

“Eligible Inventory” shall mean all Inventory of the Borrowers which meets each of the following requirements:

(a) it is subject to a perfected, first priority Lien in favor of the Bank and is not subject to any other assignment, claim or Lien other than Permitted Liens that is not superior to the Lien in favor of the Bank;

(b) it is salable;

(c) it is in the possession and control of the Borrowers and it is stored and held in facilities owned by the Borrowers or any Subsidiary or, if such facilities are not so owned, the Bank is in possession of a Collateral Access Agreement with respect thereto;

(d) it is not Inventory produced in violation of the Fair Labor Standards Act and subject to the “hot goods” provisions contained in Title 29 U.S.C. §215;

(e) it is not subject to any agreement or license which would restrict the Bank’s ability to sell or otherwise dispose of such Inventory;

(f) it is located in the United States or in any territory or possession of the United States that has adopted Article 9 of the Uniform Commercial Code;

(g) it is (A) not “in transit” to the Borrowers unless such Inventory is (1) fully insured; (2) certified by the Borrowers as being “in transit;” and (3) of an aggregate value of \$\_\_\_\_\_ or less at any one time, or (B) not held by the Borrowers on consignment;

(h) it is not “work-in-progress” Inventory;

(i) it is not supply items, packaging or any other similar materials;

(j) it is not identified to any purchase order or contract to the extent progress or advance payments are received with respect to such Inventory; and

(k) it does not breach in any material respect any of the representations, warranties or covenants contained in this Agreement pertaining to Inventory set forth in the Loan Documents;

Inventory which is at any time Eligible Inventory but which subsequently fails to meet any of the foregoing requirements shall forthwith cease to be Eligible Inventory until such time as it again meets the criteria for Eligible Inventory. Eligible Inventory shall be discounted by the percentages or amounts reserved against Inventory as set forth in the Borrowers financial statements.

