

FORM OF SECURITIES CONTROL AGREEMENT

[Date]

[Securities Intermediary]

[address]

Ladies and Gentlemen:

Pursuant to the Loan and Security Agreement, dated as of **MONTH• DAY•, YEAR•** (the "Loan Agreement"), made by **BORROWER LEGAL NAME•**, a **BORROWER ENTITY TYPE•** (the "Borrower"), [and the other Pledgors parties thereto] in favor of **LENDER LEGAL NAME•**, as collateral agent (in such capacity, the "Collateral Agent") for the one or more banks, financial institutions and other entities (the "Lenders") from time to time parties to the Loan Agreement, dated as of **MONTH• DAY•, YEAR•** (as amended, supplemented, modified or restated from time to time, the "Loan Agreement"), among the Borrower, the Collateral Agent, and the Lenders, the Collateral Agent (hereinafter the "Customer") hereby establishes with [Securities Intermediary] (hereinafter the "Securities Intermediary") a Securities Account entitled "**LENDER LEGAL NAME•**, as Collateral Agent under the Loan Agreement, dated as of **MONTH• DAY•, YEAR•** " (together with any other separate accounts from time to time established by the Securities Intermediary at the Customer's request, the "Account") to be held and administered as herein provided. Wherever used herein the singular shall include the plural and vice versa unless the context requires otherwise. Terms defined in the Uniform Commercial Code of the State of New York as in effect from time to time (the "New York UCC") shall have the same meanings herein as in such Code.

1. Securities Account. The parties hereto acknowledge that the Borrower has granted a security interest to the Customer in certain of the Borrower's cash equivalents, investments and securities pursuant to the Loan Agreement, including those credited to the Account. The Securities Intermediary hereby confirms that (i) it has established the Account, (ii) it will hold (a) the Account and any and all securities (whether certificated or uncertificated) and Investment Property, now or hereafter held in or constituting part of or relating to such Account; (b) all related stock and

bond powers, certificates and instruments held in the Account and all replacements, substitutions, interest, cash and stock dividends, warrants, options, money, instruments, documents, goods, chattel paper, accounts, general intangibles, deposit accounts, partnership and limited liability company interests, and other property and rights of any nature paid, accrued, received, receivable or distributed with respect thereto from time to time; and (c) with respect to the foregoing, all products and proceeds thereof, including without limitation insurance proceeds and payments under the Securities Investor Protection Act of 1970, as amended (all of the foregoing securities, property, rights and the like being hereinafter called the "Investment Collateral"), (iii) the Account is a "securities account" as such term is defined in Section 8-501(a) of the New York UCC, (iv) each item of property credited to the Account shall be treated as a "financial asset" within the meaning of Section 8-102 of the New York UCC, (v) all property delivered to it pursuant to the Loan Agreement will be promptly credited to the Account and (vi) all securities or other property underlying any financial assets credited to the Account shall be registered in the name of the Customer or the Securities Intermediary, endorsed to the Customer, the Securities Intermediary or in blank or credited to another securities account maintained in the name of the Securities Intermediary and in no case will any financial asset credited to the Account be registered in the name of the Borrower, payable to the order of the Borrower or specially endorsed to the Borrower except to the extent the foregoing have been specially endorsed to the Customer, the Securities Intermediary or in blank. The Securities Intermediary shall receive and hold in the Account all Investment Collateral purchased from or through the Securities Intermediary by the Customer or the Borrower with assets in the Account and record or credit all such Investment Collateral in the name of **LENDER LEGAL NAME●**, as Collateral Agent under the Loan Agreement, dated as of **MONTH● DAY●, YEAR●**" or in the name of the Securities Intermediary and the Securities Intermediary shall collect all income and all proceeds of sales or other disposition of such Investment Collateral and deposit the same in the Account. The Securities Intermediary will at the Customer's request from time to time establish such other separate accounts as are necessary and appropriate, and the Securities Intermediary will account for each one separately, all within, however, the Account.

2. Basic Functions. Unless otherwise provided, the Securities Intermediary's duties and liabilities with respect to the Investment Collateral and other property held by the Securities Intermediary in the Account shall be limited to those specified in part 5 of Article 8 of the New York UCC and, to the extent not inconsistent therewith, those of a bailee for hire under the laws of the State of New York. Without limiting the generality of the foregoing, the Securities Intermediary, in its capacity as

custodian, shall not have any duty to make any investment review of the Investment Collateral delivered to, purchased from or purchased through the Securities Intermediary by the Customer or the Borrower or acquired by the Securities Intermediary for the Account at the direction of the Customer (or the Borrower), any duty at any time to make any recommendation with respect to disposition of or retention of any such Investment Collateral and funds or any duty at any time to determine whether any security held or to be held in the Account constitutes Investment Property.

3. Custodial Services. Subject to Sections 4 and 5 below, the Securities Intermediary shall, as specifically directed by the Customer (or the Borrower while no [Notice of Default] (as defined in the Loan Agreement) is in effect), (a) promptly make sales, exchanges or other disposition of Investment Collateral in the Account, (b) with any proceeds, or upon being furnished with necessary funds, make purchases or other acquisitions of Investment Collateral for the Account and (c) make payments, transfers, deliveries and distributions from the Account to any person, persons or corporations or other entities, all in accordance with industry practice. One copy of the Customer's advice respecting each transaction with respect to change in the Account shall be promptly forwarded to the Borrower. One copy of the Borrower's advice respecting each transaction with respect to change in the Account shall be promptly forwarded to the Customer.

4. Release of Funds to Borrower. [(a) So long as no Notice of Default is in effect, the Borrower's may obtain a release of all or a portion of cash in the Account upon request by it made to the Securities Intermediary, and the Securities Intermediary shall immediately cause such funds to be delivered to the Borrower as specified in the request of the Borrower made to the Securities Intermediary pursuant to this Section.]

(b) The Securities Intermediary shall in no event deliver any Investment Collateral [other than in accordance with Section 4(a) above] held in the Account to the Borrower or any affiliate, employee or agent of the Borrower.

5. Instructions and Entitlement Orders. The Borrower hereby irrevocably directs the Securities Intermediary to, and the Securities Intermediary agrees it will, comply with instructions originated by the Customer and entitlement orders (within the meaning of Section 8-102 of the New York UCC) from the Customer with respect to the Investment Collateral without further consent by the Borrower or any other Person. The Securities Intermediary shall, subject to the terms of this Agreement, treat the Collateral Agent as entitled to exercise the rights that comprise any financial asset credited to the Account. In furtherance of, and without limiting the

effectiveness of the foregoing, the Securities Intermediary will comply with orders from the Customer directing the Securities Intermediary to hold, transfer or dispose of the Investment Collateral (and any financial asset (within the meaning of Section 8-102 of the New York UCC) subject to any security entitlement included therein), or any part thereof, as the Customer may from time to time specify, in each case without obtaining consent from the Borrower in respect thereof. The Collateral Agent covenants to the Borrower not to issue any entitlement orders except as permitted by the Loan Agreement; however, the Securities Intermediary shall comply with all entitlement orders issued by the Collateral Agent regardless of whether such orders are authorized by the Loan Agreement.

6. Nominees; Proxies. The Securities Intermediary may hold Investment Collateral in the Account in the name of a nominee or nominees, or in bearer form so that it will pass by delivery or with any domestic or foreign depository service of which the Securities Intermediary is a participant or sub-custodian which the Securities Intermediary uses, including any subsidiary or affiliate of the Securities Intermediary, but no such holding shall relieve the Securities Intermediary of its responsibility for the safe custody and disposition of the Investment Collateral in the Account in accordance with the provisions of this Agreement. The Securities Intermediary's books and records shall at all time show that such Investment Collateral is part of the Account. It is understood that the Securities Intermediary shall use its best efforts to forward all reports, proxy solicitation material, all other communications received with respect to the Investment Collateral and all proxies duly signed in blank, received by the Securities Intermediary, as Securities Intermediary hereunder, to the Borrower or, while a [Notice of Default] is in effect, to the Customer, at the address specified in Section 13 hereof.

7. Statement of Account. Within [30] days after the close of each month or the termination of the Account as provided in Section 13 hereof, the Securities Intermediary shall deliver to the Customer and the Borrower, and certify the accuracy of, a written statement of account of all the Securities Intermediary's transactions relating to the Account during the period from the last previous monthly accounting to the close of the month or the date of termination of the Account. The Securities Intermediary shall also provide statements to the Customer at such other times as the Customer may request.

Unless, within [60] days from the date of receipt of any such statement, the Securities Intermediary shall receive from the Customer or the Borrower written exceptions or objections thereto, the Customer and the Borrower shall be deemed to have accepted and approved such statement as accurate, and in such case or upon the written approval of the Customer and the Borrower of any such statement, the

Securities Intermediary shall be forever released and discharged from all responsibility with respect to all matters set forth therein.

8. **Set-Off.** The Securities Intermediary waives all rights of offset and bank liens afforded it by law, agreement or otherwise against any of the Investment Collateral, any proceeds thereof, and any funds and amounts deposited by the Borrower with it in connection therewith. Each of the Borrower and the Securities Intermediary further agrees that it will not enter into any agreement with any third party other than the Customer that provides or has the effect of allowing or requiring the Securities Intermediary to comply with entitlement orders originated by such third party.

9. **Securities Intermediary's Jurisdiction.** The Securities Intermediary and the Borrower agree that the Securities Intermediary's "jurisdiction", within the meaning of Section 8-110(b) of the New York UCC, is the State of New York and the Account (as well as the Investment Collateral related thereto) shall be governed by the laws of the State of New York.

10. **Further Action.** The Securities Intermediary shall be under no duty or obligation to take any other or further action with respect to the Account or any Investment Collateral and funds held hereunder nor (without limiting the foregoing) to prosecute any action or proceeding with respect to the Account or any Investment Collateral and funds held hereunder unless requested in writing by the Customer (or the Borrower while no [Notice of Default] is in effect) to take such action and indemnified to the Securities Intermediary's reasonable satisfaction.

11. **Fees and Expenses.** The Borrower agrees to compensate the Securities Intermediary for its services rendered hereunder as separately agreed to between the Securities Intermediary and the Borrower from time to time. The Customer shall not be liable for any compensation or other amounts owing to the Securities Intermediary in connection with this Agreement.

12. **Authorized Persons.** The Customer and the Borrower shall each furnish to the Securities Intermediary a written list of persons authorized to give instructions on the Customer's or the Borrower's behalf, respectively. Such lists shall include the specimen signature of all persons included therein. Upon any change in the individuals authorized to give instructions on behalf of the Customer or the Borrower, the Securities Intermediary will promptly be furnished with a certificate identifying any officer or individual who has ceased to act as such and setting forth the name and specimen signature of any successor or additional person. Until receipt of such certification, the Securities Intermediary shall be entitled to assume that the authority and identification of the individuals last previously furnished to the Securities

Intermediary continues in effect and to rely upon all communications appearing to have been signed, sent or transmitted by such authorized individuals identified therein.

13. Notices to Parties. All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section • of the [Loan Agreement]. All communications and notices hereunder to the Securities Intermediary shall be given to it at its address or telecopy number set forth on its signature page hereof.

14. Reliance. It is expressly represented that no unauthorized communication will at any time be furnished to the Securities Intermediary hereunder, and the Securities Intermediary shall be fully protected in acting in accordance with all communications purporting to be from the Customer or the Borrower provided the Securities Intermediary believes them to be genuine and to be signed, spoken or transmitted by the proper party. Any instructions by the Borrower pursuant to Section 3 hereof or pursuant to Section 4 hereof or by the Customer pursuant to Section 5 hereof shall be full authority for and direction to the Securities Intermediary to make the requested release or investment as the case may be, and the Securities Intermediary shall promptly do so. The Securities Intermediary in so doing shall have no liability to any person.

15. Termination. This Agreement may be terminated by the Customer upon five Business Days' prior written notice to the other parties hereto or, in the event of any release or termination contemplated by Section • of the Loan Agreement, immediately upon written notice thereof by the Collateral Agent to the other parties hereto. This Agreement may be terminated by the Securities Intermediary upon thirty Business Days' prior written notice to the other parties hereto, provided that if the Securities Intermediary shall terminate this Agreement at any time while a [Notice of Default] is in effect, it shall take such actions as the Collateral Agent may reasonably request to fully effect the purposes of this Agreement.

16. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior written or oral agreements with respect thereto.

17. Amendment. This Agreement may not be amended or modified in any manner except by a written agreement executed by the Securities Intermediary, the Borrower and the Customer.

18. Successors; Assignment. This Agreement shall extend to and shall be binding upon the Securities Intermediary, the Customer and the Borrower, and their

respective successors and assigns, provided, however, that this Agreement shall not be assignable (a) by the Customer (i) to any Person other than a successor Collateral Agent under the Loan Agreement and (ii) without the written consent of the Securities Intermediary, or (b) by the Securities Intermediary without the written consent of the Customer and the Borrower.

19. Enforceability. In case any one or more of the provision contained in this Agreement should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall in no way be affected, prejudiced or disturbed thereby.

20. Section Headings. The headings of Sections in this Agreement have been inserted for convenience only and are not to be regarded as a part of this Agreement or to have any bearing upon the meaning or interpretation of any provision contained herein.

21. Legal Authority. The parties hereto represent and warrant that each has the legal power and authority to enter into this Agreement and that, to the best of their respective knowledge, the Agreement does not violate any law or regulation applicable hereto.

22. GOVERNING LAW. THE PROVISIONS OF AND THE VALIDITY AND CONSTRUCTION OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

23. Counterparts. This Agreement may be executed in any number of counterparts (including by facsimile transmission), each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument.

24. Notice of Default. The Customer may deliver to the Securities Intermediary a copy of any [Notice of Default] delivered pursuant to the Loan Agreement, along with a letter containing the phrase "Attached hereto is a [Notice of Default] under the Loan Agreement", and shall promptly notify the Securities Intermediary if such [Notice of Default] ceases to be in effect. For the purposes of this Agreement no [Notice of Default] shall be deemed to be in effect until a copy thereof attached to a letter containing the phrase referred to above has been received by the Securities Intermediary, and thereafter such [Notice of Default] shall be deemed to be in effect until the Securities Intermediary has received notice from the Customer that such [Notice of Default] has ceased to be in effect.

[25. Representations, Warranties and Covenants of the Securities Intermediary. The Securities Intermediary hereby makes the following

representations, warranties and covenants:

(i) The Account has been established as set forth in the introductory paragraph of this Agreement and the Account will be maintained in the manner set forth herein until termination of this Agreement. The Securities Intermediary shall not change the name or account number of the Account without the prior written consent of the Collateral Agent.

(ii) No financial asset is or will be registered in the name of the Borrower, payable to his order, or specially endorsed to him, except to the extent such financial asset has been endorsed to the Securities Intermediary or in blank.

(iii) This Agreement is the valid and legally binding obligation of the Securities Intermediary.

(iv) The Securities Intermediary has not entered into, and until the termination of this agreement will not enter into, any agreement with any other person relating to any of the Account and/or any financial assets credited thereto pursuant to which it has agreed to comply with entitlement orders (as defined in Section 8-102(a)(8) of the New York UCC) of such Person. The Securities Intermediary has not entered into any other agreement with the Borrower or Collateral Agent purporting to limit or condition the obligation of the Securities Intermediary to comply with entitlement orders as set forth in Section 5 hereof.

(v) If the Securities Intermediary becomes aware that any person has asserted any lien, encumbrance or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against the Account or in any Investment Collateral, the Securities Intermediary will promptly notify the Collateral Agent and the Borrower thereof.]

26. Rights, Privileges and Immunities of Customer. In executing and delivering this Agreement and in acting hereunder, the Customer shall be entitled to all rights, privileges and immunities afforded the Customer under the Loan Agreement as if set forth herein in full. While a [Notice of Default] is in effect, the Customer shall have no duty to monitor the actions or advices of the Securities Intermediary. While a Notice of Default is in effect, the duties of the Customer shall be as set forth in the Loan Agreement.

[27. Supersession of Previous Agreement. This Agreement supersedes the agreement dated **MONTH● DAY●, YEAR●** between the Borrower and [Securities Intermediary], and assets constituting Investment Collateral and funds on deposit in

account no. • maintained pursuant to such agreement shall be deposited in the Account, and such account shall be closed.]

[28. Conflict with other Agreements. There are no other agreements entered into between the Securities Intermediary (in such capacity) and the Borrower with respect to the Securities Account [except for any customer agreements]. In the event of any conflict between this Agreement (or any portion thereof) and any other agreement now existing [(including any customer agreements)] or hereafter entered into, the terms of this Agreement shall prevail.]

This Agreement shall become effective as of the date written above when a counterpart hereof has been accepted by the Securities Intermediary and acknowledged by the Borrower.