

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the Quarter Ended June 30, 1999

Commission File Number 0-16093

CONMED CORPORATION

(Exact name of the registrant as specified in its charter)

New York
(State or other jurisdiction of
incorporation or organization)

16-0977505
(I.R.S. Employer
Identification No.)

310 Broad Street, Utica, New York
(Address of principal executive offices)

13501
(Zip Code)

(315) 797-8375

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes [X] No []

The number of shares outstanding of registrant's common stock, as of August 4, 1999 is 15,294,798 shares.

CONMED CORPORATION

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CONMED CORPORATION
CONSOLIDATED STATEMENTS OF INCOME
(in thousands except per share amounts)
(unaudited)

| | For three months ended | | For six months ended | |
|--|------------------------|--------------|----------------------|--------------|
| | June 1998 | June 1999 | June 1998 | June 1999 |
| Net sales | \$ 80,513 | \$ 90,483 | \$ 160,755 | \$ 181,352 |
| Cost and expenses: | | | | |
| Cost of sales | 40,874 | 42,825 | 85,264 | 86,367 |
| Selling and administrative ... | 21,995 | 26,550 | 43,774 | 53,116 |
| Research and development | 2,874 | 2,842 | 5,601 | 5,798 |
| Total operating expenses ... | 65,743 | 72,217 | 134,639 | 145,281 |
| Income from operations | 14,770 | 18,266 | 26,116 | 36,071 |
| Interest expense, net | (7,666) | (7,814) | (15,181) | (15,740) |
| Income before income taxes and extraordinary item | 7,104 | 10,452 | 10,935 | 20,331 |
| Provision for income taxes | (2,557) | (3,762) | (3,936) | (7,318) |
| Income before extraordinary item | 4,547 | 6,690 | 6,999 | 13,013 |
| Extraordinary item, net of income taxes (Note 4) | -- | -- | (1,569) | -- |
| Net income | \$ 4,547 | \$ 6,690 | \$ 5,430 | \$ 13,013 |

CONMED CORPORATION
CONSOLIDATED STATEMENTS OF INCOME
(in thousands except per share amounts)

(unaudited)

| | For three months ended | | For six months ended | |
|----------------------------------|------------------------|--------------|----------------------|--------------|
| | June 1998 | June 1999 | June 1998 | June 1999 |
| Per share data: | | | | |
| Income before extraordinary item | | | | |
| Basic | \$.30 | \$.44 | \$.46 | \$.86 |
| Diluted | .30 | .43 | .46 | .84 |
| Extraordinary item - (Note 4) | | | | |
| Basic | \$ -- | \$ -- | \$ (.10) | \$ -- |
| Diluted | -- | -- | (.10) | -- |
| Net Income | | | | |
| Basic | \$.30 | \$.44 | \$.36 | \$.86 |
| Diluted | .30 | .43 | .36 | .84 |
| Weighted average common shares | | | | |
| Basic | 15,057 | 15,235 | 15,047 | 15,204 |
| Diluted | 15,326 | 15,612 | 15,286 | 15,575 |

See notes to consolidated financial statements.

CONMED CORPORATION
CONSOLIDATED BALANCE SHEETS
(in thousands except share amounts)

| | (unaudited) | |
|--|------------------|--------------|
| | December 1998 | June 1999 |
| ASSETS | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 5,906 | \$ 2,519 |
| Accounts receivable, net | 66,819 | 70,515 |
| Income taxes receivable | 1,441 | -- |
| Inventories (Note 3) | 78,058 | 87,920 |
| Deferred income taxes | 2,776 | 2,776 |
| Prepaid expenses and other current assets | 4,620 | 4,178 |
| Total current assets | 159,620 | 167,908 |
| Property, plant and equipment, net | 59,044 | 56,479 |
| Deferred income taxes | 3,900 | 3,900 |
| Goodwill, net | 194,690 | 192,443 |
| Patents, trademarks, and other assets, net | 211,530 | 207,700 |
| Total assets | \$ 628,784 | \$ 628,430 |
| | ===== | ===== |

CONMED CORPORATION
CONSOLIDATED BALANCE SHEETS
(in thousands except share amounts)

| | (unaudited) | |
|---|------------------|--------------|
| | December 1998 | June 1999 |
| LIABILITIES AND SHAREHOLDERS' EQUITY | | |
| Current liabilities: | | |
| Current portion of long-term debt | \$ 22,995 | \$ 27,785 |
| Accrued interest | 6,069 | 4,458 |

| | | |
|--|------------|------------|
| Accounts payable | 19,594 | 18,125 |
| Income taxes payable | -- | 7,526 |
| Accrued payroll and withholdings | 9,665 | 6,519 |
| Other current liabilities | 7,873 | 5,517 |
| | ----- | ----- |
| Total current liabilities | 66,196 | 69,930 |
| Long-term debt | 361,877 | 341,478 |
| Other long-term liabilities | 18,543 | 20,294 |
| | ----- | ----- |
| Total liabilities | 446,616 | 431,702 |
| | ----- | ----- |
| Shareholders' equity: | | |
| Preferred stock, par value \$.01 per share; authorized 500,000 shares; none outstanding | -- | -- |
| Common stock, par value \$.01 per share; 100,000,000 authorized; 15,182,811 and 15,300,091 issued and outstanding, in 1998 and 1999, respectively | 152 | 153 |
| Paid-in capital | 125,039 | 126,605 |
| Retained earnings | 57,361 | 70,374 |
| Cumulative translation adjustments | 35 | 15 |
| Less 25,000 shares of common stock in treasury, at cost | (419) | (419) |
| | ----- | ----- |
| Total equity | 182,168 | 196,728 |
| | ----- | ----- |
| Total liabilities and shareholders' equity . | \$ 628,784 | \$ 628,430 |
| | ===== | ===== |

See notes to consolidated financial statements.

CONMED CORPORATION
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
Six Months Ended June 1998 and 1999
(in thousands)
(unaudited)

| | 1998 | 1999 |
|--|---------|---------|
| | ----- | ----- |
| Common stock | | |
| Balance at beginning of period | \$ 151 | \$ 152 |
| Exercise of stock options | -- | 1 |
| | ----- | ----- |
| Balance at end of period | 151 | 153 |
| | ----- | ----- |
| Paid-in capital | | |
| Balance at beginning of period | 123,451 | 125,039 |
| Exercise of stock options | 416 | 1,566 |
| | ----- | ----- |
| Balance at end of period | 123,867 | 126,605 |
| | ----- | ----- |
| Retained earnings | | |
| Balance at beginning of period | 39,553 | 57,361 |
| Net income (A) | 5,430 | 13,013 |
| | ----- | ----- |
| Balance at end of period | 44,983 | 70,374 |
| | ----- | ----- |
| Accumulated other comprehensive income | | |
| Balance at beginning of period | | |
| Cumulative foreign currency translation adjustments | -- | 35 |
| Other comprehensive income | | |
| Foreign currency translation adjustments (B) .. | -- | (20) |
| | ----- | ----- |
| Balance at end of period | | |
| Cumulative foreign currency translation | | |

| | | |
|--|------------|------------|
| adjustments | -- | 15 |
| | ----- | ----- |
| Treasury stock at beginning and end of period | (419) | (419) |
| | ----- | ----- |
| Total shareholders' equity | \$ 168,582 | \$ 196,728 |
| | ===== | ===== |
| Total comprehensive income (A + B) | \$ 5,430 | \$ 12,993 |
| | ===== | ===== |

See notes to consolidated financial statements.

CONMED CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS
Six Months Ended June 30 1998 and 1999
(in thousands)
(unaudited)

| | 1998 | 1999 |
|--|-----------|-----------|
| | ---- | ---- |
| Cash flows from operating activities: | | |
| Net income | \$ 5,430 | \$ 13,013 |
| | ----- | ----- |
| Adjustments to reconcile net income to net cash provided by operations: | | |
| Depreciation | 3,944 | 4,330 |
| Amortization | 7,849 | 8,095 |
| Extraordinary item, net of income taxes (Note 4) | 1,569 | -- |
| Increase (decrease) in cash flows from changes in assets and liabilities: | | |
| Accounts receivable | (1,867) | (3,716) |
| Inventories | (8,192) | (11,039) |
| Prepaid expenses and other current assets | (1,387) | 442 |
| Accounts payable | 8,703 | (1,469) |
| Income taxes receivable/payable | (1,081) | 8,967 |
| Accrued interest | 4,832 | (1,611) |
| Accrued payroll and withholdings | 1,438 | (3,146) |
| Other current liabilities | (2,305) | (668) |
| Other assets/liabilities, net .. | (439) | 1,249 |
| | ----- | ----- |
| Net cash provided by operations | 13,064 | 1,434 |
| | ----- | ----- |
| Cash flows from investing activities: | | |
| Payments related to acquisition of Linvatec | (6,996) | -- |
| Acquisition of property, plant, and equipment | (6,663) | (3,792) |
| | ----- | ----- |
| Net cash used by investing activities | (13,659) | (3,792) |
| | ----- | ----- |
| Cash flows from financing activities: | | |
| Proceeds of long term debt | 130,000 | 900 |
| Repayments under revolving credit facility | (10,000) | (5,000) |
| Proceeds from issuance of common stock | 416 | 1,567 |
| Payments related to issuance of long-term debt . | (4,635) | -- |
| Payments on long-term debt | (129,614) | (11,509) |
| | ----- | ----- |
| Net cash used by financing activities | (13,833) | (14,042) |
| | ----- | ----- |
| Net decrease in cash and cash equivalents | (8,998) | (3,387) |
| Cash and cash equivalents at beginning of period . | 13,452 | 5,906 |
| | ----- | ----- |

| | | |
|--|----------|----------|
| Cash and cash equivalents at end of period | \$ 4,454 | \$ 2,519 |
| | ===== | ===== |

See notes to consolidated financial statements.

CONMED CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1 - Organization and Operations

The consolidated financial statements include the accounts of CONMED Corporation (the "Company"), and its subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. The Company is a leading developer, manufacturer and supplier of a range of medical instruments and systems used in surgical and other medical procedures. The Company's business is organized, managed and internally reported as a single segment. The Company believes its product offerings, which include arthroscopic surgery devices, powered surgical instruments, electrosurgical systems, electrocardiogram electrodes and accessories, surgical suction instruments, intravenous therapy accessories and wound care products, have similar economic, operating and other related characteristics. The Company's products are used in a variety of clinical settings, such as operating rooms, surgery centers, physicians' offices and critical care areas of hospitals.

Note 2 - Interim financial information

The financial statements for the three and six months ended June 1998 and 1999 are unaudited; in the opinion of the Company such unaudited statements include all adjustments (which comprise only normal recurring accruals) necessary for a fair presentation of the results for such periods. The consolidated financial statements for the year ending December 1999 are subject to adjustment at the end of the year when they will be audited by independent accountants. The results of operations for the three and six months ended June 1999 are not necessarily indicative of the results of operations to be expected for any other quarter nor for the year ending December 1999. The consolidated financial statements and notes thereto should be read in conjunction with the financial statements and notes for the year ended December 1998 included in the Company's Annual Report to the Securities and Exchange Commission on Form 10-K. Certain 1998 amounts previously reported have been reclassified to conform with the current year presentation.

Note 3 - Inventories

The components of inventory are as follows (in thousands):

| | December 1998 | June 1999 |
|----------------------|------------------|--------------|
| | ----- | ----- |
| Raw materials..... | \$35,204 | \$35,963 |
| Work-in-process..... | 7,429 | 11,472 |
| Finished goods..... | 35,425 | 40,485 |
| | ----- | ----- |
| Total..... | \$78,058 | \$87,920 |
| | ===== | ===== |

Note 4 - Subordinated Note Offering

The Company completed a subordinated note offering (the "Notes") in the aggregate principal amount of \$130,000,000 in March 1998. Proceeds from the offering amounting to \$126,100,000 were used to reduce the Company's term loans under its credit facility. Deferred financing fees related to the portion of the credit facility repaid amounting to \$2,451,000 (\$1,569,000 net of income taxes) were written-off as an extraordinary charge.

Note 5 - Subsidiary Guarantees

The Company's credit facility and Notes are guaranteed (the "Subsidiary Guarantees") by each of the Company's subsidiaries (the "Subsidiary Guarantors"). The Subsidiary Guarantees provide that each Subsidiary Guarantor will fully and unconditionally guarantee the Company's obligations on a joint and several basis. Each Subsidiary Guarantor is wholly-owned by the Company.

Separate financial statements and other disclosures concerning the Subsidiary Guarantors are not presented because management has determined such financial statements and other disclosures are not material to investors. The

combined condensed financial information of the Company's Subsidiary Guarantors is as follows (in thousands):

| | December ----- 1998 ---- | June ---- 1999 ---- |
|------------------------------|---|------------------------------|
| Current assets..... | \$ 96,434 | \$106,411 |
| Non-current assets..... | 366,299 | 356,652 |
| Current liabilities..... | 30,367 | 23,852 |
| Non-current liabilities..... | 363,160 | 347,347 |
| | For the Six Months Ended June ----- | |
| | 1998 | 1999 |
| | ---- | ---- |
| Revenues..... | \$113,579 | \$139,222 |
| Operating income..... | 18,266 | 30,205 |
| Net income..... | 1,849 | 9,229 |

Note 6 - Subsequent Events

On June 29, 1999, the Company entered into an agreement to purchase certain assets of the Powered Surgical Instrument business of Minnesota Mining and Manufacturing Company ("3M"). The Company and 3M have also agreed to a series of transition-related matters that will facilitate the transfer of the business. The acquisition was completed on August 11, 1999 for a purchase price of \$39,000,000, before certain adjustments, which was funded through borrowings under the Company's amended credit facility (see discussion under Liquidity and Capital Resources section of Management's Discussion and Analysis of Financial Condition and Results of Operations).

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

The following discussion includes certain forward-looking statements. Such forward-looking statements are subject to a number of factors, including material risks, uncertainties and contingencies, which could cause actual results to differ materially from the forward-looking statements. Such factors include, among others, the following: general economic and business conditions; changes in customer preferences; competition; changes in technology; the integration of any acquisitions, changes in business strategy; the indebtedness of the Company; the identification and remediation of Year 2000 issues; quality of management, business abilities and judgment of the Company's personnel; and the availability, terms and deployment of capital. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. The Company does not undertake any obligation to publicly release any revisions to these forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

Three months ended June 1999 compared to three months ended June 1998

Sales for the quarter ended June 1999 were \$90,483,000, an increase of 12.4% compared to sales of \$80,513,000 in the quarter ended June 1998. Approximately 5% of the sales increase reflects the pricing impact of changes in distribution from the second quarter of 1999 as compared to 1998. In connection with the December 31, 1997 acquisition of Linvatec Corporation from Bristol-Myers Squibb ("BMS"), the Company entered into fixed price distribution agreements with Zimmer, Inc., a wholly-owned subsidiary of BMS, to distribute certain of the Company's orthopaedic products in selected geographic markets. In 1999, most of the products formerly distributed by Zimmer were sold and distributed directly by the Company, resulting in improved pricing for the affected products. The remainder of the increase is a result of increased sales volumes, primarily of orthopaedic products, due to the acquisition of the fluid management business from 3M in November 1998 as well as increased demand for existing product lines.

Cost of sales increased to \$42,825,000 in the current quarter compared to the \$40,874,000 in the same quarter a year ago. The Company's gross margin percentage for the second quarter of 1998 was 49.2% compared to 52.7% for the second quarter of 1999. The increase in gross margin percentage is primarily

attributable to higher sales volumes of orthopaedic products as well as improved pricing resulting from the elimination of most of the fixed price distribution agreements with Zimmer discussed previously.

Selling and administrative costs increased to \$26,550,000 in the current quarter as compared to \$21,995,000 in the second quarter of 1998. As a percentage of sales, selling and administrative expense was 29.3% in the second quarter of 1999 as compared to 27.3% in the comparable 1998 period. The increase was primarily a result of costs associated with the direct selling and distribution of products formerly distributed through Zimmer.

Research and development expense was \$2,842,000 in the second quarter of 1999 as compared to \$2,874,000 in the second quarter of 1998. As a percentage of sales, research and development expense was 3.1% in the second quarter of 1999 as compared to 3.6% in the comparable 1998 period. The amount of research and development expense incurred in the second quarter of 1999 is consistent with the comparable 1998 quarter representing the Company's ongoing efforts in this area; the decrease in second quarter 1999 expense as a percentage of sales is primarily a result of higher sales in the second quarter of 1999 as compared to the second quarter 1998.

Interest expense for the second quarter of 1999 was \$7,814,000 compared to \$7,666,000 in the second quarter of 1998. The increase in interest expense is a result of higher borrowings under the Company's revolving credit facility during the second quarter of 1999 as compared to the second quarter of 1998, partially offset by lower principal balances on the Company's term debt. The higher borrowings were primarily a result of the Company's \$17,500,000 acquisition of a fluid management product line from 3M during the fourth quarter of 1998.

Six months ended June 1999 compared to six months ended June 1998

Sales for the six months ended June 1999 were \$181,352,000, an increase of 12.8% compared to sales of \$160,755,000 in the six months ended June 1998. Approximately 5% of the increase reflects the pricing impact of changes in distribution from the first six months of 1999 as compared to 1998. In connection with the December 31, 1997 acquisition of Linvatec Corporation from Bristol-Meyers Squibb ("BMS"), the Company entered into fixed price distribution agreements with Zimmer, Inc., a wholly-owned subsidiary of BMS, to distribute certain of the Company's orthopaedic products in selected geographic markets. In 1999, most of the products formerly distributed by Zimmer were sold and distributed directly by the Company, resulting in improved pricing for the affected products. The remainder of the increase is a result of increased sales volumes, primarily of orthopaedic products, due to the acquisition of the fluid management product line from 3M in November 1998 as well as increased demand for existing product lines.

Cost of sales increased to \$86,367,000 in the six months ended June 1999 compared to \$85,264,000 in the six months ended June 1998. In connection with purchase accounting for the December 31, 1997 acquisition of Linvatec Corporation, the Company increased the acquired value of inventory by \$3,000,000 over its production cost. This inventory was sold during the quarter ended March 1998 and, accordingly, this non-recurring adjustment served to increase cost of sales during the first quarter of 1998 by \$3,000,000. Excluding the impact of this adjustment, cost of sales increased from \$82,271,000 in the first six months of 1998 to \$86,367,000 in the first six months of 1999, as a result of increased sales volumes. Excluding the nonrecurring adjustment, the Company's gross margin percentage for the first six months of 1998 was 48.8% compared to 52.4% for the first six months of 1999. The increase in gross margin percentage is primarily attributable to higher sales volumes as well as improved pricing resulting from the elimination of most of the fixed price product distribution agreements with Zimmer discussed previously.

Selling and administrative costs increased to \$53,116,000 in the six months ended June 1999 as compared to \$43,774,000 in the six months ended June 1998. As a percentage of sales, selling and administrative expense was 29.2% in the first half of 1999 as compared to 27.2% in the comparable 1998 period. The increase was primarily a result of costs associated with the direct selling and distribution of products formerly distributed through Zimmer and the launch of several new products.

Research and development expense was \$5,798,000 in the first half of 1999 as compared to \$5,601,000 in the first half of 1998. As a percentage of sales, research and development expense was 3.2% in the first half of 1999 as compared to 3.5% in the comparable 1998 period. The amount of research and

development expense incurred in the six months ended June 1999 is consistent with the comparable 1998 period representing the Company's ongoing efforts in this area; the decrease in six months ended June 1999 expense as a percentage of sales is primarily a result of higher sales in the six months ended June 1999 as compared to the six months ended June 1998.

Interest expense for the six months ended June 1999 was \$15,740,000 compared to \$15,181,000 in the first six months of 1998. The increase in interest expense is a result of higher borrowings under the Company's revolving credit facility during the first half of 1999 as compared to the first half of 1998, partially offset by lower principal balances on the Company's term debt. The higher borrowings were primarily a result of the Company's \$17,500,000 acquisition of an arthroscopy product line from 3M during the fourth quarter of 1998.

As discussed under Liquidity and Capital Resources, during the first quarter of 1998, the Company completed an offering of subordinated notes (the "Notes") and used the net proceeds to repay a portion of the Company's term loans under its credit facility. Deferred financing fees relating to the portion of the credit facility repaid amounting to \$2,451,000 (\$1,569,000 net of income taxes) were written-off as an extraordinary charge. There was no such write-off during the first six months of 1999.

Liquidity and Capital Resources

The Company's net working capital position increased \$4,554,000 or 5% to \$97,978,000 at June 1999 compared to \$93,424,000 at December 1998. Net cash provided by operations was \$14,447,000 for the first six months of 1999 compared to \$18,494,000 for the first six months of 1998. Operating cash flow in the first half of 1999 was positively impacted by higher net income and increases in depreciation, amortization and accrued income taxes payable compared to the first half of 1998. Negatively impacting operating cash flow in the first half of 1999 were increases in accounts receivable and inventory and decreases in accrued interest and accrued payroll compared to the first half of 1998.

Net cash used by investing activities for the first six months of 1998 included \$6,996,000 of transaction costs related to the Linvatec acquisition. There were no such costs incurred during the first six months of 1999. Capital expenditures for the first six months of 1999 and 1998 amounted to \$3,792,000 and \$6,663,000, respectively.

Financing activities during the first six months of 1999 consisted primarily of scheduled payments of \$11,509,000 on the Company's term loans; additionally, \$5,000,000 was repaid on the Company's revolving credit facility. Financing activities during the first six months of 1998 involved the completion of the Notes offering in the aggregate principal amount of \$130,000,000. Net proceeds from the offering amounting to \$126,100,000 were used to repay a portion of the Company's term loans under its credit facility. Additionally, scheduled payments of \$1,757,000 on the Company's term loans and \$10,000,000 on the Company's revolving credit facility were repaid during the first six months of 1998.

The Company's term loans under its credit facility at June 30, 1999 aggregate \$205,375,000 and are repayable quarterly over remaining terms approximating four and six years. The Company's credit facility also includes a \$100,000,000 revolving credit facility which expires December 2002, of which \$67,000,000 was available on June 30, 1999. The borrowings under the credit facility carry interest rates based on a spread over LIBOR or an alternative base interest rate. The covenants of the credit facility provide for increase and decrease to this interest rate spread based on the operating results of the Company. The weighted average interest rates at June 30, 1999 under the term loans and the revolving credit facility were 7.04% and 6.81%, respectively. Additionally, the Company is obligated to pay a fee of .375% per annum on the unused portion of the revolving credit facility.

The Company does not use derivative financial instruments for trading or other speculative purposes. Interest rate swaps, a form of derivative, are used to manage interest rate risk. Currently, the Company has entered into two interest rate swaps expiring in June 2001 which convert \$100,000,000 of floating rate debt under the Company's credit facility into fixed rate debt at rates ranging from 7.18% to 8.25%. Provisions in one of the interest rate swaps cancels such agreement when LIBOR exceeds 7.35%.

The credit facility is collateralized by all the Company's personal property. The credit facility contains covenants and restrictions which, among other things, require maintenance of certain working capital levels and financial ratios, prohibit dividend payments and restrict the incurrence of certain indebtedness and other activities, including acquisitions and dispositions. The Company is also required to make mandatory prepayments from net cash proceeds from any issue of equity and asset sales and also from any excess cash flow, as defined in the credit agreement.

The Notes are in aggregate principal amount of \$130,000,000 and have a maturity date of March 15, 2008. The Notes bear interest at 9.0% per annum which is payable semi-annually. The indenture governing the Notes has certain restrictive covenants and provides for, among other things, mandatory and optional redemptions by the Company.

The credit facility and Notes are guaranteed by each of the Company's subsidiaries. The Subsidiary Guarantees provide that each Subsidiary Guarantor will fully and unconditionally guarantee the Company's obligations on a joint and several basis. Each Subsidiary Guarantor is wholly-owned by the Company. Under the credit facility and Note indenture, the Company's subsidiaries are subject to the same covenants and restrictions that apply to the Company (except that the Subsidiary Guarantors are permitted to make dividend payments and distributions, including cash dividend payments, to the Company or another Subsidiary Guarantor).

On June 29, 1999, the Company entered into an agreement to purchase certain assets of the Powered Surgical Instrument business of 3M. The Company and 3M have also agreed to a series of transition-related matters that will facilitate the transfer of the business. The acquisition was completed on August 11, 1999 for a purchase price of \$39,000,000, before certain adjustments. The Company's existing credit facility was amended to provide for an additional \$40,000,000 loan commitment, due June 30, 2005, which was used to fund the purchase price and related fees and expenses. The \$40,000,000 loan commitment carries an interest rate based on a 2.5% spread over LIBOR.

Management believes that cash generated from operations, its current cash resources and funds available under its credit facility will provide sufficient liquidity to ensure continued working capital for operations, debt service and funding of capital expenditures in the foreseeable future.

Year 2000

The Company and its subsidiaries use information technology ("IT") and non-IT systems that contain embedded technology throughout their businesses. Third parties with which the Company has material relationships also use such systems. After December 31, 1999, these systems will face a potentially serious problem if they are not able to recognize and correctly process dates beyond December 31, 1999. All of the Company's products, operations and information technology systems have been inventoried and those that were not Year 2000 ready have been identified, upgraded and tested to ensure they function properly after December 31, 1999. The Company is also in the process of contacting its vendors and customers to ascertain their preparation for the Year 2000 issue and is in the process of identifying critical business partners for which the need for additional due diligence will be assessed. The costs of the Company's Year 2000 assessment and remediation program have not been and are not expected to be material. Although the Company does not expect the Year 2000 issue to have a material effect on its results of operations, liquidity or financial condition, failure of critical IT and non-IT systems could have a material adverse effect on the Company's results of operations, liquidity or financial condition. Further, the Company cannot eliminate the risk that revenue will be lost or costs will be incurred as a result of the failure by third parties to properly remediate their Year 2000 issues.

Foreign Operations

The Company's foreign operations are subject to special risks inherent in doing business outside the United States, including governmental instability, war and other international conflicts, civil and labor disturbances, requirements of local ownership, partial or total expropriation, nationalization, currency devaluation, foreign exchange controls and foreign laws and policies, each of which may limit the movement of assets or funds or result in the deprivation of contract rights or the taking of property without fair compensation.

An additional risk with respect to the Company's European operations relates to the conversion of certain European countries to a common currency which began January 1, 1999 (the "Euro Conversion"). The Company has formed an internal task force to evaluate the risks and implement any required actions with respect to the Euro Conversion. Based on the analysis of this task force, the Company does not believe that the costs to the Company to convert to a common currency will be material. Additionally the Company does not believe that there will be any material impact from a competitive point of view with respect to the impact of the Euro Conversion on the sales of products.

Item 6. Exhibits and Reports on Form 8-K

List of Exhibits

| Exhibit No. ----- | Description of Instrument ----- |
|----------------------|---|
| 10.1 | The Asset Purchase Agreement, dated as of June 29, 1999 by and between Linvatec Corporation and Minnesota Mining and Manufacturing Company, as amended by an amendment dated as of August 11, 1999. |
| 10.2 | Amended and Restated Credit Agreement, dated as of August 11, 1999, among CONMED Corporation and the several banks and other financial institutions or entities from time to time parties thereto. |
| 10.3 | Acknowledgement and Consent, dated as of August 11, 1999, among CONMED Corporation and each of its subsidiaries. |
| 11 | Computation of weighted average number of shares of common stock |
| 27 | Financial Data Schedule |

Reports on Form 8-K

- (1) On July 1, 1999, the Company filed a report on Form 8-K which reported a press release that on June 29, 1999, Linvatec Corporation, ("Linvatec") a wholly-owned subsidiary of the Registrant, and Minnesota Mining and Manufacturing Company ("3M") entered into an Asset Purchase Agreement dated as of June 29, 1999, pursuant to which Linvatec agreed to purchase for cash certain assets relating to 3M's business of manufacturing and selling certain surgical powered instrument products.

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.

CONMED CORPORATION
(Registrant)

Date: August 13, 1999

/s/ Robert D. Shallish, Jr.

Robert D. Shallish, Jr.
Vice President - Finance
(Principal Financial Officer)

Exhibit Index

Exhibit

- 10.1 The Asset Purchase Agreement, dated as of June 29, 1999 by and between Linvatec Corporation and Minnesota Mining and Manufacturing Company, as amended by an amendment dated as of August 11, 1999.
- 10.2 Amended and Restated Credit Agreement, dated as of August 11, 1999, among CONMED Corporation and the several banks and other financial institutions or entities from time to time parties thereto.
- 10.3 Acknowledgement and Consent, dated as of August 11, 1999, among CONMED Corporation and each of its subsidiaries.
- 11 Computations of weighted average number of shares of common stock
- 27 Financial Data Schedule

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of this 29th day of June, 1999 by and between Linvatec Corporation, a Florida corporation (the "Buyer"), and Minnesota Mining and Manufacturing Company, a Delaware corporation ("3M").

WHEREAS, 3M, through its Medical Surgical Division (the "Division"), engages in the business of manufacturing and selling a broad range of surgical powered instrument products excluding those instruments that formed any portions of 3M's cardiovascular perfusion business, its orthopedic devices business, metal implant business and carpal tunnel release businesses, (the manufacture and sale of such products through such Division being herein called the "Business");

WHEREAS, 3M now desires to exit the Business without interrupting the availability of products and customer support and Buyer desires to purchase and acquire the assets of the Business, all on the terms and conditions set forth in this Agreement;

WHEREAS, Buyer wishes to purchase all assets used in or necessary to the Business, and to hire or otherwise retain the services of certain 3M employees or agents necessary to or used in the Business subject to the terms set forth herein;

WHEREAS, Buyer wishes to purchase the Business in a manner that causes as little disruption as possible to customers of and the profitability of the Business; and

WHEREAS, 3M now desires to sell and the Buyer desires to purchase and acquire certain assets of the Business, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

ARTICLE I

Definitions

1.01 Purchased Assets. The term "Purchased Assets" or any variation thereof as used in this Agreement shall mean the assets required to be sold, assigned, transferred and conveyed by 3M to the Buyer pursuant to Article II hereof.

1.02 3M Products. The term "3M Products" or "3M Product Line" or any variation thereof as used in this Agreement shall mean those 3M products manufactured or sold through the Division described in the attached Schedule 1.02.

1.03 Assumed Liabilities. The term "Assumed Liabilities" or any variation thereof as used in this Agreement shall mean the liabilities and obligations required to be assumed by the Buyer pursuant to Article IV hereof.

1.04 Purchased Intellectual Property. The term "Purchased Intellectual Property" means patents, patent applications, utility model registrations, design patents, registered or unregistered trademarks, trade secrets and know-how owned by 3M on the Closing Date that directly and solely relate to the Business as conducted on the Closing Date, with such products being listed in Schedule 1.04, but excluding components and materials supplied to the Business by other businesses of 3M.

1.05 Licensed Intellectual Property. The term "Licensed Intellectual Property" means patents, patent applications, utility model registrations, design patents, trade secrets and know-how owned by 3M on the Closing Date that are used directly in both the Business as conducted on the Closing Date and 3M's electronic products and/or orthopedic casting business, but excluding Components and Materials supplied to the Business by other businesses of 3M.

1.06 IP Agreements. The term "IP Agreements" means those agreements licensing patents to or from 3M that directly and solely relate to the Business

as conducted on the Closing Date and are listed in Schedule 1.06, excluding however supplier, distribution, consulting and confidentiality agreements.

1.07 Sublicensed IP Agreement. The term "Sublicensed IP Agreement" means the Automotive Supplier Agreement dated 22nd September 1998 between the Lemelson Medical, Education and Research Foundation, Limited Partnership and 3M.

1.08 Adverse Material Change. The term "Adverse Material Change" shall mean any change that affects the valuation of the Business in a manner that a reasonable buyer, familiar with trends likely to affect the Business, would consider such change in valuing the Business.

ARTICLE II

Sale of Assets

2.01 Purchased Assets. Subject to the terms and conditions hereof, 3M agrees to sell, assign, transfer and convey to the Buyer, and the Buyer agrees to purchase and acquire from 3M, at the Closing (as hereinafter defined) on the Closing Date (as hereinafter defined), all of 3M's right, title and interest, if any, immediately prior to the effective time of the Closing in and to the following assets wherever located:

(a) The fixed assets, machinery, manufacturing equipment, laboratory and test equipment and 3M Product specifications, drawings and manufacturing processes documents and office equipment used in the Business, including those assets specified, on and offsite, in Schedule 2.01(a).

(b) Raw material, packaging, factory supplies, work in progress and finished goods inventories to the extent related to the 3M Product Line, in an amount consistent with past practices of the Business.

(c) Purchased Intellectual Property as provided in Article VI.

(d) Records to the extent substantially related to the 3M Product Line and the Purchased Assets.

(e) Purchase orders to the extent substantially related to the 3M Product Line, the Purchased Assets or the Business issued by or to 3M in the ordinary course of business.

(f) Subject to Section VI, leases, contracts, agreements and commitments to the extent substantially related to the 3M Product Line, the Purchased Assets or the Business, to the extent assignable and/or transferable.

(g) All registrations, licenses, permits or any other government authorizations relating to the 3M Product Line to the extent transferable, subject to Article VI.

(h) All demonstration units or loaner units relating to the 3M Product Line, including those listed on Schedule 2.01(h).

2.02 Excluded Assets. It is understood and agreed that the following assets of the Business are excluded from Purchased Assets: (i) cash; (ii) accounts receivable; (iii) any items listed in Schedule 2.02 (Excluded Assets); and (iv) excluded intellectual property assets set forth in Section 6.10.

2.03 Retention of Certain Records. It is understood and agreed that 3M reserves the right to retain copies or written records of the items referred to in Sections 2.01(c) and (d) for the purpose of defending any claims, losses, causes of action or lawsuits, including those related to the sale of the 3M Product Line by 3M, and for the purpose of preparing any tax returns or financial statements or reports, provided that 3M shall maintain the confidentiality of such documents and shall promptly notify the Buyer of any lawsuit or claim served upon 3M relating to the Business and/or records or documents.

ARTICLE III

Purchase Price

3.01 Purchase Price and Payment. In consideration for the Purchased Assets, the Buyer agrees to pay to 3M Forty Million Dollars (\$40,000,000) (the

"Purchase Price"), subject to being adjusted pursuant to Section 3.04. The Purchase Price shall be payable in cash at the Closing by wire transfer of immediately available federal funds to 3M at Norwest Bank, Minnesota, N.A., Minneapolis, Minnesota, ABA #091 000 019, credit to 3M General Account #30103.

3.02 Allocation of Purchase Price. It is understood and agreed by the parties that, except as hereinafter provided, the Purchase Price shall be allocated, within ninety (90) days following the Closing, among the Purchased Assets in accordance with the attached Exhibit A, and that said allocation will be used for state and federal tax purposes. Each party acknowledges that such allocation is consistent with the requirements of Section 1060 of the Internal Revenue Code 1986, as amended, and the regulations thereunder. Each party agrees (i) to jointly complete and separately file Form 8594 with its federal income tax return for the tax year in which the Closing Date occurs, and (ii) that such party will not take a position on any income, transfer or gains tax return, before any governmental agency charged with the collection of any such tax or in any judicial proceeding, that is in any manner inconsistent with the terms of such allocation without the written consent of the other party. Notwithstanding anything to the contrary provided herein, neither party shall be bound by such allocation in the event the Internal Revenue Service or another tax authority successfully challenges the allocation. In the event of any challenge to such allocation by the Internal Revenue Service or another tax authority, the parties will give each other notice of the challenge and advise each other periodically of the status of such challenge and reasonably cooperate with each other with respect to such challenge.

3.03 Sales, Use and Transfer Taxes. The Buyer shall be responsible for all sales, use and transfer taxes, deed taxes and recording fees, if any, in each case applicable to the sale and transfer of the Purchased Assets hereunder, except for any taxes or other fees imposed by foreign jurisdictions, which taxes or other fees shall be paid as is customary in such jurisdictions. The Buyer will furnish 3M at the Closing with properly executed exemption certificates, dated the Closing Date, relating to the inventory, supplies and manufacturing equipment being transferred pursuant to this Agreement as to which Buyer is claiming an exemption from sales, use or other transfer taxes.

3.04 Adjustment to Purchase Price. In conjunction with the payment called for in Section 3.01, the Purchase Price shall be reduced, or increased, for the precise amount, in dollars, by which the Net Assets of the Business as of the Closing are less or more than the amount listed on the December 31, 1998 Balance Sheet. If the parties are unable to agree as to the value of the assets conveyed pursuant to Section 2.01(b), the Buyer may withhold from the Purchase Price so much as corresponds to Buyer's calculation of the value of such assets, with a national accounting firm, to be selected within twenty (20) days after the Closing to complete a valuation, using the same methodology used for the December 31, 1998 Balance Sheet, within sixty (60) days after Closing, with both parties making final submissions ten (10) days after such firm is selected and with both parties being bound thereby.

ARTICLE IV

Assumption of Liabilities

4.01 Assumption of Liabilities. Subject to the terms and conditions hereof and subject to Article VI (Intellectual Property), at the Closing, the Buyer shall assume and agree to carry out and perform all of the following liabilities and obligations which have not been paid, performed or discharged prior to the effective time of the Closing by 3M:

(a) all obligations of 3M related to the Business in respect of goods received and services delivered after the Closing Date under any of the licenses, purchase orders, leases, contracts, or written agreements included in the Purchased Assets (collectively, the "Contracts"), the Sublicensed IP Agreement and the IP Agreements;

(b) all warranty obligations of 3M with respect to 3M Products; and

(c) such other liabilities of the Business related to the 3M Product Line, the Purchased Assets and the Business arising after the Closing (e.g., intellectual and/or product liability claims arising for products sold after the Closing).

4.02 The language of Section 4.01(a) - (c) notwithstanding, Buyer shall

not be responsible for any taxes or liens upon the Purchased Assets that arise from pre-Closing facts or circumstances, which 3M agrees to remove for a period of up to eighteen (18) months following Closing, regardless of amount and notwithstanding the materiality threshold in Article XI concerning indemnity.

ARTICLE V

Representations and Warranties

5.01 3M Representations. 3M hereby represents and warrants as follows:

(a) Organization of 3M. 3M is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Authority of 3M. 3M has full corporate power and authority to execute, deliver and perform this Agreement and each of the Transaction Documents (as hereinafter defined) to be entered into by it at the Closing, and such execution, delivery and performance have been duly authorized by all necessary and proper corporate action of 3M. This Agreement has been duly executed and delivered by 3M, and (assuming due authorization, execution and delivery hereof by the Buyer) is the valid and binding obligation of 3M enforceable against 3M in accordance with its terms (except as such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium and other similar laws affecting creditors' rights generally or by general principles of equity). Upon execution and delivery thereof by 3M at the Closing (and assuming due authorization, execution and delivery thereof by the Buyer, to the extent applicable), each of the Transaction Documents to be entered into by 3M at the Closing will be the valid and binding obligation of 3M enforceable against 3M in accordance with its terms (except as such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity).

(c) Title to Purchased Assets. Except as set forth in Schedule 5.01(c), Article VI (Intellectual Property) or elsewhere in this Agreement, 3M has or will have at the Closing title to the Purchased Assets, free and clear of all mortgages, liens, security interests, claims, tax liabilities, charges and encumbrances.

(d) Contracts. The attached Schedule 5.01(d)(i) lists, as of the date of Closing, all leases, contracts, agreements and commitments to the extent substantially related to the 3M Product Line, other than those IP agreements listed on Schedule 1.06, the Purchased Assets or the Business to which 3M is a party or by which 3M is bound and which involve payments of more than \$10,000.00 per annum, with all purchase orders that entail annual expenditures in excess of \$10,000.00, whether in the ordinary course or otherwise, listed on Schedule 5.01(d)(ii).

(e) No Brokers. With respect to the transactions contemplated by this Agreement, 3M has not dealt with or been contacted by any finder or broker and is not in any way obligated to compensate such persons.

(f) Compliance with Law And Other Requirements. Except as provided in Schedule 5.01(f), to 3M's knowledge, the Business is not in violation of any law, ordinance or regulation of any governmental entity, which violations would have an Adverse Material Change. All governmental approvals, permits, licenses and other authorizations required in connection with the conduct of any material aspect of the Business have been obtained and are in full force and effect and are being complied with in all material respects. During the last five (5) years, 3M has not received any notification of any asserted past or present violation in connection with the conduct of the Business of any law, ordinance or regulation, which violation would have an Adverse Material Change, or any complaint, inquiry or request for information from any governmental entity relating thereto (including 483s, warning letters, consent decrees, or other asserted violations of legal or regulatory requirements). The Business complies in all material respects with the requirements for ISO 9001 certification, and has such certifications and 3M has no knowledge that it is in violation of any requirement for CE-markings.

(g) Financials. The financial statements provided by 3M and attached hereto as Schedule 5.01(g) are true and accurate in all material respects, have been derived from the books and records of 3M that have been prepared and maintained in accordance with generally accepted accounting principles (GAAP) in

all material respects.

(h) Claims Status. Except as set forth on Schedule 5.01(h), 3M is unaware of any claims that are being asserted with respect to product liability, regulatory or other claims.

(i) Intellectual Property. 3M disclaims any representation or warranty provided in this Agreement as it might be construed to apply to intellectual property except as provided in Article VI (Intellectual Property).

(j) Regulatory Approval Status. Except for the Blitz(TM) II Surgical Powered Instruments Cleaner and Lubricant (the "Blitz(TM) products"), 3M represents and warrants that to 3M's knowledge, all 3M Products including any accessories currently are being marketed in compliance with all Food and Drug Act, Medical Device Directive, CE-marking and other legal requirements in each jurisdiction in which the 3M Products are marketed. 3M further represents that the Food and Drug Act, Medical Device Directive, and CE-marking requirements are not applicable to the Blitz(TM) products.

(k) Completeness of Purchased Assets. The Purchased Assets constitute all assets necessary for 3M or used by 3M in the conduct of the Business, particularly the manufacture of the 3M Products, except those assets identified on Schedule 2.02 as the Excluded Assets or intellectual property, which is governed by Article VI, or those products supplied by 3M's New Ulm plant, with such products to be provided in the Supply Agreement. Moreover, the Purchased Assets include all assets necessary for 3M or used by 3M in production and testing processes of the Business at Irvine, California.

(l) Inventory. All raw material, work in progress and finished goods inventory is current and non-obsolete in accordance with 3M's inventory policy which is attached as Schedule 5.01(i). All such inventory, wherever located, bears the CE mark.

(m) Environmental. Except as may be disclosed in the environmental audit as provided for in Section 8.19, 3M's operation of the Business and ownership of the Purchased Assets are, and have been, in compliance in all material respects with all applicable environmental laws, permit requirements, use restrictions, and waste control requirements, and no releases of any hazardous substance requiring notification to a governmental entity have occurred in connection with the operation of the Business or the Purchased Assets; and no hazardous substances are used in the operation of the Business or use of the Purchased Assets except in compliance in all material respects with applicable law as of the date of this Agreement. For purposes of this Agreement, the term "hazardous substance" shall mean any substance which is listed or otherwise defined as "hazardous" or "toxic" under applicable law; as well as any petroleum product or nuclear materials; and the term "applicable law" as used in this Section 5.01(m) shall include any local, state, federal and/or foreign laws and regulations that govern the existence and/or remedy of contamination on property, the protection of the environment from contamination, the control of hazardous wastes, or other activities involving hazardous substances, including building materials as of the date of this Agreement.

5.02 Buyer Representations. The Buyer hereby represents and warrants as follows:

(a) Organization of Buyer. The Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida.

(b) Authority of Buyer. Buyer has full corporate power and authority to execute, deliver and perform this Agreement and each of the Transaction Documents to be entered into by it at the Closing, and such execution, delivery and performance have been duly authorized by all necessary and proper corporate action of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery hereof by 3M) is the valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms (except as such enforceability may be limited by bankruptcy, reorganization, insolvency moratorium and other similar laws affecting creditors' rights generally or by general principles of equity). Upon execution and delivery thereof by Buyer at the Closing (and assuming due authorization, execution and delivery thereof by 3M, to the extent applicable), each of the Transaction Documents to be entered into by Buyer at the Closing will be the valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms (except as such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity).

(c) Financial Ability of Buyer. The Buyer has available cash and/or existing committed borrowing facilities sufficient to enable it to consummate the transactions contemplated by this Agreement.

(d) No Brokers. With respect to the transactions contemplated by this Agreement, Buyer has not dealt with or been contacted by any finder or broker and is not in any way obligated to compensate such persons.

ARTICLE VI

Intellectual Property

6.01 Intellectual Property Recitals. The transfer of intellectual property, and any representations or warranties regarding intellectual property by 3M, are exclusively controlled by this Article. 3M disclaims any warranty or representation provided elsewhere in this Agreement as it might be construed to apply to intellectual property owned, licensed or controlled by 3M or any third party intellectual property right. Except as provided in this Article, intellectual property is being transferred or licensed on an "AS IS" basis. The general intent of this Article is to transfer or license to Buyer sufficient intellectual property rights (to the extent transferable) that are owned by or licensed to 3M to allow Buyer to conduct the Business in the same manner it was conducted by 3M on the Closing Date, excluding, however, intellectual property rights relating to components or materials supplied to the Business by other businesses of 3M, which components or materials are identified on Schedule 6.01. Buyer does not expect to be placed in a better position with respect to third party intellectual property rights by virtue of this Agreement than the position occupied by 3M as to such matters as of Closing. Buyer will be responsible for any infringement alleged with respect to third party intellectual property rights relating to products sold after Closing.

6.02 Purchased Intellectual Property. Subject to the terms and conditions hereof, 3M agrees to sell, assign, transfer and convey to Buyer, and Buyer agrees to purchase and acquire from 3M, at the Closing on the Closing Date, all of 3M's right, title and interest, if any, immediately before the effective time of the Closing in and to the following assets:

(a) The technology and know-how within Purchased Intellectual Property to the extent transferable by 3M, subject to a worldwide, non-exclusive, royalty-free, assignable license, with the right to sublicense, from Linvatec back to 3M of any technology and know-how within the field of electronic products and equipment and orthopedic casting products and equipment;

(b) The patents, applications for patents, utility model registrations and design patents within Purchased Intellectual Property, subject to a worldwide, non-exclusive, royalty-free, assignable license, with the right to sublicense, from Linvatec back to 3M of such rights within the fields of electronic products and equipment and orthopedic casting products and equipment, and subject to any agreement listed in Schedule 1.06 (If any royalties are due to a third party under an IP Agreement due to 3M's sales under its license provided herein, however, 3M will pay those royalties to Linvatec so that they may be passed through to the third party);

(c) Any registered and unregistered trademarks (and the goodwill of the business in which any such trademarks are used and which is symbolized by said trademarks), and copyrights within Purchased Intellectual Property to the extent transferable by 3M, subject to any agreement listed in Schedule 1.06.

(d) Any IP Agreement to the extent transferable by 3M. 3M's obligations with respect to transferability of any IP Agreement are provided in Section 8.03 (Unassignable Contracts) to the extent the mechanism provided in Section 8.03 would not constitute a breach of the IP Agreement.

6.03 Trade Name and Trademark Restrictions. It is understood and agreed that this Agreement does not constitute an agreement to transfer to Buyer the right to use: (i) the name 3M, (ii) any 3M corporate logo alone, or (iii) any combination of any other mark or symbol with any of the marks identified in Sections 6.03(i) or 6.03(ii), except as provided in Section 6.04.

6.04 Removal of 3M Trade Names. Within a reasonable period of time not to exceed twenty-four (24) months, except as noted below, after the Closing Date, Buyer shall remove all trade names and trademarks of 3M not included in

the Purchased Assets from all assets transferred to Buyer hereunder; provided, however, that it is understood and agreed that with respect to product literature and other assets where removal of such trade names or trademarks would result in damage to such asset, Buyer may instead relabel such assets to conceal such trade names or trademarks. It is understood that Buyer will not be required to remove the 3M trademark or relabel the products, if to do so would jeopardize the registration of such product in a particular jurisdiction, provided that Buyer agrees not to change the manner in which such mark is displayed. Buyer will use its best efforts to transfer said product registrations in its own name as soon as reasonably possible after Closing.

6.05 Intellectual Property Agreement Assumptions. Buyer agrees to assume all of 3M's post-Closing obligations, duties, liabilities and commitments pursuant to the IP Agreements including but not limited to any obligation for 3M to pay any royalty. Buyer agrees to forever hold 3M harmless, defend 3M and indemnify 3M for any damages, penalties or expenses incurred, including reasonable attorney expenses, with respect to any claim or cause of action of any description (regardless of the theory of liability) related to the alleged breach of Buyer's or 3M's assumed post-Closing obligations under the IP Agreements. Without limiting the generality of the previous portion of this section, Buyer agrees to forever hold 3M harmless, defend 3M and indemnify 3M for any damages with respect to a) any cause of action alleging that any third party is entitled to a royalty for sales after the Closing Date pursuant to the IP Agreements, or b) any cause of action for a breach of any of the IP Agreements arising out of this Agreement or the assignment of any IP Agreement to Buyer. The consideration paid by Buyer for the transfer of the IP Agreements shall include the assumption by Buyer of the duties, liabilities, obligations and commitments relating to the Intellectual Property Agreements as set forth in this Section of the Agreement.

6.06 Warranties. 3M hereby warrants and represents, to its knowledge, as follows:

(a) 3M has title to the patents, patent applications, design patents and utility model registrations listed in Schedule 1.04. In addition, such title is subject to or encumbered by the agreements listed in Schedule 1.06;

(b) From the time period beginning five (5) years prior to the execution of this Agreement, neither 3M's Office of Intellectual Property Counsel nor 3M senior executive management have received any claim from any third party charging 3M with infringement of any intellectual property right in connection with 3M's conduct of the Business, except as provided in Schedule 6.06(b);

(c) Schedule 1.04 represents a complete list of patents, patent applications, design patents, registered trademarks, and utility model registrations for which 3M has title that directly and solely relate to the Business as conducted on the Closing Date, except for any patent, patent application, design patent and utility model registration for which 3M requested an outside counsel or International patent firm to abandon more than six (6) months before the Closing Date;

(d) Schedule 1.06 represents a complete list of IP Agreements; and

(e) From the time period beginning five (5) years prior to the execution of this Agreement, 3M's Office of Intellectual Property Counsel has not received any claim from any third party claiming 3M is in breach of any IP Agreement in connection with 3M's conduct of the Business, except as provided in Schedule 6.06(e).

6.07 Notice, Correction of Schedules. Buyer will provide 3M with prompt written notice identifying any item not listed on Schedule 1.04, 1.06, 6.06(b) or 6.06(e) that Buyer comes to believe belongs on Schedule 1.04, 1.06, 6.06(b) or 6.06(e) along with an explanation as to why such missing item belongs on Schedule 1.04, 1.06, 6.06(b) or 6.06(e). If 3M and Buyer agree that such item should have been listed, then 3M will use its best efforts to provide a revised Schedule listing the missing item, subject to Section 8.03 (Unassignable Contracts) to the extent Section 8.03 would not constitute a breach of any agreement that belongs on Schedule 6.06(b). At any time before the Closing Date, 3M will have the unilateral right to add items to Schedules 1.04, 1.06, 6.06(b) or 6.06(e), although Buyer will have the right to terminate this Agreement pursuant to Section 12.01(a) if such addition constitutes a material breach.

6.08 Disclaimers. BUYER ACKNOWLEDGES THAT 3M HAS DISCLAIMED (i) ANY REPRESENTATION OR WARRANTY OF INVENTORSHIP, TRANSFERABILITY, VALIDITY,

ORIGINALITY, ENFORCEABILITY, RELATIONSHIP TO ANY OTHER INTELLECTUAL PROPERTY (E.G., WHETHER PATENTS ARE COUNTERPARTS OR EQUIVALENTS), NON-INFRINGEMENT, RIGHT-TO-PRACTICE, SCOPE, STATUS (PENDING OR ISSUED) OR PRIORITY OF ANY INTELLECTUAL PROPERTY RIGHT AND ANY AGREEMENT RELATING TO INTELLECTUAL PROPERTY; (ii) ANY REPRESENTATION OR WARRANTY WITH RESPECT TO RIGHT TO PRACTICE AND WHETHER ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT IS OR WOULD BE INFRINGED BY THE BUSINESS, 3M PRODUCTS OR 3M PRODUCT LINE, AND (iii) ANY REPRESENTATION OR WARRANTY REGARDING THE STATUS OF ANY IP AGREEMENT (FOR EXAMPLE, WHETHER THE AGREEMENT IS BEING BREACHED).

6.09 Assignment Documents. Buyer agrees to deliver to 3M at the Closing assignment or transfer documents consistent with this Agreement and reasonably acceptable to 3M of patents, patent applications, utility model registrations, design patents, patent licenses assigned in this Article.

6.10 No Implied IP Transfers. It is expressly understood and agreed that, other than the intellectual property expressly identified in Article VI of this Agreement (and related Schedules thereof), this Agreement does not transfer to Buyer any interest in any intellectual property rights.

6.11 Dispute Resolution. Any dispute regarding the terms or conditions of this Article or either party's performance or alleged breach of any term or condition of this Article will be subject to the dispute resolution provisions of section 12.02 except that 3M's Intellectual Property Counsel will be substituted for 3M's General Counsel in section 12.02.

6.12 Indemnity, Notice. This Article will be subject to the provisions of Article XI. In addition, effective twenty-four (24) months after the Closing Date, Buyer hereby releases 3M from any claim (whether known or unknown) relating to intellectual property or this Article that is not the subject of written notice provided to: Chief Intellectual Property Counsel, 3M Office of Intellectual Property Counsel, P.O. Box. 33427, St. Paul, Minnesota 55133-3427, before twenty-four (24) months after the Closing Date.

6.13. Sublicensed Intellectual Property. Effective on the Closing Date, 3M grants to Buyer a non-exclusive, fully paid-up sublicense under the Sublicensed IP Agreement with respect to the 3M Product Line to the extent permitted in the provisions of such Sublicensed IP Agreement relating to 3M's sale of a product line to a third party. 3M made the payment due under section 5.b. of the Sublicensed IP Agreement on or before January 15, 1999.

6.14 Other 3M Patent. Effective on the Closing Date, 3M agrees and covenants not to sue Buyer with respect to Buyer's use (if any) of the method claimed in US Patent No. 4,806,730 in Buyer's conduct of the Business. This covenant will also cover suppliers of Buyer to the extent they practice this method to supply Buyer's needs with respect to the Business. This covenant will be transferable by Buyer to any assignee or successor of the Business.

6.15 Licensed Intellectual Property. Effective on the Closing Date, 3M hereby grants to Linvatec a fully-paid up, non-cancelable, worldwide, non-exclusive license under Licensed Intellectual Property to use such rights within the field of surgical powered instruments, including without limitation the right to make, have made, use, sell, offer for sale, lease, import, export or otherwise dispose of products, and the right to sublicense to customers or suppliers as a part of the manufacture or sale of products, or assign such license to any assignee or successor of the Business. It is believed that there are no patents, patent applications, utility model registrations, or design patents within Licensed Intellectual Property, and thus this Section shall be construed to grant the described license to the extent that the parties discover that this belief is incorrect. Various products of the Business are manufactured or assembled at a common site with 3M's orthopedic casting products business and/or 3M's electronic products business, and there may be trade secrets and know-how within Licensed Intellectual Property that apply or are applicable to the Business and 3M's orthopedic casting products business and/or 3M's electronic products business. This Section will be construed to allow Linvatec and 3M to use such trade secrets and know-how within their respective fields without breaching this Agreement or being sued for misappropriation or infringement by the other party.

ARTICLE VII

Conditions to Closing

7.01 Conditions to the Buyer's Obligations. The obligations of the Buyer to be performed at the Closing shall be subject to the satisfaction or the waiver in writing by the Buyer at or prior to the Closing of the following conditions:

(a) Each of the representations and warranties of 3M contained in this Agreement shall be true in all material respects as of the Closing with the same effect as though such representations and warranties have been made as of the Closing, except for any variations therein resulting from actions contemplated or permitted by this Agreement, and each of the covenants to be performed by 3M at or before the Closing pursuant to the terms hereof shall have been duly performed in all material respects.

(b) No action, suit or proceeding by any governmental authority shall be pending against the Buyer or 3M which seeks to prevent the consummation of the transactions contemplated by this Agreement, and no injunction or order for any court or administrative agency of competent jurisdiction shall be in effect which restricts or prohibits the consummation by the Buyer or 3M of the transactions contemplated by this Agreement.

(c) Any waiting period (and any extension thereof) under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), applicable to the acquisition of the Purchased Assets contemplated hereby shall have expired or been terminated.

(d) 3M and Buyer shall have executed a supply agreement containing at least the terms set forth on Exhibit B ("Supply Agreement") to ensure a smooth transition during that period between the Closing and the commencement of manufacturing by Buyer.

(e) 3M and Buyer shall have executed a transition and distribution services agreement containing at least the terms set forth on Exhibit C ("Transition and Distribution Services Agreement") to ensure a smooth transition during that period between the Closing and the commencement of distribution and service by Buyer.

(f) 3M and Buyer shall have executed a lease agreement containing at least the terms set forth on Exhibit D ("Lease and Shared Facilities Agreement") to ensure a smooth transition during that period between the Closing and the commencement of manufacturing by Buyer in Buyer's own facility.

(g) Buyer shall be reasonably satisfied that 3M has complied, in all material respects, with 3M's obligations pursuant to Section 8.13 (providing names of and information relating to certain sales and technical services employees to be considered for employment with Buyer), 8.15(a) (relating to the transfer of data in respect of sales, orders and customer service), 8.16 (Transition Assistance in Japan), and 8.17 (Pre-Closing Disclosure).

(h) Buyer shall have received from 3M:

(i) A Bill of Sale in the form of Exhibit E.

(ii) Certificate of Good Standing.

(iii) Certified copies of 3M's corporate resolutions authorizing the transaction contemplated hereby and by the Supply Agreement.

(i) 3M shall have delivered to Buyer raw material, packaging, factory supplies, work in progress and finished goods inventory valued in the amount specified in Section 2.01(b), with the appropriate mix of finished-goods products, which value shall be in an amount consistent with past practices, which Linvatec shall verify at Closing (the "Count") and such value being measured according to the cost of manufacturing or purchase by 3M, with Linvatec to ship the inventory upon completing the Count at Closing. 3M shall make its sites and responsible employees available, as needed, on weekends or holidays to facilitate the Count. 3M shall have shipped finished goods inventories in an amount in value not to exceed One Million Dollars (\$1,000,000.00) for receipt by Linvatec as of August 1, 1999 at Linvatec's Belgium or Largo, Florida facilities, provided Linvatec will designate on July 21, 1999 the products to be shipped to the respective locations to which they shall be shipped.

(j) 3M shall have completed Schedule 2.02 (Excluded Assets). Any items added by 3M to Schedule 2.02 between the signing of this Agreement and the Closing must be approved by Buyer, which will not withhold its approval

unreasonably.

(k) Buyer shall be reasonably satisfied that there is no Adverse Material Change, respect of sales, costs of manufacturing, the environmental status of the California facility and the backorder status.

(l) Buyer and/or its parent company shall have received necessary consents and commitments for financing and shall have received funds at least equal to the Purchase Price from its lenders as of the Closing.

(m) Buyer shall have received the environmental audit reasonably in advance of the Closing and such audit shall not disclose any adverse material condition.

7.02 Conditions to the Obligations of 3M. The obligations of 3M to be performed at the Closing shall be subject to the satisfaction or the waiver in writing by 3M at or prior to the Closing of the following conditions:

(a) Each of the representations and warranties of the Buyer contained in this Agreement shall be true in all material respects as of the Closing with the same effect as though such representations and warranties had been made as of the Closing, except for any variations therein resulting from actions contemplated or permitted by this Agreement, and each of the covenants to be performed by the Buyer at or before the Closing pursuant to the terms hereof shall have been duly performed in all material respects.

(b) No action, suit or proceeding by any governmental authority shall be pending against the Buyer or 3M which seeks to prevent the consummation of the transactions contemplated by this Agreement, and no injunction or order of any court or administrative agency of competent jurisdiction shall be in effect which restricts or prohibits the consummation by the Buyer of 3M of the transactions contemplated by this Agreement.

ARTICLE VIII

Certain Agreements

8.01 Buyer Investigation; No Representations or Warranties; Exclusivity of Remedies

(a) THE BUYER HEREBY ACKNOWLEDGES THAT IT HAS EXPERIENCE IN THE OPERATION OF THE BUSINESS, HAS INDEPENDENTLY EVALUATED AND CONDUCTED THOROUGH DUE DILIGENCE WITH RESPECT TO THE 3M PRODUCT LINE, THE PURCHASED ASSETS AND THE BUSINESS (INCLUDING THE OPERATIONS, FACILITIES, CONTRACTS, MANUFACTURING PROCESS, INTELLECTUAL PROPERTY, FINANCIAL INFORMATION AND PROSPECTS OF THE BUSINESS), AND HAS BEEN REPRESENTED BY, AND HAD THE ASSISTANCE OF, COUNSEL (INCLUDING INTELLECTUAL PROPERTY COUNSEL) IN THE CONDUCT OF SUCH DUE DILIGENCE, THE PREPARATION AND NEGOTIATION OF THIS AGREEMENT AND THE TRANSACTION DOCUMENTS, AND THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREBY.

(b) 3M HAS MADE AVAILABLE TO THE BUYER AND ITS REPRESENTATIVES CERTAIN INFORMATION AND RECORDS RELATING TO THE 3M PRODUCT LINE, THE PURCHASED ASSETS, INTELLECTUAL PROPERTY, AND THE BUSINESS. IT IS UNDERSTOOD AND AGREED BY THE PARTIES THAT NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, HAS BEEN MADE BY 3M OR ITS AGENTS REGARDING THE ACCURACY OR COMPLETENESS OF ANY SUCH INFORMATION OR RECORDS, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY OF THE TRANSACTION DOCUMENTS, AND THAT 3M WILL NOT HAVE OR BE SUBJECT TO ANY LIABILITY TO THE BUYER OR ANY OTHER PERSON RESULTING FROM THE DISTRIBUTION TO THE BUYER, OR THE BUYER'S USE, OF ANY SUCH INFORMATION OR RECORDS, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT. FURTHERMORE, THE BUYER AGREES THAT IT IS ACCEPTING POSSESSION OF THE PURCHASED ASSETS AT THE CLOSING "AS IS, WHERE IS, WITH ALL FAULTS", WITH NO RESULTING RIGHT OF SET-OFF OR REDUCTION IN THE PURCHASE PRICE, AND THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY OF THE TRANSACTION DOCUMENTS, THE SALE OF THE PURCHASED ASSETS IS BEING MADE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF INCOME POTENTIAL, OPERATION EXPENSE, USE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH REPRESENTATIONS AND WARRANTIES ARE HEREBY DISCLAIMED AND RENOUNCED BY 3M.

(c) THE BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 12.15, ITS SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY AND ALL CLAIMS RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING CLAIMS FOR BREACHES OF REPRESENTATIONS, WARRANTIES AND COVENANTS

CONTAINED IN THIS AGREEMENT) SHALL BE PURSUANT TO THE INDEMNIFICATION PROVISIONS SET FORTH IN ARTICLE XI.

(d) WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NO CLAIMS RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT MAY BE BROUGHT BY THE BUYER AGAINST ANY DIRECTOR, OFFICER OR EMPLOYEE OF 3M IN HIS OR HER INDIVIDUAL CAPACITY.

8.02 Conduct of Business. Except as expressly contemplated by this Agreement, from the date hereof until the Closing, 3M will conduct the Business in the usual and ordinary course. 3M specifically agrees that it will not (i) enter into any agreements with respect to the Business that are less favorable than contracts currently in place, (ii) enter into new contracts without the prior written consent of Buyer, (iii) give away any products or services associated with the Business without the prior written consent of Buyer (iv) offer or provide its products to customers, distributors or others in any special incentive pricing packages, including any bundled sales of the Products with other medical or other products, except as may be necessary to meet competitive pricing in the markets for the Product being sold as part of the Business and only then after receiving proof of approval from Buyer; and (v) offer discounted pricing or free products in connection with any effort to sell other 3M products. 3M may, however, reasonably offer prices as needed to meet competitors' prices for the 3M Products.

8.03 Unassignable contracts. Notwithstanding anything to the contrary stated in this Agreement, but Subject to Article VI (Intellectual Property), if any Contract cannot be assigned to or assumed by the Buyer without the approval, consent or waiver of another party thereto, and such approval, consent or waiver has not been obtained at or prior to the Closing, then (i) such Contract shall not be assigned to or assumed by the Buyer at the Closing, (ii) 3M and the Buyer shall, if such approval, consent or waiver is obtained following the Closing, promptly thereafter execute all documents necessary to complete the assignment and assumption of such Contract (at Buyer's expense), and (iii) unless and until such approval, consent or waiver is obtained and such assignment and assumption occurs, 3M shall hold the benefits and privileges of such Contract arising after the Closing Date in trust, to the extent permitted, for the Buyer and the Buyer will indemnify and hold harmless 3M against and with respect to all obligations of 3M payable or performable after the Closing Date under such Contract. Each of 3M and the Buyer agrees to use reasonable efforts to promptly obtain all approvals, consents and waivers from third parties to the Contracts which are necessary to permit the Contracts to be assigned to and assumed by the Buyer, provided that neither 3M nor the Buyer shall be obligated to make any payment or offer or grant any accommodation (financial or otherwise) in exchange for any such approval, consent or waiver.

8.04 Bulk Transfer Laws. 3M and the Buyer mutually waive compliance with the provisions of any applicable state bulk transfer laws, including any state tax laws relating to the obligations of buyers of assets in bulk transfers.

8.05 Removal of Assets. The Buyer agrees to assume responsibility for, and pay all expenses in connection with, removing, transporting and relocating those Purchased Assets which at the Closing are located at any of 3M's facilities or service centers. Such removal shall be completed according to the dates listed on a schedule to be completed by Buyer ninety (90) days before any such removal. 3M agrees to give the Buyer, its agents and employees access to such facilities at reasonable times and upon reasonable notice for purposes of removing such Purchased Assets. 3M shall have no liability to the Buyer in connection with the storage at, or removal from, such facilities of the Purchased Assets after the Closing, and risk of loss with respect to such Purchased Assets shall pass to the Buyer at the Closing. 3M will provide assistance and cooperation, for example, in providing access to buildings on weekends, if required, in scheduling the removal of such items, and will be responsible for moving its own equipment, and scheduling its own production, to the extent necessary for the removal of the Purchased Assets. Buyer shall be responsible for any damage caused as a result of its own negligence.

8.06 Record Retention. The Buyer shall retain all business files and documents included in the Purchased Assets and so specified in Schedule 8.06 (Record Retention) for a period of ten years after the Closing Date, and the Buyer shall make available to 3M any such records for inspection and copying, upon reasonable notice from 3M.

8.07 Regulatory Filings. (a) The parties agree to use their best efforts to cooperate with one another in (i) determining which filings are

required to be made prior to the consummation of the transactions contemplated hereby, and which consents, approvals, permits or authorizations are required to be obtained prior to the consummation of the transactions contemplated hereby from governmental or regulatory authorities of the United States, the several states and foreign jurisdictions in connection with the execution and delivery of this Agreement and the consummation of the transaction contemplated hereby and (ii) timely making all such filings and timely seeking all such consents, approvals, permits and authorizations. Notwithstanding the foregoing, Buyer will be solely responsible for obtaining any said filings. The parties shall be responsible for their own counsel fees, with Buyer being responsible for fees associated with filings required to transfer regulatory approvals and licenses.

(b) With respect to FDA and similar agencies in other countries, 3M will cooperate with Buyer prior to Closing in identifying regulatory filings used in the Business that cannot be transferred freely. Buyer is solely responsible for obtaining such filings (including, but not limited to the payment of any fees and expenses).

(c) 3M will identify all import licenses and product registrations or approvals it holds in foreign countries pursuant to Section 8.17.

8.08 Further Assurances. For a period of three (3) years following the Closing Date, 3M shall promptly execute, acknowledge and deliver any further assignments, conveyances and other instruments of transfer reasonably requested by the Buyer and necessary to effectuate the transfer of title to the Purchased Assets to the Buyer and, at the Buyer's expense, will take any other action consistent with the terms of this Agreement that may reasonably be requested by the Buyer for the purpose of assigning, transferring, granting, and confirming ownership in or to the Buyer, or reducing to the Buyer's possession, any or all of the Purchased Assets. Such further assurances shall also extend to any efforts reasonably requested or required in connection with the transfer of import and regulatory permits, licenses and authorizations, which efforts shall include, by way of illustration, acting as an import agent with Buyer being responsible for 3M's costs, including import fees, duties and administrative costs but excluding freight and insurance (to be paid by Buyer).

8.09 No Adverse Material Change. 3M agrees that it will make all commercially reasonable efforts to maintain the Business at its current levels up to and through Closing, and that there will be no adverse material change in the Business prior to and up to the Closing.

8.10 Non-Competition Agreement. (a) For a period of five (5) years following the Closing Date, neither 3M, nor any of the affiliates of 3M shall, directly or indirectly (whether as principal, agent, employee, independent contractor, partner or otherwise) engage in the manufacture or sale of any 3M Products or products substantially similar to and competitive to the 3M Products being sold in this Agreement anywhere in the world, except to the extent permitted under the Transition and Distribution Services Agreement. Notwithstanding anything to the contrary in this Section 8.10, 3M and its affiliates shall not be deemed to have violated the terms of this Section 8.10 as a result of a) ownership by 3M or its affiliates of less than five percent (5%) of the outstanding shares of capital stock of any publicly traded company with one or more classes of capital stock listed on a national securities exchange or publicly traded market, except that in the case of ownership of such stock, directly or indirectly, for purposes of its pension fund no such percent limit shall be applicable; b) the purchase by 3M or its affiliates of any business where the business to be acquired owns or operates a business engaged in the manufacture or sale of 3M Products or products substantially similar to and competitive to the 3M Products, where such business is incidental to the acquisition of a more significant business provided that such business is divested within one (1) year of the date of acquisition and that 3M offers Buyer the right of last refusal to purchase such divested business, such right exercisable by Buyer within thirty (30) days of written notice from 3M of the proposed sale, 3M's asking price, terms for sale as set forth in a definitive agreement (with 3M to provide Linvatec with such information as is customarily provided for due diligence, including all information provided to or made available to other prospective purchasers).

(b) For a period of three (3) years after the Closing Date, neither 3M nor any of the affiliates of 3M shall, directly or indirectly (whether as principal, agent, employee, independent contractor, partner, or otherwise) induce or attempt to persuade any employee or agent of Buyer engaged in the Business or customer of the Business to terminate such employment, agency or business relationship in order to enter into any such relationship on behalf of any other business organization in competition with the Business;

(c) In the event 3M or any of its affiliates violates any of their respective obligations under this Section 8.10, and Buyer may proceed against such party in law or in equity for such damages or other relief as any court may deem appropriate. 3M acknowledges that a violation of this Section 8.10 may cause Buyer irreparable harm which may not be adequately compensated for by money damages. 3M therefore agrees that in the event of any actual or threatened violation of this Section 8.10, any Buyer shall be entitled, in addition to other remedies that it may have, to a temporary restraining order and to preliminary and final injunctive relief against 3M to prevent any violations of this Section 8.10, without the necessity of posting a bond. The prevailing party in any action commenced under this Section 8.10 shall also be entitled to receive reasonable attorneys' fees and court costs. If at the time of enforcement of this Section 8.10, the court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the court may reduce the duration, scope or area, in a manner rendering the restriction imposed under this Section 8.10 reasonable in duration, scope or area, but in no event in excess of the stated duration, scope or area. In an action in law or in equity for breach or enforcement of this Section 8.10 brought in any court having competent jurisdiction over the parties to such an action, the prevailing party shall be entitled to recover from the other party or parties its reasonable attorneys fees, costs and expenses associated with prosecuting or defending such an action to its final disposition (including final dispositions by summary adjudication, judge or jury verdict or final appeal)

8.11 Misdirected Payments. The parties anticipate that certain third parties, including customers and vendors, may misdirect payments or good to 3M rather than to the Buyer, or to the Buyer rather than 3M. 3M and the Buyer agree to notify and to forward to the other promptly any such misdirected payments or goods.

8.12 Transition Assistance. 3M will enter into a Transition and Distribution Services Agreement for transition services requested by Buyer to permit the Business to be operated consistent with past practices until Buyer can assume control of the Business so as to effectively transfer ownership of the Purchased Assets.

8.13. Sales and Marketing Employees. By July 16, 1999, 3M shall provide to Buyer the names, addresses, phone numbers and employment information of at least 10 3M sales persons who are located in Germany and the United Kingdom and who are experienced in selling the 3M Products, and one product specialist in Germany, as well as the names of employees of 3M's Japanese joint venture who will be available for the Shuko employment option should Buyer choose to exercise such option; provided, however, that 3M cannot guarantee said Japanese employees will elect the Shuko arrangement. 3M has the option, but not the obligation, to provide such information for other 3M employees in any other locations, including the United States. Except as set forth in Section 9.01, Buyer shall have the option, but not the obligation, to offer employment to those employees it selects. As to any employees offered employment by Linvatec, 3M agrees to exercise reasonable efforts to encourage such employees to accept such offers of employment. 3M further agrees to exercise reasonable efforts to cause the 3M joint venture to enter into such an arrangement.

8.14. Retrieval of Loaners and Demos. 3M shall be responsible for retrieving, within thirty (30) days of any request, all loaner and demonstration equipment, whether located in hospitals, surgery centers, physician offices or otherwise, as requested by Linvatec for up to six (6) months following the Closing.

8.15. Data Transfer. 3M shall provide the following assistance with transfer of electronic data:

(a) Sales, Order, Customer Service Data. 3M shall make available sufficient personnel and resources to transfer electronic and non-electronic data, and shall transfer such data, relating to sales, customer base, products, ordering and customer service functions in the formats reasonably selected by Buyer, with such transfer to be completed within twenty (20) days following the signing of this Agreement.

(b) Manufacturing Systems, Quality System and Other Business Systems Requirements. 3M shall make available sufficient personnel and resources to transfer, and shall transfer, electronic data relating to manufacturing, quality system requirement (including complaint handling, investigation and response) and any other functions in the formats reasonably selected by Buyer within a

reasonable period of time following Closing.

(c) Continued Access To 3M Systems: Until the transfer of data contemplated by subsection (b) above shall have been completed to Buyer's reasonable satisfaction, 3M shall provide Buyer with access to 3M's computer systems and provide personnel and resources sufficient to process the complaint handling, investigation and quality systems as have been used in the Business and permit Buyer to use such 3M computer systems and handle such complaints consistent with past practices at the Business.

8.16 Transition Assistance in Japan. To assist in transferring the Business in Japan, Buyer shall have the option to employ those employees in Japan who are employed with the 3M joint venture and who are most familiar with the 3M Products, under a Shuko arrangement to be defined prior to Closing; provided, however, that 3M cannot guarantee said Japanese employees will elect the Shuko arrangement.

8.17. Pre-Closing Disclosure and Assistance. To facilitate Buyer's taking control of the Business as of the Closing, 3M agrees to provide Buyer with all of the information set forth on Schedule 8.17, by the dates set forth on Schedule 8.17. 3M shall also promptly provide other information reasonably requested by Buyer before Closing.

8.18. Exclusivity. 3M agrees that, between the date of execution of the Agreement and the Closing, it shall not enter into or conduct any discussions with any other prospective purchaser of the Business. Moreover, 3M agrees to deal exclusively with Buyer for the purchase of the Business between the execution of this Agreement and the Closing.

8.19 Environmental Audit. 3M shall obtain and deliver to the Buyer an environmental site audit covering the property in Irvine, California.

8.20 Warranty Reserve. 3M shall pay to Buyer for 3M Products sold prior to Closing the warranty amount of Three Hundred Thousand Dollars (\$300,000.00) associated with 3M's "A" (new equipment) and "B" (repaired equipment) warranties.

ARTICLE IX

Employees

9.01 Employment Offers. With the exception of no more than 7 customer service and warehouse employees to be identified by Buyer (no later than June 30, 1999) in Schedule 9.01, Buyer agrees to offer employment (at compensation levels comparable to those being paid by 3M) as of the Closing Date, to those persons employed in the United States at Irvine, California by 3M in connection with the Business purchased. Such persons employed in the United States by 3M in connection with the Business purchased shall be referred to hereinafter as the "Business Employees". 3M agrees to exercise reasonable efforts to encourage all Business Employees who are offered employment by Buyer to accept such offers of employment. Those Business Employees who accept employment with Buyer pursuant to this Agreement shall be referred to as "Transferred Employees". Business Employees of 3M who are on long-term disability as of the Closing Date will remain employees of 3M. Should any Transferred Employee who is absent from work on the Closing Date due to a short-term disability remain absent long enough to qualify for benefits under Buyer's long-term disability plan, 3M shall reimburse Buyer for its cost of providing benefit coverages to such Transferred Employee for as long as such Employee continues to receive long-term disability benefits under Buyer's long-term disability plan.

9.02 Benefits. From and after the Closing Date, Buyer will provide coverage and benefits to the Transferred Employees under the same pension and welfare benefit plans covering its employees, and 3M will have no responsibility therefor on and after such date. Except as provided in Section 9.04, 3M shall remain responsible to the Transferred Employees for all benefits accrued pursuant to 3M benefit plans prior to the Closing Date and payable under the provisions of such plans, and Buyer assumes no liability or obligation therefor.

9.03 Group Health Plans. Buyer will cause its group health benefit plans to (i) waive any exclusions for pre-existing conditions affecting Transferred Employees and their eligible family members, and (ii) recognize any out-of-pocket medical and dental expenses incurred by Transferred Employees and their eligible family members during 1999, but prior to the Closing Date, for

purposes of determining their deductibles and out-of-pocket maximums under Buyer's plans. For a period of two years following the Closing Date, Buyer shall cause the premiums paid by the Transferred Employees for their coverage under Buyer's medical plan to be equal to the premiums charged by 3M's medical plan for similar coverage. 3M will contribute to the cost of such reduced premiums by paying \$50,000 to Buyer at Closing.

9.04 Vacation Benefits. From and after the Closing Date, the Transferred Employees will be covered by and begin accruing benefits under Buyer's vacation plan covering its salaried employees. Buyer's vacation plan shall recognize all of the Transferred Employees' years of service with 3M for the purpose of determining their future vacation benefits. On or immediately following the Closing Date, 3M will pay in cash to the Transferred Employees the amount of their accrued and unused vacation benefits under 3M's vacation plan through the Closing Date. Within thirty (30) days after the Closing Date, 3M will provide Buyer with a list of Transferred Employees and the days of unused vacation benefits for which such employees received payment from 3M. During the remainder of 1999, Buyer will cause its vacation plan to permit the Transferred Employees to take unpaid absences equal in time to the number of days of unused vacation benefits for which they received payment from 3M.

9.05 Service Credit. Buyer shall cause each of its pension and welfare benefit plans to recognize all of the service that the Transferred Employees completed with 3M for purposes of determining their eligibility to participate in, eligibility for benefits under, and vesting in accrued benefits. Accrual of benefits under such plans shall commence on the date of Closing.

9.06 Non-Solicitation. 3M agrees not to seek to hire, or to hire, any Transferred Employee, except as may be permitted with Buyer's prior written consent or in the event Buyer terminates the employment of such Transferred Employee, for a period of two (2) years following the Closing Date.

9.07 Severance. Buyer will provide the following severance benefits to any Transferred Employee whose employment is either (a) involuntarily terminated (other than for cause) by Buyer, or (b) terminated in connection with a sale or other disposition of all or part of the Business (unless such Employee is offered comparable employment with the entity that acquires the Business or such part thereof), within two years after the Closing Date: (i) severance pay in accordance with the severance policy of Buyer in effect at the time of termination, but not less than one and one-half weeks of pay for each year of employment with 3M and Buyer or their affiliates (including periods prior to the Closing Date); and (ii) six months of continued health benefits coverage for such Transferred Employee and his or her eligible family members at no cost.

ARTICLE X

Closing

10.01 Closing Date. The closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities pursuant to this Agreement (the "Closing") shall take place on August 11, 1999, at the offices of 3M Center, St. Paul, Minnesota, at 10:00 a.m., or, if the conditions to Closing set forth in Article VII shall not have been satisfied or waived by the appropriate party by such time of day on such date, at the same time of day on the first business day to occur following the date on which all of the conditions to Closing set forth in Article VII shall have been satisfied or waived as provided therein (subject to the provisions of Section 12.01), or at such other date, place or time as the Buyer and 3M may agree upon in writing. The date on which the Closing shall be required to occur, as determined in accordance with this Section 10.01, is herein referred to as the "Closing Date". The Closing shall be deemed to have become effective as of the close of business on the Closing Date.

10.02 Closing Deliveries.

(a) 3M agrees to deliver to the Buyer at the Closing (i) such bills of sale, assignments and other instruments of transfer, in form and substance reasonably satisfactory to the Buyer, as shall be necessary or appropriate to effect the conveyance to the Buyer of the Purchased Assets (without representation or warranty except as expressly provided in this Agreement), duly executed by 3M; (ii) the sublicense provided for in Section 6.13, (iii) the warranty reserve amount provided in Section 8.20; and (iv) the payment relating to the health insurance premiums for Transferred Employees as provided in

Section 9.03.

(b) The Buyer agrees to pay or deliver, as the case may be, to 3M at the Closing the following:

(i) an assumption agreement, in form and substance reasonably satisfactory to 3M, effecting the assumption by the Buyer of the Assumed Liabilities, duly executed by the Buyer; and

(ii) the Purchase Price paid in the manner provided in Section 3.01.

(c) The certificates, instruments and documents executed and delivered by the parties at the Closing pursuant to this Agreement are herein collectively referred to as the "Transaction Documents".

10.03 Post-Closing Deliveries. Each of the Buyer and 3M will, at the request and sole cost and expense of the other such party, do, make, execute, acknowledge and deliver after the Closing all such other and further acts and instruments of conveyance, assignment, transfer, consent and assumption as the Buyer may reasonably require to confirm conveyance and transfer to the Buyer of any of the Purchased Assets or as 3M may reasonably require to confirm assumption by the Buyer of any of the Assumed Liabilities.

ARTICLE XI

Indemnity

11.01 Survival. The representations and warranties of the Buyer and 3M herein or in any of the Transaction Documents shall survive the Closing, but, as to any claim, only for so long as the indemnification obligations under this Agreement with respect to such claim remain in force as provided in Section 11.02(b) or 11.03(b).

11.02 Indemnity by 3M.

(a) 3M hereby agrees to indemnify and defend the Buyer against and with respect to any and all claims, losses, injuries, damages, deficiencies, liabilities, obligations, assessments, judgments, costs and expenses, including (except as otherwise expressly provided in this Agreement) costs and expenses of litigation and reasonable attorneys' fees ("Losses"), suffered or incurred by the Buyer to the extent caused proximately by:

(i) any material breach of any representation or warranty of 3M contained in this Agreement;

(ii) any material non-fulfillment of any covenant or agreement of 3M contained in this Agreement;

(iii) any failure of the parties, in connection with the transactions contemplated hereby, to comply fully with the provisions of any applicable state bulk transfer laws, including any state tax laws relating to the obligations of buyers of assets in bulk transfers (provided that in no event shall 3M be required to indemnify the Buyer hereunder with respect to any liability for which the Buyer would have been obligated even had such laws been fully complied with, including any Assumed Liabilities or any other liabilities or obligations that the Buyer has expressly agreed to pay or be responsible for pursuant to this Agreement); and

(iv) with respect to any claim of product liability or infringement of third party intellectual property rights relating to any sales of 3M Products by 3M before the Closing Date

(b) Notwithstanding anything to the contrary provided elsewhere in this Agreement, the obligations of 3M under this Agreement to indemnify the Buyer with respect to any claim pursuant to clause (i) of Section 11.02(a) shall be of no force unless the Buyer has given 3M written notice of such claim prior to the eighteen (18) months after the Closing Date.

(c) Notwithstanding anything to the contrary provided elsewhere in this Agreement, in no event shall 3M be liable to the Buyer for amounts payable under clause (i) of Section 11.02(a) until such amounts exceed in the aggregate

\$100,000.00, and then only to the extent of any such excess.

(d) Notwithstanding anything to the contrary provided in this Agreement, in no event shall 3M be liable to the Buyer for amounts payable under clause (i) of Section 11.02(a) to the extent such amounts exceed in the aggregate fifty percent (50%) of the Purchase Price.

11.03 Indemnity by the Buyer.

(a) The Buyer hereby agrees to indemnify and defend 3M against and with respect to any and all Losses suffered or incurred by 3M to the extent caused proximately by:

(i) any material breach of any representation or warranty of the Buyer contained in this Agreement or in any of the Transaction Documents;

(ii) any material non-fulfillment of any covenant or agreement of the Buyer contained in this Agreement or in any of the Transaction Documents;. and

(iii) the Assumed Liabilities.

(b) Notwithstanding anything to the contrary provided elsewhere in this Agreement, the obligations of the Buyer under this Agreement to indemnify 3M with respect to any claim pursuant to clause (i) of Section 11.03(a) shall be of no force unless 3M has given the Buyer written notice of such claim prior to eighteen (18) months after the Closing Date.

(c) Notwithstanding anything to the contrary provided elsewhere in this Agreement, in no event shall the Buyer be liable to 3M for amounts payable under clause (i) of Section 11.03(a) until such amounts exceed in the aggregate \$100,000.00, and then only to the extent of any such excess.

11.04 Third Party Claims.

(a) Notice. A party seeking indemnification ('Indemnified Party') pursuant to this Agreement in respect to, arising out of or involving a claim or demand made by any third party (a 'Third Party Claim') must promptly provide in writing to the party obligated to provide indemnification (the 'Indemnifying Party').

1. Notice of the Third Party Claim;

2. Tender of its defense against the Third Party Claim; and

3. All copies of documents (including court papers) relating to the Third Party Claim.

Failure of the Indemnifying Party to promptly provide notice, tender of defense or copies of documents does not affect the Indemnifying Party's obligation to provide indemnification unless the Indemnifying Party has been actually prejudiced by the failure. However, the Indemnifying Party will not be liable for any costs or expenses (including any settlements or judgments) incurred prior to receiving the notice, tender and documents.

(b) Assumption of Defense. The Indemnifying Party may, at any time, assume the defense against a Third Party Claim for which it is obligated to defend the Indemnified Party by giving written notice to the Indemnified Party. However, the Indemnifying Party will be responsible for any costs or expenses (including reasonable attorneys fees) of that defense incurred by the Indemnified Party after the Indemnified Party provided notice of the Third Party Claim, but before the Indemnifying Party assumed the defense. Upon assuming the defense, the Indemnifying Party will control the defense and provide counsel of its reasonable choice to represent the Indemnified Party; however, the Indemnified Party may, at its own expense, participate in the defense with its own counsel.

(c) Cooperation. The Indemnified Party will, at its expense, cooperate in the defense assumed by the Indemnifying Party. Cooperation will include, for example, the providing records and information and making available employees, as reasonably requested by the Indemnifying Party. The Indemnifying Party will only be required to reimburse the Indemnified Party for actual out-of-pocket expenses (for example, copying charges and travel expenses) incurred by the Indemnifying Party in cooperating.

(d) Settlement.

1. By the Indemnifying Party. The Indemnifying Party may not enter any settlement on behalf of the Indemnified Party that requires the admission of liability of or permits injunctive relief against the Indemnified Party without the written consent of the Indemnified Party, which consent will not be unreasonably withheld.

2. By the Indemnified Party. The Indemnified Party will not admit any liability with respect to, settle, compromise or discharge, any Third Party Claim for which it seeks indemnification without the written consent of the Indemnifying Party, which consent will not be unreasonably withheld.

11.05 Adjustments. The amount of any Losses for which indemnification is provided under this Article XI shall be reduced to take account of any net tax benefit realized by the Indemnified Party arising from the incurrence or payment of any such Losses. In computing the amount of any such tax benefit, the Indemnified Party shall be deemed to use all other items of income, gain, loss, deduction or credit before using any item arising from the incurrence or payment of any indemnified Losses.

ARTICLE XII

Miscellaneous

12.01 Termination. This Agreement may be terminated and the transactions contemplated hereby abandoned prior to the Closing:

(a) by the Buyer giving written notice to 3M, if 3M shall be in breach in any material respect of any representation, warranty or covenant contained in this Agreement (provided that no such termination shall occur unless the Buyer shall have given notice to 3M of such breach, specifying in reasonable detail the nature of such breach, and such breach shall not have been cured in all material respects within 30 days after such notice is given), or if the conditions set forth in Section 7.01 shall become impossible to fulfill other than for reasons totally within the control of the Buyer and shall not have been waived in writing by the Buyer;

(b) by 3M giving written notice to the Buyer, if the Buyer shall be in breach in any material respect of any representation, warranty or covenant contained in this Agreement (provided that no such termination shall occur unless 3M shall have given notice to the Buyer of such breach, specifying in reasonable detail the nature of such breach, and such breach shall not have been cured in all material respects within 30 days after such notice is given), or if the conditions set forth in Section 7.02 shall become impossible to fulfill other than for reasons totally within the control of 3M and shall not have been waived in writing by 3M;

(c) by mutual agreement of 3M and the Buyer; and

(d) by the Buyer or 3M giving written notice to the other such party, if the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities contemplated hereby shall not have been consummated by August 30, 1999, unless such failure shall be due to the failure of the party seeking to terminate this Agreement to perform or observe any covenants contained in this Agreement required to be performed or observed by such party at or before the Closing.

If this Agreement is terminated pursuant to any of the provisions hereof, each of the parties hereto shall thereupon be released from all liabilities hereunder, except (i) liabilities for any default under this Agreement which shall have occurred prior to the effective date of such termination, (ii) all confidentiality obligations pursuant to the Confidential Disclosure Agreement dated March 1, 1999 ("CDA"), and (iii) obligations set forth in Sections 12.03 and 12.13.

12.02 Dispute Resolution

(a) Any disagreement or dispute between the parties arising out of or related to this Agreement or the breach or making hereof (a "Dispute") shall be resolved in the manner provided in this Section 12.02. Should there develop any

Dispute, either party may, by written notice to the other party, request that such Dispute be referred to the Group Counsel of the Medical Markets Group of 3M and the Vice President - Legal Affairs of the Buyer's parent company (the "Principals"), who shall negotiate in good faith to attempt to resolve the Dispute. No settlement reached under this Section 12.02(a) shall be binding on the parties until reduced to a writing signed on behalf of the parties by the Principals.

(b) Should the procedure outlined in Section 12.02(a) fail to bring about a resolution of each outstanding Dispute within 30 days following the giving of the notice referred to therein, then the parties shall promptly initiate a voluntary, non-binding mediation conducted by a mutually-agreed mediator. Should the parties for any reason be unable to agree upon a mediator, they shall request the clerk of court of the Ramsey County District Court in the State of Minnesota to appoint a capable mediator for them. The Buyer and 3M shall each bear one-half of the costs and expenses of the mediation and shall endeavor in good faith to resolve therein each outstanding Dispute. No settlement reached under this Section 12.02(b) shall be binding on the parties until reduced to a writing signed on behalf of the parties by the Principals.

(c) Notwithstanding anything to the contrary provided in this Section 12.02, and without prejudice to the above procedures, either party may at any time, in connection with any Dispute, apply to a court of competent jurisdiction for temporary injunctive or other provisional judicial relief if in such party's sole judgment such action is necessary to avoid irreparable damage or to preserve the status quo until such time as the arbitration award is rendered or the Dispute is otherwise resolved in accordance with this Section 12.02.

12.03 Expenses. Except as otherwise expressly provided herein, each party hereto shall pay its own legal, accounting and other expenses incident to the preparation of, and consummation of the transactions contemplated by, this Agreement.

12.04 Titles. The titles of the Articles and Sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

12.05 Entire Agreement. This Agreement and the CDA constitute the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements.

12.06 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

12.07 Waivers, Consents and Amendments. Any failure of either of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the other party only by a written instrument signed by such other party, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of either party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth herein. This Agreement may be amended only by an agreement, in writing, signed by the parties hereto.

12.08 Governing Law. This Agreement shall be governed in all respects by, and construed under, the laws of the State of Minnesota.

12.09 Jurisdiction. Subject to the provisions of Section 12.02, each of 3M and the Buyer (i) irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in Minnesota for the purposes of any suit, action or other proceeding arising out of this Agreement or the transactions contemplated hereby (and agrees not to commence any action, suit or proceeding relating hereto except in any such court), (ii) agrees that service of any process, summons, notice or document by United States registered mail to such party's respective address set forth in Section 12.13 shall be effective service of process for any action, suit or proceeding in Minnesota with respect to which it has submitted to jurisdiction as set forth above, and (iii) irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in any state or federal courts sitting in Minnesota and agrees not to plead or claim in any such court that any such action, suit or proceeding brought therein has been brought in an inconvenient forum. Each of 3M and the

Buyer acknowledges that the time and expense required for trial by jury exceed the time and expense required for a bench trial and hereby waive, to the extent permitted by law, trial by jury.

12.10 SPECIAL DAMAGES. BUYER AND 3M HAVE EACH AGREED TO WAIVE ANY RIGHT TO RECEIVE PUNITIVE, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES RELATING IN ANY WAY TO THIS AGREEMENT OR THE PURCHASE/SALE OF THE BUSINESS AND/OR THE PURCHASED ASSETS, IRRESPECTIVE OF THE LEGAL THEORY ASSERTED, INCLUDING BUT NOT LIMITED TO PAYMENTS PURSUANT TO SECTIONS 11.02 AND 11.03.

12.11 Severability of this Agreement. In case any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12.12 Assignment. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, provided that this Agreement may not be assigned by either party without the prior written consent of the other party. Except as expressly provided herein, this Agreement is for the sole benefit of the parties hereto and nothing herein shall give or be construed to give to any person other than the parties any legal or equitable rights under this Agreement.

12.13 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given upon delivery in person, or one day after the same shall have been sent by overnight messenger service, or three days after the same shall have been mailed by registered or certified mail, postage prepaid, return receipt requested, to the respective parties at the following addresses:

If to the Buyer: Linvatec Corporation
11311 Concept Blvd.
Largo, FL 33773
Attention: President

with a copy: CONMED Corporation
310 Broad St.
Utica, NY 13501
Attention: President and General Counsel

If to 3M: Minnesota Mining and
Manufacturing Company
Post Office Box 33428
Saint Paul, Minnesota 55133
Attention: John Ursu

12.14 Public Announcements. No press releases or public announcements regarding the terms of this Agreement shall be made by either party without the prior written approval of the other party (which approval shall not be unreasonably withheld), except as may be necessary, in the opinion of counsel for such party, to meet the requirements of any law or governmental regulation or any applicable exchange regulation (in which event the other party will be notified before, if practical under the circumstances, and after any action is taken thereon).

12.15 Tax Treatment. It is expressly understood and agreed that none of 3M, the Buyer or any of their respective officers or agents have made any warranty or agreement, express or implied, as to the tax consequences of the transactions contemplated hereby.

12.16 Specific Performance. Each of the parties hereto acknowledges and agrees that the other party would be damaged irreparably in the event any of the covenants contained in this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the parties hereto agrees that the other party shall be entitled to an injunction or injunctions to prevent breaches of the covenants contained in this Agreement and to enforce specifically this Agreement and the covenants contained herein in any action properly instituted, in addition to any other remedy to which such other party may be entitled under this Agreement or at law or in equity.

12.17 Disclosures.

(a) Matters disclosed by 3M to the Buyer in this Agreement or the Exhibits hereto are not necessarily limited to matters required to be disclosed by this Agreement. Any such additional matters are set forth for informational

purposes and do not necessarily include other matters of a similar nature.

(b) From time to time prior to the Closing, 3M will promptly supplement or amend the Exhibits hereto with respect to any matter hereafter arising which would make any representation or warranty set forth in Section 5.01 inaccurate if updated as of the Closing, or as is otherwise necessary to correct any information in such Exhibits or in any representation or warranty of 3M made in Section 5.01. For purposes of determining the satisfaction of the condition set forth in Section 7.01(b) at or prior to the Closing and the accuracy of the representations and warranties contained in Section 5.01 if the Closing does not occur, the Exhibits hereto shall be deemed to include only that information contained therein on the date of this Agreement and shall be deemed to exclude any information contained in any subsequent supplement or amendment thereto. However, for purposes of determining the accuracy of the representations or warranties of 3M contained in Section 5.01 or the liability of 3M with respect thereto under Section 11.02(a) should the Closing occur, the Exhibits hereto shall be deemed to include all information contained in any subsequent supplement or amendment thereto.

12.18 Interpretation. In this Agreement:

(a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders;

(b) the word "including" shall mean "including without limitation";

(c) the work "affiliate" shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended;

(d) the word "person" shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof;

(e) the word "business day" shall mean any day other than a Saturday, Sunday or a day which is a statutory holiday under the laws of the United States or the State of Minnesota;

(f) when calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded and, if the last day of such period is not a business day, the period shall end on the next day which is a business day; and

(g) all dollar amounts are expressed in United States funds.

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

MINNESOTA MINING AND
MANUFACTURING COMPANY

By:
Its:

LINVATEC CORPORATION

By:
Its: President

EXHIBITS

- A. Allocation of Purchase Price
(to be provided within ninety (90) days from Closing)
- B. Supply Agreement
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- D. Lease and Shared Facilities Agreement
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FIRST AMENDMENT
ASSET PURCHASE AGREEMENT
3M - LINVATEC

THIS AMENDMENT, made and entered into this 10th day of August, 1999 by and between Linvatec Corporation, a Florida corporation, having its principal offices at 11311 Concept Boulevard, Largo, Florida 33773 (hereinafter referred to as "Linvatec") and MINNESOTA MINING AND MANUFACTURING COMPANY, a Delaware corporation, having its principal offices at 3M Center, St. Paul, Minnesota 55144 (hereinafter referred to as "3M").

WITNESSETH:

WHEREAS, 3M and LINVATEC have entered into that certain Asset Purchase Agreement dated the 29th day of June, 1999 (hereinafter called the "Agreement"), and

WHEREAS, the parties desire to amend certain terms of said Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties hereto agree as follows:

1. Section 5.01(g) of the Agreement shall be amended to read as follows:

(g) Financials. The financial statements provided by 3M and attached to the Agreement as Schedule 5.01(g) are true and accurate in all material respects, have been derived from the books and records of 3M that have been prepared and maintained in accordance with generally accepted accounting principles (GAAP) in all material respects. The financial statements concerning first quarter 1999 and second quarter 1999 provided by 3M and attached to this Amendment as Exhibit A are true and accurate in all material respects, have been derived from the books and records of 3M that have been prepared and maintained in accordance with GAAP in all material respects

2. Section 3.01 of the Agreement shall be amended to read as follows:

3.01 Purchase Price and Payment. In consideration for the Purchased Assets, the Buyer agrees to pay to 3M Thirty-nine Million Dollars (\$39,000,000) (the "Purchase Price"), subject to being adjusted pursuant to Section 3.04. The Purchase Price shall be payable in cash at the Closing by wire transfer of immediately available federal funds to 3M at Norwest Bank, Minnesota, N.A., Minneapolis, Minnesota, ABA #091 000 019, credit to 3M General Account #30103.

3. Except as expressly provided by this Amendment, the Agreement and all Exhibits and Schedules thereto shall continue in full force and effect. In the event any of the agreements set forth in this Amendment conflict with or are inconsistent with the provisions of the Agreement, the provisions of the Agreement shall supersede and prevail in interpreting the rights of the parties hereto.

4. Each of the parties to this Amendment represent and warrant to the other that each has the full corporate power and authority to execute and deliver this Amendment.

5. The capitalized terms herein have the same meaning as in the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and year first above written.

MINNESOTA MINING AND
MANUFACTURING COMPANY

LINVATEC CORPORATION

By:

By:

Name:

Name:

Its:

Its:

\$490,000,000

AMENDED AND RESTATED CREDIT AGREEMENT

among

CONMED Corporation,
as Borrower

The Several Lenders
from Time to Time Parties Hereto,

CHASE SECURITIES INC.,
as Sole Book-Manager, Lead Arranger and as Syndication Agent

SALOMON SMITH BARNEY, INC.,
as Documentation Agent

and

THE CHASE MANHATTAN BANK,
as Administrative Agent

Dated as of August 11, 1999

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AMENDED AND RESTATED CREDIT AGREEMENT, dated as of August 11, 1999, among CONMED CORPORATION, a New York corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), CHASE SECURITIES INC., as arranger and syndication agent (in such capacity, the "Syndication Agent"), SALOMON SMITH BARNEY, INC., as documentation agent (in such capacity, the "Documentation Agent"), and THE CHASE MANHATTAN BANK, as administrative agent (in such capacity, the "Administrative Agent").

W I T N E S S E T H:

WHEREAS, the parties hereto are parties to a credit agreement that was entered into on December 29, 1997 (the "Existing Credit Agreement").

WHEREAS, Linvatec Corporation, a Florida corporation ("Linvatec"), and a wholly owned subsidiary of the Borrower, intends to acquire certain assets (the "Division") from Minnesota Mining and Manufacturing Company, a Delaware corporation ("3M"), for a cash purchase price of approximately \$40,000,000 (the "Acquisition"). References herein to the "Acquisition" shall include the financings described herein and all other transactions related to the Acquisition;

WHEREAS, to finance the Acquisition and the working capital

needs of the Borrower and its subsidiaries, the Lenders are willing to amend and restate the original credit agreement make credit facilities available to the Borrower upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE I. DEFINITIONS

SECTION I.1 As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR Loans": Loans the rate of interest applicable to which is based upon the Alternate Base Rate.

"Acquisition": as defined in the recitals hereto.

"Acquisition Agreement": the Asset Purchase Agreement between Linvatec and 3M dated as of June 29, 1999, as amended, supplemented or otherwise modified from time to time.

"Acquisition Documentation": collectively, the Acquisition Agreement, and all schedules, exhibits, annexes and amendments thereto and all side letters and agreements affecting the terms thereof or entered into in connection therewith, in each case, as amended, supplemented or otherwise modified from time to time.

"Adjustment Date": as defined in the Pricing Grid.

"Administrative Agent": as defined in the preamble hereto.

"Affiliate": as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agents": collectively, the Documentation Agent and the Administrative Agent.

"Aggregate Exposure": with respect to any Lender, an amount equal to the sum of (i) the aggregate unpaid principal amount of such Lender's Term Loans and (ii) the amount of such Lender's Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit.

"Aggregate Exposure Percentage": with respect to any Lender, the ratio (expressed as a percentage) of such Lender's Aggregate Exposure to the Aggregate Exposure of all Lenders.

"Agreement": the Existing Credit Agreement, as amended and restated on August 11, 1999, as amended, supplemented or otherwise modified from time to time.

"Alternate Base Rate": for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus 2 of 1%. For purposes hereof, "Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors). Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Applicable Margin": for each Type of Loan, the rate per annum set forth under the relevant column heading below:

| | |
|---------------------|------------|
| Alternate Base Rate | Eurodollar |
| Loans | Loans |

| | | |
|------------------------|-------|-------|
| Revolving Credit Loans | .50% | 1.75% |
| Tranche A Term Loans | .50% | 1.75% |
| Tranche B Term Loans | 1.00% | 2.25% |
| Tranche C Term Loans | 1.25% | 2.50% |

provided, that on and after September 30, 1999, the Applicable Margin with respect to Revolving Credit Loans, Tranche A Term Loans and Tranche B Term Loans will be determined pursuant to the Pricing Grid.

"Application": an application, in such form as the Issuing Lender may reasonably specify from time to time, requesting the Issuing Lender to issue a Letter of Credit.

"Asset Sale": any Disposition of Property or series of related Dispositions of Property (excluding any such Disposition permitted by clause (a), (b), (c), (d), (e), (g), (h), (i), (j), or (k) of Section 7.5) which yields net proceeds to the Borrower or any of its Subsidiaries (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$50,000.

"Assignee": as defined in Section 10.6(c).

"Assignment and Acceptance": as defined in Section 10.6(c).

"Assignor": as defined in Section 10.6(c).

"Available Revolving Credit Commitment": as to any Revolving Credit Lender at any time, an amount equal to the excess, if any, of (a) such Lender's Revolving Credit Commitment over (b) such Lender's Revolving Extensions of Credit.

"Benefitted Lender": as defined in Section 10.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto.

"Borrowing Date": any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

"Business": as defined in Section 4.17(b).

"Business Day": (i) for all purposes other than as covered by clause (ii) below, a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close and (ii) with respect to all notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, any day which is a Business Day described in clause (i) and which is also a day for trading by and between banks in Dollar deposits in the London interbank eurodollar market.

"Capital Expenditures": for any period, with respect to any Person, the aggregate of all expenditures by such Person and its Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) which should be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries.

"Capital Lease Obligations": as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than \$500,000,000; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor's Ratings Services ("S&P") or P-1 by Moody's Investors Service, Inc. ("Moody's"), or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; or (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

"Chattel Paper": as defined in the Guarantee and Collateral Agreement.

"Closing Date": the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied, which date shall not be later than August 31, 1999.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Collateral": all Property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment": as to any Lender, the sum of the Tranche A Term Loan Commitment, the Tranche B Term Loan Commitment, the Tranche C Term Loan Commitment and the Revolving Credit Commitment of such Lender.

"Commitment Fee Rate": .375% per annum; provided, that on and after September 30, 1999 the Commitment Fee Rate will be determined pursuant to the Pricing Grid.

"Commonly Controlled Entity": an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group which includes the Borrower and which is treated as a single employer under Section 414 of the Code.

"Compliance Certificate": a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

"Confidential Information Memorandum": the Confidential Information Memorandum dated July 1999 and furnished to the Lenders.

"Consolidated EBITDA": for any period, Consolidated Net Income for such period plus, without duplication and to the extent reflected

as a charge in the statement of such Consolidated Net Income for such period, the sum of (a) income tax expense, (b) interest expense, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans), (c) depreciation and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill) and organization costs, (e) any extraordinary, unusual or non-recurring expenses or losses (including the extraordinary facility consolidation charge of approximately \$2,300,000 for the 1997 fiscal year end and, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, losses on sales of assets outside of the ordinary course of business) and (f) any other non-cash charges, and minus, to the extent included in the statement of such Consolidated Net Income for such period, the sum of (a) interest income, (b) any extraordinary, unusual or non-recurring income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business) and (c) any other non-cash income, all as determined on a consolidated basis.

"Consolidated Fixed Charge Coverage Ratio": for any period, the ratio of (a) Consolidated EBITDA for such period less the aggregate amount actually paid by the Borrower and its Subsidiaries in cash during such period on account of Capital Expenditures to (b) Consolidated Fixed Charges for such period.

"Consolidated Fixed Charges": for any period, the sum (without duplication) of (a) Consolidated Interest Expense for such period and (b) scheduled payments made during such period on account of principal of Funded Debt of the Borrower or any of its Subsidiaries (including scheduled principal payments in respect of the Term Loans and excluding any prepayment as a result of the issuance of the Senior Subordinated Notes).

"Consolidated Interest Coverage Ratio": for any period, the ratio of (a) Consolidated EBITDA for such period to (b) Consolidated Interest Expense for such period.

"Consolidated Interest Expense": for any period, total interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries (including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs (or gains) under Interest Rate Protection Agreements to the extent such net costs (or gains) are allocable to such period in accordance with GAAP).

"Consolidated Leverage Ratio": as at the last day of any period of four consecutive fiscal quarters, the ratio of (a) Consolidated Total Debt on such day to (b) Consolidated EBITDA for such period; provided that for purposes of calculating Consolidated EBITDA of the Borrower and its Subsidiaries for any period, the Consolidated EBITDA of any Person acquired by the Borrower or its Subsidiaries during such period shall be included on a pro forma basis for such period (assuming the consummation of each such acquisition and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period) if the consolidated balance sheet of such acquired Person and its consolidated Subsidiaries as at the end of the period preceding the acquisition of such Person and the related consolidated statements of income and stockholders' equity and of cash flows for the period in respect of which Consolidated EBITDA is to be calculated (i) have been previously provided to the Administrative Agent and the Lenders and (ii) either (A) have been reported on without a qualification arising out of the scope of the audit by independent certified public accountants of nationally recognized standing or (B) have been found acceptable by the Administrative Agent.

"Consolidated Net Income": for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or is merged

into or consolidated with the Borrower or any of its Subsidiaries, (b) the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary of the Borrower to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is prohibited by the terms of any Contractual Obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary.

"Consolidated Net Worth": at any date, all amounts which would, in accordance with GAAP, be included on a consolidated balance sheet of the Borrower and its Subsidiaries under stockholders' equity at such date; provided that any net non-cash adjustments to such amounts after the Closing Date resulting from foreign currency transactions, unfunded pension liabilities or unrealized gains or losses in respect of securities shall be included to the extent such adjustments exceed \$2,000,000 as of the end of any fiscal quarter.

"Consolidated Total Debt": at any date, the aggregate principal amount of all Funded Debt of the Borrower and its Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

"Continuing Directors": the directors of the Borrower on the Closing Date, after giving effect to the Acquisition and the other transactions contemplated hereby, and each other director, if, in each case, such other director's nomination for election to the board of directors of the Borrower is recommended by at least 66-2/3% of the then Continuing Directors.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its Property is bound.

"Default": any of the events specified in Article VIII, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Disposition": with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof; and the terms "Dispose" and "Disposed of" shall have correlative meanings.

"Division": as defined in the recitals hereto.

"Documentation Agent": as defined in the preamble hereto.

"Dollars" and "\$": dollars in lawful currency of the United States.

"Domestic Subsidiary": any Subsidiary of the Borrower organized under the laws of any jurisdiction within the United States.

"Environmental Laws": any and all foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, legally binding requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning the protection of human health or the environment, as now or may at any time hereafter be in effect.

"Equipment": as defined in the Guarantee and Collateral Agreement.

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

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves under any regulations of the Board or

other Governmental Authority having jurisdiction with respect thereto) dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on Page 3750 of the Telerate screen as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on Page 3750 of the Telerate Service (or otherwise on such service), the "Eurodollar Base Rate" for purposes of this definition shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Administrative Agent or, in the absence of such availability, by reference to the rate at which the Administrative Agent is offered Dollar deposits at or about 11:00 A.M., New York City time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

Eurodollar Base Rate

1.00 - Eurocurrency Reserve Requirements

"Eurodollar Tranche": the collective reference to Eurodollar Loans the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": any of the events specified in Article VIII, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Excluded Foreign Subsidiaries": any Foreign Subsidiary in respect of which either (i) the pledge of all of the Capital Stock of such Subsidiary as Collateral or (ii) the guaranteeing by such Subsidiary of the Obligations, would, in the good faith judgment of the Borrower, result in adverse tax consequences to the Borrower.

"Facility": each of (a) the Tranche A Term Loan Commitments and the Tranche A Term Loans made thereunder (the "Tranche A Term Loan Facility"), (b) the Tranche B Term Loan Commitments and the Tranche B Term Loans made thereunder (the "Tranche B Term Loan Facility"), (c) the Tranche C Term Loan Commitments and the Tranche C Term Loans made thereunder (the "Tranche C Term Loan Facility") and (d) the Revolving Credit Commitments and the extensions of credit made thereunder (the "Revolving Credit Facility").

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"Foreign Subsidiary": any Subsidiary of the Borrower that is not a Domestic Subsidiary.

"Funded Debt": as to any Person, all Indebtedness of such Person of the types described in clauses (a)-(e) of the definition of

Indebtedness.

"Funding Office": the office of the Administrative Agent set forth in Section 10.2.

"GAAP": generally accepted accounting principles applicable in the United States for reporting entities domiciled in the United States as in effect from time to time, except that for purposes of Section 7.1, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements delivered pursuant to Section 4.1(b).

"Governmental Authority": any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of government (including, without limitation, any securities exchange or self-regulatory organization).

"Guarantee and Collateral Agreement": the Guarantee and Collateral Agreement executed and delivered by the Borrower and each Subsidiary Guarantor on December 31, 1997, substantially in the form of Exhibit A, together with the Acknowledgement and Consent, dated as of the date hereof, as each of the same may be amended, supplemented or otherwise modified from time to time.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Indebtedness": of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of Property or services (other than current trade payables incurred in the ordinary course of such Person's business, and overdue trade payables incurred in the ordinary course of such Person's business to the extent the amount or validity thereof is currently being contested in good faith by appropriate procedures and reserves in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Subsidiaries, as the case may be), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default

are limited to repossession or sale of such Property), (e) all Capital Lease Obligations of such Person (the amount of which shall be calculated without regard to imputed interest), (f) all obligations of such Person, contingent or otherwise, as an account party under acceptance, letter of credit or similar facilities, (g) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any Capital Stock (other than common stock) of such Person, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above to the extent quantified as liabilities, contingent obligations or like term in accordance with GAAP on the balance sheet (including notes thereto) of such Person; (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on Property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation (but only to the extent of the fair market value of such Property); (j) for purposes of Article 8(e), all obligations of such Person in respect of Interest Rate Protection Agreements and (k) the liquidation value of any preferred Capital Stock of such Person or its Subsidiaries held by any Person other than such Person and its Wholly Owned Subsidiaries.

"Insolvency": with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Instrument": as defined in the Guarantee and Collateral Agreement.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Interest Payment Date": (a) as to any ABR Loan, the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day which is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period and (d) as to any Loan (other than any Revolving Credit Loan that is a ABR Loan), the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six, as selected by the Borrower by irrevocable notice to the Administrative Agent not less than three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) any Interest Period that would otherwise extend beyond the Revolving Credit Termination Date or beyond

the date final payment is due on the Tranche A Term Loans, Tranche B Term Loans or the Tranche C Term Loans, as the case may be, shall end on the Revolving Credit Termination Date or such due date, as applicable;

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and

(iv) the Borrower shall use reasonable efforts to select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

"Interest Rate Protection Agreement": any interest rate protection agreement, interest rate futures contract, interest rate option, interest rate cap or other interest rate hedge arrangement, to or under which the Borrower or any of its Subsidiaries is a party or a beneficiary on the date hereof or becomes a party or a beneficiary after the date hereof.

"Inventory": as defined in the Guarantee and Collateral Agreement.

"Issuing Lender": The Chase Manhattan Bank, in its capacity as issuer of any Letter of Credit.

"L/C Commitment": \$10,000,000.

"L/C Fee Payment Date": the last day of each March, June, September and December and the Revolving Credit Termination Date.

"L/C Obligations": at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit which have not then been reimbursed pursuant to Section 3.5.

"L/C Participants": collectively, all the Revolving Credit Lenders other than the Issuing Lender.

"Lenders": as defined in the preamble hereto.

"Letters of Credit": as defined in Section 3.1(a).

"Lien": any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"Linvatec": as defined in the recitals hereto.

"Loan": any loan made by any Lender pursuant to this Agreement.

"Loan Documents": this Agreement, the Security Documents, the Applications and the Notes.

"Loan Parties": the Borrower and each Subsidiary of the Borrower which is a party to a Loan Document.

"Majority Facility Lenders": with respect to any Facility, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loans or the Total Revolving Extensions of Credit, as the case may be, outstanding under such Facility (or, in the case of the Revolving Credit Facility, prior to any termination of the Revolving Credit Commitments, the holders of more than 50% of the Total Revolving Credit Commitments).

"Majority Revolving Credit Facility Lenders": the Majority

Facility Lenders in respect of the Revolving Credit Facility.

"Material Adverse Effect": a material adverse effect on (a) the business, results of operations, assets or financial position of the Borrower and its Subsidiaries (including, without limitation, the assets acquired in the Acquisition) taken as a whole, (b) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights or remedies of the Agents or the Lenders hereunder or thereunder or (c) the ability of the Borrower to perform any of its obligations under this Agreement.

"Materials of Environmental Concern": any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or to the extent regulated as such in or under any applicable Environmental Law, including, without limitation, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Multiemployer Plan": a Plan which is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Cash Proceeds": (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received) of such Asset Sale or Recovery Event, net of attorneys' fees, accountants' fees, investment banking fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset which is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document) and other customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and (b) in connection with any issuance or sale of equity securities or debt securities or instruments or the incurrence of loans, the cash proceeds received from such issuance or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

"Non-Excluded Taxes": as defined in Section 2.18(a).

"Non-U.S. Lender": as defined in Section 2.18(d).

"Notes": collectively, any promissory note evidencing Loans.

"Obligations": the unpaid principal of and interest on (including, without limitation, interest accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Borrower to the Administrative Agent or to any Lender (or, in the case of Interest Rate Protection Agreements, any affiliate of any Lender), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit, any Interest Rate Protection Agreement entered into with any Lender or any affiliate of any Lender or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including, without limitation, all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

"Original Closing Date": December 29, 1997

"Other Taxes": any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the

execution, delivery or enforcement of, or otherwise with respect to, this Agreement.

"Participant": as defined in Section 10.6(b).

"Payment Office": the office of the Administrative Agent set forth in Section 10.2.

"PBGC": the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Permitted Business Acquisition": any acquisition of all or substantially all the assets of, or shares or other equity interests in, a Person or division or line of business of a Person (or any subsequent investment made in a previously acquired Permitted Business Acquisition) if immediately after giving effect thereto: (a) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (b) all transactions related thereto shall be consummated in accordance with applicable laws in all material respects, (c) any acquired or newly formed corporation, partnership, association or other business entity shall be a domestic Wholly Owned Subsidiary and all actions required to be taken, if any, with respect to such acquired or newly formed Subsidiary under Section 6.10 shall have been taken and (d)(i) the Borrower and the Subsidiaries shall be in compliance, on a pro forma basis after giving effect to such acquisition or formation, with the covenants contained in Section 7.1 recomputed as at the last day of the most recently ended fiscal quarter of the Borrower and the Subsidiaries as if such acquisition and related financings or other transactions had occurred on the first day of each relevant period for testing such compliance, and, if the amount of such investment or series of related investments exceeds \$10,000,000, then the Borrower shall have delivered to the Administrative Agent an officers' certificate to such effect, together with all relevant financial information for such Subsidiary or assets, and (ii) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness (except for Indebtedness permitted by Section 7.2).

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Plan": at a particular time, any employee benefit plan which is covered by ERISA and in respect of which the Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Prepayment Option Notice": as defined in Section 2.16(d).

"Pricing Grid": the pricing grid attached hereto as Annex A.

"Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors). Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Pro Forma Balance Sheet": as defined in Section 4.1(a).

"Projections": as defined in Section 6.2(c).

"Properties": as defined in Section 4.17(a).

"Property": any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of the Borrower or any of its Subsidiaries

(excluding, for the avoidance of doubt, the proceeds of business interruption insurance for lost revenues).

"Register": as defined in Section 10.6(d).

"Regulation G": Regulation G of the Board as in effect from time to time.

"Regulation U": Regulation U of the Board as in effect from time to time.

"Reimbursement Obligation": the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit.

"Reinvestment Deferred Amount": with respect to any Reinvestment Event, the aggregate Net Cash Proceeds received by the Borrower or any of its Subsidiaries in connection therewith which are not applied to prepay the Term Loans or reduce the Revolving Credit Commitments pursuant to Section 2.10(b) as a result of the delivery of a Reinvestment Notice.

"Reinvestment Event": any Asset Sale or Recovery Event in respect of which the Borrower has delivered a Reinvestment Notice.

"Reinvestment Notice": a written notice executed by a Responsible Officer stating that no Default or Event of Default has occurred and is continuing and that the Borrower (directly or indirectly through a Subsidiary), in good faith intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale, Recovery Event, or an indemnity payment (subject to the proviso in Section 2.10(c)) made pursuant to the Acquisition Agreement to make an investment that is a reasonable substitute for the assets in respect of which such Asset Sale, Recovery Event or indemnity payment occurred within twelve months (or six months in the case of an indemnity payment) from the date of receipt of such Net Cash Proceeds (provided that if the affected assets constituted Collateral such investment assets shall also constitute Collateral).

"Reinvestment Prepayment Amount": with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount expended prior to the relevant Reinvestment Prepayment Date to make an investment that is a reasonable substitute for the assets in respect of which a Recovery Event has occurred.

"Reinvestment Prepayment Date": with respect to any Reinvestment Event, the earlier of (a) the date occurring twelve months after such Reinvestment Event (or six months in the case of an indemnity payment referred to in Section 2.10(c)) and (b) the date on which the Borrower shall have determined not to, or shall have otherwise ceased to, acquire assets useful in the Borrower's business with all or any portion of the relevant Reinvestment Deferred Amount.

"Reorganization": with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"Reportable Event": any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under regulations promulgated under Title IV of ERISA.

"Required Lenders": the holders of more than 50% of the sum of (i) the aggregate unpaid principal amount of the Term Loans and (ii) the Total Revolving Credit Commitments or, if the Revolving Credit Commitments have been terminated, the Total Revolving Extensions of Credit.

"Required Prepayment Lenders": the Majority Facility Lenders in respect of each Facility.

"Requirement of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental

Authority, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"Responsible Officer": the chief executive officer, president, chief financial officer, treasurer, controller or general counsel (or other officer satisfactory to the Lenders) of the Borrower, but in any event, with respect to financial matters, the chief financial officer, treasurer, controller (or other officer satisfactory to the Lenders) of the Borrower.

"Revolving Credit Commitment": as to any Lender, the obligation of such Lender, if any, to make Revolving Credit Loans and participate in Letters of Credit, in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "Revolving Credit Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Acceptance pursuant to which such Revolving Credit Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original amount of the Total Revolving Credit Commitments is \$100,000,000.

"Revolving Credit Commitment Period": the period from and including the Closing Date to the Revolving Credit Termination Date.

"Revolving Credit Lender": each Lender which has a Revolving Credit Commitment or which has made Revolving Credit Loans.

"Revolving Credit Loans": as defined in Section 2.4(a).

"Revolving Credit Percentage": as to any Revolving Credit Lender at any time, the percentage which such Lender's Revolving Credit Commitment then constitutes of the Total Revolving Credit Commitments (or, at any time after the Revolving Credit Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender's Revolving Credit Loans then outstanding constitutes of the aggregate principal amount of the Revolving Credit Loans then outstanding).

"Revolving Credit Termination Date": the earlier of (a) the Scheduled Revolving Credit Termination Date and (b) the date on which the Tranche A Term Loans shall be paid in full.

"Revolving Extensions of Credit": as to any Revolving Credit Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Credit Loans made by such Lender then outstanding, and (b) such Lender's Revolving Credit Percentage of the L/C Obligations then outstanding.

"Scheduled Revolving Credit Termination Date": December 30, 2002.

"SEC": the Securities and Exchange Commission (or successors thereto or an analogous Governmental Authority).

"Security Documents": the collective reference to the Guarantee and Collateral Agreement and all other security documents hereafter delivered to the Administrative Agent granting a Lien on any Property of any Person to secure the obligations and liabilities of any Loan Party under any Loan Document.

"Senior Subordinated Note Indenture": the Indenture entered into in connection with the issuance of the Senior Subordinated Notes, together with all instruments and other agreements entered into by the Borrower or such Subsidiaries in connection therewith, as the same may be amended, supplemented or otherwise modified from time to time in accordance with Section 7.9.

"Senior Subordinated Notes": collectively, (i) the unsecured 9% senior subordinated notes of the Borrower due 2008, or (ii) any refinancing of such Senior Subordinated Notes of the Borrower on terms and conditions which either (A) if the same were an amendment to such Senior Subordinated Notes, would be permitted by Section 7.9(b) or (B) are otherwise reasonably satisfactory to the Required Lenders.

"Single Employer Plan": any Plan which is covered by Title IV

of ERISA, but which is not a Multiemployer Plan.

"Solvent": when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "present fair saleable value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature. For purposes of this definition, (i) "debt" means liability on a "claim", and (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

"Specified Change of Control": a "Change of Control" as defined in the Senior Subordinated Note Indenture.

"Subsidiary": as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Subsidiary Guarantor": each Subsidiary of the Borrower other than any Excluded Foreign Subsidiary.

"Syndication Agent": as defined in the preamble hereto.

"Term Loan Lenders": collectively, the Tranche A Term Loan Lenders, the Tranche B Term Loan Lenders and the Tranche C Term Loan Lenders.

"Term Loans": collectively, the Tranche A Term Loans, Tranche B Term Loans and Tranche C Term Loans.

"3M": as defined in the Recitals hereto.

"Total Revolving Credit Commitments": at any time, the aggregate amount of the Revolving Credit Commitments at such time.

"Total Revolving Extensions of Credit": at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Credit Lenders at such time.

"Tranche A Term Loan": as defined in Section 2.1.

"Tranche A Term Loan Commitment": as to any Lender, the obligation of such Lender, if any, to make a Tranche A Term Loan to the Borrower hereunder in a principal amount not to exceed the amount set forth under the heading "Tranche A Term Loan Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Acceptance pursuant to which such Tranche A Term Loan Lender became a party hereto. The original aggregate amount of the Tranche A Term Loan Commitments on the Original Closing Date was \$210,000,000.

"Tranche A Term Loan Lender": each Lender which has a Tranche A Term Loan Commitment or which has made a Tranche A Term Loan.

"Tranche A Term Loan Percentage": as to any Tranche A Term

Loan Lender at any time, the percentage which such Lender's Tranche A Term Loan Commitment then constitutes of the aggregate Tranche A Term Loan Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender's Tranche A Term Loans then outstanding constitutes of the aggregate principal amount of the Tranche A Term Loans then outstanding).

"Tranche B Term Loan": as defined in Section 2.1.

"Tranche B Term Loan Commitment": as to Tranche B Term Loan Lender, the obligation of such Lender, if any, to make a Tranche B Term Loan to the Borrower hereunder in a principal amount not to exceed the amount set forth under the heading "Tranche B Term Loan Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Acceptance pursuant to which such Tranche B Term Loan Lender became a party hereto. The original aggregate amount of the Tranche B Term Loan Commitments on the Original Closing Date was \$140,000,000.

"Tranche B Term Loan Lender": each Lender which has a Tranche B Term Loan Commitment or which has made a Tranche B Term Loan.

"Tranche B Term Loan Percentage": as to any Lender at any time, the percentage which such Lender's Tranche B Term Loan Commitment then constitutes of the aggregate Tranche B Term Loan Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender's Tranche B Term Loans then outstanding constitutes of the aggregate principal amount of the Tranche B Term Loans then outstanding).

"Tranche C Term Loan": as defined in Section 2.1.

"Tranche C Term Loan Commitment": as to Tranche C Term Loan Lender, the obligation of such Lender, if any, to make a Tranche C Term Loan to the Borrower hereunder in a principal amount not to exceed the amount set forth under the heading "Tranche C Term Loan Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Acceptance pursuant to which such Tranche C Term Loan Lender became a party hereto. The original aggregate amount of the Tranche C Term Loan Commitments is \$40,000,000.

"Tranche C Term Loan Lender": each Lender which has a Tranche C Term Loan Commitment or which has made a Tranche C Term Loan.

"Tranche C Term Loan Percentage": as to any Lender at any time, the percentage which such Lender's Tranche C Term Loan Commitment then constitutes of the aggregate Tranche C Term Loan Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender's Tranche C Term Loans then outstanding constitutes of the aggregate principal amount of the Tranche C Term Loans then outstanding).

"Transferee": as defined in Section 10.15.

"Type": as to any Loan, its nature as a ABR Loan or a Eurodollar Loan.

"Uniform Customs": the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500, as the same may be amended from time to time.

"United States": the United States of America.

"Warrant": the warrant to purchase shares of the Borrower's Capital Stock issued to Bristol-Meyers Squibb.

"Wholly Owned Foreign Subsidiary": any Foreign Subsidiary that is a Wholly Owned Subsidiary.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than (i) a nominal number of shares held by foreign nationals to the extent required by local law or (ii) directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Wholly Owned Subsidiary Guarantor": any Subsidiary Guarantor that is a Wholly Owned Subsidiary of the Borrower.

SECTION I.2 (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, accounting terms relating to the Borrower and its Subsidiaries not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

ARTICLE II. AMOUNT AND TERMS OF COMMITMENTS

SECTION II.1 Term Loan Commitments. Pursuant to the Existing Credit Agreement, each Tranche A Term Loan Lender severally agreed to make a term loan (a "Tranche A Term Loan") to the Borrower on the Original Closing Date in an amount not to exceed the amount of the Tranche A Term Loan Commitment of such Lender and each Tranche B Term Loan Lender severally agreed to make a term loan (a "Tranche B Term Loan") to the Borrower on the Original Closing Date in an amount not to exceed the amount of the Tranche B Term Loan Commitment of such Lender. Subject to the terms and conditions hereof, each Tranche C Term Loan Lender severally agrees to make a term loan (a "Tranche C Term Loan") to the Borrower on the Closing Date in an amount not to exceed the amount of the Tranche C Term Loan Commitment of such Lender. The Term Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.11.

SECTION II.2 Procedure for Term Loan Borrowing. The Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 10:00 A.M., New York City time, on the Closing Date) requesting that the Term Loan Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. No Term Loan may be converted into or continued as a Eurodollar Loan having an Interest Period in excess of one month prior to the date which is 60 days after the Closing Date. Upon receipt of such notice the Administrative Agent shall promptly notify each Term Loan Lender thereof. Not later than 12:00 Noon, New York City time, on the Closing Date each Term Loan Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall make available to the Borrower the aggregate of the amounts made available to the Administrative Agent by the Term Loan Lenders in immediately available funds.

SECTION II.3 Repayment of Term Loans. (a) The principal amount of the Tranche A Term Loan of each Tranche A Lender outstanding on the Closing Date shall mature in 14 consecutive quarterly installments, commencing on September 30, 1999, each of which shall be in an amount equal to such Lender's Tranche A Term Loan Percentage multiplied by the amount set forth below opposite such installment:

| Installment ----- | Principal Amount ----- |
|----------------------|---------------------------|
| September 30, 1999 | \$5,588,333.33 |
| December 30, 1999 | \$5,588,333.33 |
| March 31, 2000 | \$7,983,333.33 |
| June 30, 2000 | \$7,983,333.33 |
| September 30, 2000 | \$7,983,333.33 |
| December 30, 2000 | \$7,983,333.33 |
| March 31, 2001 | \$8,781,666.67 |
| June 30, 2001 | \$8,781,666.67 |
| September 30, 2001 | \$8,781,666.67 |
| December 30, 2001 | \$8,781,666.67 |

| | |
|--------------------|----------------|
| March 31, 2002 | \$9,580,000.00 |
| June 30, 2002 | \$9,580,000.00 |
| September 30, 2002 | \$9,580,000.00 |
| December 30, 2002 | \$9,580,000.00 |

(b) The principal amount of the Tranche B Term Loan of each Tranche B Lender outstanding on the Closing Date shall mature in 22 consecutive quarterly installments, commencing on September 30, 1999, each of which shall be in an amount equal to such Lender's Tranche B Term Loan Percentage multiplied by the amount set forth below opposite such installment:

| Installment ----- | Principal Amount ----- |
|----------------------|---------------------------|
| September 30, 1999 | \$160,321.43 |
| December 30, 1999 | \$160,321.43 |
| March 31, 2000 | \$160,321.43 |
| June 30, 2000 | \$160,321.43 |
| September 30, 2000 | \$160,321.43 |
| December 30, 2000 | \$160,321.43 |
| March 31, 2001 | \$160,321.43 |
| June 30, 2001 | \$160,321.43 |
| September 30, 2001 | \$160,321.43 |
| December 30, 2001 | \$160,321.43 |
| March 31, 2002 | \$160,321.43 |
| June 30, 2002 | \$160,321.43 |
| September 30, 2002 | \$160,321.43 |
| December 30, 2002 | \$160,321.43 |
| March 31, 2003 | \$10,420,892.86 |
| June 30, 2003 | \$10,420,892.86 |
| September 30, 2003 | \$10,420,892.86 |
| December 30, 2003 | \$10,420,892.86 |
| March 31, 2004 | \$11,222,500.00 |
| June 30, 2004 | \$11,222,500.00 |
| September 30, 2004 | \$11,222,500.00 |
| December 30, 2004 | \$11,222,500.00 |

(c) The Tranche C Term Loan of each Tranche C Lender shall mature in 23 consecutive quarterly installments, commencing on December 30, 1999, each of which shall be in an amount equal to such Lender's Tranche C Term Loan Percentage multiplied by the amount set forth below opposite such installment.

| Installment ----- | Principal Amount ----- |
|----------------------|---------------------------|
| December 30, 1999 | \$75,000 |
| March 31, 2000 | \$75,000 |
| June 30, 2000 | \$75,000 |
| September 30, 2000 | \$75,000 |
| December 30, 2000 | \$75,000 |
| March 31, 2001 | \$75,000 |
| June 30, 2001 | \$75,000 |
| September 30, 2001 | \$75,000 |
| December 30, 2001 | \$75,000 |
| March 31, 2002 | \$75,000 |
| June 30, 2002 | \$75,000 |
| September 30, 2002 | \$75,000 |
| December 30, 2002 | \$75,000 |
| March 31, 2003 | \$75,000 |
| June 30, 2003 | \$75,000 |
| September 30, 2003 | \$75,000 |
| December 30, 2003 | \$75,000 |
| March 31, 2004 | \$75,000 |
| June 30, 2004 | \$75,000 |
| September 30, 2004 | \$75,000 |
| December 30, 2004 | \$75,000 |
| March 31, 2005 | \$75,000 |
| June 30, 2005 | \$38,350,000 |

SECTION II.4 Revolving Credit Commitments. (a) Subject to the terms and conditions hereof, each Revolving Credit Lender severally agrees to make revolving credit loans ("Revolving Credit Loans") to the Borrower from time to time during the Revolving Credit Commitment Period in an aggregate principal amount at any one time outstanding which, when added to such Lender's Revolving

Credit Percentage of the L/C Obligations then outstanding does not exceed the amount of such Lender's Revolving Credit Commitment. During the Revolving Credit Commitment Period the Borrower may use the Revolving Credit Commitments by borrowing, prepaying the Revolving Credit Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Credit Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.5 and 2.11, provided that no Revolving Credit Loan shall be made as a Eurodollar Loan after the day that is one month prior to the Revolving Credit Termination Date. The Borrower acknowledges and agrees that on the date hereof the aggregate principal amount of the Revolving Credit Loans outstanding is \$31,000,000 and the aggregate of the L/C Obligations is \$0.

(b The Borrower shall repay all outstanding Revolving Credit Loans on the Revolving Credit Termination Date.

SECTION II.5 Procedure for Revolving Credit Borrowing. The Borrower may borrow under the Revolving Credit Commitments during the Revolving Credit Commitment Period on any Business Day, provided that the Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent (a) prior to 12:00 Noon, New York City time, three Business Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, or (b) prior to 10:00 A.M., New York City time, on the requested Borrowing Date, in the case of ABR Loans), specifying (i) the amount and Type of Revolving Credit Loans to be borrowed, (ii) the requested Borrowing Date and (iii) in the case of Eurodollar Loans, the length of the initial Interest Period therefor. Any Revolving Credit Loans made on the Closing Date shall initially be ABR Loans. Each borrowing under the Revolving Credit Commitments shall be in an amount equal to (x) in the case of ABR Loans, \$1,000,000 or a whole multiple thereof (or, if the then aggregate Available Revolving Credit Commitments are less than \$1,000,000, such lesser amount) and (y) in the case of Eurodollar Loans, \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Upon receipt of any such notice from the Borrower, the Administrative Agent shall promptly notify each Revolving Credit Lender thereof. Each Revolving Credit Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the Borrower at the Funding Office prior to 12:00 Noon, New York City time, on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent in like funds as received by the Administrative Agent.

SECTION II.6 Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of the appropriate Revolving Credit Lender or Term Loan Lender, as the case may be, (i) the then unpaid principal amount of each Revolving Credit Loan of such Revolving Credit Lender on the Revolving Credit Termination Date (or such earlier date on which the Loans become due and payable pursuant to Article VIII) and (ii) the principal amount of each Term Loan of such Term Loan Lender in installments according to the amortization schedule set forth in Section 2.3 (or on such earlier date on which the Loans become due and payable pursuant to Article VIII). The Borrower hereby further agrees to pay interest on the unpaid principal amount of the Loans from time to time outstanding from the date hereof until payment in full thereof at the rates per annum and on the dates set forth in Section 2.13.

(b Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Borrower to such Lender resulting from each Loan of such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(c The Administrative Agent, on behalf of the Borrower, shall maintain the Register pursuant to Section 10.6(d), and a subaccount therein for each Lender, in which shall be recorded (i) the amount of each Loan made hereunder and any Note evidencing such Loan, the Type thereof and each Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) both the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(d The entries made in the Register and the accounts of each Lender maintained pursuant to Section 2.6(b) shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain the Register or

any such account, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

(e) The Borrower agrees that, upon the request to the Administrative Agent by any Lender, the Borrower will execute and deliver to such Lender a promissory note of the Borrower evidencing any Term Loans or Revolving Credit Loans, as the case may be, of such Lender, substantially in the forms of Exhibit F-1 or F-2, respectively, with appropriate insertions as to date and principal amount.

SECTION II.7 Commitment Fees, etc. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Credit Lender a commitment fee for the period from and including the Closing Date to the last day of the Revolving Credit Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Credit Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on the last day of each March, June, September and December and on the Revolving Credit Termination Date, commencing on the first of such dates to occur after the date hereof.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates previously agreed to in writing by the Borrower and the Administrative Agent.

SECTION II.8 Termination or Reduction of Revolving Credit Commitments. The Borrower shall have the right, upon not less than three Business Days' notice to the Administrative Agent, to terminate the Revolving Credit Commitments or, from time to time, to reduce the amount of the Revolving Credit Commitments; provided that no such termination or reduction of Revolving Credit Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Credit Loans made on the effective date thereof, the Total Revolving Extensions of Credit would exceed the Total Revolving Credit Commitments. Any such reduction shall be in an amount equal to \$5,000,000, or a whole multiple of \$1,000,000 in excess thereof, and shall reduce permanently the Revolving Credit Commitments then in effect.

SECTION II.9 Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent at least three Business Days prior thereto in the case of Eurodollar Loans and at least one Business Day prior thereto in the case of ABR Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or ABR Loans; provided that if a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.19. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with (except in the case of Revolving Credit Loans which are ABR Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Term Loans and Revolving Credit Loans shall be in an aggregate principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof.

SECTION II.10 Mandatory Prepayments and Commitment Reductions.

(a) Unless the Required Prepayment Lenders shall otherwise agree with the Borrower not to require such a prepayment of the Term Loans and the reduction of the Revolving Credit Commitments, if any Capital Stock shall be issued (other than (i) the issuance of Capital Stock pursuant to the Warrant and (ii) the issuance by the Borrower of Capital Stock to outside directors, members of management or employees of the Borrower or any Subsidiary in the ordinary course of business the Net Cash Proceeds of which shall not exceed \$5,000,000 in any fiscal year), or Indebtedness incurred, by the Borrower or any of its Subsidiaries (excluding any Indebtedness incurred in accordance with Section 7.2) an amount equal to 100% of the Net Cash Proceeds thereof shall be applied on the date of such issuance or incurrence toward the prepayment of the Term Loans and the reduction of the Revolving Credit Commitments as set forth in Section 2.10(d).

(b) Unless the Required Prepayment Lenders shall otherwise agree with the Borrower not to require such a prepayment of the Term Loans and the reduction of the Revolving Credit Commitments, if on any date the Borrower or any of its Subsidiaries shall receive Net Cash Proceeds from any Asset Sale or Recovery Event then, unless a Reinvestment Notice shall be delivered in

respect thereof, such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans and the reduction of the Revolving Credit Commitments as set forth in Section 2.10(d); provided that, notwithstanding the foregoing, (i) the aggregate Net Cash Proceeds of Asset Sales that may be excluded from the foregoing requirements pursuant to a Reinvestment Notice shall not exceed \$5,000,000 in any fiscal year of the Borrower and (ii) on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans and the reduction of the Revolving Credit Commitments as set forth in Section 2.10(d).

(c) Unless the Required Prepayment Lenders shall otherwise agree with the Borrower not to require such a prepayment of the Term Loans and the reduction of the Revolving Credit Commitments, if the Borrower or any of its Subsidiaries shall, receive an indemnity payment in excess of \$1,000,000 pursuant to the Acquisition Agreement, unless a Reinvestment Notice shall be delivered in respect thereof, such indemnity payment shall be applied on the date of receipt toward the prepayment of the Term Loans and the reduction of the Revolving Credit Commitments as set forth in Section 2.10(d) provided, that (i) the Borrower shall not be required to apply towards prepayment of the Term Loans and reduction of the Revolving Credit Commitments any portion of any indemnity payment that reimburses the Borrower or its Subsidiaries for a cost or expense that has been previously paid and (ii) on the Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to such payment shall be applied toward the prepayment of the Term Loans and the reduction of the Revolving Credit Commitments as set forth in Section 2.10(d).

(d) Amounts to be applied in connection with prepayments and Commitment reductions made pursuant to this Section 2.10 shall be applied, first, to the prepayment of the Term Loans and, second, to reduce permanently the Revolving Credit Commitments. Any such reduction of the Revolving Credit Commitments shall be accompanied by prepayment of the Revolving Credit Loans to the extent, if any, that the Total Revolving Extensions of Credit exceed the amount of the Total Revolving Credit Commitments as so reduced, provided that if the aggregate principal amount of Revolving Credit Loans then outstanding is less than the amount of such excess (because L/C Obligations constitute a portion thereof), the Borrower shall, to the extent of the balance of such excess, replace outstanding Letters of Credit and/or deposit an amount in cash in a cash collateral account established with the Administrative Agent for the benefit of the Lenders on terms and conditions satisfactory to the Administrative Agent. The application of any prepayment pursuant to Section 2.10 shall be made, first, to ABR Loans and, second, to Eurodollar Loans. Each prepayment of the Loans under Section 2.10 (except in the case of Revolving Credit Loans that are ABR Loans) shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

SECTION II.11 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent at least two Business Days' prior irrevocable notice of such election, provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent at least three Business Days' prior irrevocable notice of such election (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan under a particular Facility may be converted into a Eurodollar Loan (i) when any Event of Default has occurred and is continuing and the Administrative Agent or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such conversions or (ii) after the date that is one month prior to the final scheduled termination or maturity date of such Facility. Upon receipt of any such notice, the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no Eurodollar Loan under a particular Facility may be continued as such (i) when any Event of Default has occurred and is continuing and the Administrative Agent has or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such continuations or (ii) after the date that is one month prior to the final scheduled termination or maturity date of such Facility, and provided, further, that if the Borrower shall fail to give any required notice as described above

in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice, the Administrative Agent shall promptly notify each relevant Lender thereof.

SECTION II.12 Minimum Amounts and Maximum Number of Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions, continuations and optional prepayments of Eurodollar Loans hereunder and all selections of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof and (b) no more than ten Eurodollar Tranches shall be outstanding at any one time.

SECTION II.13 Interest Rates and Payment Dates. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan or Reimbursement Obligation shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), all outstanding Loans and Reimbursement Obligations (whether or not overdue) shall bear interest at a rate per annum which is equal to (x) in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 2.13 plus 2% or (y) in the case of Reimbursement Obligations, the rate applicable to ABR Loans under the Revolving Credit Facility plus 2%, and (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate applicable to ABR Loans under the relevant Facility plus 2% (or, in the case of any such other amounts that do not relate to a particular Facility, the Alternate Base Rate plus 4%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (c) of this Section 2.13 shall be payable from time to time on demand.

SECTION II.14 Computation of Interest and Fees. (a) Interest, fees and commissions payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the Alternate Base Rate or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.13(a) and the calculation of any Eurocurrency Reserve Requirements.

SECTION II.15 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Majority Facility Lenders in respect of the relevant Facility that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period, the Administrative Agent shall give telecopy or telephonic notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any Eurodollar Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as ABR Loans, (y) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans under the relevant Facility shall be converted, on the last day of the then current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans under the relevant Facility shall be made or continued as such, nor shall the Borrower have the right to convert Loans under the relevant Facility to Eurodollar Loans.

SECTION II.16 Pro Rata Treatment and Payments. (a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Tranche A Term Loan Percentages, Tranche B Term Loan Percentages, Tranche C Term Loan Percentages or Revolving Credit Percentages, as the case may be, of the relevant Lenders.

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Term Loans shall be made pro rata according to the respective outstanding principal amounts of the Term Loans then held by the Term Loan Lenders (except as otherwise provided in Section 2.16(d)). The amount of each principal prepayment of the Term Loans shall be applied to reduce the then remaining installments of the Tranche A Term Loans, Tranche B Term Loans or Tranche C Term Loans, as the case may be, pro rata based upon the then remaining principal amount thereof. Amounts prepaid on account of the Term Loans may not be reborrowed.

(c) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Revolving Credit Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Credit Loans then held by the Revolving Credit Lenders.

(d) Notwithstanding anything to the contrary in Sections 2.9, 2.10 or 2.16, so long as and to the extent any Tranche A Term Loans are outstanding, each Tranche B Term Loan Lender and each Tranche C Term Loan Lender may, at its option, decline up to 100% of the portion of any optional prepayment or mandatory payment applicable to the Tranche B Term Loans or Tranche C Term Loans, as the case may be, of such Lender; accordingly, with respect to the amount of any optional prepayment described in Section 2.9 or mandatory prepayment described in Section 2.10, that is allocated to Tranche B Term Loans or Tranche C Term Loans, as the case may be, (such amount, the "Prepayment Amount"), at any time when Tranche A Term Loans remain outstanding, the Borrower will, (i) in the case of any optional prepayment which the Borrower intends to make, not later than 20 Business Days prior to the date on which the Borrower intends to make such optional prepayment, and (ii) in the case of any mandatory prepayment required to be made pursuant to Section 2.10, in lieu of applying such amount to the prepayment of Tranche B Term Loans or Tranche C Term Loans, as the case may be, as provided in paragraph Section 2.10(d), on the date specified in Section 2.10 for such prepayment, give the Administrative Agent telephonic notice (promptly confirmed in writing) requesting that the Administrative Agent prepare and provide to each Tranche B Lender and each Tranche C Term Loan Lender a notice (each, a "Prepayment Option Notice") as described below. As promptly as practicable after receiving such notice from the Borrower, the Administrative Agent will send to each Tranche B Term Loan Lender or each Tranche C Term Loan Lender, as the case may be, a Prepayment Option Notice, which shall be in the form of Exhibit G, and shall include an offer by the Borrower to prepay on the date (each a "Prepayment Date") that is 10 Business Days after the date of the Prepayment Option Notice, the relevant Term Loans of such Lender by an amount equal to the portion of the Prepayment Amount indicated in such Lender's Prepayment Option Notice as being applicable to such Lender's Tranche B Term Loans or Tranche C Term Loans, as the case may be. On the Prepayment Date, (i) the Borrower shall pay to the Administrative Agent the aggregate amount necessary to prepay that portion of the outstanding relevant Term Loans in respect of which Tranche B Term Loan Lenders and Tranche C Term Loan Lenders have accepted prepayment as described above (such Lenders, the

"Accepting Lenders"), and such amount shall be applied to reduce the Prepayment Amount, as applicable, with respect to each Accepting Lender and (ii) the Borrower shall pay to the Administrative Agent an amount equal to the portion of the Prepayment Amount not accepted by the Accepting Lenders, and such amount shall be applied to the prepayment of the Tranche A Term Loans.

(e All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Payment Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(f Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making 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 such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon at a rate equal to the daily average Federal Funds Effective Rate for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.16(f) shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days of such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans under the relevant Facility, on demand, from the Borrower, and, if so recovered, such amount shall no longer be deemed outstanding hereunder.

(g Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment being made hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days of such required date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

SECTION II.17 Requirements of Law. (a) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender which is not otherwise included in the determination of the Eurodollar Rate hereunder; or

(ii) shall impose on such Lender any other condition;

and the result of any of the foregoing is to increase the cost to such Lender, by an amount which such Lender deems to be material, of making, converting into,

continuing or maintaining Eurodollar Loans or issuing or participating in Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this Section 2.17, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled (and any related calculations).

(b If any Lender shall have determined that the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations to lend hereunder or under or in respect of any Letter of Credit to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction provided that the Borrower shall not be required to compensate a Lender pursuant to this paragraph for any amounts incurred more than twelve months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; and provided further that, if the circumstances giving rise to such claim have a retroactive effect, then such twelve-month period shall be extended to include the period of such retroactive effect.

(c A certificate as to any additional amounts payable pursuant to this Section 2.17 submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall contain reasonable supporting calculations and an explanation in connection therewith and shall be conclusive in the absence of manifest error. The obligations of the Borrower pursuant to this Section 2.17 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder, except to the extent provided for in Section 2.17(b).

SECTION II.18 Taxes. (a) All payments made by the Borrower under this Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding net income taxes and franchise taxes (imposed in lieu of net income taxes) imposed on any Agent or any Lender by any jurisdiction under the laws of which the Agent or the Lender is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located. If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("Non-Excluded Taxes") or Other Taxes are required to be withheld from any amounts payable to any Agent or any Lender hereunder, the amounts so payable to such Agent or such Lender shall be increased to the extent necessary to yield to such Agent or such Lender (after payment of all Non-Excluded Taxes and Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement, provided, however, that the Borrower shall not be required to increase any such amounts payable to any Lender with respect to any Non-Excluded Taxes (i) that are attributable to such Lender's failure to comply with the requirements of paragraph (d) or (e) of this Section, (ii) that are United States withholding taxes that would be imposed on amounts payable to such Lender at the time the Lender becomes a party to this Agreement, except to the extent that such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to Section 2.18(a) or (iii) that are imposed as a result of an action taken by the Lender.

(b In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for the account of the relevant Agent or Lender, as the case may be, a certified copy of an original official receipt received by the

Borrower showing payment thereof. If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to the Agents the required receipts or other required documentary evidence, the Borrower shall indemnify the Administrative Agent and the Lenders for any incremental taxes, interest or penalties that may become payable by any Agent or any Lender as a result of any such failure. The agreements in this Section 2.18 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder for a period of twelve months after the date hereof.

(d Each Lender (or Transferee) that is not a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States (or any jurisdiction thereof), or any estate or trust that is subject to federal income taxation regardless of the source of its income (a "Non-U.S. Lender") shall deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased) two copies of either U.S. Internal Revenue Service Form 1001 or Form 4224, or, in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest" a statement substantially in the form of Exhibit H and a Form W-8, or any subsequent versions thereof or successors thereto properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from U.S. federal withholding tax on all payments by the Borrower under this Agreement and the other Loan Documents. Such forms shall be delivered by each Non-U.S. Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation). In addition, each Non-U.S. Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Non-U.S. Lender. Each Non-U.S. Lender shall promptly notify the Borrower at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of this Section 2.18(d), a Non-U.S. Lender shall not be required to deliver any form pursuant to this Section 2.18(d) that such Non-U.S. Lender is not legally able to deliver.

(e A Lender that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate, provided that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender's reasonable judgment such completion, execution or submission would not materially prejudice the legal position of such Lender.

SECTION II.19 Indemnity. The Borrower agrees to indemnify each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement (except as a result of a notice by the Administrative Agent pursuant to Section 2.15), (b) default by the Borrower in making any prepayment after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day which is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) which would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate as to any amounts payable pursuant to this Section 2.19 submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all

other amounts payable hereunder.

SECTION II.20 Illegality. Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Agreement, (a) the commitment of such Lender hereunder to make Eurodollar Loans, continue Eurodollar Loans as such and convert ABR Loans to Eurodollar Loans shall forthwith be cancelled and (b) such Lender's Loans then outstanding as Eurodollar Loans, if any, shall be converted automatically to ABR Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.19.

SECTION II.21 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.17 or 2.18(a) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage, and provided, further, that nothing in this Section 2.21 shall affect or postpone any of the obligations of any Borrower or the rights of any Lender pursuant to Section 2.17 or 2.18(a).

SECTION II.22 Replacement of Lenders under Certain Circumstances. The Borrower shall be permitted to replace any Lender which (a) requests reimbursement for amounts owing pursuant to Section 2.17 or 2.18 or (b) defaults in its obligation to make Loans hereunder, with a replacement financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default shall have occurred and be continuing at the time of such replacement, (iii) prior to any such replacement, such Lender shall have taken no action under Section 2.21 so as to eliminate the continued need for payment of amounts owing pursuant to Section 2.17 or 2.18, (iv) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (v) the Borrower shall be liable to such replaced Lender under Section 2.19 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (vi) the replacement financial institution, if not already a Lender, shall be reasonably satisfactory to the Administrative Agent, (vii) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein), (viii) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.17 or 2.18, as the case may be, and (ix) any such replacement shall not be deemed to be a waiver of any rights which the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

ARTICLE III. LETTERS OF CREDIT

SECTION III.1 L/C Commitment. (a) Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the other Revolving Credit Lenders set forth in Section 3.4(a), agrees to issue letters of credit ("Letters of Credit") for the account of the Borrower on any Business Day during the Revolving Credit Commitment Period in such form as may be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Credit Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date which is five Business Days prior to the Scheduled Revolving Credit Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) Each Letter of Credit shall be subject to the Uniform Customs and, to the extent not inconsistent therewith, the laws of the State of New York.

(c) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit hereunder if such issuance would conflict with, or cause the Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law.

SECTION III.2 Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may reasonably request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).

SECTION III.3 Commissions, Fees and Other Charges. (a) The Borrower will pay a commission on all undrawn and unpaid Letters of Credit at a per annum rate equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Credit Facility, shared ratably among the Revolving Credit Lenders and payable quarterly in arrears on each L/C Fee Payment Date after the issuance date. In addition, the Borrower shall pay to the Issuing Lender for its own account a fronting fee of 1/4 of 1% per annum of the undrawn and unexpired amount of the Letter of Credit, payable quarterly in arrears on each L/C Fee Payment Date after the Issuance Date.

(b) In addition to the foregoing fees and commissions, the Borrower shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

SECTION III.4 L/C Participations. (a) The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce the Issuing Lender to issue Letters of Credit hereunder, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions hereinafter stated, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Credit Percentage in the Issuing Lender's obligations and rights under each Letter of Credit issued hereunder and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Participant unconditionally and irrevocably agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement, such L/C Participant shall pay to the Issuing Lender upon demand at the Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Credit Percentage of the amount of such draft, or any part thereof, which is not so reimbursed.

(b) If any amount required to be paid by any L/C Participant to the Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by the Issuing Lender under any Letter of Credit is paid to the Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to the Issuing Lender on demand an amount equal to the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to the Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, the Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Credit Facility. A

certificate of the Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Article shall be conclusive in the absence of manifest error.

(c) Whenever, at any time after the Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a), the Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by the Issuing Lender), or any payment of interest on account thereof, the Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided that in the event that any such payment received by the Issuing Lender shall be required to be returned by the Issuing Lender, such L/C Participant shall return to the Issuing Lender the portion thereof previously distributed by the Issuing Lender to it.

SECTION III.5 Reimbursement Obligation of the Borrower. The Borrower agrees to reimburse the Issuing Lender on each date on which the Issuing Lender notifies the Borrower of the date and amount of a draft presented under any Letter of Credit and paid by the Issuing Lender for the amount of (a) such draft so paid and (b) any taxes, fees, charges or other costs or expenses incurred by the Issuing Lender in connection with such payment; provided that if the Issuing Lender does not notify the Borrower as provided for above earlier than 9:30 A.M. (New York City time) on the date such draft is paid then such reimbursement payment may be made the Business Day immediately subsequent to the date such draft is paid. Each such payment shall be made to the Issuing Lender at its address for notices specified herein in lawful money of the United States and in immediately available funds. Interest shall be payable on any and all amounts remaining unpaid by the Borrower under this Article from the date such amounts become payable (whether at stated maturity, by acceleration or otherwise) until payment in full at the rate set forth in Section 2.13(c); provided that if the Issuing Lender does not notify the Borrower as provided for above earlier than 9:30 A.M. (New York City time) on the date such draft is paid, then for such day (and until the next Business Day) all amounts remaining unpaid in respect of such notice shall bear interest the rate set forth in Section 2.13(b). Each drawing under any Letter of Credit shall (unless an event of the type described in clause (i) or (ii) of Section 8(f) shall have occurred and be continuing with respect to the Borrower, in which case the procedures specified in Section 3.4 for funding by L/C Participants shall apply) constitute a request by the Borrower to the Administrative Agent for a borrowing pursuant to Section 2.5 of ABR Loans in the amount of such drawing. The Borrowing Date with respect to such borrowing shall be the date of such drawing.

SECTION III.6 Obligations Absolute. The Borrower's obligations under this Article 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrower's Reimbursement Obligations under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct and in accordance with the standards or care specified in the Uniform Commercial Code of the State of New York, shall be binding on the Borrower and shall not result in any liability of the Issuing Lender to the Borrower.

SECTION III.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in

connection with such presentment are in conformity with such Letter of Credit.

SECTION III.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Article 3, the provisions of this Article 3 shall apply.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES

To induce the Agents and the Lenders to enter into this Agreement and to make the Loans and issue or participate in the Letters of Credit, the Borrower hereby represents and warrants to each Agent and each Lender that:

SECTION IV.1 Financial Condition. (a) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at March 31, 1999 (including the notes thereto) (the "Pro Forma Balance Sheet"), copies of which have heretofore been furnished to each Lender, has been prepared giving effect (as if such events had occurred on such date) to (i) the consummation of the Acquisition, (ii) the Tranche C Term Loans to be made and the use of proceeds thereof and (iii) the payment of fees and expenses in connection with the foregoing. The Pro Forma Balance Sheet has been prepared based on the best information available to the Borrower as of the date of delivery thereof, and presents fairly on a pro forma basis the estimated financial position of Borrower and its consolidated Subsidiaries as at March 31, 1999, assuming that the events specified in the preceding sentence had actually occurred at such date.

(b) The audited consolidated balance sheets of the Borrower as at December 31, 1996, December 31, 1997 and December 31, 1998 and the related consolidated statements of income and of cash flows for the fiscal years ended on such dates, reported on by and accompanied by an unqualified report from PricewaterhouseCoopers LLP, present fairly the consolidated financial position of the Borrower as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal years then ended. The unaudited consolidated balance sheet of the Borrower as at March 31, 1999, and the related unaudited consolidated statements of income and cash flows for the three-month period ended on such date, present fairly the consolidated financial position of the Borrower as at such date, and the consolidated results of its operations and its consolidated cash flows for the three-month period then ended (subject to normal year-end audit adjustments). All such financial statements, including the related schedules and any notes thereto (except in the case of any notes to the financial statements dated as of March 31, 1999), have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein). As of the date of the most recent financial statements referred to in this paragraph (b), the Borrower and its Subsidiaries did not have any material Guarantee Obligations, contingent liabilities and liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including, without limitation, any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, that were not reflected in such financial statements, except as set forth on Schedule 4.1(b). During the period from December 31, 1998 to and including the date hereof, there has been no Disposition by the Borrower of any material part of its business or Property, except as set forth on Schedule 4.1.

(c) The Division does not have any material Guarantee Obligations, contingent liabilities and liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including, without limitation, any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, except as set forth on Schedule 4.1(c). SECTION IV.2 No Change. Since December 31, 1998, there has been no development or event which has had or could reasonably be expected to have a Material Adverse Effect.

SECTION IV.3 Corporate Existence; Compliance with Law. Each of the Borrower and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the corporate power and authority, and the legal right, to own and operate its Property, to lease the Property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law except in the case of clauses (c) and (d) to the extent that the failure to so qualify and be in good standing or to so comply could not, in the aggregate,

reasonably be expected to have a Material Adverse Effect.

SECTION IV.4 Corporate Power; Authorization; Enforceable Obligations. Each Loan Party has the corporate power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow hereunder. Each Loan Party has taken all necessary corporate action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the borrowings on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Acquisition and the borrowings hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except (i) consents, authorizations, filings and notices described in Schedule 4.4 and (ii) the filings referred to in Section 4.19. Each Loan Document has been duly executed and delivered on behalf of each Loan Party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws relating to or affecting the enforcement of creditors' rights and to general equity principles (whether enforcement is sought by proceedings in equity or at law).

SECTION IV.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not violate any Requirement of Law or any Contractual Obligation of the Borrower or any of its Subsidiaries in any material respect and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents). No Requirement of Law (excluding compliance in the ordinary course of business with the laws and regulations enforced by the United States Food and Drug Administration and any compliance with comparable health and safety requirements) or Contractual Obligation applicable to the Borrower or any of its Subsidiaries could reasonably be expected to have a Material Adverse Effect.

SECTION IV.6 No Material Litigation. Except as set forth on Schedule 4.6, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, threatened by or against the Borrower or any of its Subsidiaries or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby or (b) which could reasonably be expected to have a Material Adverse Effect.

SECTION IV.7 No Default. Neither the Borrower nor any of its Subsidiaries is in default under or with respect to any of its Contractual Obligations in any respect which could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

SECTION IV.8 Ownership of Property; Liens. Each of the Borrower and its Subsidiaries has title in fee simple to, or a valid leasehold interest in, all its real property, and sufficient title to enjoy the benefits of, or a valid leasehold interest in, all its other Property, and none of such Property is subject to any Lien except as permitted by Section 7.3.

SECTION IV.9 Intellectual Property. Except as set forth on Schedule 4.9, (a) the Borrower and each of its Subsidiaries owns, or is licensed to use or otherwise possess a legally enforceable right to use, all Intellectual Property necessary for the conduct of its business as currently conducted; (b) no material claim has been asserted and is pending by any Person challenging or questioning the use of any Intellectual Property or the validity or effectiveness of any Intellectual Property, nor does the Borrower know of any valid basis for any such claim; and (c) to Borrower's knowledge, the use of Intellectual Property by the Borrower and its Subsidiaries does not infringe on the rights of any Person in any material respect.

SECTION IV.10 Taxes. Each of the Borrower and each of its Subsidiaries has filed or caused to be filed all Federal, state and other material tax returns which are required to be filed and has paid all taxes shown to be due and payable on said returns or on any assessments made against it or any of its Property and all other taxes, fees or other charges imposed on it or any of its Property by any Governmental Authority (other than any the amount or

validity of which are currently being contested in good faith by appropriate procedures or with respect to which reserves in conformity with GAAP have been provided on the books of the Borrower or its Subsidiaries, as the case may be); no tax Lien has been filed, and, to the knowledge of the Borrower, no material claim is being asserted, with respect to any such tax, fee or other charge.

SECTION IV.11 Federal Regulations. No part of the proceeds of any Loans will be used for "purchasing" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation G or Regulation U as now and from time to time hereafter in effect without prior written notice to the Administrative Agent or for any purpose which violates the provisions of the Regulations of the Board. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1 referred to in Regulation G or Regulation U, as the case may be.

SECTION IV.12 Labor Matters. There are no strikes or other labor disputes against the Borrower or any of its Subsidiaries pending or, to the knowledge of the Borrower, threatened that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. Hours worked by and payment made to employees of the Borrower and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. All payments due from the Borrower or any of its Subsidiaries on account of employee health and welfare insurance that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect if not paid have been paid or accrued as a liability on the books of the Borrower or the relevant Subsidiary.

SECTION IV.13 ERISA. Neither a Reportable Event nor an "accumulated funding deficiency" (within the meaning of Section 412 of the Code or Section 302 of ERISA) has occurred during the five-year period prior to the date on which this representation is made or deemed made with respect to any Plan, and each Plan has complied in all material respects with the applicable provisions of ERISA and the Code. No termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Plan has arisen, during such five-year period. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits by a material amount. Neither the Borrower nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan which has resulted or could reasonably be expected to result in a material liability under ERISA, and neither the Borrower nor any Commonly Controlled Entity would become subject to any material liability under ERISA if the Borrower or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. No such Multiemployer Plan is in Reorganization or Insolvent.

SECTION IV.14 Investment Company Act; Other Regulations. No Loan Party is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board) which limits its ability to incur Indebtedness.

SECTION IV.15 Subsidiaries. (a) Schedule 4.15 sets forth as of the Closing Date the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party.

(b) There are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Capital Stock of the Borrower or any Subsidiary, except under the Loan Documents and the Warrant.

SECTION IV.16 Use of Proceeds. The proceeds of the Tranche C Term Loans shall be used to finance the Acquisition. The Revolving Credit Loans shall be used in respect of working capital in the ordinary course of business.

SECTION IV.17 Environmental Matters. Except as individually or

in the aggregate could not reasonably be expected to result in a Material Adverse Effect:

(a) The facilities and properties owned, leased or operated by the Borrower or any of its Subsidiaries (the "Properties") do not contain, and have not previously contained, any Materials of Environmental Concern in amounts or concentrations or under circumstances which (i) constitute or constituted a violation of, or (ii) could reasonably be expected to have given rise to a release or a threat of release, as regulated or defined, under any Environmental Law.

(b) The Properties and all operations at the Properties are in material compliance, and have in the last five years been in material compliance, with all applicable Environmental Laws, and there is no contamination at, under or about the Properties or violation of any Environmental Law with respect to the Properties or the business operated by the Borrower or any of its Subsidiaries (the "Business"). Neither the Borrower nor any of its Subsidiaries has contractually assumed any liability of any other Person under Environmental Laws other than in the ordinary course of business.

(c) Neither the Borrower nor any of its Subsidiaries has received or is aware of any notice of violation, alleged violation, non-compliance, liability or potential liability, judicial proceeding or governmental or administrative action or consent decrees or other decrees, consent orders, administrative orders or other orders, regarding environmental matters or compliance with Environmental Laws with regard to any of the Properties or the Business, nor does the Borrower have knowledge or reason to believe that any such notice will be received or is being threatened.

(d) Materials of Environmental Concern have not been transported or disposed of from the Properties in violation of, or in a manner or to a location which could reasonably be expected to give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of at, on or under any of the Properties in violation of, or in a manner that could reasonably be expected to give rise to liability under, any applicable Environmental Law.

(e) There has been no release or threat of release of Materials of Environmental Concern at or from the properties previously owned or operated by the Borrower or any Subsidiary (the "Former Properties") during such period of ownership or operation, or arising from or related to the operations of the Borrower or any Subsidiary in connection with the Former Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that could reasonably be expected to give rise to liability under Environmental Laws.

SECTION IV.18 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document, the Confidential Information Memorandum or any other document, certificate or statement furnished to the Administrative Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, document or certificate was so furnished (or, in the case of the Confidential Information Memorandum, as of the date of this Agreement), any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. As of the date hereof, to the best of the Borrower's knowledge, the representations and warranties contained in the Acquisition Agreement are true and correct in all material respects. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents, in the Confidential Information Memorandum or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

SECTION IV.19 Security Documents. The Guarantee and Collateral Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable security interest in the

Collateral described therein and proceeds thereof. In the case of the Pledged Stock described in the Guarantee and Collateral Agreement, when stock certificates representing such Pledged Stock are delivered to the Administrative Agent, and in the case of the other Collateral described in the Guarantee and Collateral Agreement, when financing statements in appropriate form are filed in the offices specified on Schedule 4.19 and such other filings as are specified on Schedule 3 to the Guarantee and Collateral Agreement, the Guarantee and Collateral Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations (as defined in the Guarantee and Collateral Agreement), in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Liens permitted by Section 7.3).

SECTION IV.20 Solvency. Each Loan Party is, and after giving effect to the Acquisition and the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith will be and will continue to be, Solvent.

ARTICLE V. CONDITIONS PRECEDENT

SECTION V.1 Conditions to the Effectiveness of this Agreement. The agreement of each Tranche C Term Loan Lenders to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by a duly authorized officer of the Borrower, the Required Lenders and each of the Tranche C Term Loan Lenders, (ii) an acknowledgment and consent to the Guarantee and Collateral Agreement, executed and delivered by a duly authorized officer of the Borrower and each Subsidiary Guarantor, and (iii) for the account of each requesting Tranche C Term Loan Lender, a Note conforming to the requirements hereof and executed and delivered by a duly authorized officer of the Borrower.

(b) Acquisition. The Acquisition shall have been consummated in accordance with applicable law, and no material provision of the Acquisition Documentation shall have been waived, amended, supplemented or otherwise modified in any material respect. The capitalization and structure of each Loan Party after the Acquisition and the borrowings hereunder on the Closing Date shall not have a material and adverse effect on the financial position or projected financial results of the Borrower and its Subsidiaries (as presented in the Confidential Information Memorandum).

(c) Pro Forma Balance Sheet; Financial Statements. The Lenders shall have received (i) the Pro Forma Balance Sheet, (ii) audited consolidated financial statements of the Borrower for its 1996, 1997 and 1998 fiscal years and unaudited financial statements of the Division for the 1997 and 1998 fiscal years and (iii) unaudited interim consolidated financial statements of each of the Borrower and the Division for each fiscal quarter ended subsequent to the date of the latest applicable financial statements delivered pursuant to clause (ii) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Lenders, reflect any material adverse change in the consolidated financial condition of the Borrower and its Subsidiaries or the Division, as reflected in the financial statements or projections contained in the Confidential Information Memorandum.

(d) Approvals. All material governmental approvals required to consummate the Acquisition, the continuing operations of the Borrower and its Subsidiaries and the Division shall have been obtained on satisfactory terms and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority which would prevent the Acquisition or the financing contemplated hereby; provided that if any competent Governmental Authority shall impose adverse conditions on all or part of the Acquisition or the financing thereof, the Administrative Agent

and the Borrower shall negotiate in a reasonable manner to adjust the terms and amounts of the Facilities accordingly.

(e) Related Agreements. The Administrative Agent shall have received in a form reasonably satisfactory, with a copy for each Lender, true and correct copies, certified as to authenticity by the Borrower, of the Acquisition Documentation and such other documents or instruments as may be reasonably requested by the Administrative Agent, including, without limitation, a copy of any debt instrument, security agreement or other material contract to which the Loan Parties may be a party.

(f) Fees. The Lenders and the Agents shall have received all fees required to be paid, and all expenses for which invoices have been presented, including, without limitation, the reasonable fees and expenses of legal counsel, on or before the Closing Date.

(g) Business Plan. The Lenders shall have received a satisfactory business plan for fiscal years 1999-2005 and a satisfactory written analysis of the business and prospects of the Borrower and its Subsidiaries for the period from the Closing Date through the final maturity of the Term Loans.

(h) Budget. The Lenders shall have received a budget for the Borrower and its Subsidiaries for the 1999 fiscal year.

(i) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions where assets of the Division are located, and such search shall reveal no liens on any of the assets of the Division except for liens permitted by Section 7.3 or discharged on or prior to the Closing Date pursuant to documentation satisfactory to the Administrative Agent.

(j) Environmental Due Diligence. The Administrative Agent and the Documentation Agent shall be satisfied with the environmental condition of the real property owned or leased by the Division.

(k) Expenses. The Administrative Agent shall have received satisfactory evidence that the fees and expenses to be incurred in connection with the Acquisition and the Facilities shall not exceed \$2,000,000.

(l) Closing Certificate. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C, with appropriate insertions and attachments.

(m) Legal Opinions. The Administrative Agent shall have received the following executed legal opinions:

(i) the legal opinion of Sullivan & Cromwell, counsel to the Borrower and its Subsidiaries, substantially in the form of Exhibit E-1;

(ii) the legal opinion of Daniel S. Jonas, general counsel of the Borrower and its Subsidiaries, substantially in the form of Exhibit E-2;

(n) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statements filed in connection with the Acquisition of the Division) required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Lenders, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.3), shall be in proper form for filing, registration or recordation.

(o) Insurance. The Administrative Agent shall have received insurance certificates satisfying the requirements of Section 6.5 and the Borrower shall have obtained certain key man life insurance on certain officers of the Borrower as heretofore determined by the Administrative Agent.

(p) The Administrative Agent shall be satisfied with all labor, pension, regulatory, health and safety, litigation, accounting and tax matters relating to the Borrower, its Subsidiaries and the Division.

(q) The Borrower shall be in compliance with the financial covenants in Section 7.1 as of the most recently completed fiscal quarter for which financial statements have been delivered to the Lenders on a pro forma basis assuming that the Acquisition and the financing thereof had been effected on the first day of the most recently completed four fiscal quarters for which financial statements have been delivered to the Lenders, no Default or Event of Default shall occur or be continuing and the Borrower shall have provided a certificate to the Administrative Agent in reasonable detail to the effect of the foregoing.

SECTION V.2 Conditions to Each Extension of Credit. The agreement of each Lender to make any extension of credit requested to be made by it on any date (including, without limitation, its initial extension of credit) is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct on and as of such date as if made on and as of such date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

Each borrowing by and issuance of a Letter of Credit on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

ARTICLE VI. AFFIRMATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or any Agent hereunder, the Borrower shall and shall cause each of its Subsidiaries to:

SECTION VI.1 Financial Statements. Furnish to each Agent and each Lender:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a copy of the audited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such year and the related audited consolidated statements of income and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit, by PricewaterhouseCoopers LLP or other independent certified public accountants of nationally recognized standing; and

(b) as soon as available, but in any event not later than 45 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower, the unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer as being fairly stated in all material respects (subject

to normal year-end audit adjustments);

all such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein, and provided that the financial statements referred to in Section 6.1(b) need not contain footnotes).

SECTION VI.2 Certificates; Other Information. Furnish to each Agent and each Lender, or, in the case of clause (g), to the Administrative Agent for the relevant Lender:

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer stating that, to the best of each such Responsible Officer's knowledge, each Loan Party during such period has observed or performed all of its covenants and other agreements, and satisfied every condition, contained in this Agreement and the other Loan Documents to which it is a party to be observed, performed or satisfied by it, and that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) in the case of quarterly or annual financial statements, (x) a Compliance Certificate containing all information and calculations necessary for determining compliance by the Borrower and its Subsidiaries with the provisions of this Agreement referred to therein as of the last day of the fiscal quarter or fiscal year of the Borrower, as the case may be, and (y) to the extent not previously disclosed to the Administrative Agent, a listing of any county or state within the United States where any Loan Party keeps inventory or equipment and of any Intellectual Property acquired by any Loan Party since the date of the most recent list delivered pursuant to this clause (y) (or, in the case of the first such list so delivered, since the Closing Date);

(c) as soon as available, and in any event no later than 45 days after the end of each fiscal year of the Borrower, a detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year, and the related consolidated statements of projected cash flow, projected changes in financial position and projected income), and, as soon as available, significant revisions, if any, of such budget and projections with respect to such fiscal year (collectively, the "Projections"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections are based on reasonable estimates, information and assumptions and that such Responsible Officer has no reason to believe that such Projections are incorrect or misleading in any material respect;

(d) within 45 days (and 90 days in the case of the end of a fiscal year) after the end of each fiscal quarter of the Borrower, either (i) a Form 10-Q or 10-K for the Borrower and its Subsidiaries for such fiscal quarter, which contains a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, as compared to the portion of the Projections covering such periods and to the comparable periods of the previous year, or (ii) such narrative discussion and analysis;

(e) no later than 5 Business Days prior to the effectiveness thereof, copies of any proposed amendment, supplement, waiver or other modification with respect to the

Senior Subordinated Note Indenture or the Acquisition Agreement;

(f) within five days after the same are sent, copies of all financial statements and reports which the Borrower sends to the holders of any class of its debt securities or public equity securities and within five days after the same are filed, copies of all financial statements and reports which the Borrower may make to, or file with, the SEC; and

(g) promptly, such additional financial and other information as any Lender may from time to time reasonably request through the Administrative Agent.

SECTION VI.3 Payment of Obligations. (a) Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations of whatever nature, except where the amount or validity thereof is currently being contested in good faith by appropriate procedures or reserves in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Subsidiaries, as the case may be.

(b) Each of the Loan Parties will pay and discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all material taxes, assessments and governmental charges or levies imposed upon the Collateral or in respect of income or profits therefrom, as well as all claims of any kind (including, without limitation, claims for labor, materials and supplies) against or with respect to the Collateral, except that no such charge need be paid if the amount or validity thereof is currently being contested in good faith by appropriate procedures or reserves in conformity with GAAP with respect thereto have been provided on the books of such Loan Party and such proceedings could not reasonably be expected to result in the sale, forfeiture or loss of any material portion of the Collateral or any interest therein.

SECTION VI.4 Conduct of Business and Maintenance of Existence, etc. (a) (i) Preserve, renew and keep in full force and effect its corporate existence and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION VI.5 Maintenance of Property; Insurance. (a) Keep all Property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted; (b) maintain with financially sound and reputable insurance companies insurance on all its Property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business; (c) maintain, with financially sound and reputable companies, insurance policies (i) insuring the Inventory and Equipment against loss by fire, explosion, theft and such other casualties as may be reasonably satisfactory to the Administrative Agent and (ii) insuring such Loan Party against liability for personal injury and property damage relating to such Inventory and Equipment, such policies to be in such form and amounts and having such coverage as may be reasonably satisfactory to the Administrative Agent and the Lenders (all such insurance shall (A) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least 30 days after receipt by the Administrative Agent of written notice thereof, (B) name the Administrative Agent as loss payee, and (C) be reasonably satisfactory in all other respects to the Administrative Agent); and (d) the Borrower shall deliver to the Administrative Agent and the Lenders a report of a reputable insurance broker with respect to such insurance during the month of November in each calendar year and such supplemental reports with respect thereto as the Administrative Agent may from time to time reasonably request.

SECTION VI.6 Inspection of Property; Books and Records;

Discussions. (a) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities and (b) permit representatives of any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Borrower and its Subsidiaries with officers and employees of the Borrower and its Subsidiaries and with its independent certified public accountants.

SECTION VI.7 Notices. Promptly give notice to the Administrative Agent and each Lender of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any material Contractual Obligation of the Borrower or any of its Subsidiaries or (ii) litigation, investigation or proceeding which may exist at any time between the Borrower or any of its Subsidiaries and any Governmental Authority, which in either case, if not cured or if adversely determined, as the case may be, could reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding directly affecting the Borrower or any of its Subsidiaries in which the amount sought from the Borrower and its Subsidiaries is \$1,000,000 or more and not covered by insurance or in which injunctive or similar relief is sought as to which the Borrower or any of its Subsidiaries has knowledge or reasonably should have knowledge;

(d) the following events, as soon as possible and in any event within 30 days after the Borrower knows or has reason to know thereof: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, a failure to make any required contribution to a Single Employer or Multiemployer Plan, the creation of any Lien in favor of the PBGC or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Plan; and

(e) any development or event which has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary proposes to take with respect thereto.

SECTION VI.8 Environmental Laws. (a) Comply in all material respects with, and make all reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply in all material respects with and maintain, and make all reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws.

SECTION VI.9 Interest Rate Protection. In the case of the Borrower, within 180 days after the Closing Date, enter into Interest Rate Protection Agreements with respect to floating rate obligations in respect of an aggregate principal amount of Term Loans, and at market rates and on terms and conditions, reasonably satisfactory to the Administrative Agent.

SECTION VI.10 Additional Collateral, etc. (a) With respect to any Property acquired after the Closing Date by the Borrower or any of its Subsidiaries (other than an Excluded Foreign Subsidiary) (other than (x) any Property described in paragraph (b), (c) or (d) below and (y) any Property subject to a Lien expressly permitted by Section 7.3(g) or (m) (if such Lien was granted in a transaction comparable to that permitted by Section 7.3(g)) as to which the Administrative Agent, for the benefit of the Lenders, does not have a perfected Lien, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent deems necessary or advisable in order to grant to the Administrative Agent, for the benefit of the Lenders, a security interest in such Property and (ii) take all actions necessary or reasonably advisable to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest in such Property, subject to no Liens except as permitted by Section 7.3, including without limitation, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent.

(b) With respect to any fee interest in any real property having a purchase price (together with improvements thereof) of at least \$5,000,000 acquired after the Closing Date by the Borrower or any of its Subsidiaries (other than any such real property owned by an Excluded Foreign Subsidiary or subject to a Lien expressly permitted by Section 7.3(g)), promptly (i) execute and deliver a first priority mortgage in a form reasonably satisfactory to the Administrative Agent in favor of the Administrative Agent, for the benefit of the Lenders, covering such real property, subject to no Liens except as permitted by Section 7.3, (ii) if requested by the Administrative Agent, provide the Lenders with (x) title and extended coverage insurance covering such real property in an amount equal to the purchase price of such real estate as well as a current ALTA survey thereof, together with a surveyor's certificate and (y) any consents or estoppels reasonably deemed necessary or advisable by the Administrative Agent in connection with such mortgage or deed of trust, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent a legal opinion relating to the enforceability of such mortgage which opinion shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(c) With respect to any new Subsidiary (other than an Excluded Foreign Subsidiary) created or acquired after the Closing Date by the Borrower (which, for the purposes of this paragraph (c), shall include any existing Subsidiary that ceases to be an Excluded Foreign Subsidiary) or any of its Subsidiaries, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent deems necessary or reasonably advisable in order to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest in the Capital Stock of such new Subsidiary which is owned by the Borrower or any of its Subsidiaries, (ii) deliver to the Administrative Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the Borrower or such Subsidiary, as the case may be, (iii) cause such new Subsidiary (A) to become a party to the Guarantee and Collateral Agreement and (B) to take such actions necessary or reasonably advisable to grant to the Administrative Agent for the benefit of the Lenders a perfected first priority security interest in the Collateral described in the Guarantee and Collateral Agreement with respect to such new Subsidiary, subject to no Liens except as permitted by Section 7.3, including, without limitation, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent, and (iv) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(d) With respect to any new Excluded Foreign Subsidiary created or acquired after the Closing Date by the Borrower or any of its Subsidiaries, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent deems necessary or reasonably advisable in order to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest in the Capital Stock of such new Subsidiary which is owned by the Borrower or any of its Subsidiaries (provided that in no event shall more than 65% of the total outstanding Capital Stock of any such new Subsidiary be

required to be so pledged), (ii) deliver to the Administrative Agent the certificates representing such Capital Stock, if such Capital Stock is certificated, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the Borrower or such Subsidiary, as the case may be, and take such other action as may be necessary or, in the opinion of the Administrative Agent, desirable to perfect the Lien of the Administrative Agent thereon, and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

SECTION VI.11 Senior Debt. Insure that all the Obligations (including the Tranche C Term Loans) constitute "Senior Debt" of the Borrower under and as defined in the Senior Subordinated Note Indenture, and the obligations of each Subsidiary Guarantor under the Guarantee and Collateral Agreement constitute "Senior Debt" of such Subsidiary Guarantor under and as defined in the Senior Subordinated Note Indenture. The parties hereto acknowledge and agree that the borrowing of the Tranche C Term Loans is permitted under the Senior Subordinated Note Indenture by virtue of the first paragraph of Section 4.09 of the Senior Subordinated Note Indenture.

SECTION VI.12 Additional Covenants Relating to Collateral. (a) If any amount in excess of \$200,000 payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Chattel Paper, deliver such Instrument or Chattel Paper immediately to the Administrative Agent, duly indorsed in a manner satisfactory to the Administrative Agent, to be held as Collateral pursuant to the Guarantee and Collateral Agreement.

(b) Not, except upon 15 days' prior written notice to the Administrative Agent and delivery to the Administrative Agent of (i) all additional executed financing statements and other documents reasonably requested by the Administrative Agent to maintain the validity, perfection and priority of the security interests provided for in the Guarantee and Collateral Agreement, and (ii) if applicable, a written supplement to Schedule 5 to the Guarantee and Collateral Agreement showing any additional location at which Inventory or Equipment shall be kept:

(i) permit any of the Inventory or Equipment to be kept at a location other than those listed on Schedule 5 to the Guarantee and Collateral Agreement (other than mobile goods and Inventory and Equipment located temporarily in a UCC financing statement filing jurisdiction the aggregate fair market value of which is less than \$50,000);

(ii) change the location of its chief executive office or sole place of business from that referred to in Section 4.4 of the Guarantee and Collateral Agreement; or

(iii) change its name, identity or corporate structure to such an extent that any financing statement filed by the Administrative Agent in connection with the Guarantee and Collateral Agreement would become misleading.

(c) Advise the Administrative Agent and the Lenders promptly, in reasonable detail, of:

(i) any Lien (other than security interests created hereby or Liens permitted under Section 7.3) on any material portion of the Collateral which would adversely affect the ability of the Administrative Agent to exercise any of its remedies hereunder in any material respect; and

(ii) the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the security interests created hereby.

ARTICLE VII. NEGATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or any Agent hereunder, the Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

SECTION VII.1 Financial Condition Covenants.

(a) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio as at the last day of any period of four consecutive fiscal quarters of the Borrower (or, if less, the number of full fiscal quarters subsequent to the Closing Date) ending with any fiscal quarter set forth below to exceed the ratio set forth below opposite such fiscal quarter:

| Fiscal Quarter ----- | Consolidated Leverage Ratio ----- |
|-------------------------|---|
| March 31, 1999 | 4.50 to 1.00 |
| June 30, 1999 | 4.25 to 1.00 |
| September 30, 1999 | 4.75 to 1.00 |
| December 31, 1999 | 4.75 to 1.00 |
| March 31, 2000 | 4.75 to 1.00 |
| June 30, 2000 | 4.50 to 1.00 |
| September 30, 2000 | 4.50 to 1.00 |
| December 31, 2000 | 4.25 to 1.00 |
| March 31, 2001 | 4.25 to 1.00 |
| June 30, 2001 | 4.00 to 1.00 |
| September 30, 2001 | 4.00 to 1.00 |
| December 31, 2001 | 3.75 to 1.00 |
| March 31, 2002 | 3.75 to 1.00 |
| June 30, 2002 | 3.75 to 1.00 |
| September 30, 2002 | 3.75 to 1.00 |
| December 31, 2002 | 3.50 to 1.00 |
| March 31, 2003 | 3.50 to 1.00 |
| June 30, 2003 | 3.50 to 1.00 |
| September 30, 2003 | 3.50 to 1.00 |
| December 31, 2003 | 3.25 to 1.00 |
| March 31, 2004 | 3.25 to 1.00 |
| June 30, 2004 | 3.25 to 1.00 |
| September 30, 2004 | 3.25 to 1.00 |
| December 31, 2004 | 3.00 to 1.00 |
| Thereafter | 3.00 to 1.00 |

(b) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio for any period of four consecutive fiscal quarters of the Borrower (or, if less, the number of full fiscal quarters subsequent to the Closing Date) ending with any fiscal quarter set forth below to be less than the ratio set forth below opposite such fiscal quarter:

| Fiscal Quarter ----- | Consolidated Interest Coverage Ratio ----- |
|-------------------------|--|
| March 31, 1999 | 2.75 to 1.00 |
| June 30, 1999 | 2.75 to 1.00 |
| September 30, 1999 | 2.40 to 1.00 |
| December 31, 1999 | 2.40 to 1.00 |
| March 31, 2000 | 2.40 to 1.00 |
| June 30, 2000 | 2.40 to 1.00 |
| September 30, 2000 | 2.40 to 1.00 |
| December 31, 2000 | 2.60 to 1.00 |
| March 31, 2001 | 2.60 to 1.00 |
| June 30, 2001 | 2.60 to 1.00 |
| September 30, 2001 | 2.60 to 1.00 |
| December 31, 2001 | 3.00 to 1.00 |
| Thereafter | 3.00 to 1.00 |

(c) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio for any period of four consecutive fiscal quarters of the Borrower (or, if less, the number of full fiscal quarters subsequent to the Closing Date) ending with any fiscal quarter set forth below to be less than the ratio set forth below opposite such fiscal quarter:

| Fiscal Quarter ----- | Consolidated Fixed Charge Coverage Ratio ----- |
|-------------------------|--|
| March 31, 1999 | 1.35 to 1.00 |

| | |
|--------------------|--------------|
| June 30, 1999 | 1.35 to 1.00 |
| September 30, 1999 | 1.20 to 1.00 |
| December 31, 1999 | 1.20 to 1.00 |
| March 31, 2000 | 1.20 to 1.00 |
| June 30, 2000 | 1.20 to 1.00 |
| September 30, 2000 | 1.20 to 1.00 |
| December 31, 2000 | 1.20 to 1.00 |
| March 31, 2001 | 1.20 to 1.00 |
| June 30, 2001 | 1.20 to 1.00 |
| September 30, 2001 | 1.20 to 1.00 |
| December 31, 2001 | 1.25 to 1.00 |
| March 31, 2002 | 1.25 to 1.00 |
| June 30, 2002 | 1.25 to 1.00 |
| September 30, 2002 | 1.25 to 1.00 |
| December 31, 2002 | 1.30 to 1.00 |
| March 31, 2003 | 1.30 to 1.00 |
| June 30, 2003 | 1.30 to 1.00 |
| September 30, 2003 | 1.30 to 1.00 |
| December 31, 2003 | 1.35 to 1.00 |
| March 31, 2004 | 1.35 to 1.00 |
| June 30, 2004 | 1.35 to 1.00 |
| September 30, 2004 | 1.35 to 1.00 |
| Thereafter | 1.40 to 1.00 |

(d) Maintenance of Net Worth. Permit Consolidated Net Worth as of the end of any fiscal quarter during any fiscal year of the Borrower to be less than the sum of (i) Consolidated Net Worth on December 31, 1997 plus (ii) 75% of Consolidated Net Income since December 31, 1997 plus (iii) Net Cash Proceeds from the sale of Capital Stock of the Borrower on a cumulative basis since the Original Closing Date.

SECTION VII.2 Limitation on Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) Indebtedness of the Borrower to any Subsidiary and of any Wholly Owned Subsidiary Guarantor to the Borrower or any other Subsidiary;

(c) Indebtedness secured by Liens permitted by Section 7.3(g) in an aggregate principal amount not to exceed \$7,500,000 at any one time outstanding;

(d) Capital Lease Obligations in an aggregate principal amount not to exceed \$5,000,000 at any one time outstanding;

(e) Indebtedness outstanding on the date hereof and listed on Schedule 7.2(e) and any refinancings, refundings, renewals or extensions thereof (without any increase in the principal amount thereof);

(f) guarantees made in the ordinary course of business by the Borrower or any of its Subsidiaries of obligations of any Wholly Owned Subsidiary Guarantor;

(g) (i) Indebtedness of the Borrower in respect of the Senior Subordinated Notes and (ii) Guarantee Obligations of any Subsidiary Guarantor in respect of such Indebtedness; provided that such Guarantee Obligations are subordinated to the same extent as the obligations of the Borrower in respect of the Senior Subordinated Notes;

(h) Indebtedness in an aggregate principal amount not to exceed \$900,000 owed to the Empire State Development Authority, and any refinancings, refundings, renewals or extensions thereof (without any increase in the principal amount thereof);

(i) Indebtedness of the Borrower or its Subsidiaries on account of industrial revenue bonds in an aggregate principal amount not to exceed \$10,000,000 at any one time outstanding;

(j) guarantees made in the ordinary course of business by the Borrower or any of its Subsidiaries of lease obligations of their customers in respect of equipment sold by the Borrower or any of its Subsidiaries to a third party and then leased to such customer in an aggregate

amount outstanding at any time not to exceed \$5,000,000;

(k) Indebtedness in respect of letters of credit outstanding in the ordinary course of business in an aggregate face amount not to exceed \$3,000,000;

(l) Indebtedness of any Wholly Owned Foreign Subsidiary to the Borrower or any other Subsidiary (so long as no Default or Event of Default shall have occurred and be continuing at the time of the incurrence of such Indebtedness), provided that (x) the requirements of Section 6.10 are satisfied and (y) the aggregate principal amount of such Indebtedness at any time outstanding shall not exceed \$10,000,000 less the sum of (A) the aggregate fair market value of any Property Disposed of to a Wholly Owned Foreign Subsidiary pursuant to Section 7.5(e) and (B) the aggregate amount of all investments made in such Foreign Subsidiaries pursuant to Section 7.8(i);

(m) additional Indebtedness of the Borrower or any of its Subsidiaries in an aggregate principal amount (for the Borrower and all Subsidiaries) not to exceed \$10,000,000 at any one time outstanding.

SECTION VII.3 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, except for:

(a) Liens for taxes, assessments or charges not yet due or which are being contested in good faith by appropriate procedures, provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Subsidiaries, as the case may be, in conformity with GAAP;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, supplier's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith by appropriate proceedings and Liens securing judgments to the extent not constituting an Event of Default pursuant to Section 8(h);

(c) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation;

(d) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(f) Liens in existence on the date hereof listed on Schedule 7.3(f) (and any replacements or extensions thereof), securing Indebtedness permitted by Section 7.2(e), provided that no such Lien is spread to cover any additional Property after the Closing Date and that the amount of Indebtedness secured thereby is not increased;

(g) Liens upon real and/or tangible personal Property acquired after the date hereof (by purchase, construction or otherwise) by the Borrower or any of its Subsidiaries, each of which Liens either (i) existed on such Property before the time of its acquisition and was not created in anticipation thereof or (ii) was created solely for the purpose of securing Indebtedness representing, or incurred to finance, refinance or refund, the cost (including the cost of construction) of such Property and permitted by Section 7.2; provided that (A) no such Lien shall extend to or cover any Property of the Borrower or such Subsidiary other than the Property so acquired or financed, and (B) the principal amount of Indebtedness secured by any such Lien shall at no time exceed 80% of the fair market value (as determined in good faith by a Responsible Officer of the Borrower) of such Property at the time it was acquired (by purchase, construction or otherwise);

(h) Liens created pursuant to the Security Documents;

(i) any interest or title of a lessor under any lease

entered into by the Borrower or any other Subsidiary in the ordinary course of its business and covering only the assets so leased;

(j) Liens securing Indebtedness permitted by Section 7.2(h) in respect of a leasehold interest of the Borrower or its Subsidiaries in a facility located in Rome, New York;

(k) Liens arising from precautionary UCC financing statement filings regarding operating leases or consignment arrangements entered into by the Borrower or its Subsidiaries in the ordinary course of business;

(l) Liens in favor of banking institutions encumbering the deposits (including the right of setoff) held by such banking institutions in the ordinary course of business and which are within the general parameters customary in the banking industry;

(m) Liens on the property or assets of a corporation which becomes a Subsidiary after the date hereof securing Indebtedness permitted by Section 7.2, provided that (i) such Liens existed at the time such corporation became a Subsidiary and were not created in anticipation thereof, (ii) any such Lien is not spread to cover any additional property or assets of such corporation after the time such corporation becomes a Subsidiary, and (iii) the amount of Indebtedness secured thereby is not increased; and

(n) Liens not otherwise permitted by this Section 7.3 so long as neither (i) the aggregate outstanding principal amount of the obligations secured thereby nor (ii) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds (as to the Borrower and all Subsidiaries) \$5,000,000 at any one time.

SECTION VII.4 Limitation on Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or a substantial part of its Property or business except:

(a) any Subsidiary of the Borrower may be merged or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or with or into any Wholly Owned Subsidiary Guarantor (provided that the Wholly Owned Subsidiary Guarantor shall be the continuing or surviving corporation);

(b) any Subsidiary of the Borrower may Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any Wholly Owned Subsidiary Guarantor;

(c) any Foreign Subsidiary of the Borrower may be merged or consolidated with or into any other Foreign Subsidiary;

(d) any Foreign Subsidiary of the Borrower may dispose of any or all of its assets (upon voluntary liquidation or otherwise) to any other Foreign Subsidiary of the Borrower; and

(e) to the extent permitted by Section 7.5.

SECTION VII.5 Limitation on Sale of Assets. Dispose of any of its Property or business (including, without limitation, receivables and leasehold interests), whether now owned or hereafter acquired, or, in the case of any Subsidiary, issue or sell any shares of such Subsidiary's Capital Stock to any Person, except:

(a) the Disposition of obsolete or worn out property in the ordinary course of business;

(b) the sale or other Disposition of inventory in the ordinary course of business;

(c) Dispositions permitted by Section 7.4(b) and 7.4(d);

(d) the sale or issuance of any Subsidiary's Capital Stock to the Borrower or any Wholly Owned Subsidiary Guarantor;

(e) so long as no Default or Event of Default shall have occurred and be continuing, Dispositions of Property from

the Borrower or any Subsidiary Guarantor to any Wholly Owned Foreign Subsidiary, provided that (x) the requirements of Section 6.10 are satisfied and (y) the aggregate fair market value of such Property since the Original Closing Date does not exceed (I) \$10,000,000 minus (II) the sum of (A) the aggregate principal amount of any Indebtedness of any Foreign Subsidiary at any time outstanding in accordance with Section 7.2(l) and (B) the aggregate amount of all investments in any Foreign Subsidiary made pursuant to Section 7.8(i);

(f) any Asset Sale (including any sale and leaseback transactions permitted by Section 7.11) or Recovery Event, provided that the requirements of Section 2.10(b) are complied with in connection therewith;

(g) monetary payments made in the ordinary course of business;

(h) the sale or discount without recourse of accounts receivable arising in the ordinary course of business of the Borrower and its Subsidiaries in connection with the compromise or collection thereof;

(i) the sale of inventory located outside the United States to an affiliate of BMS pursuant to the Linvatec acquisition documentation;

(j) the sale or issuance of a minimal number of any Foreign Subsidiary's Capital Stock to a foreign national to the extent required by local law in a jurisdiction outside the United States; and

(k) any Disposition of Property or series of related Dispositions of Property which yields net proceeds to the Borrower or any of its Subsidiaries (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) of less than \$200,000.

Any Collateral which is sold, transferred or otherwise conveyed pursuant to this Section 7.5 to a Person other than the Borrower and its Subsidiaries shall, upon the consummation of such sale in accordance with the terms of this Agreement and the other Loan Documents, be released from the Liens granted pursuant to the Security Documents and each Lender hereby authorizes and instructs the Administrative Agent to take such action as the Borrower reasonably may request to evidence such release.

SECTION VII.6 Limitation on Dividends. Declare or pay any dividend (other than dividends payable solely in Capital Stock) of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any shares of any class of Capital Stock of the Borrower or any Subsidiary or any warrants or options to purchase any such Capital Stock, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of the Borrower or any Subsidiary (collectively, "Restricted Payments"), except

(i) that any Subsidiary may make Restricted Payments to the Borrower or any Wholly Owned Subsidiary Guarantor;

(ii) (A) repurchases of Capital Stock made in order to fulfill the obligations of the Borrower or any Subsidiary under an employee or director stock purchase plan or similar plan covering employees of the Borrower or any Subsidiary as from time to time in effect and (B) cash payments made in lieu of issuing fractional shares of Borrower's Capital Stock, in an aggregate amount for purposes of clauses (A) and (B) not to exceed \$2,250,000 per year; and

(iii) (A) redemptions of Capital Stock in connection with a rights plan adopted by the Board of Directors of the Borrower, or (B) Restricted Payments in respect of the Warrant, in an aggregate amount in respect of clauses (A) and

(B) equal to \$5,000,000 since the Original Closing Date.

SECTION VII.7 Limitation on Capital Expenditures. Make or commit to make (by way of the acquisition of securities of a Person or otherwise) any Capital Expenditure, except (a) Capital Expenditures of the Borrower and its Subsidiaries in the ordinary course of business not exceeding \$20,000,000 per annum; provided that (i) up to \$5,000,000 of any such amount referred to above, if not so expended in the fiscal year for which it is permitted, may be carried over for expenditure in the next succeeding fiscal year and (ii) Capital Expenditures made pursuant to this clause (a) during any fiscal year shall be deemed made, first, in respect of amounts carried over from the prior fiscal year pursuant to subclause (i) above and, second, in respect of amounts permitted for such fiscal year as provided above and (b) Capital Expenditures made with the proceeds of any Reinvestment Deferred Amount.

SECTION VII.8 Limitation on Investments, Loans and Advances. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any stock, bonds, notes, debentures or other securities of or any assets constituting all or a material part of a business unit of, or make any other investment in, any Person, except:

(a) extensions of trade credit in the ordinary course of business;

(b) investments in Cash Equivalents;

(c) Guarantee Obligations permitted by Section 7.2;

(d) loans and advances to employees or directors of the Borrower or its Subsidiaries in the ordinary course of business (including, without limitation, for travel, entertainment and relocation expenses) in an aggregate amount for the Borrower and its Subsidiaries not to exceed \$1,000,000 at any one time outstanding, provided, however that this provision shall not limit key man insurance;

(e) the Acquisition;

(f) investments made by the Borrower or any of its Subsidiaries with the proceeds of any Reinvestment Deferred Amount;

(g) investments by the Borrower or any of its Subsidiaries in the Borrower or any Subsidiary Guarantor in the ordinary course of business;

(h) investments (including debt obligations and Capital Stock) by the Borrower and its Subsidiaries received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(i) so long as no Default or Event of Default shall have occurred and be continuing, the Borrower and any Subsidiary may make investments in, or create, any Wholly-Owned Foreign Subsidiary (by way of capital contribution or otherwise), provided that (x) the requirements of Section 6.10 are satisfied and (y) the aggregate amount of all investments in such Foreign Subsidiaries shall not exceed (I) \$10,000,000 since the Original Closing Date minus (II) the sum of (A) the aggregate principal amount of any Indebtedness of any Foreign Subsidiary at any such time outstanding in accordance with Section 7.2(1) and (B) the aggregate fair market value of any Dispositions of Property from the Borrower or any Subsidiary Guarantor to any Foreign Subsidiary in accordance with Section 7.5(e);

(j) in addition to investments otherwise expressly permitted by this Section 7.8, so long as no Default or Event of Default shall have occurred and be continuing, investments by the Borrower or any of its Subsidiaries in an aggregate amount (valued at cost) not to exceed \$15,000,000 since the Original Closing Date; and

(k) other investments constituting Permitted Business Acquisitions for aggregate consideration not to exceed \$50,000,000 since the Original Closing Date, unless the Borrower shall have obtained the prior written consent of the Required Lenders.

SECTION VII.9 Limitation on Optional Payments and Modifications of Debt Instruments, etc. (a) Make or offer to make any payment, prepayment, repurchase or redemption of or otherwise defease or segregate funds with respect to the Senior Subordinated Notes (other than scheduled interest payments required to be made in cash or pursuant to the Exchange Offer or any refinancing of the Senior Subordinated Notes permitted hereunder), (b) amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of the Senior Subordinated Notes (i) which amends or modifies the subordination provisions contained therein; (ii) which shortens the fixed maturity, or increases the rate or shortens the time of payment of interest on, or increases the amount or shortens the time of payment of any principal or premium payable whether at maturity, at a date fixed for prepayment or by acceleration or otherwise of such Indebtedness, or increases the amount of, or accelerates the time of payment of, any fees payable in connection therewith; (iii) which relates to the affirmative or negative covenants, events of default or remedies under the documents or instruments evidencing such Indebtedness and the effect of which is to subject the Borrower or any of its Subsidiaries, to any more onerous or more restrictive provisions; or (iv) which otherwise adversely affects the interests of the Lenders as senior creditors or the interests of the Lenders under this Agreement or any other Loan Document in any respect, (c) designate any Indebtedness (other than the Obligations) as "Designated Senior Indebtedness" (or similar defined term) for the purposes of the Senior Subordinated Note Indenture or (d) amend its certificate of incorporation in any manner adverse to the Lenders without the prior written consent of the Required Lenders.

SECTION VII.10 Limitation on Transactions with Affiliates. Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Borrower or any Wholly Owned Subsidiary Guarantor) unless such transaction is (a) otherwise permitted under this Agreement, (b) in the ordinary course of business of the Borrower or such Subsidiary, as the case may be, and (c) upon fair and reasonable terms no less favorable to the Borrower or such Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person which is not an Affiliate.

SECTION VII.11 Limitation on Sales and Leasebacks. Enter into any arrangement with any Person providing for the leasing by the Borrower or any Subsidiary of real or personal property which has been or is to be sold or transferred by the Borrower or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Borrower or such Subsidiary, except in respect of assets the aggregate fair market value of which does not exceed \$10,000,000 since the Original Closing Date.

SECTION VII.12 Limitation on Changes in Fiscal Periods. Change the Borrower's method of determining fiscal quarters or fiscal years.

SECTION VII.13 Limitation on Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement which prohibits or limits the ability of the Borrower or any of its Subsidiaries to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any guarantor, its obligations under the Guarantee and Collateral Agreement, other than (a) this Agreement and the other Loan Documents, (b) the Senior Subordinated Note Indenture, (c) any agreements governing any purchase money Liens, Capital Lease Obligations otherwise permitted hereby or Liens permitted by Sections 7.3(f) or (m) (in which case, any prohibition or limitation shall only be effective against the assets financed thereby).

SECTION VII.14 Limitation on Restrictions on Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary of the Borrower to (a) pay dividends or make any other distributions in respect of any Capital Stock of such Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any other Subsidiary of the Borrower, (b) make loans or advances to the Borrower or any other Subsidiary of the Borrower or (c) transfer any of its assets to the Borrower or any other Subsidiary of the Borrower, except for such

encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents or the Senior Subordinated Note Indenture and (ii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement which has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary.

SECTION VII.15 Limitation on Lines of Business. Enter into any business, either directly or through any Subsidiary, except for those businesses in which the Borrower or any of its Subsidiaries is engaged on the date of this Agreement or which are reasonably related thereto.

SECTION VII.16 Limitation on Amendments to Acquisition Documentation. (a) Amend, supplement or otherwise modify (pursuant to a waiver or otherwise) the terms and conditions of the indemnities and licenses furnished to the Borrower or any of its Subsidiaries pursuant to the Acquisition Documentation such that after giving effect thereto such indemnities or licenses shall be materially less favorable to the interests of the Loan Parties or the Lenders with respect thereto or (b) otherwise amend, supplement or otherwise modify the terms and conditions of the Acquisition Documentation except to the extent that any such amendment, supplement or modification could not reasonably be expected to have a Material Adverse Effect.

ARTICLE VIII. EVENTS OF DEFAULT

If any of the following events shall occur and be continuing:

(a) The Borrower shall fail to pay any principal of any Loan or Reimbursement Obligation when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Loan or Reimbursement Obligation or any other amount payable hereunder or under any other Loan Document within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) Any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or which is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) Any Loan Party shall default in the observance or performance of any agreement contained in clause (i) of Section 6.4(a) (with respect to the Borrower only), Section 6.7(a), Section 6.13(b) or Article 7; or

(d) Any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days; or

(e) The Borrower or any of its Subsidiaries shall (i) default in making any payment of any principal of any Indebtedness (including, without limitation, any Guarantee Obligation, but excluding the Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace (not to exceed 31 days), if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable; provided that a default, event or condition described in clause (i), (ii) or (iii) of this paragraph (e) shall not at any time constitute an Event of

Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness the outstanding principal amount of which exceeds in the aggregate \$5,000,000; or

(f) (i) The Borrower or any of its Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any of its Subsidiaries shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Borrower or any of its Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undischarged, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Borrower or any of its Subsidiaries any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Borrower or any of its Subsidiaries shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Borrower or any of its Subsidiaries shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) Any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan shall arise on the assets of the Borrower or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Lenders, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) the Borrower or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Lenders is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other similar event or condition which is not in the ordinary course shall occur or exist with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, could, in the sole judgment of the Required Lenders, reasonably be expected to have a Material Adverse Effect; or

(h) One or more judgments or decrees shall be entered against the Borrower or any of its Subsidiaries involving in the aggregate a liability (not fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of \$5,000,000 or more, and all such judgments or decrees shall not have been paid, vacated, discharged, stayed or bonded pending appeal within 60 days from the entry

thereof; or

(i) Any of the Security Documents shall cease, for any reason, to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Lien created by any of the Security Documents in respect of material assets shall cease to be enforceable and of the same effect and priority purported to be created thereby; or

(j) The guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert; or

(k) (i) Any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), (A) shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of more than 15% of the outstanding common stock of the Borrower or (B) shall obtain the power (whether or not exercised) to elect a majority of the Borrower's directors; (ii) the board of directors of the Borrower shall cease to consist of a majority of Continuing Directors; or (iii) a Specified Change of Control shall occur; or

(l) The Senior Subordinated Notes or the guarantees thereof shall cease, for any reason, to be validly subordinated to the Obligations or the obligations of the Subsidiary Guarantors under the Guarantee and Collateral Agreement, as the case may be, as provided in the Senior Subordinated Note Indenture, or any Loan Party, any Affiliate of any Loan Party, the trustee in respect of the Senior Subordinated Notes or the holders of at least 25% in aggregate principal amount of the Senior Subordinated Notes shall so assert;

then, and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including, without limitation, all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Majority Revolving Credit Facility Lenders, the Administrative Agent may, or upon the request of the Majority Revolving Credit Facility Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Credit Commitments to be terminated forthwith, whereupon the Revolving Credit Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including, without limitation, all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) to be due and payable forthwith, whereupon the same shall immediately become due and payable. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto).

ARTICLE IX. THE AGENTS

SECTION IX.1 Appointment. Each Lender hereby irrevocably designates and appoints the Agents as the agents of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes each Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against any Agent.

SECTION IX.2 Delegation of Duties. Each Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents or attorneys in-fact selected by it with reasonable care.

SECTION IX.3 Exculpatory Provisions. Neither any Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

SECTION IX.4 Reliance by Agents. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including, without limitation, counsel to the Loan Parties), independent accountants and other experts selected by the Administrative Agent. The Agents may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

SECTION IX.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed

by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

SECTION IX.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereinafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party which may come into the possession of such Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

SECTION IX.7 Indemnification. The Lenders agree to indemnify each Agent in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section 9.7 (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including, without limitation, at any time following the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements which are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The agreements in this Section 9.7 shall survive the payment of the Loans and all other amounts payable hereunder.

SECTION IX.8 Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent was not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued or participated in by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

SECTION IX.9 Successor Agents. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8(a) or Section 8(f) with respect to the Borrower shall have occurred and be continuing) be

subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. The Documentation Agent may, at any time, by notice to the Lenders and the Administrative Agent, resign as Documentation Agent hereunder, whereupon the duties, rights, obligations and responsibilities hereunder shall automatically be assumed by, and inure to the benefit of, the Administrative Agent, without any further act by the Documentation Agent, the Administrative Agent or any Lender. After any retiring Agent's resignation as Agent, the provisions of this Article 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents.

SECTION IX.10 Authorization to Release Liens. The Administrative Agent is hereby irrevocably authorized by each of the Lenders to release any Lien covering any Property of the Borrower or any of its Subsidiaries that is the subject of a Disposition which is permitted by this Agreement, which has been consented to in accordance with Section 10.1 or in accordance with Section 10.16.

SECTION IX.11 The Syndication Agent. The Syndication Agent, in its capacity as such, shall have no duties or responsibilities, and shall incur no liability, under this Agreement and the other Loan Documents.

ARTICLE X. MISCELLANEOUS

SECTION X.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or (with the written consent of the Required Lenders) the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders, or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided that no such waiver and no such amendment, supplement or modification shall (i) forgive the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest, fee or letter of credit commission payable hereunder or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the consent of each Lender directly affected thereby; (ii) amend, modify or waive any provision of this Section 10.1 or reduce any percentage specified in the definition of Required Lenders or Required Prepayment Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, or release all or substantially all of the Collateral, release a significant Subsidiary Guarantor from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders; (iii) reduce the percentage specified in the definition of Majority Facility Lenders without the written consent of all Lenders under each affected Facility; (iv) amend, modify or waive any provision of Article 9 without the written consent of the applicable Agents; (v) amend, modify or waive any provision of Article 3 without the written consent of the Issuing Lender or (vi) if this Amendment and Restatement is executed by each Lender, amend, modify or waive any provision of Section 2.10 and 2.16 without the written consent of the Required Prepayment Lenders. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Agents and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Agents shall be restored to their

counsel to the Administrative Agent, (c) to pay, indemnify, and hold each Lender, the Agents and the Syndication Agent harmless from, any and all recording and filing fees or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold each Lender, the Agents and the Syndication Agent and their respective officers, directors, trustees, employees, affiliates, agents and controlling persons (each, an "indemnitee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including, without limitation, any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Borrower, any of its Subsidiaries or any of the Properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any indemnitee against the Borrower hereunder (all the foregoing in this clause (d), collectively, the "indemnified liabilities"), provided, that the Borrower shall have no obligation hereunder to any indemnitee with respect to indemnified liabilities to the extent such indemnified liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnitee. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to so waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any indemnitee. The agreements in this Article shall survive repayment of the Loans and all other amounts payable hereunder.

SECTION X.6 Successors and Assigns; Participations and Assignments. (a) This Agreement shall be binding upon and inure to the benefit of the Borrower, the Lenders, the Agents, all future holders of the Loans and their respective successors and assigns, except that the Borrower may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Administrative Agent and each Lender.

(b) Any Lender may, without the consent of the Borrower, in accordance with applicable law, at any time sell to one or more banks, financial institutions or other entities (each, a "Participant") participating interests in any Loan owing to such Lender, any Commitment of such Lender or any other interest of such Lender hereunder and under the other Loan Documents. In the event of any such sale by a Lender of a participating interest to a Participant, such Lender's obligations under this Agreement to the other parties to this Agreement shall remain unchanged, such Lender shall remain solely responsible for the performance thereof, such Lender shall remain the holder of any such Loan for all purposes under this Agreement and the other Loan Documents, and the Borrower and the Agents shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents. In no event shall any Lender grant to any Participant under any such participation any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by any Loan Party therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, the Loans or any fees payable hereunder, or postpone the date of the final maturity of the Loans, in each case to the extent subject to such participation. The Borrower agrees that if amounts outstanding under this Agreement and the Loans are due or unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall, to the maximum extent permitted by applicable law, be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement, provided that, in purchasing such participating interest, such Participant shall be deemed to have agreed to share with the Lenders the proceeds thereof as provided in Section 10.7(a) as fully as if it were a Lender hereunder. The Borrower also agrees that each Participant shall be entitled to the benefits of Sections 2.17, 2.18 and 2.19 with respect to its participation in the Commitments and the Loans outstanding from time to time as if it was a Lender; provided that, in the case of Section 2.18, such Participant shall have complied with the requirements of said Section and provided, further, that no Participant shall be entitled to receive any greater amount pursuant to any such Section than the transferor Lender would have been

entitled to receive in respect of the amount of the participation transferred by such transferor Lender to such Participant had no such transfer occurred.

(c) Any Lender (an "Assignor") may, in accordance with applicable law, at any time and from time to time assign to any Lender or any affiliate thereof or, with the consent of the Borrower, and the Administrative Agent (which, in each case, shall not be unreasonably withheld or delayed), to an additional bank, financial institution or other entity (an "Assignee") all or any part of its rights and obligations under this Agreement pursuant to an Assignment and Acceptance (an "Assignment and Acceptance"), substantially in the form of Exhibit D, executed by such Assignee, such Assignor and the Administrative Agent (and, where the consent of the Borrower is required pursuant to the foregoing provisions, by the Borrower) and delivered to the Administrative Agent for its acceptance and recording in the Register; provided that no such assignment to an Assignee (other than any Lender or any affiliate thereof) shall be in an aggregate principal amount of less than \$5,000,000 (other than in the case of an assignment of all of a Lender's interests under this Agreement), unless otherwise agreed by the Borrower and the Administrative Agent. Any such assignment need not be ratable as among the Facilities. Upon such execution, delivery, acceptance and recording, from and after the effective date determined pursuant to such Assignment and Acceptance, (x) the Assignee thereunder shall be a party hereto and, to the extent provided in such Assignment and Acceptance, have the rights and obligations of a Lender hereunder with a Commitment and/or Loans as set forth therein, and (y) the Assignor thereunder shall, to the extent provided in such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of an Assignor's rights and obligations under this Agreement, such assigning Lender shall cease to be a party hereto). Notwithstanding any provision of this Section 10.6, the consent of the Borrower shall not be required for any assignment which occurs at any time when any Event of Default shall have occurred and be continuing.

(d) The Administrative Agent shall maintain at its address referred to in Section 10.2 a copy of each Assignment and Acceptance delivered to it and a register (the "Register") for the recordation of the names and addresses of the Lenders and the Commitment of, and principal amount of the Loans owing to, each Lender from time to time and any Notes evidencing such Loans. The entries in the Register shall be conclusive, in the absence of manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register as the owner of the Loan and any Note evidencing such Loan recorded therein for all purposes of this Agreement. Any assignment of any Loan whether or not evidenced by a Note shall be effective only upon appropriate entries with respect thereto being made in the Register (and each Note shall expressly so provide). Any assignment or transfer of all or part of a Loan evidenced by a Note shall be registered on the Register only upon surrender for registration of assignment or transfer of the Note evidencing such Loan, accompanied by a duly executed Assignment and Acceptance, and thereupon one or more new Notes in the same aggregate principal amount shall be issued to the designated Assignee and the old Notes shall be returned by the Administrative Agent to the Borrower marked "cancelled". The Register shall be available for inspection by the Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of an Assignment and Acceptance executed by an assigning Lender and an Assignee (and, in the case of an Assignee that is not then a Lender or an affiliate thereof by the Borrower and the Administrative Agent) together with payment to the Administrative Agent of a registration and processing fee of \$3,500 (except that no such registration and processing fee shall be payable in the case of an Assignee which is already a Lender or is an affiliate of a Lender), the Administrative Agent shall (i) promptly accept such Assignment and Acceptance and (ii) on the effective date determined pursuant thereto record the information contained therein in the Register and give notice of such acceptance and recordation to the Lenders and the Borrower. On or prior to such effective date, the Borrower, at its own expense, upon request, shall execute and deliver to the Administrative Agent (in exchange for the Revolving Credit Note and/or Term Notes, as the case may be, of the assigning Lender) a new Revolving Credit Note and/or Term Notes, as the case may be, to the order of such Assignee in an amount equal to the Revolving Credit Commitment and/or applicable Term Loans, as the case may be, assumed or acquired by it pursuant to such Assignment and Acceptance and, if the assigning Lender has retained a Revolving Credit Commitment and/or Term Loans, as the case may be, upon request, a new Revolving Credit Note and/or Term Notes, as the case may be, to the order of the assigning Lender in an amount equal to the Revolving Credit Commitment and/or applicable Term Loans, as the case may be, retained by it hereunder. Such new Notes shall be dated the Closing Date and shall otherwise be in the form of

the Note replaced thereby.

(f) For avoidance of doubt, the parties to this Agreement acknowledge that the provisions of this Article concerning assignments of Loans and Notes relate only to absolute assignments and that such provisions do not prohibit assignments creating security interests, including, without limitation, any pledge or assignment by a Lender of any Loan or Note to any Federal Reserve Bank in accordance with applicable law; provided that, for the avoidance of doubt, it is understood that this Section 10.6(f) does not reduce the rights of the Borrower pursuant to Sections 10.6(b) and (c) which must be satisfied in order for a Person to become a Lender.

SECTION X.7 Adjustments; Set-off. (a) Except to the extent that this Agreement provides for payments to be allocated to the Lenders under a particular Facility, if any Lender (a "Benefitted Lender") shall at any time receive any payment of all or part of its Loans or the Reimbursement Obligations owing to it, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans or the Reimbursement Obligations owing to such other Lender, or interest thereon, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan and/or of the Reimbursement Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION X.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

SECTION X.9 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION X.10 Integration. This Agreement and the other Loan Documents represent the agreement of the Borrower, the Agents and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Agents or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

SECTION X.11 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION X.12 Submission To Jurisdiction; Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 10.12 any special, exemplary, punitive or consequential damages.

SECTION X.13 Acknowledgements. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither Agent nor any Lender has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Agents and Lenders, on one hand, and the Borrower, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower and the Lenders.

SECTION X.14 WAIVERS OF JURY TRIAL. THE BORROWER, THE AGENTS AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

SECTION X.15 Confidentiality. Each of the Agents and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party pursuant to this Agreement that is designated by such Loan Party as confidential; provided that nothing herein shall prevent any Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate of any Lender in each case which is bound by this Section 10.15, (b) to any Participant or Assignee (each, a "Transferee") or prospective Transferee which agrees to comply with the provisions of this Section, (c) to the employees, directors, agents, attorneys, accountants and other professional advisors of such Lender or its affiliates, (d) upon the request or demand of any Governmental Authority having jurisdiction over the such Agent or such Lender, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if required to do so under applicable law in connection with any litigation or similar proceeding or in litigation to enforce this Agreement, (g) which has been publicly disclosed other than in breach of this Section 10.15, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document; provided that, if reasonably requested by the Borrower, the Administrative Agent and the Lenders shall make commercially reasonable efforts to determine, and inform the Borrower of, the Persons who received such non-public information designated as confidential.

SECTION X.16 Releases. At such time as the Loans, the Reimbursement Obligations and the other Obligations shall have been paid in full, the Commitments have been terminated and no Letters of Credit shall be outstanding, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Borrower or Subsidiary thereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Borrower and Subsidiaries. At the request and sole expense of any Borrower or Subsidiary following any such termination, the Administrative Agent shall deliver to such Borrower or Subsidiary any Collateral held by the Administrative Agent thereunder, and execute and deliver to such Borrower or Subsidiary such documents as such Borrower or Subsidiary shall reasonably request to evidence such termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

CONMED CORPORATION

By: _____
Name:
Title:

THE CHASE MANHATTAN BANK, as

Administrative Agent and as a Lender

By: _____
Name:
Title:

SALOMON SMITH BARNEY, INC, as Documentation Agent and as a Lender

By: _____
Name:
Title:

ACKNOWLEDGMENT AND CONSENT

Reference is made to (i) the Amended and Restated Credit Agreement, dated as of August 11, 1999 (as the same may be amended, supplemented or otherwise modified from time to time, the "Amended Credit Agreement"), among the CONMED Corporation, a New York corporation, the several banks, financial institutions and other entities from time to time parties thereto (the "Lenders"), Chase Securities Inc., as sole book-manager, lead arranger and as syndication agent, Salomon Smith Barney, Inc., as documentation agent and The Chase Manhattan Bank, as administrative agent for the Lenders (in such capacity, the "Agent"), (ii) the Existing Credit Agreement referred to therein and (iii) the Guarantee and Collateral Agreement made by CONMED Corporation and certain of its Subsidiaries in favor of The Chase Manhattan Bank, as administrative agent, dated as of December 31, 1997. Unless otherwise defined herein, terms which are defined in the Amended Credit Agreement and used herein are so used as so defined.

Each of the undersigned confirms that it has received a copy of the Amended Credit Agreement and that it approves of and consents to the amendment and restatement of the Existing Credit Agreement pursuant to the Amended Credit Agreement. Each of the undersigned further confirms and agrees that (a) each of the Loan Documents to which it is a party will remain in full force and effect in accordance with its terms after giving effect to the amendment and restatement of the Existing Credit Agreement pursuant to the Amended Credit Agreement, (b) the Liens granted by it and the guarantees made by it pursuant to the Loan Documents will remain in full force and effect in accordance with their respective terms after giving effect to the amendment and restatement of the Existing Credit Agreement pursuant to the Amended Credit Agreement and will secure and guarantee the Obligations in accordance with their respective terms and (c) without limiting the foregoing, all references to the "Credit Agreement" in the Loan Documents (as defined in the Existing Credit Agreement) shall refer to the Existing Credit Agreement as amended and restated pursuant to the Amended Credit Agreement and as the same may be further amended, supplemented or otherwise modified from time to time.

THIS CONSENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

Each of the undersigned, at its own expense and at any time from time to time, upon the written request of the Agent or any Lender will promptly and duly execute and deliver such further instruments and documents and take such further actions as such other party reasonably may request for the purposes of obtaining or preserving the full benefits of this Acknowledgment and Consent.

IN WITNESS WHEREOF, the undersigned have caused this Acknowledgment and Consent to be duly executed and delivered as of the day and year first above written.

CONMED CORPORATION

By:
Title:

ASPEN LABORATORIES, INC.

By:
Title:

CONMED ANDOVER MEDICAL, INC.

By:
Title:

BIRTCHEER MEDICAL SYSTEMS, INC.

By: Title:

NDM, INC.

By: Title:

CONSOLIDATED MEDICAL EQUIPMENT INTERNATIONAL, INC.

By: Title:

LINVATEC CORPORATION

By: Title:

ENVISION MEDICAL CORPORATION

By: Title:

EXHIBIT 11

Computation of weighted average number of shares of common stock

| | For the three months ended June | | For the six months ended June | |
|---|------------------------------------|--------|----------------------------------|--------|
| | 1998 | 1999 | 1998 | 1999 |
| Shares outstanding at beginning of period (net of 25,000 shares held in treasury)..... | 15,043 | 15,177 | 15,037 | 15,158 |
| Weighted average shares issued | 14 | 58 | 10 | 46 |
| Shares used in the calculation of Basic EPS (weighted average shares outstanding) | 15,057 | 15,235 | 15,047 | 15,204 |
| Effect of dilutive securities | 269 | 377 | 239 | 371 |
| Shares used in the calculation of Diluted EPS | 15,326 | 15,612 | 15,286 | 15,575 |

<ARTICLE> 5
<MULTIPLIER> 1,000

| | | |
|------------------------------|-------|-------------|
| <PERIOD-TYPE> | 6-MOS | |
| <FISCAL-YEAR-END> | | DEC-31-1999 |
| <PERIOD-END> | | JUN-30-1999 |
| <CASH> | | 2,519 |
| <SECURITIES> | | 0 |
| <RECEIVABLES> | | 72,602 |
| <ALLOWANCES> | | (2,087) |
| <INVENTORY> | | 87,920 |
| <CURRENT-ASSETS> | | 167,908 |
| <PP&E> | | 89,886 |
| <DEPRECIATION> | | (33,406) |
| <TOTAL-ASSETS> | | 628,430 |
| <CURRENT-LIABILITIES> | | 69,930 |
| <BONDS> | | 369,263 |
| <PREFERRED-MANDATORY> | | 0 |
| <PREFERRED> | | 0 |
| <COMMON> | | 153 |
| <OTHER-SE> | | 196,575 |
| <TOTAL-LIABILITY-AND-EQUITY> | | 628,430 |
| <SALES> | | 90,483 |
| <TOTAL-REVENUES> | | 90,483 |
| <CGS> | | 42,825 |
| <TOTAL-COSTS> | | 42,825 |
| <OTHER-EXPENSES> | | 0 |
| <LOSS-PROVISION> | | 0 |
| <INTEREST-EXPENSE> | | 7,814 |
| <INCOME-PRETAX> | | 10,452 |
| <INCOME-TAX> | | 3,762 |
| <INCOME-CONTINUING> | | 6,690 |
| <DISCONTINUED> | | 0 |
| <EXTRAORDINARY> | | 0 |
| <CHANGES> | | 0 |
| <NET-INCOME> | | 6,690 |
| <EPS-BASIC> | | .44 |
| <EPS-DILUTED> | | .43 |