

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

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FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2000  
OR  
 TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934 FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

Commission file number 001-12421

Nu Skin Enterprises, Inc.  
(Exact Name of Registrant as Specified in Its Charter)

Delaware  
(State or Other Jurisdiction of Incorporation or Organization)  
75 West Center Street, Provo, Utah  
(Address of Principal Executive Offices)

87-0565309  
(I.R.S. Employer Identification No.)  
84601  
(Zip Code)

(801) 345-6100  
(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 \_\_\_\_\_

As of October 31, 2000, 31,480,273 shares of the Company's Class A Common Stock, \$.001 par value per share, and 53,408,951 shares of the Company's Class B Common Stock, \$.001 par value per share, were outstanding.

NU SKIN ENTERPRISES, INC.

2000 FORM 10-Q QUARTERLY REPORT - THIRD QUARTER

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Nu Skin, Pharmanex, Big Planet, Nu Skin 180 and LifePak are trademarks of Nu Skin Enterprises, Inc. or its subsidiaries.



## PART I. FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

Nu Skin Enterprises, Inc.  
 Consolidated Balance Sheets  
 (in thousands, except share amounts)

	(Unaudited) September 30, 2000	December 31, 1999
	-----	-----
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 49,899	\$ 110,162
Accounts receivable	21,134	18,160
Related parties receivable	13,487	16,424
Inventories, net	89,494	85,751
Prepaid expenses and other	60,424	52,388
	-----	-----
	234,438	282,885
Property and equipment, net	57,729	57,948
Other assets, net	297,082	302,382
	-----	-----
Total assets	\$ 589,249	\$ 643,215
	=====	=====
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable	\$ 15,038	\$ 22,685
Accrued expenses	87,203	114,691
Related parties payable	11,389	15,059
Current portion of long-term debt (Note 10)	--	55,889
	-----	-----
	113,630	208,324
Long-term debt, less current portion	87,143	89,419
Other liabilities	38,549	36,093
	-----	-----
Total liabilities	239,322	333,836
	-----	-----
Stockholders' equity		
Preferred stock - 25,000,000 shares authorized, \$.001 par value, no shares issued and outstanding	--	--
Class A common stock - 500,000,000 shares authorized, \$.001 par value, 31,321,701 and 32,002,158 shares issued and outstanding	31	32
Class B common stock - 100,000,000 shares authorized, \$.001 par value, 53,578,780 and 54,606,905 shares issued and outstanding	54	55
Additional paid-in capital	108,200	119,652
Retained earnings	290,253	244,758
Deferred compensation	(2,404)	(6,898)
Accumulated other comprehensive income	(46,207)	(48,220)
	-----	-----
	349,927	309,379
	-----	-----
Total liabilities and stockholders' equity	\$ 589,249	\$ 643,215
	=====	=====

The accompanying notes are an integral part of these consolidated financial statements.

Nu Skin Enterprises, Inc.  
Consolidated Statements of Income (Unaudited)  
(in thousands, except per share amounts)

	Three Months Ended Sept. 30, 2000	Three Months Ended Sept. 30, 1999	Nine Months Ended Sept. 30, 2000	Nine Months Ended Sept. 30, 1999
Revenue	\$ 215,567	\$ 220,088	\$ 656,151	\$ 665,125
Cost of sales	36,839	37,557	109,735	114,593
Gross profit	178,728	182,531	546,416	550,532
Operating expenses				
Distributor incentives	83,773	85,495	255,036	254,784
Selling, general and administrative	71,080	66,648	220,616	185,873
Total operating expenses	154,853	152,143	475,652	440,657
Operating income	23,875	30,388	70,764	109,875
Other income (expense), net	(500)	(5,192)	321	(1,348)
Income before provision for income taxes	23,375	25,196	71,085	108,527
Provision for income taxes	8,415	4,070	25,590	34,558
Net income	\$ 14,960	\$ 21,126	\$ 45,495	\$ 73,969
Net income per share (Note 4):				
Basic	\$ .18	\$ .24	\$ .53	\$ .85
Diluted	\$ .18	\$ .24	\$ .53	\$ .84
Weighted average common shares outstanding:				
Basic	85,077	86,927	85,603	87,177
Diluted	85,409	87,951	86,017	88,285

The accompanying notes are an integral part of these consolidated financial statements.

Nu Skin Enterprises, Inc.  
Consolidated Statements of Cash Flows (Unaudited)  
(in thousands)

	Nine Months Ended Sept. 30, 2000	Nine Months Ended Sept. 30, 1999
	-----	-----
Cash flows from operating activities:		
Net income	\$ 45,495	\$ 73,969
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	23,009	21,844
Amortization of deferred compensation	4,494	2,762
Changes in operating assets and liabilities:		
Accounts receivable	(2,974)	(3,185)
Related parties receivable	2,937	(3,411)
Inventories, net	(3,743)	(184)
Prepaid expenses and other	(8,036)	(19,773)
Other assets, net	(6,874)	(12,227)
Accounts payable	(7,647)	(895)
Accrued expenses	(25,032)	(47,734)
Related parties payable	(3,670)	198
	-----	-----
Net cash provided by operating activities	17,959	11,364
	-----	-----
Cash flows from investing activities:		
Purchase of property and equipment	(13,117)	(22,620)
Payments for lease deposits	(24)	(1,886)
Receipt of refundable lease deposits	743	752
Purchase of Big Planet, net of cash acquired	--	(13,571)
	-----	-----
Net cash used in investing activities	(12,398)	(37,325)
	-----	-----
Cash flows from financing activities:		
Exercise of distributor and employee stock options	90	2,529
Termination of Nu Skin USA license fee	--	(10,000)
Payment to stockholders under the NSI Acquisition	--	(25,000)
Payments on long-term debt	(55,678)	(14,545)
Repurchase of shares of common stock	(11,544)	(19,612)
	-----	-----
Net cash used in financing activities	(67,132)	(66,628)
	-----	-----
Effect of exchange rate changes on cash	1,308	11,912
	-----	-----
Net decrease in cash and cash equivalents	(60,263)	(80,677)
Cash and cash equivalents, beginning of period	110,162	188,827
	-----	-----
Cash and cash equivalents, end of period	\$ 49,899	\$ 108,150
	=====	=====

The accompanying notes are an integral part of these consolidated financial statements.

1. THE COMPANY

Nu Skin Enterprises, Inc. (the "Company") is a leading, global direct selling company that develops and distributes premium-quality, innovative personal care products and nutritional supplements and technology and telecommunication products and services. The Company distributes products throughout the world. The Company's operations are divided into three segments: North Asia, which consists of Japan and South Korea; Southeast Asia, which consists of Australia, Hong Kong (including Macau), New Zealand, the PRC (China), the Philippines, Taiwan and Thailand; and Other Markets, which consists of the Company's markets in Europe, South America and North America (the Company's subsidiaries operating in these countries are collectively referred to as the "Subsidiaries"). The Company was incorporated on September 4, 1996 as a holding company.

The Company completed the acquisition (the "NSI Acquisition") of the capital stock of Nu Skin International, Inc. ("NSI"), NSI affiliates in Europe, South America, Australia and New Zealand and certain other NSI affiliates (collectively, the "Acquired Entities") on March 26, 1998.

The Company completed the acquisition of privately-held Generation Health Holdings, Inc., the parent company of Pharmanex, Inc. ("Pharmanex"), on October 16, 1998, which enhanced the Company's involvement with the distribution and sale of nutritional products.

As discussed in Note 2, on March 8, 1999, NSI terminated its distribution license and various other license agreements and other intercompany agreements with Nu Skin USA, Inc. ("Nu Skin USA"). Also, in March 1999, through a newly formed wholly-owned subsidiary, the Company acquired selected assets of Nu Skin USA. In May 1999, the Company acquired Nu Skin Canada, Inc., Nu Skin Mexico, Inc. and Nu Skin Guatemala, Inc. (collectively, the "North American Affiliates").

The Company completed the Big Planet Acquisition (as defined in Note 3) on July 13, 1999, which enabled the Company to provide marketing and distribution of technology-based products and services.

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, the accompanying unaudited consolidated financial statements contain all adjustments, consisting of normal recurring adjustments, considered necessary for a fair statement of the Company's financial information as of September 30, 2000 and for the three and nine-month periods ended September 30, 2000 and 1999. The results of operations of any interim period are not necessarily indicative of the results of operations to be expected for the fiscal year. For further information, refer to the consolidated financial statements and accompanying footnotes included in the Company's annual report on Form 10-K for the year ended December 31, 1999.

2. ACQUISITION OF CERTAIN ASSETS OF NU SKIN USA, INC.

On March 8, 1999, NSI terminated its distribution license and various other license agreements and other intercompany agreements with Nu Skin USA and paid Nu Skin USA a \$10.0 million termination fee. Also, on that same date, through a newly formed wholly-owned subsidiary, the Company acquired selected assets of Nu Skin USA in exchange for assuming various accounts payable of Nu Skin USA.

The acquisition of the selected assets and assumption of liabilities and the termination of these agreements has been recorded for the consideration paid, except for the portion of Nu Skin USA which is under common control of a group of stockholders, which portion has been recorded at predecessor basis.

3. ACQUISITION OF BIG PLANET, INC.

On July 13, 1999, the Company completed the acquisition of Big Planet, Inc. ("Big Planet") for \$29.2 million, which consisted of a cash payment of \$14.6 million and a note payable of \$14.6 million (the "Big Planet Acquisition"). In addition, the Company loaned Big Planet approximately \$4.5 million immediately prior to the closing to redeem the option holders and certain management stockholders of Big Planet.

The Big Planet Acquisition was accounted for by the purchase method of accounting. The Company recorded intangible assets of \$47.0 million which will be amortized over a period of 20 years. During the three and nine-month periods ended September 30, 2000, the Company recorded amortization on the intangible assets relating to the Big Planet Acquisition of \$0.6 million and \$1.8 million, respectively. Big Planet incurred operating losses of approximately \$19.7 million for the nine-month period ended September 30, 2000.

4. NET INCOME PER SHARE

Net income per share is computed based on the weighted average number of common shares outstanding during the periods presented. Additionally, diluted earnings per share data give effect to all dilutive potential common shares that were outstanding during the periods presented.

5. DERIVATIVE FINANCIAL INSTRUMENTS

The Company's Subsidiaries enter into significant transactions with each other and third parties which may not be denominated in the respective Subsidiaries' functional currencies. The Company seeks to reduce its exposure to fluctuations in foreign exchange rates by creating offsetting positions through the use of foreign currency exchange contracts and through certain intercompany loans of foreign currency. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results. Gains and losses on foreign currency forward contracts and certain intercompany loans of foreign currency are recorded as other income and expense in the consolidated statements of income.

At September 30, 2000 and December 31, 1999, the Company held foreign currency forward contracts with notional amounts totaling approximately \$26.0 million and \$31.1 million, respectively, to hedge foreign currency items. These contracts do not qualify as hedging transactions and, accordingly, have been marked to market. The net gains on foreign currency forward contracts were \$0.5 million and \$2.4 million for the three and nine-month periods ended September 30, 2000, respectively, and the net losses on foreign currency forward contracts were \$4.8 million and \$2.2 million for the three and nine-month periods ended September 30, 1999, respectively. These contracts at September 30, 2000 have maturities through March 2001.

6. REPURCHASE OF COMMON STOCK

During the three-month periods ended September 30, 2000 and 1999, the Company repurchased approximately 1,039,000 and 303,000 shares, respectively, of Class A common stock for approximately \$6.5 million and \$3.7 million, respectively. During the nine-month periods ended September 30, 2000 and 1999, the Company repurchased approximately 1,718,000 and 1,305,000 shares, respectively, of Class A common stock for approximately \$11.5 million and \$19.6 million, respectively.

7. COMPREHENSIVE INCOME

The components of comprehensive income, net of related tax, for the three and nine-month periods ended September 30, 2000 and 1999, were as follows (in thousands):

	Three Months Ended Sept. 30, 2000 -----	Three Months Ended Sept. 30, 1999 -----	Nine Months Ended Sept. 30, 2000 -----	Nine Months Ended Sept. 30, 1999 -----
Net income	\$ 14,960	\$ 21,126	\$ 45,495	\$ 73,969
Other comprehensive income, net of tax:				
Foreign currency translation adjustments	323	2,783	2,013	2,148
Comprehensive income	\$ 15,283 =====	\$ 23,909 =====	\$ 47,508 =====	\$ 76,117 =====

8. SEGMENT INFORMATION

During 1998, the Company adopted Statement of Financial Accounting Standards No. 131 ("SFAS 131"), Disclosures about Segments of an Enterprise and Related Information. As described in Note 1, the Company's operations throughout the world are divided into three reportable segments: North Asia, Southeast Asia and Other Markets. Segment data includes intersegment revenue, intersegment profit and operating expenses and intersegment receivables and payables. The Company evaluates the performance of its segments based on operating income. Information as to the operations of the Company in each of the three segments is set forth below (in thousands):



Nu Skin Enterprises, Inc.  
Notes to Consolidated Financial Statements

	Three Months Ended Sept. 30, 2000	Three Months Ended Sept. 30, 1999	Nine Months Ended Sept. 30, 2000	Nine Months Ended Sept. 30, 1999
<b>Revenue</b>				
North Asia	\$ 142,802	\$ 148,232	\$ 432,980	\$ 464,636
Southeast Asia	65,677	69,186	208,915	206,947
Other Markets	101,391	84,668	308,379	234,651
Eliminations	(94,303)	(81,998)	(294,123)	(241,109)
<b>Totals</b>	<b>\$ 215,567</b>	<b>\$ 220,088</b>	<b>\$ 656,151</b>	<b>\$ 665,125</b>
<b>Operating Income</b>				
North Asia	\$ 10,611	\$ 18,396	\$ 28,116	\$ 69,032
Southeast Asia	5,954	10,203	22,619	26,264
Other Markets	557	2,016	9,865	7,510
Eliminations	6,753	(227)	10,164	7,069
<b>Totals</b>	<b>\$ 23,875</b>	<b>\$ 30,388</b>	<b>\$ 70,764</b>	<b>\$ 109,875</b>
<b>Total Assets</b>				
North Asia			\$ 90,259	\$ 116,918
Southeast Asia			69,731	111,204
Other Markets			462,345	520,832
Eliminations			(33,086)	(105,739)
<b>Totals</b>			<b>\$ 589,249</b>	<b>\$ 643,215</b>

Information as to the Company's operations in different geographical areas is set forth below (in thousands):

**Revenue**

Revenue from the Company's operations in Japan totaled \$134,164 and \$143,984 for the three-month periods ended September 30, 2000 and 1999, respectively, and totaled \$411,185 and \$452,846 for the nine-month periods ended September 30, 2000 and 1999, respectively. Revenue from the Company's operations in Taiwan totaled \$20,950 and \$26,883 for the three-month periods ended September 30, 2000 and 1999, respectively, and totaled \$64,563 and \$80,808 for the nine-month periods ended September 30, 2000 and 1999, respectively. Revenue from the Company's operations in the United States (which includes intercompany revenue) totaled \$94,887 and \$78,950 for the three-month periods ended September 30, 2000 and 1999, respectively, and totaled \$290,516 and \$219,467 for the nine-month periods ended September 30, 2000 and 1999, respectively.

Long-lived assets

Long-lived assets in Japan were \$25,218 and \$29,314 as of September 30, 2000 and December 31, 1999, respectively. Long-lived assets in Taiwan were \$3,212 and \$3,381 as of September 30, 2000 and December 31, 1999, respectively. Long-lived assets in the United States were \$296,939 and \$310,255 as of September 30, 2000 and December 31, 1999, respectively.

9. NEW ACCOUNTING STANDARDS

Accounting for Derivative Instruments and Hedging Activities

In June 1998, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 133 ("SFAS 133"), Accounting for Derivative Instruments and Hedging Activities. The statement requires companies to recognize all derivatives as either assets or liabilities, with the instruments measured at fair value. Changes in the fair value of derivatives are recorded each period in current earnings or other comprehensive income, depending on the intended use of the derivative and its resulting designation. The statement is effective for all fiscal quarters of fiscal years beginning after June 15, 2000. The Company will adopt SFAS 133 by January 1, 2001. The Company does not anticipate that the adoption of SFAS 133 will have a significant impact on the Company's consolidated financial statements.

Revenue Recognition in Financial Statements

In December 1999, the Securities and Exchange Commission staff issued staff Accounting Bulletin No. 101 ("SAB 101"), Revenue Recognition in Financial Statements, which provides guidance on the recognition, presentation and disclosure of revenue in financial statements. SAB 101 did not impact the Company's revenue recognition policies.

10. SUBSEQUENT EVENTS

Long-term Debt Refinancing

On October 12, 2000, the Company refinanced the \$87.1 million balance of its existing credit facility with the proceeds of a private placement of \$90.0 million of ten-year senior notes (the "Notes") to The Prudential Insurance Company of America. The Notes are denominated in Japanese yen. The Notes bear interest at an effective rate of 3.03% annually and becomes due October 2010 with principal payments beginning October 2004. The debt is classified as long-term in the consolidated financial statements as of September 30, 2000.

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

2000 compared to 1999

Revenue decreased 2.0% and 1.3% to \$215.6 million and \$656.2 million for the three and nine-month periods ended September 30, 2000 from \$220.1 million and \$665.1 million for the same periods in 1999, respectively. The decrease in revenue on a year-over-year basis was due to lower revenue results in Japan and Taiwan, which was partially offset by increased revenue in the United States from the operations of Big Planet, as discussed below. Fluctuations in foreign currency exchange rates positively impacted revenue for the quarter by approximately 3% on a year-over-year basis.

Revenue in North Asia decreased 3.6% and 6.8% to \$142.8 million and \$433.0 million for the three and nine-month periods ended September 30, 2000 from \$148.2 million and \$464.6 million for the same periods in 1999, respectively. This decrease in revenue was due to revenue in Japan decreasing 6.8% and 9.2% to \$134.2 million and \$411.2 million for the three and nine-month periods ended September 30, 2000 from \$144.0 million and \$452.8 million for the same periods in 1999, respectively. The decline in revenue in Japan was partially offset by an increase in revenue in South Korea of 104.8% and 84.7% to \$8.6 million and \$21.8 million for the three and nine-month periods ended September 30, 2000 from \$4.2 million and \$11.8 million for the same periods in 1999, respectively. In local currency terms, revenue in Japan was 10.7% lower in the third quarter of 2000 versus the prior year and 16.7% lower for the nine-month period ended September 30, 2000 versus the prior year. The 2000 results reflect the impact of distributor productivity issues as well as increased competition experienced by the Company over the last 18 months as discussed in previous filings. On a sequential basis, revenue in Japan declined by 5.8% after increasing by 5.8% from the first to the second quarter of 2000. The sequential decline in revenue in Japan in the third quarter of 2000 is due in part to the discontinuance of a quarterly LifePak discount promotion in Japan in favor of the Company's Automatic Delivery Program ("ADP"), which offers a smaller discount to purchasers for a long-term monthly commitment. Management believes that as the ADP program continues to grow, it will generate a more stable and consistent revenue stream. Management also believes that revenue in the quarter, compared to the prior sequential quarter, was also affected by seasonality trends and promotional efforts focused on initiatives planned for the fourth quarter and sales of Nu Skin 180 Anti-Aging Skin Therapy System ("Nu Skin 180") during the latter part of the second quarter in connection with the initial launch of Nu Skin 180. In South Korea, the revenue increase is primarily due to significant new product launches including Pharmanex's weight management products in the second quarter of 2000 and Nu Skin 180 in the third quarter of 2000.

Revenue in Southeast Asia decreased 18.0% and 16.9% to \$29.6 million and \$89.8 million for the three and nine-month periods ended September 30, 2000 from \$36.1 million and \$108.0 million for the same periods in 1999, respectively. This decline in revenue was primarily a result of revenue in Taiwan decreasing 21.9% and 20.0% to \$21.0 million and \$64.6 million for the three and nine-month periods ended September 30, 2000 from \$26.9 million and \$80.8 million for the same periods in 1999, respectively. While the Company's operations in Taiwan have continued to suffer the impact of increased competition and an overall decline in sales in the direct selling industry in Taiwan, which management believes is largely due to economic concerns throughout Southeast Asia, revenue results in the third quarter were essentially level with the second quarter of 2000. Management believes that this leveling of sales is due to new promotional plans and initiatives in this market. Management believes that the Company's year-over-year comparisons in Taiwan suffered from the impact of a major earthquake, which occurred late in the third quarter of 1999. In addition, direct selling as a distribution channel has significantly penetrated the Taiwan market.

Revenue in the Company's Other Markets, which include its European and North and South America markets, increased 21.0% and 44.2% to \$43.2 million and \$133.4 million for the three and nine-month periods ended September 30, 2000 from \$35.7 million and \$92.5 million for the same periods in

1999, respectively. This increase in revenue is due to the additional revenue of \$6.0 million and \$24.9 million for the three and nine-month periods ended September 30, 2000, respectively, from Big Planet following the Big Planet Acquisition, which occurred in July 1999. In addition, the increase in revenue for the nine-month period also related to revenue of \$26.3 million for the three-month period ended March 31, 2000 compared to revenue of \$5.7 million from March 8, 1999 through March 31, 1999 from sales in the United States resulting from the termination of the Company's license agreement with Nu Skin USA, which occurred in March 1999. This additional revenue more than offsets the elimination of revenue from sales to the Company's former affiliates in these markets, which revenue is now eliminated in consolidation. On a sequential basis, revenue in the United States decreased by \$4.3 million, which is primarily due to lower revenue from Big Planet in the United States. This decline in Big Planet revenue is largely related to the Company's conclusion of the "Free to a Good Home" iPhone initiative, which provided a free iPhone to subscribers entering into a long-term commitment for the Company's Internet and long distance services. The Company is currently focusing on initiatives that place an emphasis on higher margin products such as web page building and telecommunications products.

Gross profit as a percentage of revenue remained constant at 82.9% for the three-month period ended September 30, 2000 compared to the same period in the prior year and increased to 83.3% for the nine-month period ended September 30, 2000 compared to 82.8% for the same period in the prior year. The increase in the gross profit percentage for the nine-month period in 2000 resulted from the strengthening of the Japanese yen and other Asian currencies relative to the U.S. dollar, higher margin sales to distributors in the United States following the termination of the Company's license agreement with Nu Skin USA, increased local manufacturing efforts and reduced duty rates. The Company purchases a significant majority of goods in U.S. dollars and recognizes revenue in local currencies. Consequently, the Company is subject to exchange rate risks in its gross margins. The Company's gross margin was negatively impacted by Big Planet operations, which include the sale of lower margin technology products and services. Due to the overall growth in revenue from Big Planet, the impact of Big Planet on gross margins had a greater offsetting effect in the second and third quarters of 2000 than it did in the first quarter of 2000.

Distributor incentives as a percentage of revenue increased to 38.9% for both the three and nine-month periods ended September 30, 2000 compared to 38.8% and 38.3% for the same periods in the prior year, respectively. The primary reason for the increase in 2000 was the termination of the Company's license agreement with Nu Skin USA which resulted in the Company beginning to sell products directly to distributors in the United States and paying the requisite commissions related to those sales. In addition, the Company recently restructured a portion of its compensation plan for distributors, adding short-term, division-focused incentives, which has increased compensation to the Company's entry-level distributors since the later part of 1999.

Selling, general and administrative expenses as a percentage of revenue increased to 33.0% and 33.6% of revenue for the three and nine-month periods ended September 30, 2000 compared to 30.3% and 27.9% of revenue for the same periods in the prior year, respectively. In U.S. dollar terms, selling, general and administrative expenses increased to \$71.1 million and \$220.6 million for the three and nine-month periods ended September 30, 2000 compared to \$66.6 million and \$185.9 million for the same periods in the prior year, respectively. This increase was due primarily to an additional \$2.1 million and \$19.1 million of selling, general and administrative expenses relating to the assumed operations of Big Planet for the three and nine-month periods ended September 30, 2000, respectively. In addition, the Company incurred an incremental \$2.3 million of overhead expenses during the nine-month period ended September 30, 2000 compared to the same period in the prior year for operations in North America following the acquisition of certain assets from Nu Skin USA in March 1999 and the North American Affiliates in May 1999. Selling, general and administrative expenses also increased on a year-over-year basis by \$4.8 million for the nine-month period ended September 30, 2000 due to a stronger Japanese yen in 2000. Finally, a convention held in Japan in the first quarter of 2000 resulted in higher expenses of approximately \$4.7 million in the first quarter of 2000, versus the same period in the prior year.

Other income (expense), net increased \$4.7 million and \$1.0 million for the three and nine-month periods ended September 30, 2000, respectively, compared to the same periods in the prior year primarily as a result of the significant hedging losses recorded in the third quarter of 1999 from forward contracts and intercompany loans resulting from a stronger Japanese yen in relation to the U.S. dollar. The increase for the nine-month period in 2000 was offset by lower net gains recorded on foreign currency contracts in the first half of 2000 compared to the same prior-year period as well as reduced interest expense relating to the Company's long-term debt.

Provision for income taxes increased to \$8.4 million for the three-month period ended September 30, 2000 from \$4.1 million for the same prior-year period. This increase is due to the increase in the effective tax rate from 16.2% in the third quarter of 1999 to 36.0% in the third quarter of 2000. The effective tax rate of 16.2% in the third quarter of 1999 related to the utilization of foreign tax credits as a result of the Company's global tax restructuring plans in that period. Provision for income taxes decreased to \$25.6 million for the nine-month period ended September 30, 2000 from \$34.6 million for the same prior-year period. This decrease is due to lower income earned in 2000 versus 1999.

#### Liquidity and Capital Resources

Historically, the Company's principal needs for funds have been for distributor incentives, working capital (principally inventory purchases), operating expenses, capital expenditures and the development of operations in new markets. The Company has generally relied on cash flow from operations to meet its business objectives without incurring long-term debt to unrelated third parties to fund operating activities.

The Company typically generates positive cash flow from operations due to favorable gross margins, the variable nature of distributor commissions which comprise a significant percentage of operating expenses and minimal capital requirements. During the first and third quarters of each year, however, the Company pays significant accrued income taxes in many foreign jurisdictions including Japan. These large cash payments often more than offset significant cash generated in these quarters. During the nine-month period ended September 30, 2000, the Company generated \$18.0 million from operations compared to \$11.4 million during the nine-month period ended September 30, 1999. This increase in cash generated from operations in 2000 compared to the same prior-year period primarily related to reduced foreign taxes paid in Japan as a result of the Company's global tax restructuring plans. This reduction in foreign taxes paid was somewhat offset by lower net income in 2000.

As of September 30, 2000, working capital was \$120.8 million compared to \$74.6 million as of December 31, 1999. Cash and cash equivalents at September 30, 2000 and December 31, 1999 were \$49.9 million and \$110.2 million, respectively. The decrease in cash and cash equivalents are related primarily to a debt payment of \$55.7 million which occurred in March 2000. The increase in working capital is primarily related to the refinancing of the Company's existing credit facility, as described in Note 10 of the notes to the Consolidated Financial Statements, as well as the change noted above in cash and cash equivalents.

Capital expenditures, primarily for equipment, computer systems and software, office furniture and leasehold improvements, were \$13.1 million for the nine-month period ended September 30, 2000. In addition, the Company anticipates additional capital expenditures through the remainder of 2000 of approximately \$7.0 million to further enhance its infrastructure, including enhancements to computer systems and Internet related software in order to expand the Company's Internet capabilities and to accommodate anticipated future growth.

In March 1998, the Company completed the NSI Acquisition. Pursuant to the terms of the NSI Acquisition, NSI and the Company met earnings growth targets in 1998 resulting in a contingent payment to the stockholders of NSI (the "NSI Stockholders") of \$25.0 million. The Company and NSI did not meet specific earnings growth targets for the year ended December 31, 1999. However, contingent upon NSI

and the Company meeting earnings growth targets during 2000 and 2001, the Company may pay up to \$75.0 million in cash over the next two years to the NSI Stockholders. The contingent consideration of \$25.0 million earned in 1998 was paid in the second quarter of 1999 and has been accounted for as an adjustment to the purchase price and allocated to the assets and liabilities of the Acquired Entities. Any additional contingent consideration paid over the next two years, if any, will be accounted for in a similar manner.

On October 12, 2000, the Company refinanced the \$87.1 million balance of its existing credit facility with the proceeds of a private placement of \$90.0 million of ten-year senior notes (the "Notes") to The Prudential Insurance Company of America. The Notes are denominated in Japanese yen. The Notes bear interest at an effective rate of 3.03% annually and become due October 2010 with principal payments beginning October 2004. The debt is classified as long-term in the consolidated financials statements as of September 30, 2000.

During 2000, the Company renewed a \$10.0 million revolving credit agreement with ABN-AMRO, N.V. Advances are available under the agreement through May 18, 2001 with a possible extension upon approval of the lender. There were no outstanding balances under this credit facility at September 30, 2000.

Since August 1998, the board of directors has authorized the Company to repurchase up to \$40.0 million of the Company's outstanding shares of Class A common stock. The repurchases are used primarily to fund the Company's equity incentive plans. During the three and nine-month periods ended September 30, 2000, the Company repurchased approximately 1,039,000 and 1,718,000 shares for an aggregate price of approximately \$6.5 million and \$11.5 million, respectively. As of September 30, 2000, the Company had repurchased a total of 3,999,102 shares for an aggregate price of approximately \$39.3 million. In addition, in March 1999, in connection with the termination of the license and distribution agreements with Nu Skin USA, the board of directors separately authorized and the Company completed the purchase of approximately 700,000 shares of the Company's Class A common stock from Nu Skin USA and certain stockholders for approximately \$10.0 million.

The Company had related party payables of \$11.4 million and \$15.1 million at September 30, 2000 and December 31, 1999, respectively. In addition, the Company had related party receivables of \$13.5 million and \$16.4 million, respectively, at those dates.

Management considers the Company to be sufficiently liquid to be able to meet its obligations on both a short and long-term basis. Management currently believes existing cash balances together with future cash flows from operations will be adequate to fund cash needs relating to the implementation of the Company's strategic plans.

#### Seasonality

In addition to general economic factors, the direct selling industry is impacted by seasonal factors and trends such as major cultural events and vacation patterns. For example, Japan, Taiwan, Hong Kong, South Korea and Thailand celebrate their respective local New Year in our first quarter. Management believes that direct selling in Japan, the United States and Europe is also generally negatively impacted during the month of August, which is in the Company's third quarter, when many individuals traditionally take vacations.

## Distributor Information

The following table provides information concerning the number of active and executive distributors as of the dates indicated.

	As of Sept. 30, 2000		As of Sept. 30, 1999	
	Active	Executive	Active	Executive
North Asia . . . . .	292,000	13,957	321,000	14,977
Southeast Asia . . . . .	98,000	2,957	118,000	4,137
Other Markets. . . . .	71,000	3,550	69,000	2,761
Total. . . . .	461,000	20,464	508,000	21,875

## Currency Risk and Exchange Rate Information

A majority of the Company's revenue and many of the Company's expenses are recognized primarily outside of the United States except for inventory purchases which are primarily transacted in U.S. dollars from vendors in the United States. Each subsidiary's local currency is considered the functional currency. All revenue and expenses are translated at weighted average exchange rates for the periods reported. Therefore, the Company's reported sales and earnings will be positively impacted by a weakening of the U.S. dollar and will be negatively impacted by a strengthening of the U.S. dollar.

Given the uncertainty of exchange rate fluctuations, the Company cannot estimate the effect of these fluctuations on the Company's future business, product pricing, results of operations or financial condition. However, because a majority of the Company's revenue is realized in local currencies and the majority of the Company's cost of sales is denominated in U.S. dollars, the Company's gross profits will be positively affected by a weakening in the U.S. dollar and will be negatively affected by a strengthening in the U.S. dollar. The Company seeks to reduce its exposure to fluctuations in foreign exchange rates by creating offsetting positions through the use of foreign currency exchange contracts and through intercompany loans of foreign currency. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results.

The Company's foreign currency derivatives are comprised of over-the-counter forward contracts with major international financial institutions. As of September 30, 2000, the primary currency for which the Company had net underlying foreign currency exchange rate exposure was the Japanese yen. Based on the Company's foreign exchange contracts at September 30, 2000 as discussed in Note 5 of the notes to the Consolidated Financial Statements, the impact of a 10% appreciation or 10% depreciation of the U.S. dollar against the Japanese yen would not result in significant other income or expense recorded in the Consolidated Statements of Income.

## Outlook

Management's outlook for the remainder of 2000 and looking forward to 2001 is contingent upon the continued success of its strategy of aligning the Company's historical business along three divisions of products and opportunities: Nu Skin (personal care products), Pharmanex (nutritional products), and Big Planet (technology, Internet and telecommunications products and services). Each of these divisions is supported by Nu Skin Enterprises' resources, expertise and knowledge of direct selling. During 1999, the divisional strategy was implemented or announced in major markets. While implementation initially caused some disruption in the distributor force, management believes that its strategy has had a positive impact in many of its markets, particularly in the United States, Japan and South Korea. While management believes that its divisional strategy will yield overall growth for the Company in a market, it recognizes that division specific growth in any given market may vary as distributors shift their attention and focus from

one division to another just as the Company's seamless compensation plan yields variations in individual market performance as distributors shift their focus among geographic markets. During the fourth quarter of 2000, management anticipates modest sequential revenue growth in Japan and Taiwan and relatively level revenue in South Korea and the United States. Overall sequential revenue growth for the fourth quarter, which has historically been one of the Company's strongest quarters of the year, is expected to be 5% to 8%. For the year 2001, the Company anticipates revenue growth rates in the mid to high single digits.

Gross margins are anticipated to decrease slightly in the fourth quarter of 2000 and into 2001 due to the lower margin goods and services provided by Big Planet as well as the Company's forecast of slightly weaker foreign currencies. Distributor incentives are anticipated to slightly increase due to new incentive programs aimed at attracting new distributors. Selling, general and administrative costs are anticipated to slightly decrease as a percentage of revenue through the fourth quarter of 2000 as the Company looks to continue improving efficiencies and are anticipated to slightly increase in the first quarter of 2001 relating to the planned convention to be held in the United States during the first quarter of 2001 and in the fourth quarter of 2001 due to the planned convention in Japan. While the Company experienced reduced tax rates for the year ended December 31, 1999, management believes that its annual corporate tax rates will continue at current levels through the remainder of 2000 and with slight increases in 2001. Overall, management believes that net income and earnings per share will increase 7% to 10% in the fourth quarter of 2000 compared to the third quarter. For the year 2001, management believes that earnings growth rates will slightly exceed revenue growth rates due to improved operating efficiencies.

#### Note Regarding Forward-Looking Statements

With the exception of historical facts, the statements contained in this Report and Management's Discussion and Analysis of Financial Condition and Results of Operations, are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 (the "Reform Act") which reflect the Company's current expectations and beliefs regarding the future results of operations, performance and achievements of the Company. These statements are subject to risks and uncertainties and are based upon assumptions and beliefs that may not materialize. These forward-looking statements include, but are not limited to, statements concerning:

- o the Company's belief that existing cash and cash flow from operations will be adequate to fund cash needs;
- o management's belief that the Company's divisional strategy will yield overall growth;
- o the belief that revenue will increase sequentially in Japan and Taiwan and will remain relatively stable in the United States and South Korea during the fourth quarter;
- o management's belief that earnings will improve by 7% to 10% during the fourth quarter compared to the third quarter and revenue will increase by 5% to 8% sequentially;
- o the current anticipation that revenue will increase in the mid to high single digits in 2001 compared to 2000 and that earnings growth rates will be slightly more than the revenue growth rates as a result of improved operating efficiencies;
- o management's anticipation that during the fourth quarter of 2000 gross margins will decrease slightly, distributor incentives will slightly increase, selling, general and administrative expenses will slightly decrease as a percent of revenue, and that tax rates will remain at historical levels; and



- o the Company's plan to implement forward contracts and other hedging strategies to manage foreign currency risks.

In addition, when used in this report, the words or phrases, "will likely result," "expects," "anticipates," "will continue," "intends," "plans," "believes," "the Company or management believes," and similar expressions are intended to help identify forward looking statements.

The Company wishes to caution readers that the risks and uncertainties set forth below, and the other risks and factors described herein and in the Company's other filings with the Securities and Exchange Commission (which contain a more detailed discussion of the risks and uncertainties related to the Company's business) could cause (and in some cases in the past have caused) the Company's actual results and outcomes to differ materially from those discussed or anticipated. The Company also wishes to advise readers not to place any undue reliance on such forward-looking statements, which reflect the Company's beliefs and expectations only as of the date of this report. The Company assumes no obligation to update or revise these forward-looking statements to reflect new events or circumstances or any changes in its beliefs or expectations. Important factors, risks and uncertainties that might cause actual results to differ from those anticipated include, but are not limited to, the following:

- (a) There can be no assurances that the factors that have negatively impacted the business over the past year will not continue to have a negative impact or that recent initiatives, including the Company's divisional strategy, will help stabilize operations or renew growth on a sustained basis. The Company has recently implemented various initiatives to stabilize its Asian operations and renew growth. Although management believes initial results have been positive, there is still uncertainty concerning the long-term effect of recent initiatives. In addition, there is a risk that the implementation of the Company's divisional strategy, Internet initiatives, and promotions could create renewed confusion or uncertainty among distributors and not increase distributor productivity.
- (b) Risks and uncertainties associated with the Company's e-commerce initiatives and Big Planet's initiatives. These risks include:
  - o uncertainty concerning the degree to which such initiatives will increase and sustain levels of distributor interest, activity or retention or generate incremental revenue growth,
  - o the risk of technological problems or development issues that could interrupt or delay such initiatives and impede distributor enthusiasm or increase the costs of such initiatives, and
  - o the risk that the Company's e-commerce initiatives will not continue generating the operating efficiencies currently being experienced.
- (c) The ability of the Company to retain its key and executive level distributors. The Company has experienced a reduction in the number of active and executive distributors. Because the Company's products are distributed exclusively through its distributors, the Company's divisional strategy and its operating results could be adversely affected if the Company's existing and new business opportunities and products do not generate sufficient economic incentive to retain its existing distributors or to sponsor new distributors on a sustained basis, or if the Company receives adverse publicity.

- (d) Because a substantial majority of the Company's sales are generated from the Asian region, particularly Japan, significant variations in operating results including revenue, gross margin and earnings from those expected could be caused by
- o renewed or sustained weakness of Asian economies or consumer confidence,
  - o weakening of foreign currencies, particularly the Japanese yen, and
  - o the risk that the Company will not be able to favorably implement forward contracts and other hedging strategies to manage foreign currency risk.
- (e) Risks associated with the Company's new business opportunities, new product offerings and new markets, including:
- o any legal or regulatory restrictions that might delay or prevent the Company from introducing such opportunities and products into all of its markets or limit the ability of the Company to effectively market such products,
  - o the risk that such opportunities and products will not gain market acceptance or meet the Company's expectations as a result of increased competition,
  - o any lack of market acceptance by consumers or the Company's distributors, and
  - o the risk that sales from such new business opportunities and product offerings could reduce sales of existing products and not generate significant incremental revenue growth.
- (f) The Company's operations could also be affected by the following risks:
- o adverse business or political conditions, continued competitive pressure,
  - o the maturity of the direct sales channel in certain of the Company's markets,
  - o changes in laws and regulations (including any increased government regulation of direct selling activities and products in existing and future markets such as Singapore, the People's Republic of China, or changes in U.S. or foreign tax regulations), and
  - o the Company's reliance on outside manufacturers.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The information required by Item 3 of Part I of Form 10-Q is incorporated herein by reference from the section entitled "Currency Risk and Exchange Rate Information" in "Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations" of Part I and also in Note 5 to the Financial Statements contained in Item 1 of Part I.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Reference is made to the Company's Annual Report on Form 10-K and its filings on Form 10-Q for information concerning legal proceedings. In September 2000, the Company filed a motion to dismiss in the case Karen Kindt, on behalf of Nu Skin Enterprises, Inc. v. Blake Roney et.al, which was filed in the Court of Chancery in the State of Delaware in January 2000. In accordance with Delaware statutory process, the Company established a Special Litigation Committee consisting of independent directors to investigate, analyze and evaluate the allegations and issues raised in the complaint. The Special Litigation Committee filed its final report under seal with the Delaware Court of Chancery in September 2000. Based on the determinations of the Special Litigation Committee, the Company has moved to dismiss the complaint.

ITEM 2. CHANGES IN SECURITIES

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits  
Regulation S-K  
Number

Description

10.1	Note Purchase Agreement dated October 12, 2000 by and between the Company and The Prudential Insurance Company of America
10.2	Pledge Agreement dated October 12, 2000 by and between the Company and State Street Bank and Trust Company of California, N.A., acting in its capacity as collateral agent
10.3	Collateral Agency Agreement dated October 12, 2000 by and between the Company, State Street Bank and Trust Company of California, N.A., as Collateral Agent, and the lenders and note holders party thereto
27.1	Financial Data Schedule - Nine Months Ended September 30, 2000

(b) Reports on Form 8-K. No current Reports on Form 8-K were filed during the quarter ended September 30, 2000.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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, on this 7th day of November, 2000.

NU SKIN ENTERPRISES, INC.

By: /s/ Corey B. Lindley

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Corey B. Lindley

Its: Chief Financial Officer

(Principal Financial and Accounting Officer)

EXHIBIT INDEX

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- 10.3 Collateral Agency Agreement dated October 12, 2000 by and between the Company, State Street Bank and Trust Company of California, N.A., as Collateral Agent, and the lenders and note holders party thereto
- 27.1 Financial Data Schedule - Nine Months Ended September 30, 2000

NU SKIN ENTERPRISES, INC.  
One Nu Skin Plaza  
75 West Center Street  
Provo, Utah 84601

3.03% Senior Notes due October 12, 2010

October 12, 2000

TO THE PURCHASER LISTED IN  
THE ATTACHED SCHEDULE A:

Ladies and Gentlemen:

Nu Skin Enterprises, Inc., a Delaware corporation (the "Company"), agrees with you as follows:

1. AUTHORIZATION OF NOTES.

The Company will authorize the issue and sale of JPY 9,706,500,000 aggregate principal amount of its Senior Notes due October 12, 2010 (the "Notes", such term to include any such notes issued in substitution therefor pursuant to Section 13 of this Agreement). The Notes shall be substantially in the form set out in Exhibit 1, with such changes therefrom, if any, as may be approved by you and the Company. The Notes shall at all times be guaranteed by all current and future Material Domestic Subsidiaries of the Company (the "Subsidiary Guarantors") pursuant to the Subsidiary Guaranty and shall at all times be secured by a pledge of the Pledged Securities of each Material Foreign Subsidiary pursuant to the Pledge Agreement. Certain capitalized terms used in this Agreement are defined in Schedule B; references to a "Schedule" or an "Exhibit" are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

2. SALE AND PURCHASE OF NOTES.

Subject to the terms and conditions of this Agreement and the Collateral Documents, the Company will issue and sell to you and you will purchase from the Company, at the Closing provided for in Section 3, Notes in the principal amount specified opposite your name in Schedule A at the purchase price of 100% of the principal amount thereof.

3. CLOSING.

The sale and purchase of the Notes to be purchased by you shall occur at the offices of O'Melveny & Myers LLP, 400 South Hope Street, Los Angeles, California 90071, at 8:00 a.m., Los Angeles time, at a closing (the "Closing") on October 12, 2000. At the Closing

the Company will deliver to you the Notes to be purchased by you in the form of a single Note (or such greater number of Notes in denominations of at least the Yen-equivalent of \$100,000 as you may request) dated the date of the Closing and registered in your name (or in the name of your nominee), against delivery by you to the Company or its order of immediately available funds in the amount of the purchase price therefor by wire transfer of immediately available funds as set forth in a funding instruction letter delivered by the Company to you at least two Business Days prior to the Closing. If at the Closing the Company shall fail to tender such Notes to you as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to your satisfaction, you shall, at your election, be relieved of all further obligations under this Agreement, without thereby waiving any rights you may have by reason of such failure or such nonfulfillment.

4. CONDITIONS TO CLOSING.

Your obligation to purchase and pay for the Notes to be sold to you at the Closing is subject to the fulfillment to your satisfaction, prior to or at the Closing, of the following conditions:

4.1 Representations and Warranties.

The representations and warranties of the Company in this Agreement and the Collateral Documents shall be correct in all material respects when made and at the time of the Closing.

4.2 Performance; No Default.

The Company and its Restricted Subsidiaries shall have performed and complied in all material respects with all agreements and conditions contained

in this Agreement and the Collateral Documents required to be performed or complied with by them prior to or at the Closing and after giving effect to the issue and sale of the Notes (and the application of the proceeds thereof as contemplated by Section 5.14) no Default or Event of Default shall have occurred and be continuing. Neither the Company nor any Restricted Subsidiary shall have entered into any transaction since the date of the Memorandum that would have been prohibited by Section 10 hereof had such Section applied since such date.

4.3 Officer's Certificate.

The Company shall have delivered to you an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in Sections 4.1, 4.2, 4.9, 4.13(a) and 4.13(b) have been fulfilled.

4.4 Opinions of Counsel.

You shall have received opinions in form and substance satisfactory to you, dated the date of the Closing (a) from Shearman & Sterling, special New York counsel for the Company and the Subsidiary Guarantors, substantially in the form set forth in Exhibit 4.4(a) and covering such other matters incident to the transactions contemplated hereby as you or your counsel may reasonably request (and the Company and the Subsidiary Guarantors hereby instruct

Shearman & Sterling to deliver such opinion to you), (b) from Tokyo Aoyama Law Office, special Japanese counsel for the Company and Nu Skin Japan Co., Ltd., substantially in the form set forth in Exhibit 4.4(b) and covering such other matters incident to the transactions contemplated hereby as you or your counsel may reasonably request (and the Company and the Subsidiary Guarantors hereby instruct Tokyo Aoyama Law Office to deliver such opinion to you, (c) from the Company's and the Subsidiary Guarantors' in-house counsel, substantially in the form set forth in Exhibit 4.4(c) and covering such other matters incident to the transactions contemplated hereby as you or your counsel may reasonably request (and the Company hereby instructs its in-house counsel to deliver such opinion to you), and (d) from O'Melveny & Myers LLP, your special counsel in connection with such transactions, substantially in the form set forth in Exhibit 4.4(d) and covering such other matters incident to such transactions as you may reasonably request.

4.5 Purchase Permitted By Applicable Law, etc.

On the date of the Closing your purchase of Notes shall (i) be permitted by the laws and regulations of each jurisdiction to which you are subject, without recourse to provisions (such as Section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (ii) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System), and (iii) not subject you to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. If requested by you, you shall have received an Officer's Certificate certifying as to such matters of fact as you may reasonably specify to enable you to determine whether such purchase is so permitted.

4.6 [Reserved].

4.7 Payment of Special Counsel Fees.

Without limiting the provisions of Section 15.1, the Company shall have paid on or before the Closing the fees, charges and disbursements of your special counsel referred to in Section 4.4 to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to the Closing.

4.8 Private Placement Number.

A Private Placement Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the Securities Valuation Office of the National Association of Insurance Commissioners) shall have been obtained for the Notes.

4.9 Changes in Corporate Structure.

Except as specified in Schedule 4.9, the Company shall not have changed its jurisdiction of incorporation or been a party to any merger or consolidation and shall not have succeeded to all or any substantial part of the liabilities of any other entity, at any time following the date of the most recent financial statements referred to in Schedule 5.5.



4.10 Proceedings and Documents.

All corporate and other proceedings in connection with the transactions contemplated by this Agreement, the Collateral Documents and all documents and instruments incident to such transactions shall be satisfactory to you and your special counsel, and you and your special counsel shall have received all such counterpart originals or certified or other copies of such documents as you or they may reasonably request.

4.11 Delivery of Company Documents.

On or before the date of the Closing, the Company shall have delivered to you and your special counsel each, unless otherwise noted, dated the date of the Closing:

(a) Certified copies of the Company's Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the State of Delaware, each to be dated a recent date prior to the date of the Closing;

(b) Copies of the Company's Bylaws, certified as of the date of the Closing by its corporate secretary or an assistant secretary;

(c) Resolutions of the Board of Directors of the Company approving and authorizing the execution, delivery and performance of the Notes, this Agreement, the Collateral Documents to which the Company is a party and any other documents, instruments and certificates required to be executed by the Company in connection therewith, each certified by the Company's corporate secretary or an assistant secretary as being in full force and effect without modification or amendment;

(d) Signature and incumbency certificates of the officers of the Company executing the documents referred to in item (c) above, and any other documents, instruments and certificates required to be executed by the Company in connection herewith or therewith; and

(e) Such other documents as you or your special counsel may reasonably request.

4.12 Delivery of Subsidiary Guarantor Documents.

On or before the date of the Closing, each Subsidiary Guarantor shall have delivered to you and your special counsel each, unless otherwise noted, dated the date of the Closing:

(a) Certified copies of such Subsidiary Guarantor's Articles or Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the State of the jurisdiction of its incorporation, each to be dated as of a recent date prior to the date of Closing;

(b) Copies of such Subsidiary Guarantor's Bylaws, certified as of the date of the Closing by its corporate secretary or an assistant secretary;

(c) Resolutions of the Board of Directors of such Subsidiary Guarantor approving and authorizing the execution, delivery and performance of the Subsidiary Guaranty and any other documents, instruments and certificates required to be executed by such Subsidiary Guarantor in connection therewith, each certified by its corporate secretary or an assistant secretary as being in full force and effect without modification or amendment;

(d) Signature and incumbency certificates of the officers of such Subsidiary Guarantor executing the documents referred to in item (c) above, and any other documents, instruments and certificates required to be executed by such Subsidiary Guarantor in connection therewith; and

(e) Such other documents as you or your special counsel may reasonably request.

4.13 Execution and Delivery of the Subsidiary Guaranty, the Pledge Agreement and the Collateral Agency, Intercreditor Agreement, and the ABN Amro Release of Guarantors.

(a) On or prior to the date of the Closing, the Subsidiary Guaranty shall have been duly executed and delivered by each Subsidiary Guarantor and shall be in full force and effect and you shall have received an executed copy thereof.

(b) On or prior to the date of the Closing, the Pledge Agreement shall have been duly executed and delivered by the Pledgors and the Collateral Agent and shall be in full force and effect, you shall have received an executed copy thereof, and all actions shall have been taken as may be necessary or desirable to give to the Collateral Agent, for the ratable benefit of the holders of the Notes and the other Senior Secured Creditors, a valid and perfected first priority Lien on and security interest in the Pledged Securities.

(c) On or prior to the date of the Closing, the Collateral Agency and Intercreditor Agreement shall have been duly executed and delivered by the Collateral Agent, you and each of the other Senior Secured Creditors, and shall have been acknowledged by the Company and each of its Restricted Subsidiaries, and such agreement shall be in full force and effect and you shall have received an executed copy thereof.

(d) On or prior to the date of the Closing, the ABN Amro Release of Guarantors shall have been duly executed and delivered by ABN Amro N.V., releasing Nu Skin Korea, Co., Ltd., Nu Skin Korea, Inc. and Nu Skin Japan Co., Ltd. from the ABN Amro Subsidiary Guaranty.

4.14 UCC Searches.

The Company shall have delivered to the Collateral Agent certified copies of UCC Requests for Information or copies (Form UCC-11), or a similar search report certified by a party acceptable to the Collateral Agent, dated a recent date prior to the Closing, listing all effective financing statements which name the Company (under its present name and any previous names) as the debtor and which are filed in any jurisdiction.

4.15 UCC Financing Statements.

The Company shall have delivered to the Collateral Agent UCC financing statements or other similar instruments or documents, duly executed by the Company with respect to the Pledged Securities, in appropriate form for filing under the Uniform Commercial Code as in effect in all jurisdictions as may be necessary or, in the opinion of the Collateral Agent, desirable to perfect the security interests created in the Pledged Securities pursuant to the Pledge Agreement.

5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to you that:

5.1 Organization; Power and Authority.

The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, to execute and deliver this Agreement, the Collateral Documents to which it is a party and the Notes, and to perform the provisions hereof and thereof.

5.2 Authorization, etc.

This Agreement, the Notes and the Collateral Documents to which the Company is a party have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement and each of the Collateral Documents to which it is a party constitutes, and upon execution and delivery thereof each Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

5.3 Disclosure.

The Company, through its agent, Bank of America Securities LLC, has delivered to you a copy of a Private Placement Memorandum, dated September, 2000 (the "Memorandum"), relating to the transactions contemplated hereby. The Memorandum fairly describes, in all material respects, the general nature of the business and principal properties of the Company and the Restricted Subsidiaries. Except as disclosed in Schedule 5.3, this Agreement, the Collateral Documents, the Memorandum, the documents, certificates or other writings delivered to you by or on behalf of the Company in connection with the transactions contemplated hereby and the financial statements listed in Schedule 5.5, taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary to

make the statements therein not misleading in light of the circumstances under which they were made. Except as disclosed in the Memorandum, the Form 10-K filed by the Company with the Securities and Exchange Commission for the period ended December 31, 1999 or in any Form 10-Q, Form 8-K or other report filed by the Company with the Securities and Exchange Commission for any period subsequent to the period ended December 31, 1999 or as expressly described in Schedule 5.3 or in one of the documents, certificates or other writings identified therein, or in the financial statements listed in Schedule 5.5, since December 31, 1999, there has been no change in the financial condition, operations, business, properties or prospects of the Company or any Subsidiary except changes that individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect. There is no fact known to the Company that could reasonably be expected to have a Material Adverse Effect that has not been set forth herein or in the Memorandum or in the other documents, certificates and other writings delivered to you by or on behalf of the Company.

5.4 Organization and Ownership of Shares of Subsidiaries; Affiliates.

(a) Schedule 5.4 contains (except as noted therein) complete and correct lists (i) of the Company's Subsidiaries, showing, as to each Subsidiary, the correct name thereof, the jurisdiction of its organization, the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary and whether such Subsidiary is a Restricted Subsidiary or an Unrestricted Subsidiary, and whether such Subsidiary is a Material Subsidiary, (ii) of the Company's Affiliates, other than Subsidiaries, and (iii) of the Company's directors and senior officers.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 5.4 as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or another Subsidiary free and clear of any Lien (except for Permitted Liens, directors' qualifying shares, shares required to be owned by Persons pursuant to applicable foreign laws regarding foreign ownership, or as otherwise disclosed in Schedule 5.4).

(c) Each Subsidiary identified in Schedule 5.4 is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign corporation or other legal entity and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact.

(d) No Material Subsidiary, is a party to, or otherwise subject to any legal restriction or any agreement (other than this Agreement, the agreements listed on Schedule 5.4 and customary limitations imposed by corporate law statutes) restricting the ability of such Material Subsidiary to pay dividends out of profits or make any other similar distributions of profits to the Company or any of its Subsidiaries that owns outstanding shares of capital stock or similar equity interests of such Material Subsidiary.

## 5.5 Financial Statements.

The Company has delivered to you copies of the financial statements of the Company and the Restricted Subsidiaries listed on Schedule 5.5. All of said financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and the Restricted Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments).

## 5.6 Compliance with Laws, Other Instruments, etc.

The execution, delivery and performance by the Company of this Agreement, the Collateral Documents to which it is a party and the Notes will not (i) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, note purchase or credit agreement, corporate charter or bylaws, or any other Material agreement, lease or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary, or (iii) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary.

## 5.7 Governmental Authorizations, etc.

No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company or any of its Restricted Subsidiaries of this Agreement, the Collateral Documents or the Notes.

## 5.8 Litigation; Observance of Agreements, Statutes and Orders.

(a) Except as disclosed in Schedule 5.8, there are no actions, suits or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Restricted Subsidiary is in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including without limitation Environmental Laws) of any Governmental Authority, which default or violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.9 Taxes.

The Company and its Subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction (other than those tax returns which individually or collectively are not Material), and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which is not individually or in the aggregate Material, or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The Company knows of no basis for any other tax or assessment that could reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of Federal, state or other taxes for all fiscal periods are adequate in accordance with GAAP. The Federal income tax liabilities of the Company and its Subsidiaries have been resolved with the Internal Revenue Service and paid for all fiscal years up to and including the fiscal year ending on December 31, 1996.

5.10 Title to Property; Leases.

The Company and the Restricted Subsidiaries have good and sufficient title to their respective properties that individually or in the aggregate are Material, including all such properties reflected in the most recent audited balance sheet referred to in Section 5.5 or purported to have been acquired by the Company or any Restricted Subsidiary after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement or the Collateral Documents. All leases that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all material respects.

5.11 Licenses, Permits, etc.

Except as disclosed in Schedule 5.11,

(a) the Company and the Restricted Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are Material, without any known Material conflict with the rights of others;

(b) to the best knowledge of the Company, no product of the Company infringes in any material respect any license, permit, franchise, authorization, patent, copyright, service mark, trademark, trade name or other right owned by any other Person; and

(c) to the best knowledge of the Company, there is no Material violation by any Person of any right of the Company or any Restricted Subsidiary with respect to any patent, copyright, service mark, trademark, trade name or other right owned or used by the Company or any Restricted Subsidiary.

5.12 Compliance with ERISA.

(a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and could not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans (as defined in Section 3 of ERISA), and no event, transaction or condition has occurred or exists that could reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to such penalty or excise tax provisions or to Section 401(a)(29) or 412 of the Code, other than such liabilities or Liens as would not be, individually or in the aggregate, Material.

(b) Neither the Company nor any ERISA Affiliate maintains a "single employer plan" or a Multiemployer Plan that is subject to Title IV of ERISA.

(c) The Company and its ERISA Affiliates have not incurred withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that individually or in the aggregate are Material.

(d) The expected postretirement benefit obligation (determined as of the last day of the Company's most recently ended fiscal year in accordance with Financial Accounting Standards Board Statement No. 106, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries is not Material or has otherwise been disclosed in the most recent consolidated financial statements of the Company and its Subsidiaries referenced in Section 5.5 of this Agreement.

(e) The execution and delivery of this Agreement and the Collateral Documents and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975(c)(1)(A)-(D) of the Code. The representation by the Company in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of your representation in Section 6.2 as to the sources of the funds used to pay the purchase price of the Notes to be purchased by you.

5.13 Private Offering by the Company.

Neither the Company nor anyone acting on its behalf has offered the Notes or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than you and not more than 18 other Institutional Investors, each of which has been offered the Notes or any similar securities at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of Section 5 of the Securities Act.

#### 5.14 Use of Proceeds; Margin Regulations.

The Company will apply the proceeds of the sale of the Notes to repay Indebtedness of the Company and its Subsidiaries (including repayment in full and termination of the Existing Credit Facility) and for other general corporate purposes (including repurchases of stock of the Company); provided that no part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, so as to involve the Company or any holder of a Note in a violation of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221) or Regulation X of said Board (12 CFR 224), or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 5% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the term "margin stock" shall have the meanings assigned to them in said Regulation U.

#### 5.15 Existing Indebtedness; Future Liens.

(a) Except as described therein, Schedule 5.15 sets forth a complete and correct list of all outstanding Indebtedness, separately listed for each such item of Indebtedness of \$2,000,000 or more, of the Company and the Restricted Subsidiaries as of the date of the Closing.

(b) (i) Neither the Company nor any Restricted Subsidiary is in default in the payment of any principal or interest on any Indebtedness of the Company or such Restricted Subsidiary, and (ii) no event or condition exists with respect to any Indebtedness of the Company or any Restricted Subsidiary that would permit (or that with notice or the lapse of time, or both, would permit) one or more Persons to cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment, except for Indebtedness described in clauses (i) and (ii) which, in aggregate principal amount, does not exceed \$5,000,000.

(c) Neither the Company nor any Restricted Subsidiary has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien not permitted by Section 10.3.

#### 5.16 Foreign Assets Control Regulations, etc.

Neither the sale of the Notes by the Company hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

#### 5.17 Status under Certain Statutes.

Neither the Company nor any Restricted Subsidiary is subject to regulation under the Investment Company Act of 1940, as amended, the Public Utility Holding Company Act of



1935, as amended, the Interstate Commerce Act, as amended, or the Federal Power Act, as amended.

5.18 Environmental Matters.

Neither the Company nor any of its Subsidiaries has knowledge of any claim or has received any notice of any claim, and no proceeding has been instituted raising any claim against the Company or any of its Subsidiaries or any of their respective real properties now or formerly owned, leased or operated by any of them or other assets, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect. Except as otherwise disclosed to you in writing,

(a) neither the Company nor any of its Subsidiaries has knowledge of any facts which would give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect;

(b) neither the Company nor any of its Subsidiaries has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner contrary to any Environmental Laws and has not disposed of any Hazardous Materials in a manner contrary to any Environmental Laws, in each case in any manner that could reasonably be expected to result in a Material Adverse Effect; and

(c) all buildings on all real properties now owned, leased or operated by the Company or any of its Subsidiaries are in compliance with all applicable Environmental Laws, except where failure to comply could not reasonably be expected to result in a Material Adverse Effect.

6. REPRESENTATIONS OF THE PURCHASER.

6.1 Purchase for Investment.

You represent that you are an institutional "accredited investor" within the meaning of subparagraphs (1), (2), (3) or (7) of Rule 501(a) promulgated under the Securities Act. You represent that you are purchasing the Notes for your own account or for one or more separate accounts maintained by you or for the account of one or more pension or trust funds and not with a view to the distribution thereof, provided that the disposition of your or their property shall at all times be within your or their control. You understand that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to register the Notes.

6.2 Source of Funds.

You represent that at least one of the following statements is an accurate representation as to each source of funds (a "Source") to be used by you to pay the purchase price of the Notes to be purchased by you hereunder:

(a) the Source is an "insurance company general account" within the meaning of Department of Labor Prohibited Transaction Exemption ("PTE") 95-60 (issued July 12, 1995) and there is no employee benefit plan, treating as a single plan all plans maintained by the same employer or employee organization, with respect to which the amount of the general account reserves and liabilities for all contracts held by or on behalf of such plan, exceed ten percent (10%) of the total reserves and liabilities of such general account (exclusive of separate account liabilities) plus surplus, as set forth in the NAIC Annual Statement filed with your state of domicile; or

(b) the Source is either (i) an insurance company pooled separate account, within the meaning of PTE 90-1 (issued January 29, 1990), or (ii) a bank collective investment fund, within the meaning of the PTE 91-38 (issued July 12, 1991) and, except as you have disclosed to the Company in writing pursuant to this paragraph (b), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(c) the Source constitutes assets of an "investment fund" (within the meaning of Part V of the QPAM Exemption) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of Part V of the QPAM Exemption), no employee benefit plan's assets that are included in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Section V(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, exceed 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM (applying the definition of "control" in Section V(e) of the QPAM Exemption) owns a 5% or more interest in the Company and (i) the identity of such QPAM and (ii) the names of all employee benefit plans whose assets are included in such investment fund have been disclosed to the Company in writing pursuant to this paragraph (c); or

(d) the Source is a governmental plan; or

(e) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.2, the terms "employee benefit plan", "governmental plan" and "separate account" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

7. INFORMATION AS TO COMPANY.

7.1 Financial and Business Information.

The Company shall deliver to each holder of Notes that is an Institutional Investor:

(a) Quarterly Statements - within 60 days (or if sooner, on the date consolidated statements are required to be delivered to any other creditor of the Company) after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(i) a consolidated and a consolidating balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(ii) consolidated and consolidating statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments; provided that delivery within the time period specified above of copies of the Company's Quarterly Report on Form 10-Q prepared in compliance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 7.1(a) to provide consolidated financial statements so long as such Quarterly Report on Form 10-Q includes the consolidated financial statements identified in clauses (i) and (ii) above; provided further that such consolidating financial statements shall show the elimination of all Unrestricted Subsidiaries and the resultant consolidated financial statements of the Company and its Restricted Subsidiaries;

(b) Annual Statements - within 120 days (or if sooner, on the date consolidated statements are required to be delivered to any other creditor of the Company) after the end of each fiscal year of the Company, duplicate copies of,

(i) a consolidated and a consolidating balance sheet of the Company and its Subsidiaries, as at the end of such year, and

(ii) consolidated and consolidating statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, which consolidated financial statements shall be accompanied by an opinion thereon of independent certified public accountants of

recognized national standing, which opinion shall state that such consolidated financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, and which consolidating financial statements shall be certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments; provided that the delivery within the time period specified above of the Company's Annual Report on Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 7.1(b) to provide consolidated financial statements so long as such Annual Report on Form 10-K includes the consolidated financial statements identified in clauses (i) and (ii) above; provided further that such consolidating financial statements shall show the elimination of all Unrestricted Subsidiaries and the resultant consolidated financial statements of the Company and its Restricted Subsidiaries;

(c) SEC and Other Reports - promptly upon their becoming available, one copy of (i) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to public securities holders generally, and (ii) each regular or periodic report, each registration statement (without exhibits except as expressly requested by such holder), and each prospectus and all amendments thereto filed by the Company or any Subsidiary with the Securities and Exchange Commission and of all press releases and other statements made available generally by the Company or any Material Domestic Subsidiary to the public concerning developments that are Material;

(d) Notice of Default or Event of Default - promptly, and in any event within five days, after a Responsible Officer becoming aware of the existence of any Default or Event of Default or that any Person has given any notice or taken any action with respect to a claimed default hereunder or that any Person has given any notice or taken any action with respect to a claimed default of the type referred to in Section 11(f), a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(e) ERISA Matters - promptly, and in any event within fifteen days after a Responsible Officer becoming aware of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take with respect thereto:

(i) with respect to any Plan, any reportable event, as defined in section 4043(b) of ERISA and the regulations thereunder, for which notice thereof has not been waived pursuant to such regulations as in effect on the date hereof, which could reasonably be expected to have a Material Adverse Effect; or

(ii) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan, which could reasonably be expected to have a Material Adverse Effect; or

(iii) any event, transaction or condition that could result in the incurrence of any liability by the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such liability or Lien, taken together with any other such liabilities or Liens then existing, could reasonably be expected to have a Material Adverse Effect;

(f) Notices from Governmental Authority - promptly, and in any event within 30 days of receipt thereof, copies of any notice to the Company or any Subsidiary from any Federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that could reasonably be expected to have a Material Adverse Effect; and

(g) Requested Information - with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries or relating to the ability of the Company to perform its obligations hereunder and under the Notes as from time to time may be reasonably requested by any such holder of Notes, including without limitation, such information as is required by Rule 144A promulgated under the Securities Act to be delivered to a prospective transferee of the Notes.

## 7.2 Officer's Certificate.

Each set of financial statements delivered to a holder of Notes pursuant to Section 7.1 hereof shall be accompanied by a certificate of a Senior Financial Officer setting forth:

(a) Covenant Compliance - the information (including detailed calculations) required in order to establish whether the Company was in compliance with the requirements of Section 10.2 through Section 10.6 hereof, inclusive, during the quarterly or annual period covered by the statements then being furnished (including with respect to each such Section, where applicable, the calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Sections, and the calculation of the amount, ratio or percentage then in existence); and

(b) Event of Default - a statement that such officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the

certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists (including, without limitation, any such event or condition resulting from the failure of the Company or any Subsidiary to comply with any Environmental Law), specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

7.3 Inspection.

The Company shall permit the representatives of each holder of Notes that is an Institutional Investor:

(a) No Default - if no Default or Event of Default then exists, at the expense of such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and (with the consent of the Company, which consent will not be unreasonably withheld) its independent public accountants, and (with the consent of the Company, which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Restricted Subsidiary, all at such reasonable times during business hours and as often as may be reasonably requested in writing; and

(b) Default - if a Default or Event of Default then exists, at the expense of the Company to visit and inspect any of the offices or properties of the Company or any Subsidiary, to examine all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the Company and its Subsidiaries), all at such reasonable times and as often as may be requested.

8. PREPAYMENT OF THE NOTES.

8.1 Required Prepayments.

The Company shall make principal prepayments on the Notes on the dates and in the amounts set forth below:

Prepayment Date	Amount
October 12, 2004	JPY1,386,642,857
October 12, 2005	JPY1,386,642,857
October 12, 2006	JPY1,386,642,857
October 12, 2007	JPY1,386,642,858
October 12, 2008	JPY1,386,642,857
October 12, 2009	JPY1,386,642,857

;provided that upon any partial prepayment of the Notes pursuant to Section 8.2 or purchase of the Notes permitted by Section 8.5, the principal amount of each required prepayment of the

Notes becoming due under this Section 8.1 on and after the date of such prepayment or purchase, as well as the payment required at maturity, shall be reduced in the same proportion as the aggregate unpaid principal amount of the Notes is reduced as a result of such prepayment or purchase.

#### 8.2 Optional Prepayments with Make-Whole Amount.

(a) Prepayment Amount. The Company may, at its option, upon notice as provided below, prepay on any Business Day all, or from time to time any part of, the Notes in an amount not less than 5% of the aggregate principal amount of the Notes then outstanding in the case of a partial prepayment, at 100% of the principal amount so prepaid, plus accrued interest thereon, plus the Make-Whole Amount determined for the prepayment date with respect to such principal amount.

(b) Notice. The Company will give each holder of Notes written notice of each optional prepayment under this Section 8.2 not less than 30 days and not more than 60 days prior to the Business Day fixed for such prepayment. Each such notice shall specify the prepayment date, the aggregate principal amount of the Notes to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.3), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of Notes a certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the specified prepayment date.

#### 8.3 Allocation of Partial Prepayments.

In the case of each partial prepayment of the Notes, the principal amount of the Notes to be prepaid shall be allocated among all of the Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

#### 8.4 Maturity; Surrender, etc.

In the case of each prepayment of Notes pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

#### 8.5 Purchase of Notes.

The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes except upon the payment or prepayment of the Notes in accordance with the terms of this Agreement and the Notes. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to any provision of this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

#### 8.6 Make-Whole Amount.

The term "Make-Whole Amount" means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal; provided that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

"Called Principal" means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

"Discounted Value" means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

"Reinvestment Yield" means, with respect to the Called Principal of any Note, (i) the rate of the benchmark Japanese Government Bond reported, as of 10:00 a.m. (New York time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page 0#JPBMK=" on the Reuters Screen (or such other display as may replace "Page 0#JPBMK=" on the Reuters Screen) for the benchmark Japanese Government Bond having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or (ii) if such rate is not reported as of such time or the rate reported is not ascertainable, the average of the rates as determined by at least three recognized market makers in the Japanese Government Bond market. Such rate will be determined, if necessary, by interpolating linearly between (1) the benchmark Japanese Government Bond with the maturity closest to and greater than the Remaining Average life, and (2) the benchmark Japanese Government Bond with the maturity closest to and less than the Remaining Average Life.

"Remaining Average Life" means, with respect to any Called Principal, the number of years (calculated to the nearest one-twelfth year) obtained by dividing



(i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (b) the number of years (calculated to the nearest one-twelfth year) that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

"Remaining Scheduled Payments" means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, provided that if such Settlement Date is not a date on which interest payments are due to be made under the terms of the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to Section 8.2 or 12.1.

"Settlement Date" means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

## 9. AFFIRMATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

### 9.1 Compliance with Law.

The Company will and will cause each of its Subsidiaries to comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, Environmental Laws, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

### 9.2 Insurance.

The Company will and will cause each of the Restricted Subsidiaries to maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated.

### 9.3 Maintenance of Properties.

The Company will and will cause each of the Restricted Subsidiaries to maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, provided that this Section shall not prevent the Company or any Restricted Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

### 9.4 Payment of Taxes and Claims.

The Company will and will cause each of its Subsidiaries to file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on properties or assets of the Company or any Subsidiary, provided that neither the Company nor any Subsidiary need pay any such tax or assessment or claims if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or such Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary, or (ii) the nonpayment of all such taxes and assessments and claims in the aggregate could not reasonably be expected to have a Material Adverse Effect.

### 9.5 Corporate Existence, etc.

The Company will at all times preserve and keep in full force and effect its corporate existence. Subject to Section 10.2, the Company will at all times preserve and keep in full force and effect the corporate existence of each Restricted Subsidiary (unless merged into the Company or a Restricted Subsidiary) and all rights and franchises of the Company and the Restricted Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise could not, individually or in the aggregate, have a Material Adverse Effect.

### 9.6 Security; Execution of Pledge Agreement and Subsidiary Guaranty.

(a) The Notes and other Senior Secured Indebtedness will be secured by the Pledged Securities of each Material Foreign Subsidiary. Within 5 days after the Company or any of its Restricted Subsidiaries acquires a Material Foreign Subsidiary or within 5 days after the Company delivers consolidating financial statements pursuant to Section 7.1 showing that any of Company's existing Subsidiaries has become a Material Foreign Subsidiary, the Company shall cause the Pledged Securities of such Material Foreign Subsidiary to be pledged pursuant to a supplement to the Pledge Agreement (unless a pledge of such Pledged Securities (x) is legally unobtainable or (y) the consent of a governmental authority is required in order to obtain such

pledge and such consent has not been obtained after the Company's commercially reasonable efforts to obtain such consent, and Company delivers an opinion of outside counsel, in form and substance reasonably satisfactory to the holders of the Notes and their counsel, to the effect that such pledge was not legally obtainable or such consent was not obtained). The Company shall promptly take all actions as may be necessary or desirable to give to the Collateral Agent, for the ratable benefit of the holders of the Notes and the other Senior Secured Creditors, a valid and perfected first priority Lien on and security interest in the Pledged Securities of such Material Foreign Subsidiary and shall promptly deliver to the holders of the Notes (i) a supplement to the Pledge Agreement executed by each Pledgor of the Pledged Securities of such Material Foreign Subsidiary, (ii) a certificate executed by the secretary or an assistant secretary of each Pledgor as to (a) the incumbency and signatures of the officers of such Pledgor executing the supplement to the Pledge Agreement, and (b) the fact that the attached resolutions of the Board of Directors of such Pledgor authorizing the execution, delivery and performance of the supplement to the Pledge Agreement are in full force and effect and have not been modified or rescinded, (iii) at the request of a holder of any Note, a favorable opinion of counsel, in form and substance reasonably satisfactory to the holders of the Notes and their counsel, as to (a) the due organization and good standing of such Pledgor, (b) the due authorization, execution and delivery by such Pledgor of the supplement to the Pledge Agreement, (c) the enforceability of the supplement to the Pledge Agreement, and (d) such other matters as the Required Holders may reasonably request, all of the foregoing to be satisfactory in form and substance to the holders of the Notes and their counsel; provided that the opinion described in this clause (iii) may be given by the Company's in-house counsel and may contain reasonable assumptions, if necessary, relating to the fact that such counsel may not be admitted to practice law in the applicable jurisdiction, and (iv) such other assurances, certificates, documents, consents or opinions as the Required Holders reasonably may require.

(b) Within 5 days after the Company or any of its Restricted Subsidiaries acquires a Material Domestic Subsidiary or within 5 days after the Company delivers consolidating financial statements pursuant to Section 7.1 showing that any of Company's existing Subsidiaries has become a Material Domestic Subsidiary (but not later than the time when such Material Domestic Subsidiary provides a guaranty or co-obligor agreement to the lenders party to any Significant Credit Facility) the Company will (x) cause such Material Domestic Subsidiary to execute and deliver to the holders of the Notes a counterpart of the Subsidiary Guaranty, and (y) if the lenders party to such Significant Credit Facility are not then party to the Collateral Agency and Intercreditor Agreement (either directly or through their agent) cause such lenders (either directly or through their agent) to become party to the Collateral Agency and Intercreditor Agreement. The Company shall promptly deliver to the holders of the Notes, together with such counterpart of the Subsidiary Guaranty (i) certified copies of such Material Domestic Subsidiary's Articles or Certificate of Incorporation, together with a good standing certificate from the Secretary of State of the jurisdiction of its incorporation, each to be dated a recent date prior to their delivery to the holders of the Notes, (ii) a copy of such Material Domestic Subsidiary's Bylaws, certified by its corporate secretary or an assistant corporate secretary as of a recent date prior to their delivery to the holders of the Notes, (iii) a certificate executed by the secretary or an assistant secretary of such Material Domestic Subsidiary as to (a) the incumbency and signatures of the officers of such Material Domestic Subsidiary executing the counterpart of the Subsidiary Guaranty, and (b) the fact that the attached resolutions of the Board of Directors of such Material Domestic Subsidiary

authorizing the execution, delivery and performance of the counterpart of the Subsidiary Guaranty are in full force and effect and have not been modified or rescinded, (iv) at the request of a holder of any Note, a favorable opinion of counsel to the Company and such Material Domestic Subsidiary, in form and substance reasonably satisfactory to the holders of the Notes and their counsel, as to (a) the due organization and good standing of such Material Domestic Subsidiary, (b) the due authorization, execution and delivery by such Material Domestic Subsidiary of the counterpart of the Subsidiary Guaranty, (c) the enforceability of the counterpart of the Material Domestic Subsidiary, and (d) such other matters as the Required Holders may reasonably request, all of the foregoing to be satisfactory in form and substance to the holders of the Notes and their counsel; provided, that the opinion described in clause (iv) above may be given by the Company's in-house counsel and may contain reasonable assumptions, if necessary, relating to the fact that counsel to the Company and such Material Domestic Subsidiary may not be admitted to practice law in the applicable jurisdiction, and (v) such other assurances, certificates, documents, consents or opinions as the Required Holders reasonably may require.

#### 9.7 Termination of the Existing Credit Facility and Related Liens.

Within 5 Business Days of the date of Closing, the Company will provide you with satisfactory evidence that the Company has (i) repaid in full all Indebtedness outstanding under the Existing Credit Facility, (ii) terminated any commitments to lend or make other extensions of credit under the Existing Credit Facility, (iii) delivered to the Collateral Agent all documents or instruments necessary to release all Liens securing Indebtedness or other obligations of the Company under the Existing Credit Facility, and (iv) made arrangements satisfactory to the Collateral Agent with respect to the cancellation of any letters of credit outstanding under the Existing Credit Facility.

#### 10. NEGATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

##### 10.1 Transactions with Affiliates.

The Company will not and will not permit any Restricted Subsidiary to enter into, directly or indirectly, any Material transaction or Material group of related transactions (including without limitation the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Restricted Subsidiary), except as approved by a majority of the disinterested directors of the Company, and upon fair and reasonable terms no less favorable to the Company or such Restricted Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate; provided that the foregoing restrictions shall not apply to Standard Securitization Undertakings effected as part of a Permitted Securitization Program.

##### 10.2 Merger, Consolidation, Sale of Assets, etc.

(a) The Company will not and will not permit any Restricted Subsidiary to consolidate with or merge with any other Person unless immediately after giving effect to any consolidation or merger no Default or Event of Default would exist and:

(i) in the case of a consolidation or merger of a Restricted Subsidiary, (x) the Company or another Restricted Subsidiary is the surviving or continuing corporation, (y) the surviving or continuing corporation is or immediately becomes a Restricted Subsidiary, or (z) such consolidation or merger, if considered as the sale of the assets of such Restricted Subsidiary to such other Person, would be permitted by Section 10.2(c); and

(ii) in the case of a consolidation or merger of the Company, the successor corporation or surviving corporation which results from such consolidation or merger (the "surviving corporation"), if not the Company, (A) is a solvent U.S. corporation, (B) executes and delivers to each holder of the Notes its assumption of (x) the due and punctual payment of the principal of and premium, if any, and interest on all of the Notes, and (y) the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and the Notes to be performed or observed by the Company, and (C) furnishes to each holder of the Notes an opinion of counsel, reasonably satisfactory to the Required Holders, to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of the surviving corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(b) The Company will not sell, lease (as lessor) or otherwise transfer all or substantially all of its assets in a single transaction or series of transactions to any Person unless immediately after giving effect thereto no Default or Event of Default would exist and:

(i) the successor corporation to which all or substantially all of the Company's assets have been sold, leased or transferred (the "successor corporation") is a solvent U.S. corporation, and

(ii) the successor corporation executes and delivers to each holder of the Notes its assumption of the due and punctual payment of the principal of and premium, if any, and interest on all of the Notes, and the due and punctual performance and observation of all of the covenants in this Agreement, the Collateral Documents and the Notes to be performed or observed by the Company and shall furnish to such holders an opinion of counsel, reasonably satisfactory to the Required Holders, to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of such successor corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

No such conveyance, transfer or lease of all or substantially all of the assets of the Company shall have the effect of releasing the Company or any successor corporation that shall

theretofore have become such in the manner prescribed in this Section 10.2 from its liability under this Agreement or the Notes.

(c) The Company will not, and will not permit any Restricted Subsidiary to, sell, lease (as lessor), transfer, abandon or otherwise dispose of assets to any Person; provided that the foregoing restrictions do not apply to:

(i) the sale, lease, transfer or other disposition of assets of the Company to a Restricted Subsidiary or of a Restricted Subsidiary to the Company or another Restricted Subsidiary;

(ii) the sale in the ordinary course of business of inventory held for sale, or equipment, fixtures, supplies or materials that are no longer required in the operation of the business of the Company or any Restricted Subsidiary or are obsolete;

(iii) the sale of property of the Company or any Restricted Subsidiary and the Company's or any Restricted Subsidiary's subsequent lease, as lessee, of the same property, within 270 days following the acquisition or construction of such property;

(iv) the sale of assets of the Company or any Restricted Subsidiary for cash or other property to a Person or Persons (other than an Affiliate) if (A) such assets (valued at net book value) do not constitute a "substantial part" of the assets of the Company and the Restricted Subsidiaries, (B) in the opinion of a Responsible Officer of the Company, the sale is for fair value and is in the best interests of the Company, and (C) immediately after giving effect to the transaction, no Default or Event of Default would exist; or

(v) the sale of assets meeting the conditions set forth in clauses (B) and (C) of subparagraph (iv) above, as long as the net proceeds from such sale in excess of a substantial part of the assets of the Company and the Restricted Subsidiaries are (x) applied within 270 days of the date of receipt to the acquisition of productive assets useful and intended to be used in the operation of the business of the Company or the Restricted Subsidiaries, or (y) used to repay any Indebtedness of the Company (which in the case of the Notes shall be with the Make-Whole Amount) or the Restricted Subsidiaries (other than Indebtedness that is in any manner subordinated in right of payment or security in any respect to Indebtedness evidenced by the Notes, Indebtedness owing to the Company, any of its Subsidiaries or any Affiliate and Indebtedness in respect of any revolving credit or similar credit facility providing the Company or any of the Restricted Subsidiaries with the right to obtain loans or other extensions of credit from time to time, except to the extent that in connection with such payment of Indebtedness the availability of credit under such credit facility is permanently reduced not later than 270 days after the date of receipt of such proceeds by an amount not less than the amount of such proceeds applied to the payment of such Indebtedness).

(d) For purposes of Section 10.2(c), a sale of assets will be deemed to involve a "substantial part" of the assets of the Company and the Restricted Subsidiaries if the book value of such assets, together with all other assets sold during such fiscal year (except those assets sold pursuant to clauses (i) through (iii) of Section 10.2(c)), exceeds 10% of the Consolidated Total Assets of the Company and the Restricted Subsidiaries determined as of the end of the immediately preceding fiscal year.

(e) The Company will not, and will not permit any Restricted Subsidiary to, issue shares of stock (or any options or warrants to purchase stock or other Securities exchangeable for or convertible into stock) of any Restricted Subsidiary except (i) to the Company, (ii) to a Wholly-Owned Restricted Subsidiary, (iii) to any Restricted Subsidiary that owns equity in the Restricted Subsidiary issuing such equity, or (iv) with respect to a Restricted Subsidiary that is a partnership or joint venture, to any other Person who is a partner or equity owner if such issuance is made pursuant to the terms of the Joint Venture Agreement or Partnership Agreement entered into in connection with the formation of such partnership or joint venture; provided, that Restricted Subsidiaries may issue directors' qualifying shares and shares required to be issued by any applicable foreign law regarding foreign ownership requirements. The Company will not, and will not permit any Restricted Subsidiary to sell, transfer or otherwise dispose of its interest in any stock (or any options or warrants to purchase stock or other Securities exchangeable for or convertible into stock) of any Restricted Subsidiary (except to the Company or a Wholly-Owned Restricted Subsidiary) unless such sale, transfer or disposition would be permitted under Section 10.2(c).

### 10.3 Liens.

The Company will not and will not permit any of the Restricted Subsidiaries to directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including, without limitation, any document or instrument in respect of goods or accounts receivable) of the Company or any Restricted Subsidiary, whether now owned or hereafter acquired, or any income or profits therefrom (unless the Company makes, or causes to be made, effective provision whereby the Notes will be equally and ratably secured with any and all other obligations thereby secured, such security to be pursuant to an agreement reasonably satisfactory to the Required Holders and, in any such case, the Notes shall have the benefit, to the fullest extent that, and with such priority as, the holders of the Notes may be entitled under applicable law, of any equitable Lien on such property), except for the following (which are collectively referred to as "Permitted Liens"):

(a) Liens for taxes, assessments or other governmental charges which are not yet delinquent or that are being contested in good faith;

(b) Liens incidental to the conduct of business or the ownership of properties and assets (including landlords', carriers', warehousemen's, mechanics' materialmen's, and other similar Liens) and Liens to secure the performance of bids, tenders, leases or trade contracts, or to secure statutory obligations (including obligations under workers compensation, unemployment insurance and other social security legislation), surety or appeal bonds or other

Liens incurred in the ordinary course of business and not in connection with the borrowing of money;

(c) Liens resulting from judgments, unless such judgments are not, within 60 days, discharged or stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(d) Liens securing Indebtedness of a Restricted Subsidiary owed to the Company or to a Wholly-Owned Restricted Subsidiary;

(e) Liens in existence at Closing and reflected in Schedule 10.3 hereto;

(f) minor survey exceptions and the like which do not Materially detract from the value of such property;

(g) leases, subleases, easements, rights of way, restrictions and other similar charges or encumbrances incidental to the ownership of property or assets or the ordinary conduct of the Company's or any of the Restricted Subsidiaries' businesses, provided that the aggregate of such Liens do not Materially detract from the value of such property;

(h) Liens (i) existing on property at the time of its acquisition or construction by the Company or a Restricted Subsidiary and not created in contemplation thereof; (ii) on property created contemporaneously with its acquisition or within 180 days of the acquisition or completion of construction or improvement thereof to secure the purchase price or cost of construction or improvement thereof, including such Liens arising under Capital Leases; or (iii) existing on property of a Person at the time such Person is acquired by, consolidated with, or merged into the Company or a Restricted Subsidiary and not created in contemplation thereof; provided that such Liens shall attach solely to the property acquired or constructed and the principal amount of the Indebtedness secured by the Lien shall not exceed the principal amount of such Indebtedness just prior to the time such Person is consolidated with or merged into the Company or a Restricted Subsidiary;

(i) Liens on receivables of the Company or a Restricted Subsidiary and the related assets of the type specified in clauses (A) through (D) in the definition of "Permitted Securitization Program" in connection with any Permitted Securitization Program;

(j) Liens in favor of the holders of the Notes and the other Senior Secured Creditors party to the Collateral Agency and Intercreditor Agreement in connection with the pledge of the Pledged Securities of each Material Foreign Subsidiary;

(k) banker's Liens and similar Liens (including set-off rights) in respect of bank deposits; provided, however, that any such Liens held by parties to the Collateral Agency and Intercreditor Agreement will be governed by and subject to the Collateral Agency and Intercreditor Agreement;

(l) Liens in favor of customs and revenue authorities as a matter of law to secure payment of custom duties and in connection with the importation of goods in the ordinary course of the Company's and its Subsidiaries' business;



(m) any Lien renewing, extending or replacing Liens permitted by Sections 10.3(e), (h), and (i), provided that (i) the principal amount of the Indebtedness secured is neither increased nor the maturity thereof changed to an earlier date, (ii) such Lien is not extended to any other property, and (iii) immediately after such extension, renewal or refunding, no Default or Event of Default would exist; and

(n) other Liens securing Indebtedness not otherwise permitted by paragraphs (a) through (m) of this Section 10.3, provided that Priority Indebtedness shall not, at any time, exceed an amount equal to 13% of Consolidated Net Worth.

Any Lien originally incurred in compliance with paragraph (n) of this Section 10.3 may be renewed, extended or replaced so long as the conditions set forth in subparagraphs (i), (ii) and (iii) of paragraph (m) of this Section 10.3 are satisfied.

#### 10.4 Minimum Consolidated Net Worth.

The Company will not, at any time, permit Consolidated Net Worth to be less than the sum of (i) \$271,935,200, (ii) an aggregate amount equal to 60% of Consolidated Net Income (but, in each case, only if a positive number) earned in (a) the six months ended December 31, 2000, and (b) each complete fiscal year thereafter, and (iii) 50% of the net proceeds realized by the Company and its Restricted Subsidiaries from the sale of Equity Securities subsequent to June 30, 2000, excluding issuances of Equity Securities upon exercise of employee stock options or rights under any employee benefit plans (excluding such exercise by any Person who owns greater than 5% of the Equity Securities of the Company), issuances of Equity Securities in connection with acquisitions by the Company and its Restricted Subsidiaries, and reissuances of up to \$60,000,000 of treasury securities purchased by the Company after the date of Closing.

#### 10.5 Limitation on Indebtedness.

(a) The Company will not permit at any time (i) the ratio of Total Indebtedness to EBITDA for the four most recently ended fiscal quarters of the Company to be greater than 1.85 to 1.0, or (ii) Priority Indebtedness to exceed 13% of Consolidated Net Worth.

(b) The Company will not, and will not permit any Restricted Subsidiary to, incur, create or assume any Term Debt during the one year period immediately following the Closing unless (i) the aggregate principal amortization of all such Term Debt in any year does not exceed \$30,000,000, and (ii) such Term Debt has at the time of issuance a longer average life to maturity than the remaining average life to maturity of the Notes then outstanding.

(c) The Company will not, and will not permit any Restricted Subsidiary to, incur, assume or create any Indebtedness under any Significant Credit Facility unless each of the lenders under such Significant Credit Facility immediately becomes a party to the Collateral Agency and Intercreditor Agreement.

10.6 Minimum Fixed Charges Coverage.

The Company will not permit, as of the end of each fiscal quarter of the Company, the ratio of Consolidated Income Available for Fixed Charges to Fixed Charges, for the period consisting of such fiscal quarter and the preceding three fiscal quarters, to be less than 2.75 to 1.0.

10.7 Nature of the Business.

The Company will not, and will not permit any Restricted Subsidiary, to engage in any business if, as a result, the general nature of the business of the Company and the Restricted Subsidiaries, taken as a whole, which would then be engaged in by the Company and the Restricted Subsidiaries would be substantially changed from the general nature of the business engaged in by the Company and the Restricted Subsidiaries, taken as a whole, on the date of the Closing.

10.8 Designation of Restricted and Unrestricted Subsidiaries.

The Company may designate in writing to each of the holders of the Notes any Unrestricted Subsidiary as a Restricted Subsidiary and may designate in writing to each of the holders of the Notes any Restricted Subsidiary as an Unrestricted Subsidiary; provided that (i) no such designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be effective unless (A) such designation is treated as a transfer under Section 10.2 and such designation is permitted by Section 10.2, and (B) such Subsidiary does not own any stock, other equity interest or Indebtedness of the Company or a Restricted Subsidiary; and (ii) no such designation shall be effective unless, immediately after giving effect thereto no Default or Event of Default would exist; provided, further, that any Subsidiary that has been designated as a Restricted Subsidiary or an Unrestricted Subsidiary may not thereafter be redesignated as a Restricted Subsidiary or an Unrestricted Subsidiary, as the case may be, more than once; and provided, further, that no Securitization Entity shall be a Restricted Subsidiary unless designated as such by the Company. Notwithstanding anything to the contrary in this Agreement, upon any Unrestricted Subsidiary becoming a Material Subsidiary, it shall immediately be deemed to be a Restricted Subsidiary.

10.9 Limitation on Swap Agreements.

The Company will not, and will not permit any Restricted Subsidiary to, have any obligations (contingent or otherwise) existing or arising under any Swap Agreement, unless such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of mitigating risks associated with liabilities, commitments or assets held by such Person, and not for purposes of speculation.

10.10 Limitation on Restricted Payments.

The Company will not, and will not permit any Restricted Subsidiary to, do any of the following if a Default or Event of Default exists or would exist immediately after giving effect thereto:

- (a) Declare or pay any dividends, either in cash or property, on any shares of capital stock of any class of the Company or any Restricted Subsidiary (except (i)

dividends or other distributions payable solely in shares of common stock, and (ii) dividends and distributions paid by a Restricted Subsidiary solely to the Company or a Wholly-Owned Restricted Subsidiary); or

(b) Directly or indirectly, or through any Restricted Subsidiary, purchase, redeem or retire any shares of capital stock of any class of the Company or any Restricted Subsidiary or any warrants, rights or options to purchase or acquire any shares of capital stock of the Company or any Restricted Subsidiary; or

(c) Make any other payment or distribution, either directly or indirectly or through any Restricted Subsidiary, in respect of capital stock of any class of the Company or any Restricted Subsidiary (except payments and distributions made by a Restricted Subsidiary solely to the Company or a Wholly-Owned Restricted Subsidiary).

#### 10.11 Most Favored Lender.

If the Company creates, incurs or assumes any Term Debt within the one year period immediately following the Closing, and any such Term Debt has financial or operational covenants other than as set forth in this Section 10, or more favorable to the lender or creditor thereunder than those set forth in this Section 10, then this Section 10 shall be deemed to be automatically amended to include such other or more favorable covenants, such amendment to be effective as of the date of such incurrence, creation or assumption, and such other or more favorable covenants as incorporated into this Section 10 may not thereafter be modified without the written consent of the Required Holders.

#### 11. EVENTS OF DEFAULT.

An "Event of Default" shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note or any amount payable under Section 14.4 for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 10; or

(d) the Company or any of its Subsidiaries defaults in the performance of or compliance with any term contained herein (other than those referred to in paragraphs (a), (b) and (c) of this Section 11) or in any Collateral Document and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default, and (ii) the Company or such Subsidiary receiving written notice of such default from any holder of a Note (any such written notice to be identified as a "notice of default" and to refer specifically to this paragraph (d) of Section 11); or

(e) any representation or warranty made in writing by or on behalf of the Company or any Subsidiary Guarantor or by any officer of the Company or any Subsidiary Guarantor in this Agreement, the Collateral Documents or in any writing furnished in connection with the transactions contemplated hereby or thereby proves to have been false or incorrect in any material respect on the date as of which made; or

(f) (i) the Company or any Restricted Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest on any Indebtedness beyond any period of grace provided with respect thereto, or (ii) the Company or any Restricted Subsidiary is in default for more than 20 Business Days in the performance of or compliance with any term of any evidence of any Indebtedness or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition (x) such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be) due and payable before its stated maturity or before its regularly scheduled dates of payment, or (y) one or more Persons have the right to require the Company or any Restricted Subsidiary to purchase or repay such Indebtedness, or (iii) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Indebtedness to convert such Indebtedness into equity interests), (x) the Company or any Restricted Subsidiary has become obligated to purchase or repay any Indebtedness before its regular maturity or before its regularly scheduled dates of payment, or (y) one or more Persons have exercised any right to require the Company or any Restricted Subsidiary to purchase or repay such Indebtedness, provided that the aggregate amount of all foregoing Indebtedness with respect to which a payment, performance or compliance default shall have occurred or a failure or other event causing or permitting the purchase or repayment by the Company or any Restricted Subsidiary shall have occurred exceeds \$7,500,000; or

(g) the Company or any Material Subsidiary (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing; or

(h) a court or governmental authority of competent jurisdiction enters an order appointing, without consent by the Company or any Material Subsidiary, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company or any Material Subsidiary, or any such petition shall be filed against the Company or any Material Subsidiary and such petition shall not be dismissed within 60 days; or

(i) a final judgment or judgments for the payment of money aggregating in excess of \$10,000,000 are rendered against one or more of the Company and any Restricted Subsidiary and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay; or

(j) the Subsidiary Guaranty ceases to be in full force and effect with respect to any Material Domestic Subsidiary, or any Material Domestic Subsidiary contests the validity thereof; or

(k) the Pledge Agreement ceases to be in full force and effect with respect to any Material Foreign Subsidiary, any Pledgor contests the validity of the Pledge Agreement, or the Collateral Agent shall fail to have a valid, perfected and enforceable first priority security interest in the Pledged Securities; or

(l) [Reserved.]

(m) (i) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under section 412 of the Code, (ii) a notice of intent to terminate any Plan shall have been or is reasonably expected to be filed with the PBGC or the PBGC shall have instituted proceedings under ERISA section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan may become a subject of any such proceedings, (iii) the aggregate "amount of unfunded benefit liabilities" (within the meaning of section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed 5% of Consolidated Net Worth as of the end of the most recently ended fiscal quarter of the Company, (iv) the Company or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (v) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan, or (vi) the Company or any of its Subsidiaries establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that would increase the liability of the Company or any of its Subsidiaries thereunder; and any such event or events described in clauses (i) through (vi) above, either individually or together with any other such event or events, could reasonably be expected to have a Material Adverse Effect.

As used in Section 11(m), the terms "employee benefit plan" and "employee welfare benefit plan" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

## 12. REMEDIES ON DEFAULT, ETC.

### 12.1 Acceleration.

(a) If an Event of Default with respect to the Company described in paragraph (g) or (h) of Section 11 (other than an Event of Default described in clause (i) of paragraph (g) or described in clause (vi) of paragraph (g) by virtue of the fact that such clause encompasses clause (i) of paragraph (g)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, any holder or holders of more than 50% in principal amount of the Notes at the time outstanding may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in paragraph (a) or (b) of Section 11 has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

#### 12.2 Other Remedies.

If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein, in the Collateral Documents or in any Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

#### 12.3 Rescission.

At any time after any Notes have been declared due and payable pursuant to clause (b) or (c) of Section 12.1, the Required Holders, by written notice to the Company, may rescind and annul any such declaration and its consequences, and at any time after any Notes have become due and payable pursuant to clause (a) of Section 12.1, the holders of all Notes then outstanding, by written notice to the Company, may rescind acceleration of the Notes resulting from the occurrence of an Event of Default described in paragraph (h) of Section 11, if in each case (i) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (ii) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration or acceleration, have been cured or have been waived pursuant to Section 17, and (iii) no judgment or decree has been entered for the

payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

#### 12.4 No Waivers or Election of Remedies, Expenses, etc.

No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement, the Collateral Documents or by any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

### 13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

#### 13.1 Registration of Notes.

The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

#### 13.2 Transfer and Exchange of Notes.

Upon surrender of any Note at the principal executive office of the Company for registration of transfer or exchange (and in the case of a surrender for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered holder of such Note or his attorney duly authorized in writing and accompanied by the address for notices of each transferee of such Note or part thereof), the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Exhibit 1. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than the Yen-equivalent of \$100,000, provided that if

necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than the Yen-equivalent of \$100,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representations set forth in Section 6 and to have become a party to the Collateral Agency and Intercreditor Agreement. Each transferee of a Note which was not previously a holder of the Notes under this Agreement and which is not incorporated under the laws of the United States of America or a state thereof shall, within three Business Days of becoming a holder, deliver to the Company such certificate and other evidence as the Company may reasonably request to establish that such holder is entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes.

### 13.3 Replacement of Notes.

Upon receipt by the Company of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least \$100,000,000, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Company at its own expense shall execute and deliver, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

## 14. PAYMENTS ON NOTES.

### 14.1 Place of Payment.

Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in Provo, Utah at the principal office of the Company in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

### 14.2 Home Office Payment.

So long as you or your nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, and interest by the method and at the address specified for such purpose below your name in Schedule A, or by such other method or at such other address as you shall have from time to time



specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, you shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by you or your nominee you will, at your election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased by you under this Agreement and that has made the same agreement relating to such Note as you have made in this Section 14.2.

#### 14.3 Obligation to Make Payments in Yen.

The obligation of the Company to make payments in Yen of the principal, applicable Make-Whole Amount, if any, and interest becoming due and payable on the Notes and any other amounts due hereunder or under the Notes as provided in Section 14.2, (a) shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment, which is expressed in or converted into any currency other than Yen, except to the extent that such tender or recovery shall result in the actual receipt by the holders of the Notes of the full amount of Yen expressed to be payable in respect of the principal, applicable Make-Whole Amount, if any, in respect of and interest on the Notes and all other amounts due hereunder or under the Notes, (b) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in Yen the amount, if any, by which such actual receipt shall fall short of the full amount of Yen so expressed to be payable, and (c) shall not be affected by judgment being obtained for any other sum due under this Agreement or on any Note.

#### 14.4 Payments Free and Clear of Taxes.

(a) Payments. The Company will pay all amounts of principal of, applicable Make-Whole Amount, if any, and interest on the Notes, and all other amounts payable hereunder or under the Notes, without set-off or counterclaim and free and clear of, and without deduction or withholding for or on account of, all present and future income, stamp, documentary and other taxes and duties, and all other levies, imposts, charges, fees, deductions and withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority (except net income taxes and franchise taxes in lieu of net income taxes imposed on any holder of any Note by its jurisdiction of incorporation or the jurisdiction in which its applicable lending office is located) (all such non-excluded taxes, duties, levies, imposts, duties, charges, fees, deductions and withholdings being hereinafter called "Taxes"). If any Taxes are required to be withheld from any amounts payable to a holder of any Notes, the amounts so payable to such holder shall be increased to the extent necessary to yield such holder (after payment of all Taxes) interest on any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement and the Notes. Whenever any Taxes are payable by the Company, as promptly as possible thereafter, the Company shall send to each holder of the Notes, a certified copy of an original official receipt received by the Company showing payment thereof. If the Company fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to each

holder of the Notes the required receipts or other required documentary evidence, the Company shall indemnify each holder of the Notes for any taxes (including interest or penalties) that may become payable by such holder as a result of any such failure. The obligations of the Company under this subsection 14.4(a) shall survive the payment and performance of the Notes and the termination of this Agreement.

(b) Withholding Exemption Certificates. On or prior to the Closing Date, each holder of the Notes which is not organized under the laws of the United States of America or a state thereof shall deliver to the Company such certificates and other evidence as the Company may reasonably request to establish that such holder is entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes. Each such holder further agrees (i) promptly to notify the Company of any change of circumstances (including any change in any treaty, law or regulation) which would prevent such holder from receiving payments under the Notes without any deduction or withholding of such taxes, and (ii) on or before the date that any certificate or other form delivered by such holder under this subsection 14.4(b) expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent such certificate or form previously delivered by such holder, to deliver to the Company a new certificate or form, certifying that such holder is entitled to receive payments under the Notes without deduction or withholding of such taxes. If any holder of the Notes which is not organized under the laws of the United States of America or a state thereof fails to provide to the Company pursuant to this subsection 14.4(b) (or in the case of a transferee of a Note, Section 13.2) any certificates or other evidence required by such provision to establish that such holder is, at the time it becomes a holder, entitled to receive payments under the Notes without deduction or withholding of any United States federal income taxes, such holder shall not be entitled to any indemnification under subsection 14.4(a) for any Taxes imposed on such holder.

15. EXPENSES, ETC.

15.1 Transaction Expenses.

Whether or not the transactions contemplated hereby are consummated, the Company will pay all costs and expenses (including reasonable attorneys' fees of one special counsel and, if reasonably required, local or other counsel) incurred by the Collateral Agent and you in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement, the Collateral Documents or the Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the Collateral Documents or the Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the Collateral Documents or the Notes, or by reason of being a holder of any Note, and (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby, by the Collateral Documents and by the Notes. The Company will pay, and will save you and each other holder of a Note harmless from, all claims in respect of any fees, costs or expenses if any, of brokers and finders (other than those retained by you).

15.2 Survival.

The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement, the Collateral Documents or the Notes, and the termination of this Agreement and the Collateral Documents.

16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein and in the Collateral Documents shall survive the execution and delivery of this Agreement, the Collateral Documents and the Notes, the purchase or transfer by you of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of you or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement or the Collateral Documents shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement, the Collateral Documents and the Notes embody the entire agreement and understanding between you and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

17. AMENDMENT AND WAIVER.

17.1 Requirements.

This Agreement, the Collateral Documents and the Notes may be amended, and the observance of any term hereof or thereof may be waived (either retroactively or prospectively), with (and only with) the written consent of the Company and the Required Holders, except that (a) no amendment or waiver of any of the provisions of Section 1, 2, 3, 4, 5, 6 or 21 hereof, or any defined term (as it is used therein), will be effective as to you unless consented to by you in writing, and (b) no such amendment or waiver may, without the written consent of the holder of each Note at the time outstanding affected thereby, (i) subject to the provisions of Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest or of the Make-Whole Amount on, the Notes, (ii) change the percentage of the principal amount of the Notes the holders of which are required to consent to any such amendment or waiver, or (iii) amend any of Sections 8, 11(a), 11(b), 12, 17 or 20.

17.2 Solicitation of Holders of Notes.

(a) Solicitation. The Company will provide each holder of the Notes (irrespective of the amount of Notes then owned by it) with sufficient information, sufficiently far in advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this

Section 17 to each holder of outstanding Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) Payment. The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security, to any holder of Notes as consideration for or as an inducement to the entering into by any holder of Notes of any waiver or amendment of any of the terms and provisions hereof unless such remuneration is concurrently offered, or such security is concurrently offered to be granted, on the same terms, ratably to each holder of Notes then outstanding even if such holder did not consent to such waiver or amendment.

#### 17.3 Binding Effect, etc.

Any amendment or waiver consented to as provided in this Section 17 applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and the holder of any Note nor any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note. As used herein, the term "this Agreement" and "the Collateral Documents" and references thereto shall mean this Agreement and the Collateral Documents, respectively, as they may from time to time be amended or supplemented.

#### 17.4 Notes held by Company, etc.

Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes, or have directed the taking of any action provided herein or in the Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

#### 18. NOTICES.

All notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(a) if to you or your nominee, to you or it at the address specified for such communications in Schedule A, or at such other address as you or it shall have specified to the Company in writing,

(b) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(c) if to the Company, to the Company at One Nu Skin Plaza, 75 West Center Street, Provo, Utah 84601 to the attention of the Chief Financial Officer, or at such other address as the Company shall have specified to the holder of each Note in writing.

Notices under this Section 18 will be deemed given only when actually received.

19. REPRODUCTION OF DOCUMENTS.

This Agreement, the Collateral Documents and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by you at the Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to you, may be reproduced by you by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process and you may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by you in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, "Confidential Information" means information delivered to you by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by you as being confidential information of the Company or such Subsidiary, provided that such term does not include information that (a) was publicly known or otherwise known to you prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by you or any person acting on your behalf, (c) otherwise becomes known to you other than through disclosure (x) by the Company or any Subsidiary, or (y) by another Person known by you to be bound by a confidentiality agreement with the Company, or (d) constitutes financial statements delivered to you under Section 7.1 that are otherwise publicly available. You will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by you in good faith to protect confidential information of third parties delivered to you, provided that you may deliver or disclose Confidential Information to (i) your directors, officers, employees, agents, attorneys and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by your Notes), (ii) your financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iii) any other holder of any Note, (iv) any Institutional Investor to which you sell or offer to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (v) any Person from which you offer to purchase any security of the Company (if such Person has agreed in

writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (vi) any federal or state regulatory authority having jurisdiction over you, (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about your investment portfolio or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to you, (x) in response to any subpoena or other legal process (provided that you give prompt notice to the Company of such subpoena or legal process to the extent you are legally permitted to do so), (y) in connection with any litigation to which you are a party, or (z) if an Event of Default has occurred and is continuing, to the extent you may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under your Notes, this Agreement and the Collateral Documents. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this Section 20.

21. SUBSTITUTION OF PURCHASER.

You shall have the right to substitute any one of your Affiliates as the purchaser of the Notes that you have agreed to purchase hereunder, by written notice to the Company, which notice shall be signed by both you and such Affiliate, shall contain such Affiliate's agreement to be bound by this Agreement and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in Section 6. Upon receipt of such notice, wherever the word "you" is used in this Agreement (other than in this Section 21), such word shall be deemed to refer to such Affiliate in lieu of you. In the event that such Affiliate is so substituted as a purchaser hereunder and such Affiliate thereafter transfers to you all of the Notes then held by such Affiliate, upon receipt by the Company of notice of such transfer, wherever the word "you" is used in this Agreement (other than in this Section 21), such word shall no longer be deemed to refer to such Affiliate, but shall refer to you, and you shall have all the rights of an original holder of the Notes under this Agreement.

22. JUDICIAL PROCEEDINGS.

22.1 Consent to Jurisdiction.

The Company irrevocably submits to the non-exclusive jurisdiction of any New York State or United States federal court sitting in New York City, and irrevocably waives its own forum, over any suit, action or proceeding arising out of or relating to this Agreement or any Note. The Company irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. The Company agrees, to the fullest extent it may effectively do so under applicable law, that a final judgment in any such suit, action or proceeding brought in such court shall be conclusive and

binding upon the Company and may be enforced in the courts of the United States, the State of New York (or any other courts to the jurisdiction of which the Company is or may be subject) by a suit upon such judgment, provided that service of process is effected on the Company in one of the manners specified below or as otherwise permitted by law.

#### 22.2 Service of Process.

The Company hereby consents to process being served in any suit, action or proceeding of the nature referred to in Section 22.1 by the mailing of a copy thereof by registered or certified air mail, postage prepaid, return receipt requested, to the address of the Company set forth in Section 18. The Company irrevocably waives, to the fullest extent it may effectively do so under applicable law, all claim of error by reason of any such service and agrees that such service (a) shall be deemed in every respect effective service of process upon the Company in any such suit, action or proceeding, and (b) shall, to the fullest extent permitted by law, be taken and held to be valid personal service upon the Company.

#### 22.3 No Limitation on Service or Suit.

Nothing in this Section 22 shall affect the right of any holder of the Notes to serve process in any manner permitted by law or limit the right of any holder of the Notes to bring proceedings against the Company in the courts of any jurisdiction or jurisdictions or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

### 23. MISCELLANEOUS.

#### 23.1 Successors and Assigns.

All covenants and other agreements contained in this Agreement and the Collateral Documents by or on behalf of any of the parties hereto or thereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

#### 23.2 Payments Due on Non-Business Days.

Anything in this Agreement, the Collateral Documents or the Notes to the contrary notwithstanding, any payment of principal of or Make-Whole Amount or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

#### 23.3 Severability.

Any provision of this Agreement or the Collateral Documents that 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 or thereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

23.4 Construction.

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

23.5 Counterparts.

This Agreement and the Collateral Documents may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

23.6 Governing Law.

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State (other than Section 5-1401 of the New York General Obligations Law) that would require the application of the laws of a jurisdiction other than such State.

\* \* \* \* \*



If you are in agreement with the foregoing, please sign the form of agreement on the accompanying counterpart of this Agreement and return it to the Company, whereupon the foregoing shall become a binding agreement between you and the Company.

Very truly yours,

NU SKIN ENTERPRISES, INC.

By: /S/ Corey B. Lindley  
Name: Corey B. Lindley  
Title: Executive Vice President and  
Chief Financial Officer

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The foregoing is hereby  
agreed to as of the  
date thereof.

THE PRUDENTIAL INSURANCE COMPANY  
OF AMERICA

By:

Name:

Title: Vice President

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## DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"ABN Amro Facility" means the \$10,000,000 credit facility evidenced by that certain Grid Note dated as of May 24, 2000 executed by the Company in favor of ABN Amro Bank N.V., as such Grid Note may be amended, supplemented or modified from time to time.

"ABN Amro Release of Guarantors" means the Release of Guarantors executed by ABN Amro Bank N.V.

"ABN Amro Subsidiary Guaranty" means that certain Subsidiary Guaranty, dated as of July 22, 1998, executed by certain subsidiaries of the Company, in favor of ABN Amro Bank N.V. in connection with the ABN Amro Facility.

"Affiliate" means, at any time, (a) with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and (b) with respect to the Company and its Subsidiaries, any Person beneficially owning or holding, directly or indirectly, 5% or more of any class of voting or equity interests of the Company or any of its Subsidiaries or any corporation of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 5% or more of any class of voting or equity interests. As used in this definition, "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Company.

"Business Day" means (a) for the purposes of Section 8.6 only, any day other than a Saturday, a Sunday or a day on which commercial banks in Tokyo, Japan are required or authorized to be closed, and (b) for the purposes of any other provision of this Agreement, any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York are required or authorized to be closed.

"Capital Lease" means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

"Closing" is defined in Section 3.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"Collateral Agency and Intercreditor Agreement" means the Collateral Agency and Intercreditor Agreement, substantially in the form of Exhibit 4.13(c) hereto, by and

among the Collateral Agent, you and each of the other Senior Secured Creditors, and acknowledged by the Company and the Subsidiary Guarantors, as such agreement may be amended, supplemented or modified from time to time.

"Collateral Agent" means State Street Bank and Trust Company of California, N.A., acting in its capacity as collateral agent under the Collateral Agency and Intercreditor Agreement, together with its successors and assigns.

"Collateral Documents" means the Pledge Agreement, the Subsidiary Guaranty, the Collateral Agency and Intercreditor Agreement, and all other documents, evidencing, securing or relating to the Notes, the payment of the indebtedness evidenced by the Notes and all other amounts due from the Company or any Restricted Subsidiary evidenced or secured by this Agreement, the Notes or the Collateral Documents.

"Company" means Nu Skin Enterprises, Inc., a Delaware corporation.

"Confidential Information" is defined in Section 20.

"Consolidated Income Available for Fixed Charges" means, with respect to any period, Consolidated Net Income for such period plus all amounts deducted in the computation thereof on account of (a) Fixed Charges, and (b) taxes imposed on or measured by income or excess profits of the Company and the Restricted Subsidiaries.

"Consolidated Net Income" means, with respect to any period, the net income (or loss) of the Company and the Restricted Subsidiaries for such period (taken as a cumulative whole), as determined in accordance with GAAP, after eliminating all offsetting debits and credits between the Company and the Restricted Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and the Restricted Subsidiaries in accordance with GAAP.

"Consolidated Net Worth" means, at any time, (a) the consolidated stockholders' equity of the Company and the Restricted Subsidiaries, as defined according to GAAP, less (b) the sum of (i) to the extent included in clause (a), all amounts attributable to minority interests, if any, in the securities of Restricted Subsidiaries, and (ii) the amount by which Restricted Investments exceed 20% of the amount determined in clause (a).

"Consolidated Total Assets" means, at any date of determination, on a consolidated basis for the Company and the Restricted Subsidiaries, total assets, determined in accordance with GAAP.

"Credit Facility" means any credit facility providing for the borrowing of money or the issuance of letters of credit (a) for the Company, or (b) for any Restricted Subsidiary, if its obligations under such credit facility are guaranteed by the Company.

"Default" means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Default Rate" means that rate of interest that is 2% per annum above the rate of interest stated in clause (a) of the first paragraph of the Notes.

"Dollars" and the symbol "\$" mean the lawful money of the United States of America.

"Domestic Subsidiary" means, at any time, each Subsidiary of the Company (a) which is created, organized or domesticated in the United States or under the law of the United States or any state or territory thereof, (b) which was included as a member of the Company's affiliated group in the Company's most recent consolidated United States federal income tax return, or (c) the earnings of which were includable in the taxable income of the Company or any other Domestic Subsidiary (to the extent of the Company's and/or such other Domestic Subsidiary's ownership interest of such Subsidiary) in the Company's most recent consolidated United States federal income tax return.

"EBITDA" means, with respect to any period, the sum of (i) Consolidated Net Income for such period without giving effect to extraordinary gains and losses, gains and losses resulting from changes in GAAP and one time non-recurring income and expenses resulting from acquisitions and similar events, plus (ii) to the extent deducted in the calculation of Consolidated Net Income, the amount of all interest expense, depreciation expense, amortization expense, and income tax expense; provided that EBITDA will include or exclude, as applicable, acquisitions and divestitures of Restricted Subsidiaries or other business units on a pro forma basis as if such acquisitions or divestitures occurred on the first day of the applicable period.

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Equity Securities" of any Person means (a) all common stock, Preferred Stock, participations, shares, partnership interest, membership interest or other equity interest in and of such Person (regardless of how designated and whether or not voting or non-voting), and (b) all warrants, options and other rights to acquire any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

"Event of Default" is defined in Section 11.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Existing Credit Facility" means the \$180,000,000 Credit Agreement dated as of May 8, 1998 by and among the Company, Nu Skin Japan Co., Ltd., the lenders named therein, and ABN Amro Bank N.V., as agent for such lenders, as such agreement may have been amended, supplemented or modified from time to time.

"Fixed Charges" means, with respect to any period, the sum of (i) Interest Expense for such period, and (ii) Lease Rentals for such period.

"Foreign Subsidiary" means, at any time, each Subsidiary of the Company that is not a Domestic Subsidiary.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority" means

(a) the government of

(i) the United States of America or any State or other political subdivision thereof, or

(ii) Japan or any political subdivision thereof, or

(iii) any jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

"Guaranty" means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

"Hazardous Material" means any and all pollutants, toxic or hazardous wastes or any other substances that might pose a hazard to health or safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage, or filtration of which is or shall be restricted, prohibited or penalized by any applicable law (including, without limitation, asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls).

"holder" means, with respect to any Note, the Person in whose name such Note is registered in the register maintained by the Company pursuant to Section 13.1.

"Indebtedness" with respect to any Person means, at any time, without duplication,

(a) its liabilities for borrowed money and its redemption obligations in respect of mandatorily redeemable Preferred Stock;

(b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property);

(c) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases;

(d) all liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities);

(e) Securitization Debt; and

(f) any Guaranty (other than the Subsidiary Guaranty) of such Person with respect to liabilities of a type described in any of clauses (a) through (e) hereof.

Indebtedness of any Person shall include all obligations of such Person of the character described in clauses (a) through (f) to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is deemed to be extinguished under GAAP.

"Institutional Investor" means (a) any original purchaser of a Note, and (b) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, holding more than the Yen-equivalent of \$2,000,000 of the aggregate principal amount of the Notes then outstanding or more than 20% of the aggregate principal amount of the Notes then outstanding.

"Interest Expense" means, with respect to the Company and the Restricted Subsidiaries for any period, the sum, determined on a consolidated basis in accordance with GAAP, of (a) all interest paid, accrued or scheduled for payment on the Indebtedness of the Company and the Restricted Subsidiaries during such period (including interest attributable to Capital Leases), plus (b) all fees in respect of outstanding letters of credit paid, accrued or scheduled for payment by the Company and the Restricted Subsidiaries during such period.

"Investment" means any investment, made in cash or by delivery of property, by the Company or any Restricted Subsidiary (a) in any Person, whether by acquisition of stock, Indebtedness or other obligation or Security, or by loan, Guaranty, advance, capital contribution or otherwise; or (b) in any property.

"Lease Rentals" means, with respect to any period, the sum of the rental and other obligations required to be paid during such period by the Company or any Restricted Subsidiary as lessee under all leases of real or personal property (other than Capital Leases) as determined on a consolidated basis for the Company and the Restricted Subsidiaries in accordance with GAAP.

"Lien" means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, stockholder agreements, voting trust agreements and all similar arrangements).

"Make-Whole Amount" is defined in Section 8.6.

"Material" or "Materially" means material or materially, as the case may be, in relation to the business, operations, affairs, financial condition, assets, properties or prospects of the Company and the Restricted Subsidiaries taken as a whole.

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and the Restricted Subsidiaries taken as a whole, or (b) the ability of the Company and the Restricted Subsidiaries, taken as a whole, to perform their obligations under this Agreement, the Notes and the Collateral Documents, or (c) the validity or enforceability of this Agreement, the Notes or any of the Collateral Documents.

"Material Domestic Subsidiary" means each Domestic Subsidiary of the Company that also is a Material Subsidiary.



"Material Foreign Subsidiary" means each Foreign Subsidiary of the Company that also is a Material Subsidiary.

"Material Subsidiaries" means, at any time, (a) Nu Skin Japan Co., Ltd., a Japanese corporation, Nu Skin International, Inc., a Utah corporation, Nu Skin Hong Kong, Inc., a Utah corporation, Nu Skin Taiwan, Inc., a Utah corporation, and Nu Skin United States, Inc., a Delaware corporation; and (b) each other Subsidiary of the Company which (i) had revenues during the four most recently ended fiscal quarters equal to or greater than 5.0% of the consolidated total revenues of the Company and its Subsidiaries during such period, or (ii) is an obligor under any Guaranty with respect to the Indebtedness of the Company under any Significant Credit Facility.

"Memorandum" is defined in Section 5.3.

"Multiemployer Plan" means any Plan that is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

"New Notes" means the senior notes expected to be issued by the Company in connection with a private placement of an additional \$60,000,000 of Term Debt.

"Notes" is defined in Section 1.

"Officer's Certificate" means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

"PBG" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

"Permitted Securitization Program" means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey or otherwise transfer to (i) a Securitization Entity (in the case of a transfer by the Company or any Restricted Subsidiary) and (ii) any other Person (in the case of a transfer by a Securitization Entity), or may grant a security interest in, any receivables (whether now existing or arising or acquired in the future) of the Company or any Restricted Subsidiary, and any assets related thereto including (A) all collateral securing such receivables, (B) all contracts and contract rights and all guarantees or other obligations in respect of such receivables, (C) proceeds of such receivables, and (D) other assets (including contract rights) that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving receivables; provided that the resultant Securitization Debt, together with all other Priority Indebtedness then outstanding, shall not exceed the amount of Priority Indebtedness permitted by Section 10.5(a)(ii).

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

"Plan" means an "employee benefit plan" (as defined in section 3(3) of ERISA) that is or, within the preceding five years, has been established or maintained, or to which

contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

"Pledge Agreement" means the Pledge Agreement, in substantially the form of Exhibit 4.13(b) hereto, dated as of the date hereof, executed and delivered by the Pledgors and the Collateral Agent, as amended, supplemented and modified from time to time.

"Pledged Securities" means (a) the Equity Securities described in Schedule I attached to the Pledge Agreement and the Equity Securities of each Person that becomes a Material Foreign Subsidiary, including all securities convertible into, and rights, warrants, options and other rights to purchase or otherwise acquire, any of the foregoing now or hereafter owned by such Pledgor, and the certificates or other instruments representing any of the foregoing and any interest of such Pledgor in the entries on the books of any securities intermediary pertaining thereto (the "Pledged Shares"), and all dividends, distributions, returns of capital, cash, warrants, option, rights, instruments, right to vote or manage the business of such Person pursuant to organizational documents governing the rights and obligations of the stockholders, and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Shares; provided, that the Pledged Shares shall not include any Equity Securities of such issuer in excess of the number of shares or other equity interests of such issuer possessing up to but not exceeding 65% of the voting power of all classes of Equity Securities entitled to vote of such issuer, and all dividends, cash, warrants, rights, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Securities; and (b) to the extent not covered by clause (a) above, all proceeds of any or all of the foregoing.

"Pledgor" means each Person who pledges Pledged Securities under the Pledge Agreement.

"Preferred Stock" means any class of capital stock of a corporation that is preferred over any other class of capital stock of such corporation as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such corporation.

"Priority Indebtedness" means (without duplication) the sum of (a) any unsecured Indebtedness of the Restricted Subsidiaries other than (i) guarantees under the Subsidiary Guaranty, (ii) Indebtedness of a Restricted Subsidiary if (x) the Company has guaranteed such Indebtedness or is a primary obligor of such Indebtedness, and (y) the holder of such Indebtedness becomes a party to the Collateral Agency and Intercreditor Agreement (provided that until the holder of such Indebtedness becomes a party to the Collateral Agency and Intercreditor Agreement, such Indebtedness will be considered Priority Indebtedness), and (iii) Indebtedness owed to the Company or any other Restricted Subsidiary, and (b) Indebtedness of the Company and its Restricted Subsidiaries secured by a Lien not permitted by paragraphs (a) through (m) of Section 10.3, and (c) Securitization Debt.

"property" or "properties" means and includes each and every interest in any property or asset, whether tangible or intangible and whether real, personal or mixed.

"QPAM Exemption" means Prohibited Transaction Class Exemption 84-14 issued by the United States Department of Labor.

"Required Holders" means, at any time, the holders of more than 50% in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates).

"Responsible Officer" means any Senior Financial Officer and any other officer of the Company or its Subsidiaries with responsibility for the administration of the relevant portion of this Agreement or the Collateral Documents.

"Restricted Investments" means all Investments except any of the following: (i) property to be used in the ordinary course of business; (ii) assets arising from the sale of goods and services in the ordinary course of business; (iii) Investments in one or more Restricted Subsidiaries or any Person that immediately becomes a Restricted Subsidiary; (iv) Investments existing at the date of Closing; (v) Investments in obligations, maturing within one year, issued by or guaranteed by the United States of America, or an agency thereof, or Canada, or any province thereof; (vi) Investments in tax-exempt obligations, maturing within one year, which are rated in one of the top two rating classifications by at least one national rating agency; (vii) Investments in certificates of deposit or banker's acceptances maturing within one year issued by Bank of America or other commercial banks which are rated in one of the top two rating classifications by at least one national rating agency; (viii) Investments in commercial paper, maturing within 270 days, rated in one of the top two rating classifications by at least one national rating agency; (ix) Investments in repurchase agreements; (x) treasury stock; (xi) Investments in money market instrument programs which are classified as current assets in accordance with GAAP; (xii) Investments in foreign currency risk hedging contracts used in the ordinary course of business; and (xiii) Investments in Securitization Entities.

"Restricted Subsidiary" means any Subsidiary (a) at least a majority of the voting securities of which are owned by the Company and/or one or more Wholly-Owned Restricted Subsidiaries, and (b) which the Company has not designated as an Unrestricted Subsidiary in accordance with Section 10.8; provided that upon any Unrestricted Subsidiary becoming a Material Subsidiary, it shall immediately be deemed to be a Restricted Subsidiary.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Security" has the meaning set forth in section 2(1) of the Securities Act.

"Securitization Debt" for the Company and the Restricted Subsidiaries shall mean, in connection with any Permitted Securitization Program, (a) any amount as to which any Securitization Entity or other Person has recourse to the Company or any Restricted Subsidiary with respect to such Permitted Securitization Program by way of a Guaranty and (b) the amount of any reserve account or similar account or asset shown as an asset of the Company or a Restricted Subsidiary under GAAP that has been pledged to any Securitization Entity or any other Person in connection with such Permitted Securitization Program.

"Securitization Entity" means a wholly-owned Subsidiary (other than a Restricted Subsidiary) of the Company (or another Person in which the Company or any of its Subsidiaries makes an investment and to which the Company or any of its Subsidiaries transfers receivables and related assets) that engages in no activities other than in connection with the financing of receivables and that is designated by the Board of Directors of the Company (as provided below) as a Securitization Entity (i) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (A) is guaranteed by the Company or any of its Subsidiaries (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (B) is recourse to or obligates the Company or any of its Subsidiaries in any way other than pursuant to Standard Securitization Undertakings, or (C) subjects any property or asset of the Company or any other Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (ii) with which neither the Company nor any of its Subsidiaries has any material contract, agreement, arrangement or understanding other than on terms no less favorable to the Company or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Company, other than fees payable in the ordinary course of business in connection with servicing receivables of such entity, and (iii) to which neither the Company nor any of its Subsidiaries has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results.

"Senior Financial Officer" means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

"Senior Secured Creditor" means (a) each holder of a Note, (b) each holder of a New Note, and (c) each lender under a Significant Credit Facility, including the lenders under the ABN Amro Facility.

"Senior Secured Indebtedness" means the Indebtedness of the Company under (a) this Agreement and the Notes, (b) the New Notes, and (c) any Significant Credit Facility (including, without limitation, Indebtedness of the Company under the ABN Amro Facility).

"Significant Credit Facility" means (a) any Credit Facility that has at least \$7,500,000 available to be borrowed and/or outstanding at any time, and (b) any Credit Facility if the aggregate amount available to be borrowed and/or outstanding under all of the Credit Facilities exceeds \$25,000,000 at any time; provided that the term "Significant Credit Facility" shall not include any Priority Indebtedness to the extent that such Priority Indebtedness is permitted by Section 10.5(a)(ii), any Indebtedness secured by a Lien permitted by Section 10.3(h), or any Indebtedness secured by a Lien renewing, extending or replacing Liens as described in Section 10.3(m).

"Standard Securitization Undertakings" means representations, warranties, covenants and indemnities entered into by the Company or any of its Subsidiaries that are reasonably customary in a receivables securitization transaction.

"Subsidiary" means, as to any Person, (a) any corporation of which more than 50% of the issued and outstanding Equity Securities having ordinary voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether at the time capital

stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its Subsidiaries or by one or more of such Person's other Subsidiaries, (b) any partnership, joint venture, limited liability company or other association of which more than 50% of the equity interest having the power to vote, direct or control the management of such partnership, joint venture, limited liability company or other association is at the time owned and controlled by such Person, by such Person and one or more of the other Subsidiaries or by one or more of such Person's other Subsidiaries, or (c) any other Person included in the financial statements of such Person on a consolidated basis.. Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Company.

"Subsidiary Guarantors" means all current and future Material Domestic Subsidiaries of the Company.

"Subsidiary Guaranty" means that certain Subsidiary Guaranty, substantially in the form of Exhibit 4.13(a) hereto, dated as of the date hereof, executed and delivered by the Subsidiary Guarantors, as amended, supplemented and modified from time to time.

"Swap Agreement" means (a) any and all rate swap transactions, basis swaps, forward rate transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), provided that any such transaction is governed by or subject to a Master Agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., or any other master agreement published by any successor organization thereto (any such master agreement, together with any related schedules, as amended, restated, extended, supplemented or otherwise modified in writing from time to time, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Taxes" is defined in Section 14.4(a).

"Term Debt" means any Indebtedness of Company or any Restricted Subsidiary other than (a) Credit Facilities providing for the borrowing of money or the issuance of letters of credit on a revolving basis or for working capital, (b) Priority Indebtedness, and (c) Indebtedness secured by Liens permitted by paragraphs (a) through (m) of Section 10.3.

"Total Indebtedness" means, at any date of determination, the sum of (i) the total of all Indebtedness of the Company and the Restricted Subsidiaries outstanding on such date, after eliminating all offsetting debits and credits between the Company and the Restricted Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and the Restricted Subsidiaries in accordance with GAAP, plus (ii) the aggregate amount of Indebtedness of the Company to any of its Restricted Subsidiaries that is not subordinated to the Notes pursuant to a subordination agreement substantially in the form set forth in Exhibit 2.

"Unrestricted Subsidiary" means any Subsidiary which is designated as an Unrestricted Subsidiary on Schedule 5.4 attached hereto or is designated as such in writing by the Company to each of the holders of the Notes pursuant to Section 10.8; provided that no Material Subsidiary shall be an Unrestricted Subsidiary.

"Wholly-Owned Restricted Subsidiary" means, at any time, (a) with respect to Domestic Subsidiaries, any Restricted Subsidiary one hundred percent (100%) of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company's other wholly-owned Restricted Subsidiaries at such time, and (b) with respect to Foreign Subsidiaries, any Restricted Subsidiary ninety-five percent (95%) of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company's other Wholly-Owned Restricted Subsidiaries at such time.

"Yen" and "Y" mean the lawful currency of Japan and, in relation to any payment under this Agreement, same day or immediately available funds.

## [FORM OF NOTE]

NU SKIN ENTERPRISES, INC.

\_\_\_\_\_% SENIOR NOTE DUE OCTOBER 12, 2010

No. \_\_\_\_  
JPY \_\_\_\_\_\_\_\_\_\_, \_\_\_\_  
PPN: 67018T A\* 6

FOR VALUE RECEIVED, the undersigned, NU SKIN ENTERPRISES, INC. (herein called the "Company"), a corporation organized and existing under the laws of Delaware, hereby promises to pay to THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, or registered assigns, the principal sum of \_\_\_\_\_ JAPANESE YEN on October 12, 2010, with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance thereof at the rate of \_\_\_\_% per annum from the date hereof, payable semi-annually, on the 12th day of April and October in each year, commencing with the April or October next succeeding the date hereof, until the principal hereof shall have become due and payable; provided that the rate of interest on this Note will be increased to (i) \_\_\_\_% per annum if, within the one year period following the date hereof, (x) the New Notes are rated BBB (or equivalent), or (y) if the Company does not issue the New Notes, any other Indebtedness which the Company proposes to issue is rated BBB (or equivalent), or (ii) \_\_\_\_% per annum if, within the one year period following the date hereof, (x) the New Notes are rated BBB- (or equivalent) or lower, or (y) if the Company does not issue the New Notes, any other Indebtedness which the Company proposes to issue is rated BBB- (or equivalent) or lower, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal, any overdue payment of interest and any overdue payment of any Make-Whole Amount (as defined in the Note Purchase Agreement referred to below), payable semi-annually as aforesaid (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to 2% per annum above the rate of interest set forth in clause (a) above.

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of Japan at The Bank of New York in New York City or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of the Senior Notes (herein called the "Notes") issued pursuant to separate Note Purchase Agreement, dated as of October 12, 2000 (as from time to time amended, the "Note Purchase Agreement"), between the Company and the Purchaser named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, (i) to have agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement, (ii) to have become a party to the Collateral Agency and Intercreditor Agreement (as defined in the Note Purchase Agreement), and (iii) to have made the representations set forth in Section 6 of the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer, duly endorsed, or accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

The Company will make required prepayments of principal on the dates and in the amounts specified in the Note Purchase Agreement. This Note is also subject to optional prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default, as defined in the Note Purchase Agreement, occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State (other than Section 5-1401 of the New York General Obligations Law) that would require the application of the laws of a jurisdiction other than such State.

NU SKIN ENTERPRISES, INC.

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

Exhibit 1-2



NU SKIN ENTERPRISES, INC.

JPY9,706,500,000

3.03% Senior Notes due October 12, 2010

-----  
NOTE PURCHASE AGREEMENT  
-----

Dated October 12, 2000

NU SKIN ENTERPRISES, INC.

PLEDGE AGREEMENT

This PLEDGE AGREEMENT (this "Agreement") is dated as of October 12, 2000 and is entered into by and among Nu Skin Enterprises, Inc., a Delaware corporation ("Company"), each Additional Pledgor that may become a party hereto after the date hereof in accordance with Section 16 hereof (each of Company and each Additional Pledgor being a "Pledgor" and collectively "Pledgors"), and State Street Bank and Trust Company of California, N.A. ("Secured Party"), as agent for and on behalf of the other Benefitted Parties party to the Collateral Agency and Intercreditor Agreement referred to below.

PRELIMINARY STATEMENTS

A. The Prudential Insurance Company of America ("Prudential") is purchasing an aggregate principal amount of JPY9,706,500,000 of Company's Senior Secured Notes due October 12, 2010 (the "Notes") pursuant to that certain Note Purchase Agreement dated as of October 12, 2000 by and between Company and Prudential (such agreement, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "Note Purchase Agreement," the terms defined therein and not otherwise defined herein being used herein as therein defined), and it is desired that the obligations of Company under the Note Purchase Agreement and the Notes be secured hereunder.

B. The Note Purchase Agreement requires Company to (i) pledge, or cause a pledge of, 65% of the Equity Securities of each Material Foreign Subsidiary to Secured Party, for the ratable benefit of the Benefitted Parties (as defined in the Collateral Agency and Intercreditor Agreement), as security for the Notes, and (ii) take all actions as may be necessary or desirable to give to Secured Party, for the ratable benefit of the Benefitted Parties, a valid and perfected first priority Lien on and security interest in the Pledged Collateral.

C. Secured Party, Prudential and each of the other Benefitted Parties have entered into that certain Collateral Agency and Intercreditor Agreement dated as of October 12, 2000 (such agreement, as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "Collateral Agency and Intercreditor Agreement").

D. Company is the legal and beneficial owner of all of the Equity Securities of Nu Skin Japan Co., Ltd., a Japanese corporation ("Nu Skin Japan").

E. It is a condition precedent to Prudential's obligation to purchase and pay for the Notes that Pledgors shall have granted the security interest and undertaken the obligations contemplated by this Agreement and the Note Purchase Agreement.

F. This Agreement, the Note Purchase Agreement and each of the other documents relating to the Secured Obligations (as defined in Section 2) are hereinafter referred to collectively as the "Senior Secured Loan Documents."

NOW, THEREFORE, in consideration of the premises and in order to induce Prudential to purchase and for the Notes under the Note Purchase Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Pledgor hereby agrees with Secured Party as follows:

SECTION 1. Pledge of Security. Each Pledgor hereby pledges and assigns to Secured Party, and hereby grants to Secured Party a first priority security interest in, all of such Pledgor's right, title and interest in and to the following (the "Pledged Collateral"):

(a) the Equity Securities described in Schedule I attached hereto for such Pledgor and the Equity Securities of each Person that becomes a Material Foreign Subsidiary, including all securities convertible into, and rights, warrants, options and other rights to purchase or otherwise acquire, any of the foregoing now or hereafter owned by such Pledgor, and the certificates or other instruments representing any of the foregoing and any interest of such Pledgor in the entries on the books of any securities intermediary pertaining thereto (the "Pledged Shares"), and all dividends, distributions, returns of capital, cash, warrants, option, rights, instruments, right to vote or manage the business of such Person pursuant to organizational documents governing the rights and obligations of the stockholders, and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Shares; provided that the Pledged Shares shall not include any Equity Securities of such issuer in excess of the number of shares or other equity interests of such issuer possessing up to but not exceeding 65% of the voting power of all classes of Equity Securities entitled to vote of such issuer, and all dividends, cash, warrants, rights, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Securities; and

(b) to the extent not covered by clause (a) above, all proceeds of any or all of the foregoing Pledged Collateral. For purposes of this Agreement, the term "proceeds" includes whatever is receivable or received when Pledged Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

SECTION 2. Security for Obligations. This Agreement secures, and the Pledged Collateral is collateral security for, the prompt payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. Sect. 362(a) or any similar or comparable laws of jurisdictions outside the United States), of all obligations and liabilities of every nature of Pledgors now or hereafter existing under or arising out of or in connection with the Obligations (as defined in the Collateral Agency and Intercreditor Agreement) and all extensions or renewals thereof, whether for principal, interest (including without limitation interest that, but for the filing of a petition in bankruptcy with respect to

any Pledgor, would accrue on such Obligations, whether or not a claim is allowed against such Pledgor for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, fees, expenses, indemnities or otherwise, whether voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such Obligations that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from Secured Party or any Senior Secured Creditor as a preference, fraudulent transfer or otherwise, and all obligations of every nature of Pledgors now or hereafter existing under any Senior Secured Loan Document (all such obligations of Pledgors being the "Secured Obligations").

SECTION 3. Delivery of Pledged Collateral. All certificates or instruments representing or evidencing the Pledged Collateral shall be delivered to and held by or on behalf of Secured Party and shall be in suitable form for transfer by delivery or, as applicable, shall be accompanied by each Pledgor's endorsement, where necessary, or duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to Secured Party. Upon the occurrence and during the continuation of a Triggering Event (as defined in the Collateral Agency and Intercreditor Agreement), Secured Party shall have the right, without notice to Pledgors, to transfer to or to register in the name of Secured Party or any of its nominees any or all of the Pledged Collateral; provided that if the Triggering Event is the result of the institution of an involuntary Bankruptcy Proceeding against the Company, any Subsidiary Guarantor or any Material Foreign Subsidiary (an "Involuntary Proceeding"), Secured Party shall not have such right until such proceeding continues for at least 60 consecutive days. In addition, Secured Party shall have the right at any time to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations.

SECTION 4. Representations and Warranties. Each Pledgor represents and warrants as follows:

(a) Due Authorization, etc. of Pledged Shares. All of the Pledged Shares described on Schedule I for such Pledgor have been duly authorized and validly issued and are fully paid and non-assessable.

(b) Description of Pledged Shares. The Pledged Shares constitute 65% of the voting power of all classes of Equity Securities of each issuer thereof, and there are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares.

(c) Ownership of Pledged Collateral. Such Pledgor is the legal, record and beneficial owner of the Pledged Collateral free and clear of any Lien except for Permitted Liens.

(d) Governmental Authorizations. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is

required for either (i) the pledge by such Pledgor of the Pledged Collateral pursuant to this Agreement and the grant by such Pledgor of the security interest granted hereby, (ii) the execution, delivery or performance of this Agreement by such Pledgor, or (iii) the exercise by Secured Party of the voting or other rights, or the remedies in respect of the Pledged Collateral, provided for in this Agreement (except as may be required in connection with a disposition of Pledged Collateral by laws affecting the offering and sale of securities generally).

(e) Perfection. The pledge of the Pledged Collateral pursuant to this Agreement creates a valid and perfected first priority security interest in the Pledged Collateral, securing the payment of the Secured Obligations.

(f) Margin Regulations. The pledge of the Pledged Collateral pursuant to this Agreement does not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

(g) Other Information. All information heretofore, herein or hereafter supplied to Secured Party by or on behalf of such Pledgor with respect to the Pledged Collateral is accurate and complete in all respects.

SECTION 5. Transfers and Other Liens; Additional Pledged Collateral; etc. Each Pledgor shall:

(a) not, except as expressly permitted by the Senior Secured Loan Documents, (i) sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, (ii) create or suffer to exist any Lien upon or with respect to any of the Pledged Collateral, except for Permitted Liens, or (iii) permit any issuer of Pledged Shares to merge or consolidate unless all the outstanding Equity Securities of the surviving or resulting corporation is, upon such merger or consolidation, pledged hereunder and no cash, securities or other property is distributed in respect of the outstanding Equity Securities of any other constituent corporation; provided, if the surviving or resulting corporation is a foreign corporation, then such Pledgor shall only be required to pledge outstanding Equity Securities of such surviving or resulting corporation possessing up to but not exceeding 65% of the voting power of all classes of Equity Securities of such issuer entitled to vote;

(b) (i) cause each issuer of Pledged Shares not to issue any Equity Securities in addition to or in substitution for the Pledged Shares issued by such issuer, except to such Pledgor or as otherwise permitted by the Senior Secured Loan Documents, (ii) pledge hereunder, immediately upon its acquisition (directly or indirectly) thereof, any and all additional Equity Securities of each issuer of Pledged Shares, and (iii) pledge hereunder, immediately upon its acquisition (directly or indirectly) thereof, any and all Equity Securities of any Person that, after the date of this Agreement, becomes, as a result of any occurrence, a Material Foreign Subsidiary; provided, notwithstanding anything contained in clause (ii) or this clause (iii) to the contrary, such Pledgor shall only be required to pledge the outstanding Equity Securities up to but not exceeding 65% of the voting power of all classes of Equity Securities of such controlled foreign corporation entitled to vote;

(c) promptly deliver to Secured Party all written notices received by it with respect to the Pledged Collateral (other than customary notices received from a governmental or regulatory body and customary and routine notices received from the issuer of the Pledged Shares in the ordinary course of business); and

(d) pay promptly when due all taxes, assessments and governmental charges or levies imposed upon, and all claims against, the Pledged Collateral, except to the extent the validity thereof is being contested in good faith; provided that such Pledgor shall in any event pay such taxes, assessments, charges, levies or claims not later than five days prior to the date of any proposed sale under any judgment, writ or warrant of attachment entered or filed against such Pledgor or any of the Pledged Collateral as a result of the failure to make such payment.

#### SECTION 6. Further Assurances; Pledge Amendments.

(a) Each Pledgor agrees that from time to time, at the expense of such Pledgor, such Pledgor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Secured Party may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral. Without limiting the generality of the foregoing, each Pledgor will: (i) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as Secured Party may reasonably request, in order to perfect and preserve the security interests granted or purported to be granted hereby and (ii) at Secured Party's request, appear in and defend any action or proceeding that may affect such Pledgor's title to or Secured Party's security interest in all or any part of the Pledged Collateral. Each Pledgor hereby authorizes Secured Party to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Pledged Collateral without the signature of such Pledgor. Such Pledgor agrees that a carbon, photographic or other reproduction of this Agreement or of a financing statement signed by such Pledgor shall be sufficient as a financing statement and may be filed as a financing statement in any and all jurisdictions.

(b) Each Pledgor further agrees that it will, upon obtaining any additional shares of stock or other Equity Securities required to be pledged hereunder as provided in the Note Purchase Agreement, promptly (and in any event within five Business Days) deliver to Secured Party a Pledge Amendment, duly executed by Pledgor, in substantially the form of Schedule II annexed hereto (a "Pledge Amendment"), in respect of the additional Pledged Shares to be pledged pursuant to this Agreement. Upon each delivery of a Pledge Amendment to Secured Party, the representations and warranties contained in Section 4 hereof shall be deemed to have been made by such Pledgor as to the Pledged Collateral described in such Pledge Amendment. Pledgor hereby authorizes Secured Party to attach each Pledge Amendment to this Agreement and agrees that all Pledged Shares listed on any Pledge Amendment delivered to Secured Party shall for all purposes hereunder be considered Pledged Collateral; provided that the failure of such Pledgor to execute a Pledge Amendment with respect to any additional Pledged Shares pledged pursuant to this Agreement shall not

impair the security interest of Secured Party therein or otherwise adversely affect the rights and remedies of Secured Party hereunder with respect thereto.

SECTION 7. Voting Rights; Dividends; Etc.

(a) So long as no Triggering Event shall have occurred and be continuing:

(i) each Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Pledged Collateral or any part thereof for any purpose not inconsistent with the terms of the Senior Secured Loan Documents; provided, however, that such Pledgor shall not exercise or refrain from exercising any such right if Secured Party or Required Creditors shall have notified such Pledgor that, in Secured Party's or Required Creditors' judgment, such action would have a material adverse effect on the value of the Pledged Collateral or any part thereof; and provided, further, that such Pledgor shall give Secured Party and each Senior Secured Party at least five Business Days prior written notice of the manner in which it intends to exercise, or the reasons for refraining from exercising, any such right (it being understood, however, that neither (A) the voting by such Pledgor of any Pledged Shares for or such Pledgor's consent to the election of directors at a regularly scheduled annual or other meeting of stockholders or with respect to incidental matters at any such meeting, nor (B) such Pledgor's consent to or approval of any action otherwise not prohibited under this Agreement and each of the other Senior Secured Loan Documents shall be deemed inconsistent with the terms of any Senior Secured Loan Document within the meaning of this Section 7(a)(i), and no notice of any such voting or consent need be given to Secured Party);

(ii) each Pledgor shall be entitled to receive and retain, and to utilize free and clear of the lien of this Agreement, any and all dividends, other distributions and interest paid in respect of the Pledged Collateral; provided, however, that any and all dividends, other distributions and interest paid or payable other than in cash in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral shall be, and shall forthwith be delivered to Secured Party to hold as, Pledged Collateral and shall, if received by such Pledgor, be received in trust for the benefit of Secured Party, be segregated from the other property or funds of such Pledgor and be forthwith delivered to Secured Party as Pledged Collateral in the same form as so received (with all necessary endorsements); and

(iii) Secured Party shall promptly execute and deliver (or cause to be executed and delivered) to each Pledgor all such proxies, dividend payment orders and other instruments as such Pledgor may from time to time reasonably request for the purpose of enabling such Pledgor to exercise the voting and other consensual rights which it is entitled to exercise pursuant to paragraph (i) above and to receive the dividends, other distributions, principal

or interest payments which it is authorized to receive and retain pursuant to paragraph (ii) above.

(b) Upon the occurrence and during the continuation of a Triggering Event (other than an Involuntary Proceeding) or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and during the continuation of such Involuntary Proceeding:

(i) upon written notice from Secured Party to Pledgors, all rights of Pledgors to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 7(a)(i) shall cease, and all such rights shall thereupon become vested in Secured Party who shall thereupon have the sole right to exercise such voting and other consensual rights;

(ii) all rights of Pledgors to receive the dividends and interest payments which it would otherwise be authorized to receive and retain pursuant to Section 7(a)(ii) shall cease, and all such rights shall thereupon become vested in Secured Party who shall thereupon have the sole right to receive and hold as Pledged Collateral such dividends, other distributions and interest payments; and

(iii) all dividends, principal, interest payments and other distributions which are received by Pledgors contrary to the provisions of paragraph (ii) of this Section 7(b) shall be received in trust for the benefit of Secured Party, shall be segregated from other funds of Pledgors and shall forthwith be paid over to Secured Party as Pledged Collateral in the same form as so received (with any necessary endorsements).

(c) In order to permit Secured Party to exercise the voting and other consensual rights which it may be entitled to exercise pursuant to Section 7(b)(i) and to receive all dividends and other distributions which it may be entitled to receive under Section 7(a)(ii) or Section 7(b)(ii), (i) each Pledgor shall promptly execute and deliver (or cause to be executed and delivered) to Secured Party all such proxies, dividend payment orders and other instruments as Secured Party may from time to time reasonably request and (ii) without limiting the effect of the immediately preceding clause (i), each Pledgor hereby grants to Secured Party an irrevocable proxy to vote the Pledged Shares and to exercise all other rights, powers, privileges and remedies to which a holder of the Pledged Shares would be entitled (including, without limitation, giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares on the record books of the issuer thereof) by any other Person (including the issuer of the Pledged Shares or any officer or agent thereof), upon the occurrence of a Triggering Event (other than an Involuntary Proceeding) or the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and which proxy shall only terminate upon the payment in full of the Secured Obligations.



SECTION 8. Secured Party Appointed Attorney-in-Fact. Each Pledgor hereby irrevocably appoints Secured Party as such Pledgor's attorney-in-fact, with full authority in the place and stead of such Pledgor and in the name of such Pledgor, Secured Party or otherwise, from time to time in Secured Party's discretion to take any action and to execute any instrument that Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including without limitation:

(a) to file one or more financing or continuation statements, or amendments thereto, relative to all or any part of the Pledged Collateral without the signature of Pledgor;

(b) upon the occurrence and during the continuation of a Triggering Event (other than an Involuntary Proceeding) or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and during the continuation of such Involuntary Proceeding, to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Pledged Collateral;

(c) upon the occurrence and during the continuation of a Triggering Event (other than an Involuntary Proceeding) or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and during the continuation of such Involuntary Proceeding, to receive, endorse and collect any instruments made payable to Pledgor representing any dividend, principal or interest payment or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same;

(d) upon the occurrence and during the continuation of a Triggering Event (other than an Involuntary Proceeding) or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and during the continuation of such Involuntary Proceeding, to file any claims or take any action or institute any proceedings that Secured Party may deem necessary or desirable for the collection of any of the Pledged Collateral or otherwise to enforce the rights of Secured Party with respect to any of the Pledged Collateral;

(e) to pay or discharge taxes or Liens (other than Permitted Liens) levied or placed upon or threatened against the Pledged Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Secured Party in its sole discretion, any such payments made by Secured Party to become obligations of such Pledgor to Secured Party, due and payable immediately without demand; and

(f) upon the occurrence and during the continuation of a Triggering Event (other than an Involuntary Proceeding) or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days and during the continuation of such Involuntary Proceeding, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Pledged Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and such Pledgor's expense, at any time or from time to time, all acts and things that Secured Party deems necessary to protect, preserve or realize upon the Pledged Collateral and

Secured Party's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as such Pledgor might do.

SECTION 9. Secured Party May Perform. If any Pledgor fails to perform any agreement contained herein, Secured Party may itself perform, or cause performance of, such agreement, and the expenses of Secured Party incurred in connection therewith shall be payable by such Pledgor under Section 13(b).

SECTION 10. Standard of Care. The powers conferred on Secured Party hereunder are solely to protect its interest in the Pledged Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Pledged Collateral in the Secured Party's possession and the accounting for moneys actually received by it hereunder, Secured Party shall have no duty as to any Pledged Collateral, it being understood by the parties hereto that Secured Party shall have no responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Pledged Collateral, whether or not Secured Party or any Senior Secured Creditor has or is deemed to have knowledge of such matters, (b) taking any necessary steps (other than steps taken in accordance with the standard of care set forth above to maintain possession of the Pledged Collateral) to preserve rights against any prior parties or any other rights pertaining to any Pledged Collateral, (c) taking any necessary steps to collect or realize upon the Secured Obligations or any guarantee therefor, or any part thereof, or any of the Pledged Collateral, or (d) initiating any action to protect the Pledged Collateral against the possibility of a decline in market value. Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of Pledged Collateral in its possession if such Pledged Collateral is accorded treatment substantially equal to that which Secured Party accords its own property consisting of negotiable securities.

SECTION 11. Remedies.

(a) If any Triggering Event (other than Involuntary Proceeding) shall have occurred and be continuing or any Involuntary Proceeding shall have occurred and be continuing for at least 60 consecutive days, Secured Party may exercise in respect of the Pledged Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code as in effect in any relevant jurisdiction (the "UCC") (whether or not the UCC applies to the affected Pledged Collateral), and Secured Party may also in its sole discretion, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange or broker's board or at any of Secured Party's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as Secured Party may deem commercially reasonable, irrespective of the impact of any such sales on the market price of the Pledged Collateral. Secured Party or any Senior Secured Creditor may be the purchaser of any or all of the Pledged Collateral at any such sale and Secured Party, as agent for and representative of the Benefitted Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Pledged Collateral sold at any such public sale, to use and apply any of the Secured

Obligations as a credit on account of the purchase price for any Pledged Collateral payable by Secured Party or any Senior Secured Creditor at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Pledgors, and each Pledgor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Secured Party shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Pledgor hereby waives any claims against Secured Party arising by reason of the fact that the price at which any Pledged Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if Secured Party accepts the first offer received and does not offer such Pledged Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Pledged Collateral are insufficient to pay all the Secured Obligations, Pledgors shall be jointly and severally liable for the deficiency and the fees of any attorneys employed by Secured Party or any Senior Secured Creditor to collect such deficiency.

(b) Each Pledgor recognizes that, by reason of certain prohibitions contained in the Securities Act of 1933, as from time to time amended (the "Securities Act"), and applicable state securities laws, Secured Party may be compelled, with respect to any sale of all or any part of the Pledged Collateral conducted without prior registration or qualification of such Pledged Collateral under the Securities Act and/or such state securities laws, to limit purchasers to those who will agree, among other things, to acquire the Pledged Collateral for their own account, for investment and not with a view to the distribution or resale thereof. Each Pledgor acknowledges that any such private sales may be at prices and on terms less favorable than those obtainable through a public sale without such restrictions (including, without limitation, a public offering made pursuant to a registration statement under the Securities Act) and each Pledgor agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner and that Secured Party shall have no obligation to engage in public sales and no obligation to delay the sale of any Pledged Collateral for the period of time necessary to permit the issuer thereof to register it for a form of public sale requiring registration under the Securities Act or under applicable state securities laws, even if such issuer would, or should, agree to so register it.

(c) If Secured Party determines to exercise its right to sell any or all of the Pledged Collateral, upon written request, each Pledgor shall and shall cause each issuer of any Pledged Shares to be sold hereunder from time to time to furnish to Secured Party all such information as Secured Party may request in order to determine the number of shares and other instruments included in the Pledged Collateral which may be sold by Secured Party in exempt transactions under the Securities Act and the rules and regulations of the Securities and Exchange Commission thereunder, as the same are from time to time in effect.

SECTION 12. Application of Proceeds. Except as expressly provided elsewhere in this Agreement, all proceeds received by Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral shall be applied as provided in the Collateral Agency and Intercreditor Agreement.

SECTION 13. Indemnity and Expenses.

(a) Pledgors jointly and severally agree to indemnify Secured Party and each Senior Secured Creditor from and against any and all claims, losses and liabilities in any way relating to, growing out of or resulting from this Agreement and the transactions contemplated hereby (including, without limitation, enforcement of this Agreement), except to the extent such claims, losses or liabilities result solely from Secured Party's or such Senior Secured Creditor's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction.

(b) Pledgors jointly and severally agree to pay to Secured Party upon demand the amount of any and all costs and expenses, including the reasonable fees and expenses of counsel and of any experts and agents, that Secured Party may incur in connection with (i) the administration of this Agreement and the Collateral Agency and Intercreditor Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (iii) the exercise or enforcement of any of the rights of Secured Party hereunder and under the Collateral Agency and Intercreditor Agreement, or (iv) the failure by any Pledgor to perform or observe any of the provisions hereof.

SECTION 14. Continuing Security Interest; Transfer of Loans. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (a) remain in full force and effect until the payment in full of all Secured Obligations, the cancellation or termination of all commitments under each Senior Secured Loan Document, and the cancellation or expiration of all outstanding Letters of Credit (as defined in the Collateral Agency and Intercreditor Agreement), (b) be binding upon Pledgor, its successors and assigns, and (c) inure, together with the rights and remedies of Secured Party hereunder, to the benefit of Secured Party and its successors, transferees and assigns. Upon the payment in full of all Secured Obligations, the cancellation or termination of all commitments under each Senior Secured Loan Document, and the cancellation or expiration of all outstanding Letters of Credit, the security interest granted hereby shall terminate and all rights to the Pledged Collateral shall revert to Pledgors. Upon any such termination Secured Party will, at Pledgors' expense, execute and deliver to Pledgors such documents as Pledgors shall reasonably request to evidence such termination.

SECTION 15. Secured Party as Agent.

(a) Secured Party has been appointed to act as Secured Party hereunder by the Benefitted Parties. Secured Party shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of Pledged Collateral), solely in accordance with this Agreement and the other Senior Secured

Loan Documents; provided that Secured Party shall exercise, or refrain from exercising, any remedies provided for in Section 11 in accordance with the instructions of Requisite Creditors (as defined in the Collateral Agency and Intercreditor Agreement). In furtherance of the foregoing provisions of this Section 15, each Senior Secured Creditor, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Pledged Collateral hereunder, it being understood and agreed by such Senior Secured Creditor that all rights and remedies hereunder may be exercised solely by Secured Party for the benefit of the Benefitted Parties in accordance with the terms of this Section 15.

(b) Secured Party shall at all times be the same Person that is Collateral Agent under the Collateral Agency and Intercreditor Agreement. Written notice of resignation by the Collateral Agent pursuant to subsection 4(h) of the Collateral Agency and Intercreditor Agreement shall also constitute notice of resignation as Secured Party under this Agreement; removal of the Collateral Agent pursuant to subsection 4(h) of the Collateral Agency and Intercreditor Agreement shall also constitute removal as Secured Party under this Agreement; and appointment of a successor Collateral Agent pursuant to subsection 4(h) of the Collateral Agency and Intercreditor Agreement shall also constitute appointment of a successor Secured Party under this Agreement. Upon the acceptance of any appointment as Collateral Agent under subsection 4(h) of the Collateral Agency and Intercreditor Agreement by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Secured Party under this Agreement, and the retiring or removed Secured Party under this Agreement shall promptly (i) transfer to such successor Secured Party all sums, securities and other items of Collateral held hereunder, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Secured Party under this Agreement, and (ii) execute and deliver to such successor Secured Party such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Secured Party of the security interests created hereunder, whereupon such retiring or removed Secured Party shall be discharged from its duties and obligations under this Agreement. After any retiring or removed Agent's resignation or removal hereunder as Secured Party, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement while it was Secured Party hereunder.

(c) Secured Party shall not be deemed to have any duty whatsoever with respect to any Additional Senior Lender (as defined in the Collateral Agency and Intercreditor Agreement) until Secured Party shall have received written notice in form and substance satisfactory to Secured Party from a Pledgor or such Additional Senior Lender as to the existence and terms of the applicable Senior Secured Loan Documents.

SECTION 16. Additional Pledgors. Company shall be the initial Pledgor hereunder. From time to time subsequent to the date hereof, Subsidiary Guarantors may become parties hereto as additional Pledgors (each an "Additional Pledgor") by executing a counterpart of this Agreement substantially in the form of Schedule III annexed hereto. Upon delivery of any such counterpart to Secured Party, notice of which is hereby waived by Pledgors, each such Additional Pledgor shall be a Pledgor and shall be as fully a party hereto as if such Additional Pledgor were an original signatory hereto. Each Pledgor expressly

agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Pledgor hereunder, nor by any election of Secured Party or any Senior Secured Creditor not to cause any Subsidiary Guarantor to become an Additional Pledgor hereunder. This Agreement shall be fully effective as to any Pledgor that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Pledgor hereunder.

SECTION 17. Amendments; Etc. No amendment, modification, termination or waiver of any provision of this Agreement, and no consent to any departure by any Pledgor therefrom, shall in any event be effective unless the same shall be in writing and signed by Secured Party and, in the case of any such amendment or modification, by Pledgors. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

SECTION 18. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when received. For the purposes hereof, the address of each party hereto shall be as set forth under such party's name on the signature pages hereof or as such other address as shall be designated by such party in a written notice delivered to the other party hereto.

SECTION 19. Failure or Indulgence Not Waiver; Remedies Cumulative. No failure or delay on the part of Secured Party in the exercise of any power, right or privilege hereunder shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude any other or further exercise thereof or of any other power, right or privilege. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

SECTION 20. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 21. Headings. Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 22. Governing Law; Terms. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING, WITHOUT LIMITATION, SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, EXCEPT TO THE EXTENT THAT THE UCC PROVIDES THAT THE PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR PLEDGED COLLATERAL ARE

GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK. Unless otherwise defined herein or in the Note Purchase Agreement, terms used in Articles 8 and 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined. The rules of construction set forth in Section 23.4 of the Note Purchase Agreement shall be applicable to this Agreement mutatis mutandis.

SECTION 23. Consent to Jurisdiction and Service of Process. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PLEDGOR ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY OBLIGATIONS HEREUNDER, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PLEDGOR, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (I) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (II) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS; (III) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO SUCH PLEDGOR AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 18; (IV) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (III) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER SUCH PLEDGOR IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; (V) AGREES THAT SECURED PARTY RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST SUCH PLEDGOR IN THE COURTS OF ANY OTHER JURISDICTION; AND (VI) AGREES THAT THE PROVISIONS OF THIS SECTION 23 RELATING TO JURISDICTION AND VENUE SHALL BE BINDING AND ENFORCEABLE TO THE FULLEST EXTENT PERMISSIBLE UNDER NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1402 OR OTHERWISE.

SECTION 24. Waiver of Jury Trial. PLEDGORS AND SECURED PARTY HEREBY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Each Pledgor and Secured Party acknowledge that this waiver is a material inducement for such Pledgor and Secured Party to enter into a business relationship, that each Pledgor and Secured Party have already relied on this waiver in entering into this Agreement and that each will continue to rely on this waiver in their related future dealings. Each Pledgor and Secured Party further warrant and represent that each has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 24 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT

AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

SECTION 25. Counterparts. This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, Pledgors and Secured Party have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

NU SKIN ENTERPRISES, INC.,  
as Pledgor

By: \_\_\_\_\_  
Name: Corey B. Lindley  
Title: Executive Vice President and  
Chief Financial Officer

Notice Address  
One Nu Skin Plaza  
75 West Center Street  
Provo, Utah 84601  
Attention: General Counsel  
Facsimile: (801) 345-6099

STATE STREET BANK AND TRUST  
COMPANY OF CALIFORNIA, N.A.,  
as Secured Party

By: \_\_\_\_\_  
Name: Stephen Rivero  
Title: Vice President

Notice Address  
State Street Bank and Trust  
Company of California, N.A.  
633 West 5th Street, 12th Floor  
Los Angeles, California 90071  
Attention: Corporate Trust Department  
Facsimile: (213) 362-7357

SCHEDULE I  
PLEDGED SHARES

Attached to and forming a part of the Pledge Agreement dated as of October 12, 2000 between Nu Skin Enterprises, Inc., as Pledgor, and State Street Bank and Trust Company of California, N.A., as Secured Party.

Issuer	Class of Stock	Stock Certificate Nos.	Par Value	Number of Shares	Number of Shares Issued and Outstanding	Percentage Represented by Pledged Shares	Holder of Shares Not Pledged
Nu Skin Japan Co., Ltd.	Common	3A-001	Y50,000	2,340	3,600	65%	Pledgor

SCHEDULE II

[FORM OF PLEDGE AMENDMENT]

This Pledge Amendment, dated \_\_\_\_\_, 20\_\_, is delivered pursuant to Section 6(b) of the Pledge Agreement referred to below. The undersigned hereby agrees that this Pledge Amendment may be attached to the Pledge Agreement dated October 12, 2000, between Nu Skin Enterprises, Inc., as Pledgor, and State Street Bank and Trust Company of California, N.A., as Secured Party (the "Pledge Agreement," capitalized terms defined therein being used herein as therein defined), and that the Pledged Shares listed on this Pledge Amendment shall be deemed to be part of the Pledged Shares and shall become part of the Pledged Collateral and shall secure all Secured Obligations.

[PLEDGOR]

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

Notice Address

Issuer	Class of Stock	Stock Certificate Nos.	Par Value	Number of Shares	Number of Shares Issued and Outstanding	Percentage Represented by Pledged Shares	Holder of Shares Not Pledged
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SCHEDULE III

[FORM OF COUNTERPART]

This COUNTERPART, dated \_\_\_\_\_, 20\_\_ is delivered pursuant to Section 16 of the Pledge Agreement referred to below. \_\_\_\_\_, a \_\_\_\_\_ corporation ("Company") hereby agrees (i) that this Counterpart may be attached to the Pledge Agreement, dated as of October 12, 2000 (as it may be from time to time amended, restated, supplemented or otherwise modified, the "Pledge Agreement"; capitalized terms used herein not otherwise defined herein shall have the meanings ascribed therein), among the Pledgors named therein, and State Street Bank and Trust Company of California, N.A., as Secured Party, and (ii) that by executing and delivering this Counterpart, Company hereby becomes a Pledgor under the Pledge Agreement in accordance with Section 16 thereof and agrees to be bound by all of the terms thereof, and that the Pledged Shares of Company listed on Exhibit A attached hereto shall be deemed to be part of the Pledged Shares and shall become part of the Pledged Collateral and shall secure all Secured Obligations.

IN WITNESS WHEREOF, Company has caused this Counterpart to be executed and delivered by a duly authorized officer as of the date first above written.

[ADDITIONAL PLEDGOR]

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

Notice Address

EXHIBIT A  
TO COUNTERPART

PLEDGED SHARES

Issuer	Class of Stock	Stock Certificate Nos.	Par Value	Number of Shares	Number of Shares Issued and Outstanding	Percentage Represented by Pledged Shares	Holder of Shares Not Pledged
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COLLATERAL AGENCY AND INTERCREDITOR AGREEMENT

This COLLATERAL AGENCY AND INTERCREDITOR AGREEMENT (this "Agreement"), dated as of October 12, 2000, is entered into among the Senior Noteholder listed on the signature pages hereof (together with assignees of such Senior Noteholder, the "Senior Noteholders"), the Senior Lender listed on the signature pages hereof (together with any assignees of such Senior Lender, the "Senior Lenders"), any Additional Creditors that may become parties to this Agreement (either directly or through their agent), and State Street Bank and Trust Company of California, N.A., in its capacity as collateral agent for the Senior Noteholders, the Senior Lenders and the Additional Creditors (the "Collateral Agent").

R E C I T A L S

A. Nu Skin Enterprises, Inc., a Delaware corporation (the "Company"), will issue and sell to the Senior Noteholder its 3.03% Senior Notes due October 12, 2010 in the aggregate principal amount of JPY9,706,500,000 (the "Senior Noteholder Notes") pursuant to that certain Note Purchase Agreement, dated as of October 12, 2000 (as the same may be amended, supplemented or otherwise modified from time to time, the "Note Purchase Agreement"), between the Company and the Senior Noteholder.

B. The Senior Lender (i) has made and may from time to time make loans up to an aggregate principal amount of US\$10,000,000 to the Company pursuant to that certain Grid Note, dated May 24, 2000, executed by the Company in favor of the Senior Lender, and (ii) may from time to time issue letters of credit for the account of the Company pursuant to that certain Master Letter of Credit Agreement and Addendum, each dated as of August 4, 2000, between the Company and the Senior Lender (such Grid Note and Master Letter of Credit Agreement and Addendum, as the same may be amended, supplemented or otherwise modified or renewed or replaced from time to time, including any increase in the amount of the obligations thereunder, the "Credit Documents").

C. Each of the Material Domestic Subsidiaries of the Company (together with any future Material Domestic Subsidiaries entering into a guaranty agreement with respect to the Obligations (as defined below), the "Subsidiary Guarantors") have entered into a guaranty agreement pursuant to which the Subsidiary Guarantors guarantee to the Senior Lenders the payment and performance of all of the Company's obligations under the Credit Documents (as such guaranty agreement may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, the "Bank Obligation Guaranty").

D. Pursuant to the Note Purchase Agreement, the Subsidiary Guarantors will enter into a guaranty agreement pursuant to which the Subsidiary Guarantors will guarantee to the Senior Noteholders the payment of the Noteholder Obligations and the payment and performance of all of the Company's obligations under the Note Purchase Agreement and the Senior Notes (as such guaranty agreement may be modified, amended, renewed or replaced, including any increase in the amount guaranteed thereunder, the "Note Obligation Guaranty").

E. The Company may enter into additional note purchase agreements and/or credit agreements with investors and/or lenders which become party to this Agreement (such investors

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and lenders, together with the lenders referred to in the next sentence, the "Additional Creditors") the obligations under which (the "Additional Company Obligations") will be guaranteed by one or more of the Subsidiary Guarantors (the "Additional Subsidiary Guaranties"). In addition, one or more Subsidiary Guarantors may become direct obligors to lenders which become party to this Agreement and therefore are Additional Creditors, and the obligations of such Subsidiary Guarantors to such lenders (the "Direct Subsidiary Obligations" and together with the Additional Company Obligations, the "Additional Obligations") will be guaranteed by the Company and the other Subsidiary Guarantors.

F. The Bank Obligation Guaranty, the Note Obligation Guaranty, any Additional Subsidiary Guaranty and any Direct Subsidiary Obligation are each hereinafter referred to as a "Subsidiary Guaranty." The Credit Documents, the Note Purchase Agreement and any additional note purchase agreements and/or credit agreements with investors and/or lenders which become party to this Agreement are hereinafter referred to, collectively, as the "Senior Loan Documents."

G. The Company has secured all present and future obligations to the Senior Noteholders under the Senior Noteholder Notes and the Note Purchase Agreement (all such obligations, including, without limitation, principal, interest, Make-Whole Amounts, fees and indemnities, being referred to herein as the "Senior Noteholder Obligations") and all present and future obligations to the

Senior Lenders, including, without limitation, principal, interest, letter of credit obligations (including Contingent L/C Obligations), break-funding amounts, fees and indemnities (the "Senior Lender Obligations") and may secure all Additional Obligations, pursuant to the terms of that certain Pledge Agreement dated as of the date hereof between the Company and the Collateral Agent (the "Pledge Agreement") and any similar documents executed after the date hereof, as the same may be amended, supplemented or modified from time to time (the "Security Documents"). The Senior Noteholder Obligations, the Senior Lender Obligations and the Additional Obligations are collectively referred to as the "Obligations". The Senior Noteholders, the Senior Lenders and the Additional Creditors are sometimes collectively referred to as the "Benefitted Parties" and individually referred to as a "Benefitted Party." The Pledge Agreement grants to the Collateral Agent, for the ratable benefit of the Benefitted Parties, a valid, perfected and enforceable first priority lien on and a security interest in 65% of the equity securities of certain foreign subsidiaries of the Company (hereinafter all of such collateral, together with all rights to payment under any Subsidiary Guaranty, shall be referred to collectively as the "Collateral").

H. The Senior Noteholders, the Senior Lenders and the Additional Creditors wish to set forth their understandings and agreements regarding their respective rights and priorities with respect to amounts recovered through the exercise of any right of set off, payments received after a Triggering Event (as defined in Section 2(a), below) and proceeds of the Collateral.

I. Capitalized terms used herein without being defined shall have the meanings set forth in the Note Purchase Agreement.



NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and the mutual covenants and promises set forth herein, each of the parties to this Agreement agrees as follows:

1. Sharing.

(a) The liens of the Collateral Agent relating to the Collateral shall be held by the Collateral Agent for the benefit of the Benefitted Parties, and any proceeds realized in respect thereof shall be shared by the Benefitted Parties and distributed in accordance with the rights and priorities set forth in this Agreement. Any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds (as such terms are defined in Section 2(b)) shall be shared by the Benefitted Parties and distributed in accordance with the rights and priorities set forth in this Agreement. As used herein, the term "Triggering Event" means (a) the occurrence and continuation of a Bankruptcy Proceeding (as defined below) with respect to the Company, any Subsidiary Guarantor or any Material Foreign Subsidiary, (b) the Collateral Agent's receipt of a written notice that the unpaid principal amount of any of the Obligations has been declared to be then due and payable by the holder or holders thereof prior to the due date as a result of an event of default, or (c) any exercise of any right of setoff or banker's lien by any Benefitted Party. As used herein, the term "Bankruptcy Proceeding" means, with respect to any Person, a general assignment of such Person for the benefit of its creditors, or the institution by or against such Person of any proceeding seeking relief as debtor, or seeking to adjudicate such Person as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment or composition of such Person or its debts, under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for such Person or for any substantial part of its property.

(b) Notwithstanding anything to the contrary set forth herein, any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds which are to be remitted to any Benefitted Party on account of Obligations which are Contingent L/C Obligations (as defined below) shall be remitted to the Collateral Agent to be held in a separate cash collateral account (the "L/C Account") by the Collateral Agent and distributed by the Collateral Agent only in accordance with this Section 1(b). In the event, and upon the condition that, any Contingent L/C Obligation becomes an absolute obligation of the Company upon the honoring of a draw under any Letter of Credit (as defined below), upon receipt of written direction from the applicable Benefitted Party, the Collateral Agent shall withdraw from the L/C Account and shall pay over to the Benefitted Party (or issuing bank on behalf of such Benefitted Party) that honored such draw an amount equal to the Withdrawal Amount (as defined below) with respect to the amount of such draw together with interest on such Withdrawal Amount at the rate earned while on deposit in the L/C Account. In the event that the Collateral Agent receives written notice that any Contingent L/C Obligation lapses on account of the expiration or other termination of the applicable Letter of Credit, an amount equal to the Withdrawal Amount with respect to such lapsed Contingent L/C Obligation, together with interest on account of such amount at the rate earned while on deposit in the L/C Account, shall be released from the L/C Account and shall be distributed by the Collateral Agent to the Benefitted Parties in accordance with clause "third" of Section 2(c). As used herein "Withdrawal Amount" means the product of (a) the quotient of (i) the amount of a Contingent L/C Obligation which

has then become an absolute obligation on account of a draw or the amount of a Contingent L/C Obligation which has lapsed on account of the expiration or termination of the applicable Letter of Credit, as the case may be, over (ii) the total amount of all Contingent L/C Obligations, and (b) the total amount then deposited in the L/C Account.

As used herein, the term "Contingent L/C Obligations" means any and all contingent obligations of the Company to reimburse the issuers of Letters of Credit for drawings under such Letters of Credit.

As used herein, the term "Letter of Credit" means a letter of credit issued by a Benefitted Party, or an issuing bank on behalf of a Benefitted Party, for the account of the Company or any of the Subsidiary Guarantors pursuant to the Credit Documents or any additional credit agreements with lenders which become party to this Agreement.

## 2. Cash Collateral Account; Application of Proceeds

(a) The Collateral Agent has established an interest-bearing demand deposit cash collateral account subject to the lien and security interest created by the Security Documents (the "Cash Collateral Account") in the name of the Collateral Agent into which the proceeds, payments and amounts described in subsections (b)(i), (b)(ii), (b)(iii) and (b)(iv) below shall be deposited and from which only the Collateral Agent may effect withdrawals. Such amounts shall be held by the Collateral Agent in the Cash Collateral Account and shall be distributed from time to time by the Collateral Agent in accordance with Section 2(c) below.

(b) The following proceeds, payments and amounts shall be deposited and held by the Collateral Agent in the Cash Collateral Account and shall be distributed from time to time by the Collateral Agent in accordance with Section 2(c) below:

(i) any proceeds of any collection, recovery, receipt, appropriation, realization or sale of any or all of the Collateral or the enforcement of the Security Documents (the "Collateral Proceeds") received by the Collateral Agent or any Benefitted Party;

(ii) any amounts held in the Cash Collateral Account at the time a Triggering Event occurs (the "Triggering Event Balances");

(iii) any payments received or otherwise realized by any Benefitted Party in respect of any Obligations on or after the date on which a Triggering Event has occurred (the "Triggering Event Payments"); and

(iv) any amounts received or recovered by any Benefitted Party through any exercise of any right of setoff or banker's lien at any time on or after the occurrence of a Triggering Event (whether by law, contract or otherwise) (the "Setoff Proceeds").

Each Benefitted Party agrees to deliver any Collateral Proceeds, any Triggering Event Balances, any Triggering Event Payments and any Setoff Proceeds to the Collateral Agent within two (2) Business Days after receipt (other than pursuant to subsection (c) below) of such Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds.

(c) The Collateral Agent shall distribute the proceeds described in subsections (b)(i), (b)(ii), (b)(iii) and (b)(iv) above which are held in the Cash Collateral Account to the Collateral Agent and the Benefitted Parties in accordance with the following priorities:

first, to the reasonable costs and expenses of the Collateral Agent incurred in connection with the maintenance of the Cash Collateral Account and any collection, recovery, receipt, appropriation, legal proceeding (whether by or against any such party), realization or sale of any or all of the Collateral or the enforcement of the Security Documents;

second, after payment in full of all amounts set forth in item first, to the Benefitted Parties in payment of any and all amounts owed to the Benefitted Parties for reimbursement of amounts paid by them to the Collateral Agent in accordance with Section 4(g) pro rata in proportion to such amounts owed to such Benefitted Parties;

third, after payment in full of all amounts set forth in item second, to the payment and permanent reduction of the principal amount of the outstanding Obligations and the Contingent L/C Obligations, pro rata, based on the proportion that the principal amount of such outstanding Obligations and Contingent L/C Obligations held by each Benefitted Party at such time bears to the sum of the principal amount of all such Obligations and Contingent L/C Obligations;

fourth, after payment in full of all amounts set forth in item third, to the payment and permanent reduction of the amount of the outstanding Obligations representing interest, pro rata, based on the proportion that such outstanding Obligations representing interest held by each Benefitted Party at such time bears to the sum of all such Obligations representing interest;

fifth, after payment in full of all amounts set forth in item fourth, to the payment and permanent reduction of all other outstanding Obligations not representing principal, Contingent L/C Obligations or interest, pro rata, based on the proportion that such outstanding Obligations not representing principal, Contingent L/C Obligations or interest held by each Benefitted Party at such time bears to the sum of all such Obligations not representing principal, Contingent L/C Obligations or interest; and

sixth, after payment in full of all amounts set forth in item fifth, to or at the direction of the Company or as a court of competent jurisdiction may otherwise direct.

The Collateral Agent shall make such distributions promptly after the deposit of any Collateral Proceeds, Triggering Event Balances, Triggering Event Payments or Setoff Proceeds into the Cash Collateral Account. A Benefitted Party's pro rata share of the Obligations on any distribution date shall be determined by assuming that all Obligations are denominated in U.S. Dollars based upon the quoted spot rate at which the Collateral Agent's principal office offers to exchange any applicable currency for U.S. Dollars at 11:00 A.M. (local

time at such principal office) on the Business Day preceding such distribution date (the "Applicable Exchange Rate"). For any distribution, the Collateral Agent shall exchange the relevant portion of such distribution into the applicable currency and make each such distribution in the applicable currency.

### 3. Payment of Obligations; Distributions Recovered.

(a) The Company and each of the Subsidiary Guarantors agree that any amounts received by a Benefitted Party and delivered by such Benefitted Party to the Collateral Agent pursuant to the terms of this Agreement will not be deemed to be a payment in respect of any Obligations owing to such Benefitted Party until such Benefitted Party receives its pro rata share of such amount from the Collateral Agent and then only to the extent of the actual payment and receipt of such pro rata share.

(b) Notwithstanding anything to the contrary contained in this Agreement, in each case in which any proceeds (or the value thereof) or payments are recovered as a preferential or otherwise voidable payment (whether by a trustee in bankruptcy or otherwise) from the party (the "Distributor") which distributed those proceeds to another party or parties under this Agreement, each party (a "Distributee") to whom any of those proceeds were ultimately distributed shall, upon the Distributor's notice of the recovery to the Distributee, return to the Distributor an amount equal to the Distributee's ratable share of the amount recovered, together with a ratable share of interest thereon to the extent the Distributor is required to pay interest thereon computed on the amount to be returned from the date of the recovery. For purposes of this Agreement, "proceeds" means any payment (whether made voluntarily or involuntary) from any source, including, without limitation, any offset of any deposit or other indebtedness, any security (including, without limitation, any guaranty or any collateral) or otherwise.

### 4. The Collateral Agent.

(a) By execution and delivery hereof, each Benefitted Party hereby appoints State Street Bank and Trust Company of California, N.A. as Collateral Agent and its representative hereunder and under the Security Documents and authorizes the Collateral Agent to act as such hereunder and thereunder on behalf of each such Benefitted Party. The Collateral Agent agrees to act as such upon the express conditions contained in this Agreement. In performing its functions and duties under this Agreement and the Security Documents, the Collateral Agent shall act solely as agent of the Benefitted Parties to the extent, but only to the extent, provided in this Agreement and does not assume, and shall not be deemed to have assumed, any obligation towards or relationship of agency, fiduciary or trust with or for any other Person, other than as set forth in the Security Documents.

(b) The Collateral Agent shall take any action with respect to the Collateral and/or the Security Documents only as directed in accordance with Section 5(a) hereof; provided that the Collateral Agent shall not be obligated to follow any directions given in accordance with Section 5(a) hereof to the extent that the Collateral Agent has received advice from its counsel to the effect that such directions are in conflict with any provisions of law, this Agreement, the Security Documents or any order of any court or administrative agency; provided further that the

Collateral Agent shall not, under any circumstances, be liable to any Benefitted Party or any other person for following the written directions received in accordance with Section 5(a) hereof. Any directions given pursuant to Section 5(a) hereof may be withdrawn or modified by the party or parties who originally gave such directions by delivering written notice of withdrawal or modification to the Collateral Agent prior to the time when the Collateral Agent takes any action pursuant to such directions.

(c) Each Benefitted Party authorizes the Collateral Agent to take such action on such Benefitted Party's behalf and to exercise such powers hereunder as are specifically delegated to the Collateral Agent by the terms hereof and of the Security Documents, together with such powers as are reasonably incidental thereto. The Collateral Agent shall have only those duties and responsibilities that are expressly specified in this Agreement and the Security Documents, and it may perform such duties by or through its agents or employees. Nothing in this Agreement or the Security Documents, express or implied, is intended to or shall be construed as imposing upon the Collateral Agent any obligations in respect of this Agreement or such Security Documents except as expressly set forth herein.

(d) The Collateral Agent shall not be responsible to any Benefitted Party for the execution, effectiveness, genuineness, validity, perfection, enforceability, collectibility, value or sufficiency of the Collateral or the Security Documents or for any representations, warranties, recitals or statements made in any document executed in connection with the Obligations or made in any written or oral statement or in any financial or other statements, instruments, reports, certificates or any other documents in connection herewith or therewith furnished or made by or on behalf of the Company and its subsidiaries to any Benefitted Party or be required to ascertain or inquire as to the performance or observance by the Company or any of its subsidiaries or any other pledgor or guarantor of any of the terms, conditions, provisions, covenants or agreements contained in any document executed in connection with the Obligations or of the existence or possible existence of any Triggering Event.

(e) The Collateral Agent shall not be liable to any Benefitted Party for any action taken or omitted hereunder or under the Security Documents or in connection herewith or therewith except to the extent caused by the Collateral Agent's gross negligence or willful misconduct. The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any written statement, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons and, except as otherwise specifically provided in this Agreement, shall be entitled to rely upon the written direction of the Required Creditors (as defined in Section 5(a)) certifying that the persons signing such direction constitute the "Required Creditors," and shall be entitled to rely and shall be fully protected in relying on opinions and judgments of counsel, accountants, experts and other professional advisors selected by it in good faith and with due care. The Collateral Agent shall be entitled to refrain from exercising any power, discretion or authority vested in it under this Agreement or the Security Documents unless and until it has obtained the directions in accordance with Section 5(a) hereof with respect to the matters covered thereby. The Collateral Agent shall be entitled to request from each Benefitted Party a certificate setting out the amount of the respective Obligations held by it (including, without limitation, amounts representing principal, Contingent L/C Obligations or interest of such Obligations for purposes of calculating distributions pursuant to Section 2(c)).

(f) Each Benefitted Party agrees not to take any action whatsoever to enforce any term or provision of the Security Documents or to enforce any of its rights in respect of the Collateral, in each case except through the Collateral Agent acting in accordance with this Agreement.

(g) The Company and each of its subsidiaries which is party to this Agreement, by its execution of the signature page of this Agreement, agrees to pay and save the Collateral Agent harmless from liability for payment of all costs and expenses of the Collateral Agent in connection with this Agreement and the Security Documents, other than liabilities, costs and expenses resulting from the Collateral Agent's gross negligence or willful misconduct. Each Benefitted Party severally agrees to indemnify the Collateral Agent, pro rata (to the extent set forth in the penultimate sentence of this Section 4(g)), to the extent the Collateral Agent shall not have been reimbursed by or on behalf of the Company or from proceeds of the Collateral or otherwise, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, reasonable expenses (including, without limitation, reasonable counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Collateral Agent in performing its duties hereunder or under the Security Documents in its capacity as the Collateral Agent in any way relating to or arising out of this Agreement, the Security Documents and/or the Collateral; provided that no Benefitted Party shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Collateral Agent's gross negligence, willful misconduct or breach of the express terms of this Agreement. For purposes of this Section 4(g), any pro rata calculation shall be on the basis of the outstanding principal amount of the Obligations (determined by assuming that all Obligations are denominated in U.S. Dollars based upon the Applicable Exchange Rate) held by or for each Benefitted Party at the time of the act, omission or transaction giving rise to the reimbursement or indemnity required by this Section 4(g). The provisions of this Section 4(g) shall survive the payment in full of all the Obligations and the termination of this Agreement and all other documents executed in connection with the Obligations.

(h) The Collateral Agent may resign at any time by giving sixty (60) days' prior written notice thereof to the Benefitted Parties and the Company, subject to the acceptance of its appointment by a successor Collateral Agent simultaneously with or prior to any resignation of the Collateral Agent. Upon any such notice of resignation, the Required Creditors (as defined in Section 5(a) below) shall have the right to appoint a successor Collateral Agent. The Collateral Agent may be removed at any time with or without cause, by an instrument in writing delivered to the Collateral Agent, the Company and the other Benefitted Parties by the Required Creditors (as defined in Section 5(a) below). Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent, and the retiring or removed Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Security Documents; provided, however, that the retiring or removed Collateral Agent will continue to remain liable for all acts of, or the omission to act by, such retiring or removed Collateral Agent which occurred prior to such retirement or removal. If no successor Collateral Agent shall have been so appointed and shall have accepted such appointment within forty-five (45) days after the retiring Collateral Agent's giving of notice of resignation, then, upon five days' prior written notice to

the Company and the Benefitted Parties, the retiring Collateral Agent may, on behalf of the Benefitted Parties, appoint a successor Collateral Agent, which shall be a bank or trust company organized under the laws of the United States or any state thereof (or under the laws of a foreign country and having a branch or agency located in the United States) having a combined capital and surplus of at least \$500,000,000, and the short term unsecured debt obligations of which are rated at least P-1 by Moody's Investors Service or A-1 by Standard & Poor's, or any affiliate of such bank. After any retiring or removed Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Agreement and the Security Documents.

(i) Except as expressly set forth herein, the Collateral Agent and each of its affiliates may accept deposits from, lend money to and generally engage in any kind of banking, trust, financial advisory or other business with the Company or any affiliate thereof, and may accept fees and other consideration from the Company or any affiliate thereof for services in connection with this Agreement and otherwise without having to account for the same to any Benefitted Party.

(j) The Collateral Agent shall not be liable for or by reason of (i) any failure or defect in the registration, filing or recording of any of the Security Documents, or any notice, caveat or financing statement with respect to the foregoing, or (ii) any failure to do any act necessary to constitute, perfect and maintain the priority of the security interest created by the Security Documents.

(k) Notwithstanding anything to the contrary contained in this Agreement or any document executed in connection with any of the Obligations, the Collateral Agent, unless it shall have actual knowledge thereof, shall not be deemed to have any knowledge of any Triggering Event unless and until it shall have received written notice from the Company or any Benefitted Party describing such Triggering Event in reasonable detail (including, to the extent known, the date of occurrence of the same).

(l) Upon receipt by the Collateral Agent of any direction by the Required Creditors, all of the Benefitted Parties will be bound by such direction.

##### 5. Relating to Defaults and Remedies.

(a) The Required Creditors may, after any Triggering Event (other than an Involuntary Proceeding) has occurred (or upon the occurrence and continuation of an Involuntary Proceeding for at least 60 consecutive days) and by giving the Collateral Agent written notice of such election, instruct and cause the Collateral Agent to exercise its rights and remedies under the Security Documents. The Collateral Agent shall follow the instructions of the Required Creditors with respect to the enforcement action to be taken. For purposes of this Agreement, the term "Required Creditors" shall mean the Benefitted Parties holding, in the aggregate, more than 50% of the sum of (a) the face amount of any commitments for undrawn Letters of Credit plus (b) the outstanding funded principal amount of the Obligations (such amounts to be determined by assuming that all such commitments and Obligations are denominated in U.S. Dollars based upon the Applicable Exchange Rate). For purposes of the foregoing definitions,

any Benefitted Party that has purchased a participation in the Obligations owing to another Benefitted Party shall be deemed to be the holder of the amount of such Obligations which are the subject of such participation.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Collateral Agent shall not commence or otherwise take any action or proceeding to enforce any Collateral Document or to realize upon any or all of the Collateral unless and until the Collateral Agent has received instructions in accordance with Section 5(a) above. Upon receipt by the Collateral Agent of any such instructions, the Collateral Agent shall seek to enforce the Security Documents and to realize upon the Collateral in accordance with such instructions; provided that the Collateral Agent shall not be obligated to follow any such directions as to which the Collateral Agent has received a written opinion of its counsel to the effect that such directions are in conflict with any provisions of law, this Agreement, the Security Documents or any order of any court or administrative agency, and the Collateral Agent shall not, under any circumstances, be liable to any Benefitted Party or any other Person for following the written directions received in accordance with Section 5(a) above.

(c) The duties and responsibilities of the Collateral Agent hereunder shall consist of and be limited to (i) selling, releasing, surrendering, realizing upon or otherwise dealing with, in any manner and in any order, all or any portion of the Collateral, (ii) exercising or refraining from exercising any rights, remedies or powers of the Collateral Agent under this Agreement or the Security Documents or under applicable law in respect of all or any portion of the Collateral, (iii) making any demands or giving any notices under the Security Documents, (iv) effecting amendments to and granting waivers under the Security Documents in accordance with the terms hereof, and (v) maintaining the Cash Collateral Account under its exclusive dominion and control for the benefit of the Benefitted Parties and making deposits therein and withdrawals therefrom as necessary to effect the provisions of this Agreement.

(d) In the event that the Collateral Agent proceeds to foreclose upon, collect, sell or otherwise dispose of or take any other action with respect to any or all of the Collateral or to enforce any provisions of the Security Documents or takes any other action pursuant to this Agreement or any provision of the Security Documents or requests directions from the Required Creditors as provided herein, upon the request of the Collateral Agent or any Benefitted Party, each of the Benefitted Parties agrees that such Benefitted Party (or any agent of or representative for such Benefitted Party) shall promptly notify the Collateral Agent in writing, as of any time that the Collateral Agent may specify in such request, (i) of the aggregate amount of the respective Obligations then owing to such Benefitted Party as of such date and (ii) such other information as the Collateral Agent may reasonably request.

(e) Promptly after the Collateral Agent receives written notice of the occurrence of any Triggering Event pursuant to Section 2(a), it shall promptly send copies of such notice to each of the Benefitted Parties.

(f) The Collateral Agent shall not be obliged to expend its own funds in performing its obligations under this Agreement and shall be entitled to require that the Benefitted Parties provide it with sufficient funds prior to taking any action required under this Agreement.



6. Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and their respective successors and assigns, and neither the Company nor any other person or entity, including, without limitation, any guarantor of the obligations of the Company, are intended to be third party beneficiaries hereunder or to have any right, benefit, priority or interest under, or shall have any right to enforce this Agreement.

7. Relation of Creditors. This Agreement is entered into solely for the purposes set forth herein, and no Benefitted Party assumes any responsibility to any other party hereto to advise such other party of information known to such other party regarding the financial condition of the Company or any of its subsidiaries or of any other circumstances bearing upon the risk of nonpayment of any Obligation. Each Benefitted Party specifically acknowledges and agrees that nothing contained in this Agreement is or is intended to be for the benefit of the Company or any of its subsidiaries and nothing contained herein shall limit or in any way modify any of the obligations of the Company or any Subsidiary Guarantor to the Benefitted Parties.

8. Acknowledgment of Guaranties. Each party expressly acknowledges the existence and validity of the Note Obligation Guaranty and the Bank Obligation Guaranty, agrees not to contest or challenge the validity of the Note Obligation Guaranty or the Bank Obligation Guaranty and agrees that the judicial or other determination of the invalidity of the Note Obligation Guaranty or the Bank Obligation Guaranty shall not affect the provisions of this Agreement.

9. Notice of Certain Events. Each Benefitted Party agrees that upon the occurrence of a Triggering Event, it shall promptly notify the Collateral Agent of the occurrence of such Triggering Event. In addition, each Benefitted Party agrees to provide to the Collateral Agent the amount and currency of its Obligations at such reasonable times as may be necessary to determine such Benefitted Party's pro rata share of the outstanding principal amount of the Obligations.

#### 10. Miscellaneous.

(a) Notices. All notices and other communications provided for herein, (including, without limitation, any modifications of, or waivers or consents under this Agreement) shall be sent (i) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (ii) by registered or certified mail with return receipt requested (postage prepaid), or (iii) by a recognized overnight delivery service (with charges prepaid) to the intended recipient at the address for notices specified beneath the signature of such party hereto; or as to any party at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communication shall be deemed to have been duly given when actually received.

(b) Amendments, Waivers, Consents. All amendments, waivers or consents of any provision of this Agreement shall be effective only if the same shall be in writing and signed by all of the Benefitted Parties.

(c) Releases of Collateral. The parties hereto agree that the Collateral Agent shall release all or any portion of the Collateral (other than in connection with the exercise of its rights and remedies pursuant to Section 5) only upon the receipt by the Collateral Agent of (i) a written approval from the Required Creditors, or (ii) so long as no event of default exists under any Senior Loan Document and releasing such Collateral is not prohibited by any Senior Loan Document, an Officers' Certificates of the Company and any applicable Subsidiary Guarantor, which shall be true and correct, (x) stating that the Collateral subject to such disposition is being sold, transferred or otherwise disposed of in compliance with the terms of each of the Senior Loan Documents, and (y) specifying the Collateral being sold, transferred or otherwise disposed of in the proposed transaction. Upon the receipt of such written approval or Officers' Certificates (so long as the Collateral Agent has no reason to believe that the Officers' Certificates delivered with respect to such disposition are not true and correct), the Collateral Agent shall, at the Company's expense, execute and deliver such releases of its security interest in such Collateral to be released, and provide a copy of such releases to each of the Benefitted Parties. In connection therewith, the Benefitted Parties hereby irrevocably authorize the Collateral Agent from time to time to release such Collateral or consent to such release in accordance with the terms of this Agreement. Notwithstanding anything provided herein to the contrary, no release of security shall in any way affect the guaranties by the Material Domestic Subsidiaries of the Obligations, which guaranties shall continue to remain in full force and effect after any such release.

Upon the receipt of such Officers' Certificate, Secured Party shall, at such Pledgor's expense, execute and deliver such releases of its security interest in such Collateral which is to be so sold, transferred or disposed of, as may be reasonably requested by such Pledgor.

(d) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. At the time of any assignment of all or any portion of the Senior Noteholder Obligations by a Senior Noteholder or of all or any portion of the Senior Lender Obligations by a Senior Lender or of all or any portion of the Additional Obligations by any Additional Creditor, such assigning Senior Noteholder, Senior Lender or Additional Creditor, as the case may be, shall cause its assignee (each an "Additional Benefitted Party") to execute a Counterpart Collateral Agency and Intercreditor Agreement substantially in the form attached hereto as Exhibit A (a "Counterpart") and become a party to this Agreement.

(e) Additional Creditors. Upon the execution of a Counterpart by any Additional Creditors (either directly or through their agents) and delivery of such Counterpart to the other parties hereto, such entity or entities shall be as fully a party to this Agreement as a Benefitted Party as if such entity or entities were an original signatory hereof without any action required to be taken by any other party hereto, provided that each such entity or entities shall execute this Agreement simultaneously with the Subsidiary Guarantors' execution and delivery to it or them of a Subsidiary Guaranty. Each other party to this Agreement expressly agrees that its rights and obligations arising hereunder shall continue after giving effect to the addition of such Additional Creditors as parties to this Agreement.

(f) Captions. The captions and Section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

(g) Conflicts. In the event of a conflict between the terms of this Agreement and the terms of any of the Security Documents, the terms of this Agreement shall control.

(h) Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together will constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

(i) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THE STATE OF NEW YORK.

(j) Merger. This Agreement and the Security Documents supersede all prior agreements, written or oral, among the parties with respect to the subject matter of such agreements.

(k) Independent Investigation. None of the Collateral Agent or any of the Benefitted Parties, nor any of their respective directors, officers, agents or employees, shall be responsible to any of the others for the solvency or financial condition of the Company or the ability of the Company to repay any of the Obligations, or for the value, sufficiency, existence or ownership of any of the Collateral, or the statements of the Company, oral or written, or for the validity, sufficiency or enforceability of any of the Obligations or any document or agreement executed or delivered in connection with or pursuant to any of the foregoing. Each Benefitted Party has entered into its respective financial agreements with the Company based upon its own independent investigation, and makes no warranty or representation to the other, nor does it rely upon any representation by any of the others, with respect to the matters identified or referred to in this Section.

(l) Severability. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

(m) Effect of Bankruptcy or Insolvency. This Agreement shall continue in effect notwithstanding the bankruptcy or insolvency of any party hereto or the Company or any of its Subsidiaries.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

STATE STREET BANK AND TRUST COMPANY  
OF CALIFORNIA, N.A.,  
as Collateral Agent

By:  
Name: Stephen Rivero  
Title: Vice President

Address for Notices:

State Street Bank and Trust  
Company of California, N.A.  
633 West 5th Street, 12th Floor  
Los Angeles, California 90071  
Attention: Corporate Trust Department  
Facsimile: (213) 362-7357

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA,  
as Senior Noteholder

By:

Name:  
Title:

Address for Notices:

The Prudential Insurance Company of America  
c/o Prudential Capital Group - Corporate Finance  
Four Embarcadero Center, Suite 2700  
San Francisco, California 94111  
Attention: Managing Director  
Facsimile: (415) 421-6233

ABN AMRO BANK N.V.,  
as Senior Lender

By:  
Name:  
Title:

By:  
Name:  
Title:

Address for Notices:

ABN AMRO Bank N.V.  
208 South LaSalle Street, Suite 1500  
Chicago, IL 60604-1003  
Attention: Credit Administration  
Facsimile: (312) 992-5111

with a copy to:

ABN AMRO Bank N.V.  
101 California Street, Suite 4550  
San Francisco, CA 94111-5812  
Attention: Gina Brusatori  
Facsimile: (415) 362-3524

EACH OF THE UNDERSIGNED HEREBY ACKNOWLEDGES AND CONSENTS TO THE FOREGOING, INCLUDING, WITHOUT LIMITATION, SECTION 3. EACH OF THE UNDERSIGNED HEREBY CONSENTS TO THE RELEASE BY THE COLLATERAL AGENT TO THE BENEFITTED PARTIES OF ANY INFORMATION PROVIDED TO OR OBTAINED BY THE COLLATERAL AGENT UNDER OR IN CONNECTION WITH THE SECURITY DOCUMENTS. EACH OF THE UNDERSIGNED HEREBY COVENANTS TO PAY TO THE COLLATERAL AGENT FROM TIME TO TIME REASONABLE REMUNERATION FOR ITS SERVICES HEREUNDER AND WILL PAY OR REIMBURSE THE COLLATERAL AGENT UPON ITS REQUEST FOR ALL REASONABLE EXPENSES, DISBURSEMENTS AND ADVANCES INCURRED OR MADE BY THE COLLATERAL AGENT IN THE ADMINISTRATION OR EXECUTION OF THE COLLATERAL AGENCY HEREBY CREATED (INCLUDING THE REASONABLE COMPENSATION AND THE DISBURSEMENTS OF ITS COUNSEL AND ALL OTHER ADVISERS AND ASSISTANTS NOT REGULARLY IN ITS EMPLOY) BOTH BEFORE ANY DEFAULT HEREUNDER AND THEREAFTER UNTIL ALL DUTIES OF THE COLLATERAL AGENT HEREUNDER SHALL BE FINALLY AND FULLY PERFORMED EXCEPT ANY SUCH EXPENSE, DISBURSEMENT OR ADVANCE AS MAY ARISE OUT OF OR RESULT FROM THE COLLATERAL AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE UNDERSIGNED HEREBY AGREES TO PROVIDE TO EACH OF THE BENEFITTED PARTIES TRUE AND CORRECT COPIES OF ALL NOTICES, CERTIFICATES, SCHEDULES AND OTHER INFORMATION PROVIDED TO THE COLLATERAL AGENT PURSUANT TO THIS AGREEMENT AND THE SECURITY DOCUMENTS.

NU SKIN ENTERPRISES, INC.

By:

Name: Corey B. Lindley  
Title: Executive Vice President and  
Chief Financial Officer

NU SKIN INTERNATIONAL, INC.  
NU SKIN HONG KONG, INC.  
NU SKIN TAIWAN, INC.  
NU SKIN UNITED STATES, INC.

By:

Name: Corey B. Lindley  
Title: Vice President

Address for Notices: One Nu Skin Plaza  
75 West Center Street  
Provo, Utah 84601  
Attention: General Counsel  
Facsimile: (801) 345-6099

EXHIBIT A

Counterpart Collateral Agency and Intercreditor Agreement

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Collateral Agency and Intercreditor Agreement, dated as of \_\_\_\_\_, 20\_\_ (this "Counterpart"), to be duly executed and delivered by its duly authorized officer. Upon execution and delivery of this Counterpart to Collateral Agent, the undersigned shall be an Additional Benefitted Party under the Collateral Agency and Intercreditor Agreement [and shall be as fully a party to the Collateral Agency and Intercreditor Agreement as if such Additional Benefitted Party were an original signatory to the Collateral Agency and Intercreditor Agreement].

[Name of Additional Benefitted Party]

By:

Name:

Title:



	9-MOS	
DEC-31-2000		
SEP-30-2000		
		49,899
		0
	21,134	
		0
		89,494
	234,438	
		132,397
	74,668	
	589,249	
113,630		
		87,143
	0	
		0
		85
		349,842
589,249		
		656,151
	656,151	
		109,735
	585,387	
		0
		0
	0	
	71,085	
	25,590	
45,495		
		0
		0
		0
	45,495	
		.53
		.53