the terms approved by the credit department.
- A returned check charge/ service fee of \$75.00 will be assessed to your account for any returned check or EFT or insufficient funds of any kind.
- I authorize Allen Brothers Wholesale Distribution to contact any reference given here and any other credit-reporting agency in order to exchange information regarding this credit application.
- Customer hereby grants to Allen Brothers Wholesale Distribution, Inc. ("Allen Brothers") a purchase money security interest in all inventory of goods sold to Customer by Allen Brothers, and proceeds thereof. The security interest shall secure full payment of the purchase price of the goods, any interest thereon, and costs of collection, including attorneys' fees. If the Customer defaults in its obligations to Allen Brothers, either by failing to pay in full for the goods within invoice terms, or by voluntarily or involuntarily becoming the subject of proceedings under the Bankruptcy Code, then Allen Brothers may exercise the rights of a secured creditor under the Pennsylvania Uniform Commercial Code, including reclaiming all goods sold to Customer by Allen Brothers and filing suit to collect the full amount of the purchase price. Customer agrees to execute and deliver all documents reasonably requested by Allen



Brothers to perfect, protect and/or maintain Allen Brothers' security interest. Further, Customer grants Allen Brothers an irrevocable limited power of attorney for the purpose of executing and filing financing statements on behalf of Customer to perfect Allen Brothers' security interest. Allen Brothers is hereby granted all of the rights and remedies provided to a secured creditor under Article 9 of the Uniform Commercial Code as enacted in the Commonwealth of Pennsylvania.

"PERSONAL GUARANTY"

For valuable consideration received, and intending to be legally bound hereby, the undersigned personally guaranties full payment and performance of all obligations, past present or future owing to Allen Brothers Wholesale Distribution, Inc. by Customer, including all interest, finance charges, costs of collection and attorneys fees. The undersigned waives presentment, demand, protest and any other notice regarding this guaranty of payment.

_____	By _____	_____
Witness-Allen Brothers Representative	[Guarantor Signer]	(Print Name)

_____	_____	_____
Witness-Allen Brothers Representative	[Guarantor Signer]	(Print Name)

_____	_____
Date:	[Guarantors Home Address]



Security Agreement / Signature Page

IN WITNESS WHEREOF, intending to be legally bound, the Debtor has caused this Security Agreement to be duly executed as of the date first above written.

Company Name _____

Address _____

City, State, Zip _____

Additional Locations of Place of Business _____

By: _____ (Signature)

Name: _____

Title: _____

Accepted:

ALLEN BROTHERS WHOLESALE DISTRIBUTION, INC.

By: _____

Print Name: _____ **Title:** Allen Brothers Representative

Please complete:

Debtor's exact legal name is: _____

Debtor's form of organization is:

- ☐ Corporation
- ☐ partnership
- ☐ limited liability Company
- ☐ sole proprietorship
- ☐ other, as follows: _____

The State in which Debtor was organized is: _____

Debtor's Federal I.D. number is: _____

Debtor's State I.D. number is: _____

The Home address of Debtor's Owner/Chief Executive Officer is: _____

SECURITY AGREEMENT

This SECURITY AGREEMENT, dated as of _____, 2010 (this "Agreement"), is by *[insert legal name of debtor]* _____ with offices at the address listed at the end (the "Debtor"), in favor of ALLEN BROTHERS WHOLESALE DISTRIBUTION, INC., a Pennsylvania corporation with offices at 120 West Erie Avenue, Philadelphia, Pennsylvania 19140 (the "Secured Party").

Background

- A. The Secured Party supplies the Debtor with various goods on credit and the Debtor agrees to pay the Secured Party within a set period of time following the date such goods are transferred by the Secured Party to the Debtor.
- B. It is a condition precedent to the Secured Party's extending credit to the Debtor that the Debtor execute and deliver to the Secured Party a security agreement in substantially the form hereof.
- C. Debtor wishes to grant the security interest in favor of the Secured Party as herein provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of the Obligations (as defined below), Debtor hereby represents, warrants, covenants and agrees as follows:

1. **Definitions.** All terms defined in the UCC and used herein shall have the same definitions herein as specified therein. In addition, as used herein the following terms shall have the following meanings:

"Books and Records" means all of Debtor's recorded data of any kind or nature, regardless of the medium of recording including, without limitation, its books and records indicating, summarizing, or evidencing the Collateral, the obligations and liabilities of the Debtor to the Secured Party, and Debtor's property, business operations, or financial condition, computer runs, invoices, tapes, processing software, processing contracts (such as contracts for computer time and services) and any other computer prepared information, tapes, or data of every kind and description, whether in the possession of Debtor or in the possession of third parties, and any writings, plans, specifications and schematics.

"Default" means an event, condition or circumstance the occurrence of which would, with the giving of notice or the passage of time or both, constitute an Event of Default.

"Event of Default" has the meaning given to it in Section 14 hereof.

"Loan Documents" means this Agreement and any other instruments, documents or agreements executed and delivered pursuant thereto or in connection therewith.

"Obligations" means any and all of the indebtedness, obligations and liabilities of the Debtor to the Secured Party, whether direct or indirect, joint or several, absolute or contingent, due or to become due, now existing or hereafter arising under or in respect of any Loan Document or otherwise.

"UCC" means the Uniform Commercial Code, as enacted in the Commonwealth of Pennsylvania or in such other jurisdiction(s) as the context requires.

2. **Grant of Security Interest.** The Debtor hereby grants to the Secured Party, to secure the payment and performance in full of all of the Obligations a security interest in and so pledges and assigns to the Secured Party the following properties, assets and rights of the Debtor, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all of the same being

hereinafter called the "Collateral"), all personal and fixture property of every kind and nature including, without limitation:

- (a) all goods (including inventory, equipment and any accessions thereto);
- (b) instruments (including promissory notes);
- (c) documents;
- (d) accounts;
- (e) chattel paper (whether tangible or electronic);
- (f) deposit accounts;
- (g) letter-of-credit rights (whether or not the letter of credit is evidenced by a writing);
- (h) securities and all other investment property;
- (i) supporting obligations;
- (j) any other contract rights or rights to the payment of money, insurance claims and proceeds;
- (k) commercial tort claims;
- (l) all general intangibles including, without limitation, all payment intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, agreements of any kind or nature pursuant to which the Debtor possesses, uses or has authority to possess or use property (whether tangible or intangible) of others or others possess, use or have authority to possess or use property (whether tangible or intangible) of the Debtor; and

3. all Books and Records.Authorization to File Financing Statements. The Debtor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any UCC jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of the Debtor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC of such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Debtor is an organization, the type of organization and any organization identification number issued to the Debtor and, (ii) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. The Debtor agrees to furnish any such information to the Secured Party promptly upon request. The Debtor also ratifies its authorization for the Secured Party to have filed in any UCC jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof.

4. Other Actions. Further to insure the attachment, perfection and priority of, and the ability of the Secured Party to enforce, the Secured Party's security interest in the Collateral, the Debtor agrees, in each case at the Debtor's own expense, to take the following actions, at the Secured Party's request and option with respect to the following Collateral:

- (a) Promissory Notes and Tangible Chattel Paper. If the Debtor shall at any time hold or acquire any promissory notes or tangible chattel paper, the Debtor shall forthwith endorse, assign

- and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify.
- (b) Deposit Accounts. For each deposit account that the Debtor at any time opens or maintains, the Debtor shall, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (i) cause the depository bank to agree to comply at any time with instructions from the Secured Party to such depository bank directing the disposition of funds from time to time credited to such deposit account, without further consent of the Debtor, or (ii) arrange for the Secured Party to become the customer of the depository bank with respect to the deposit account, with the Debtor being permitted, only with the consent of the Secured Party, to exercise rights to withdraw funds from such deposit account. The provisions of this paragraph shall not apply to (A) any deposit account for which the Debtor, the depository bank and the Secured Party have entered into a cash collateral agreement specially negotiated among the Debtor, the depository bank and the Secured Party for the specific purpose set forth therein, (B) deposit accounts for which the Secured Party is the depository, if any, and (C) deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of the Debtor's salaried employees.
- (c) Investment Property. If the Debtor shall at any time hold or acquire any certificated securities, the Debtor shall forthwith, endorse, assign and deliver the same to the Secured Party accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify. If any securities now or hereafter acquired by the Debtor are uncertificated and are issued to the Debtor or its nominee directly by the issuer thereof, the Debtor shall immediately notify the Secured Party thereof and, at the Secured Party's request and option, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (i) cause the issuer to agree to comply with instructions from the Secured Party as to such securities, without further consent of the Debtor or such nominee, or (ii) arrange for the Secured Party to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment property now or hereafter acquired by the Debtor are held by the Debtor or its nominee through a securities intermediary or commodity intermediary, the Debtor shall immediately notify the Secured Party thereof and, at the Secured Party's request and option, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (A) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply with entitlement orders or other instructions from the Secured Party to such securities intermediary as to such securities or other investment property, or (as the case may be) to apply any value distributed on account of any commodity contract as directed by the Secured Party to such commodity intermediary, in each case without further consent of the Debtor or such nominee, or (B) in the case of financial assets or other investment property held through a securities intermediary, arrange for the Secured Party to become the entitlement holder with respect to such investment property, with the Debtor being permitted, only with the consent of the Secured Party, to exercise rights to withdraw or otherwise deal with such investment property. The provisions of this paragraph shall not apply to any financial assets credited to a securities account for which the Secured Party is the securities intermediary.
- (d) Collateral in the Possession of a Bailee. If any goods are at any time in the possession of a bailee, the Debtor shall promptly notify the Secured Party thereof and shall promptly obtain an acknowledgement from the bailee, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and shall act upon the instructions of the Secured Party, without the further consent of the Debtor.
- (e) Electronic Chattel Paper and Transferable Records. If the Debtor at any time holds or acquires an interest in any electronic chattel paper or any "transferable record," as that term is defined in Section 201 of the federal Electronic Signatures in Global and National Commerce Act, or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, the Debtor shall promptly notify the Secured Party thereof and shall take such action as the Secured Party may reasonably request to vest in the Secured Party

control under UCC Section 9-105 of such electronic chattel paper or control under Section 201 of the federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record.

- (f) Letter-of-Credit Rights. If the Debtor is at any time a beneficiary under a letter of credit now or hereafter issued in favor of the Debtor, the Debtor shall promptly notify the Secured Party thereof and, at the request and option of the Secured Party, the Debtor shall, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to the Secured Party of the proceeds of any drawing under the letter of credit or (ii) arrange for the Secured Party to become the transferee beneficiary of the letter of credit, with the Secured Party agreeing, in each case, that the proceeds of any drawing under the letter to credit are to be applied.
- (g) Commercial Tort Claims. If the Debtor shall at any time hold or acquire a commercial tort claim, the Debtor shall immediately notify the Secured Party in a writing signed by the Debtor of the brief details thereof and grant to the Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Secured Party.
- (h) Other Actions as to any and all Collateral. The Debtor further agrees to take any other action reasonably requested by the Secured Party to insure the attachment, perfection and priority of, and the ability of the Secured Party to enforce, the Secured Party's security interest in any and all of the Collateral including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC, to the extent, if any, that the Debtor's signature thereon is required therefor, (b) causing the Secured Party's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of the Secured Party to enforce, the Secured Party's security interest in such Collateral, (c) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the Secured Party to enforce, the Secured Party's security interest in such Collateral, (d) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Collateral, (e) obtaining waivers from mortgagees and landlords in form and substance satisfactory to the Secured Party and (f) taking all actions required by any earlier versions of the UCC or by other law, as applicable in any relevant UCC jurisdiction, or by other law as applicable in any foreign jurisdiction.

5. **Representations and Warranties Concerning Debtor's Legal Status**. The Debtor represents and warrants to the Secured Party as follows: (a) the Debtor's exact legal name; (b) the Debtor's form and jurisdiction of organization; (c) the Debtor's federal and state (if any) organizational identification numbers; and (d) the Debtor's chief executive office address are as specified at the end of the document.

6. **Covenants Concerning Debtor's Legal Status**. The Debtor hereby covenants and agrees that so long as any Obligations are outstanding:

(a) Covenants Concerning Debtor's Legal Status.

- i. *Without providing at least thirty (30) days prior written notice to the Secured Party, the Debtor will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one.*
- ii. *If the Debtor does not have an organizational identification number and later obtains one, the Debtor shall forthwith notify the Secured Party of such organizational identification number.*

iii. *The Debtor will not change its type of organization, jurisdiction of organization or other legal structure.*

(b) **Notice of Adverse Changes, Events of Default, Seizures and Institution of Litigation.** The Debtor shall immediately notify the Secured Party of: (i) any adverse changes in its business, property, or financial condition, including, without limitation, any loss of or damage to any Collateral; (ii) the occurrence of any Default or Event of Default under any Loan Document; (iii) any seizure of the Collateral or any claims or alleged claims of third parties to the Collateral; and (iv) the institution of any litigation, arbitration, governmental investigation or administrative proceedings against or affecting the Debtor or any of the Collateral.

7. **Representations and Warranties Concerning Collateral, Etc..** The Debtor further represents and warrants to the Secured Party as follows: (a) the Debtor is the owner of or has other rights in the collateral, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Agreement and other liens permitted by the Loan Documents, if any; (b) none of the Collateral constitutes, or is the proceeds of, "farm products" as defined in Section 9- 102(a)(34) of the UCC; (c) none of the account debtors or other persons obligated on any of the Collateral is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral; (d) the Debtor holds no commercial tort claims except as disclosed to the Secured Party; and (e) the Debtor has at all times operated its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances.

8. **Covenants Concerning Collateral, Etc..** The Debtor further covenants with the Secured Party as follows: (a) the Collateral, to the extent not delivered to the Secured Party pursuant to Section 4, will be kept at its chief executive office identified in Section 5 and the Debtor will not remove the Collateral from such location without providing at least thirty (30) days prior written notice to the Secured Party; (b) except for (i) the security interest herein granted, (ii) liens permitted by the Loan Documents, if any, and any liens existing on the date hereof and disclosed to the Secured Party in writing, the Debtor shall be the owner of the Collateral free from any lien, security interest or other encumbrance, and the Debtor shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to the Secured Party; (c) the Debtor shall not pledge, mortgage or create, or suffer to exist a security interest in the Collateral in favor of any person other than the Secured Party except for liens permitted by the Loan Documents, (including liens existing on the date hereof and disclosed to the Secured Party in writing); (d) the Debtor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon; (e) the Debtor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located; (f) the Debtor will pay promptly when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of such Collateral or incurred in connection with this Agreement; (g) the Debtor will continue to operate, its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances; and (h) the Debtor will not sell or otherwise dispose, or offer to sell or otherwise dispose, of the Collateral or any interest therein except for sales of inventory in the ordinary course of business.

9. **Insurance.**

(a) **Maintenance of Insurance.** Debtor shall maintain insurance with a carrier acceptable to Secured party covering the theft, loss and/or damage to inventory in an amount at least equal to the value of all inventory with a deductible of no more than ten percent (10%) of the value of the inventory. Debtor shall provide Secured Party with a certificate of insurance evidencing such coverage and providing that Secured Party is a named insured.

Underwriters of such policies shall have no right of recovery or subrogation against Secured Party, it being the intention of the parties that the insurance so effected shall protect both parties and be primarily liable for any and all losses covered by the above described insurance.

- (b) Insurance Proceeds. The proceeds of any casualty insurance in respect of any casualty loss of any of the Collateral shall, subject to the rights, if any, of other parties with a prior interest in the property covered thereby, be held by the Secured Party as cash collateral for the Obligations. The Secured Party may, at its sole option, disburse from time to time all or any part of such proceeds so held as cash collateral, upon such terms and conditions as the Secured Party may reasonably prescribe, for direct application by the Debtor solely to the repair or replacement of the Debtor's property so damaged or destroyed, or the Secured Party may apply all or any part of such proceeds to the Obligations.
- (c) Notice of Cancellation, etc. All policies of insurance shall provide for at least thirty (30) days prior written cancellation notice to the Secured Party. In the event of failure by the Debtor to provide and maintain insurance as herein provided, the Secured Party may, at its option, provide such insurance and charge the amount thereof to the Debtor. The Debtor shall furnish the Secured Party with certificates of insurance and policies evidencing compliance with the foregoing insurance provision.

10. Collateral Protection Expenses; Preservation of Collateral.

- (a) Expenses Incurred by Secured Party. In its discretion, the Secured Party may discharge taxes and other encumbrances at any time levied or placed on any of the Collateral, make repairs thereto and pay any necessary filing fees. The Debtor agrees to reimburse the Secured Party on demand for any and all expenditures so made. The Secured Party shall have no obligation to the Debtor to make any such expenditures, nor shall the making thereof relieve the Debtor of any such default.
- (b) Secured Party's Obligations and Duties. Anything herein to the contrary notwithstanding, the Debtor shall remain liable under each contract or agreement comprised in the Collateral to be observed or performed by the Debtor thereunder. The Secured Party shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Agreement or the receipt by the Secured Party of any payment relating to any of the Collateral, nor shall the Secured Party be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by the Secured Party in respect of the Collateral or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to the Secured Party or to which the Secured Party may be entitled at any time or times. The Secured Party's sole duty with respect to the custody, safe keeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with such Collateral in the same manner as the Secured Party deals with similar property for its own account.

11. Securities and Deposits. The Secured Party may at any time, at its option, transfer to itself or any nominee any securities constituting Collateral, receive any income thereon and hold such income as additional Collateral or apply it to the Obligations. Whether or not any Obligations are due, the Secured Party may demand, sue for, collect, or make any settlement or compromise which it deems desirable with respect to the Collateral. Regardless of the adequacy of Collateral or any other security for the Obligations, any deposits or other sums at any time credited by or due from the Secured Party to the Debtor may at any time be applied to or set off against any of the Obligations.

12. Notification to Account Debtors and Other Persons Obligated on Collateral. The Debtor shall, at the request of the Secured Party, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible,

instrument or other Collateral and that payment thereof is to be made directly to the Secured Party or to any financial institution designated by the Secured Party as the Secured Party's agent therefor, and the Secured Party may itself without notice to or demand upon the Debtor, so notify account debtors and other persons obligated on Collateral. After the making of such a request or the giving of any such notification, the Debtor shall hold any proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by the Debtor as trustee for the Secured Party without commingling the same with other funds of the Debtor and shall turn the same over to the Secured Party in the identical form received, together with any necessary endorsements or assignments. The Secured Party shall apply the proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by the Secured Party to the Obligations, such proceeds to be immediately entered after final payment in cash or other immediately available funds of the items giving rise to them.

13. Power of Attorney.

(a) Appointment and Powers of Secured Party. The Debtor hereby irrevocably constitutes and appoints the Secured Party and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Debtor or in the Secured Party's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives said attorneys the power and right, on behalf of the Debtor, without notice to or assent by the Debtor, to do the following:

(i) *upon the occurrence and during the continuance of a Default or an Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the UCC and as fully and completely as though the Secured Party were the absolute owner thereof for all purposes, and to do at the Debtor's expense, at any time, or from time to time, all acts and things which the Secured Party deems necessary to protect, preserve or realize upon the Collateral and the Secured Party's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as Debtor might do, including, without limitation, (i) the filing and prosecuting of registration and transfer applications with the appropriate federal or local agencies or authorities with respect to trademarks, copyrights and patentable inventions and processes, (ii) upon written notice to the Debtor, the exercise of voting rights with respect to voting securities, which rights may be exercised, if the Secured Party so elects, with a view to causing the liquidation in a commercially reasonable manner of assets of the issuer of any such securities and (iii) the execution, delivery and recording, in connection with any sale or other disposition of any Collateral, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Collateral; and*

(j) *to the extent that the Debtor's authorization given in Section 3 is not sufficient, to file such financing statements with respect hereto, with or without the Debtor's signature, or a photocopy of this Agreement in substitution for a financing statement, as the Secured Party may deem appropriate and to execute in the Debtor's name such financing statements and amendments thereto and continuation statements which may require the Debtor's signature.*

(b) Ratification by Debtor. *To the extent permitted by law, the Debtor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.*

- (c) No Duty on Secured Party. The powers conferred on the Secured Party hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. The Secured Party shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any act or failure to act, except for the Secured Party's own gross negligence or willful misconduct.

14. Events of Default. The occurrence of any one or more of the following shall be an Event of Default under this Agreement:

- (a) Breach. A breach by Debtor of any term, provision, obligation, covenant, representation, or warranty arising under this Agreement or any Loan Document or the failure of the Debtor to pay or perform any of the Obligations as and when due to be paid or performed under the terms of the Loan Documents or otherwise;
- (b) Voluntary Bankruptcy. Debtor commences any bankruptcy, reorganization, debt arrangement, or other case or proceeding under the United States Bankruptcy Code or under any similar foreign, federal, state, or local statute, or any dissolution or liquidation proceeding, or makes a general assignment for the benefit of creditors, or takes any action for the purpose of effecting any of the foregoing;
- (c) Involuntary Bankruptcy. Any bankruptcy, reorganization, debt arrangement, or other case or proceeding under the United States Bankruptcy Code or under similar foreign, federal, state or local statute, or any dissolution or liquidation proceeding, is involuntarily commenced against or in respect of Debtor or an order for relief is entered in any such proceeding;
- (d) Appointment of Receiver. The appointment or the filing of a petition seeking the appointment of a custodian, receiver, trustee, or liquidator for Debtor or any of its property, or the taking of possession of any part of the property of Debtor at the instance of any governmental authority;
- (e) Insolvency. Debtor becomes insolvent (however defined), is generally not paying its debts as they become due, or has suspended transaction of its usual business;
- (f) Reorganization. The dissolution, merger, consolidation, or reorganization of Debtor;
- (g) Material Adverse Change. The occurrence of a material adverse change in the financial condition of Debtor or the occurrence of any event which, in the sole opinion of the Secured Party, impairs the financial responsibility of Debtor, including, without limitation, a change in the management or ownership of Debtor;
- (h) Insecure. The Secured Party deems itself insecure; or
- (i) Transfer of Assets. Debtor transfers or sells all or substantially all of its assets, without the prior written consent of the Secured Party.

15. Remedies. If an Event of Default shall have occurred and be continuing, the Secured Party may, without notice to or demand upon the Debtor, declare this Agreement and any other Loan Document to be in default, and the Secured Party shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC of any jurisdiction in which Collateral is located, including, without limitation, the right to take possession of the Collateral, and for that purpose the Secured Party may, so far as the Debtor can give authority therefor, enter upon any premises on which the Collateral may be situated and remove the same therefrom. The Secured Party may in its discretion require the Debtor to assemble all or any part

of the Collateral at such location or locations within the jurisdiction(s) of the Debtor's principal office(s) or at such other locations as the Secured Party may reasonably designate. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Secured Party shall give to the Debtor at least five (5) Business Days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. The Debtor hereby acknowledges that five (5) Business Days prior written notice of such sale or sales shall be reasonable notice. In addition, the Debtor waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of the Secured Party's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto.

16. Standards for Exercising Remedies. To the extent that applicable law imposes duties on the Secured Party to exercise remedies in a commercially reasonable manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Secured Party (a) to fail to incur expenses reasonably deemed significant by the Secured Party to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (d) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure the Secured Party against risks of loss, collection or disposition of Collateral or to provide to the Secured Party a guaranteed return from the collection or disposition of Collateral, or (l) to the extent deemed appropriate by the Secured Party, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Secured Party in the collection or disposition of any of the Collateral. The Debtor acknowledges that the purpose of this Section 16 is to provide non-exhaustive indications of what actions or omissions by the Secured Party would not be commercially unreasonable in the Secured Party's exercise of remedies against the Collateral and that other actions or omissions by the Secured Party shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 16. Without limitation upon the foregoing, nothing contained in this Section 16 shall be construed to grant any rights to the Debtor or to impose any duties on the Secured Party that would not have been granted or imposed by this Agreement or by applicable law in the absence of this Section 16.

17. Amendment; Waiver. The Secured Party shall not be deemed to have amended this Agreement or waived any of its rights upon or under this Agreement, the Obligations or the Collateral unless such amendment or waiver shall be in writing and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of the Secured Party with respect to this Agreement, the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly, alternatively, successively or concurrently at such time or at such times as the Secured Party deems expedient.

- 18. Suretyship Waivers by Debtor.** The Debtor waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect to both the Obligations and the Collateral, the Debtor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Secured Party may deem advisable. The Secured Party shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof as set forth in Section 10(b). The Debtor further waives any and all other suretyship defenses.
- 19. Marshalling.** The Secured Party shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Debtor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Secured Party's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, the Debtor hereby irrevocably waives the benefits of all such laws.
- 20. Proceeds of Dispositions; Expenses.** The Debtor shall pay to the Secured Party on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by the Secured Party in protecting, preserving or enforcing the Secured Party's rights under or in respect of any of the Obligations or any of the Collateral. After deducting all of said expenses, the residue of any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as the Secured Party may determine, proper allowance and provision being made for any Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations and after making any payments required by Sections 9-608(a)(1)(C) or 9-615(a)(3) of the UCC any excess shall be returned to the Debtor, and the Debtor shall remain liable for any deficiency in the payment of the Obligations.
- 21. Overdue Amounts.** Until paid, all amounts due and payable by the Debtor hereunder shall be a debt secured by the Collateral and shall bear, whether before or after judgment, interest at the rate of interest, if any, specified in Secured Party's invoices to Debtor.
- 22. Governing Law; Consent to Jurisdiction.** THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. The Debtor agrees that any suit for the enforcement of this Agreement may be brought in the courts of the Commonwealth of Pennsylvania or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Debtor by mail at the address specified in the heading to this Agreement. The Debtor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.
- 23. Waiver of Jury Trial.** THE DEBTOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, the Debtor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or

consequential damages or any damages other than, or in addition to, actual damages. The Debtor (i) certifies that neither the Secured Party nor any representative, agent or attorney of the Secured Party has represented, expressly or otherwise, that the Secured Party would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Loan Documents to which the Secured Party is a party, the Secured Party is relying upon, among other things, the waivers and certifications contained in this Section 23.

- 24. Successors and Assigns.** This Agreement and all rights and obligations hereunder shall be binding upon the Debtor and its respective successors and assigns, and shall inure to the benefit of the Secured Party and its successors and assigns; provided, however, that the Debtor may not assign its rights hereunder or any interest herein without the prior written consent of the Secured Party, and any such assignment or attempted assignment by the Debtor shall be void and of no effect with respect to the Secured Party.
- 25. Headings.** The headings of each section and paragraph of this Agreement are for convenience only and shall not define or limit the provisions thereof.
- 26. Severability.** The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.