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COMPANY CONFORMED NAME:	AMAZON COM INC
CENTRAL INDEX KEY:	0001018724
STANDARD INDUSTRIAL CLASSIFICATION:	BOOKS: PUBLISHING OR PUBLISHING AND PRINTING [2731]
IRS NUMBER:	911646860
STATE OF INCORPORATION:	DE
FISCAL YEAR END:	1231

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K
ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE YEAR ENDED DECEMBER 31, 1997 COMMISSION FILE NO. 000-22513

AMAZON.COM, INC.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

<TABLE>		
<S>	<C>	
DELAWARE		91-1646860
(STATE OR OTHER JURISDICTION OF		(I.R.S. EMPLOYER
INCORPORATION OR ORGANIZATION)		IDENTIFICATION NO.)
</TABLE>		

1516 SECOND AVENUE
SEATTLE, WASHINGTON 98101
(206) 622-2335

(ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE, OF
REGISTRANT'S PRINCIPAL EXECUTIVE OFFICES)

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:
NONE

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:
COMMON STOCK, PAR VALUE \$.01 PER SHARE

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 []

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [X]

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Aggregate market value of voting stock held by	
non-affiliates of the registrant as of March 13, 1998.....	\$787,637,606
Number of shares of common stock outstanding as of March 13,	
1998.....	24,157,867
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DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this Report, to the extent not set forth herein, is incorporated herein by reference from the Registrant's definitive proxy statement relating to the annual meeting of stockholders to be held in 1998, which definitive proxy statement shall be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Report relates.

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AMAZON.COM, INC.

FORM 10-K
FOR THE YEAR ENDED DECEMBER 31, 1997

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PART I

ITEM 1. BUSINESS

This Annual Report on Form 10-K and the documents incorporated herein by reference contain forward-looking statements based on current expectations, estimates and projections about the Company's industry, management's beliefs and certain assumptions made by management. All statements, trends, analyses and other information contained in this report relative to trends in net sales, gross margin, anticipated expense levels and liquidity and capital resources, as well as other statements including, but not limited to, words such as "anticipate," "believe," "plan," "estimate," "expect," "seek," "intend" and other similar expressions, constitute forward-looking statements. These forward-looking statements are not guarantees of future performance and are subject to certain risks and uncertainties that are difficult to predict. Accordingly, actual results may differ materially from those anticipated or expressed in such statements. Potential risks and uncertainties include, among others, those set forth herein under "Additional Factors That May Affect Future Results," as well as "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Overview" and "-- Liquidity and Capital Resources." Particular attention should be paid to the cautionary statements involving the Company's limited operating history, the unpredictability of its future revenues, the unpredictable and evolving nature of its business model, the intensely competitive online commerce and retail book environments and the risks associated with capacity constraints, systems development, management of growth and business expansion. Except as required by law, the Company undertakes no obligation to update any forward-looking statement, whether as a result of new information, future events or otherwise. Readers, however, should carefully review the factors set forth in other reports or documents that the Company files from time to time with the Securities and Exchange Commission ("SEC").

GENERAL

Amazon.com, Inc. ("Amazon.com" or the "Company") is the leading online retailer of books. Since opening for business as "Earth's Biggest Bookstore" in July 1995, Amazon.com has become one of the most widely known, used and cited commerce sites on the World Wide Web (the "Web"). Amazon.com strives to offer its customers compelling value through innovative use of technology, broad selection, high-quality content, a high level of customer service, competitive pricing and personalized services. The Company offers a catalog of more than 2.5 million titles, easy-to-use search and browse features, e-mail services, personalized shopping services, Web-based credit card payment and direct shipping to customers. The Company intends over time to expand its catalog into other information-based products, such as music. Amazon.com has virtually unlimited online shelf space and offers customers a vast selection through an efficient search-and-retrieval interface.

Operating as an online book retailer, Amazon.com has grown rapidly since first opening its Web site in July 1995. Through December 31, 1997, the Company had sales of more than \$164 million to approximately 1.5 million customer accounts in over 150 countries. Repeat customers currently account for over 58% of orders. International sales represented 25% of net sales in 1997 and 22% of sales in the quarter ended December 31, 1997. No material part of the Company's revenue was attributable to a single customer or group of customers, or a foreign corporation. No foreign country accounted for more than 10% of revenue. Since inception, the Company has grown rapidly; however, percentage growth rates experienced to date are not sustainable. The Company incurred net losses of \$27.6 million and \$5.8 million in the fiscal years ended December 31, 1997 and 1996, respectively. See "Additional Factors That May Affect Future Results -- Limited Operating History; Accumulated Deficit; Anticipated Losses."

Amazon.com was incorporated in 1994 in the State of Washington and reincorporated in 1996 in Delaware. The Company's principal corporate offices are located in Seattle, Washington. Amazon.com completed its initial public offering in May 1997 and its common stock is listed on the NASDAQ National Market under the symbol "AMZN". Information contained on the Company's Web site will not be deemed to be a part of this Annual Report on Form 10-K. As used herein, "titles" offered by the Company means the number of items offered in the Company's catalog and includes primarily books but also a small number of CDs, videotapes, audiotapes and other products.

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THE AMAZON.COM WEB SITE

Amazon.com strives to offer an online shopping experience that involves discovery and fulfillment for its customers. The Company believes that the sale of books and other products and services over the Web can offer attractive benefits to consumers, including, without limitation, enhanced selection, convenience, ease-of-use, competitive pricing, depth of content and information and personalization. Customers entering the Amazon.com Web site can, in addition to ordering books and other products, purchase gift certificates, conduct targeted searches, browse highlighted selections, bestsellers and other features, search for books by subject category, read and post reviews, register for personalized services, participate in promotions and check order status. The key components of Amazon.com's offerings include browsing, searching, reviews and content, online community, recommendations and personalization, a gift center and an out-of-print book service.

Browsing. The Amazon.com site offers visitors a variety of highlighted subject areas and special features arranged in a simple, easy-to-use fashion intended to enhance book search, selection and discovery. In addition, the Amazon.com home page presents a variety of products and information of topical or current-event interest. To enhance the shopping experience and increase sales, the Company features a variety of books on a rotating basis throughout the store.

Searching. A primary feature of the Amazon.com Web site is its interactive, searchable catalog of more than 2.5 million titles, including most of the estimated 1.5 million English-language books believed to be in print, more than one million out-of-print titles believed to be in circulation and a small number of CDs, videotapes, audiotapes and other products. The Company provides a selection of search tools to find books and other products based on title, subject, author, keyword, publication date or ISBN. Customers can also use more complex and precise search tools such as Boolean search queries. The Company licenses some of its catalog and other information from third parties.

Reviews and Content. The Amazon.com store offers numerous forms of content to entertain and engage readers, enhance the customer's shopping experience and encourage purchases. Various types of content are available for particular titles, including cover art, synopses, annotations, interviews by authors or reviews by other readers. Customers are encouraged to write and post their own reviews and authors are invited to "self-administer" interviews by answering predefined questions.

Online Community. By creating an online community, the Company hopes to provide customers with an inviting and familiar experience that will encourage them to return frequently to the site and to interact with other users and that will promote loyalty and repeat purchases. Amazon.com invites readers, authors and publishers to post reviews, sponsors review competitions and provides a forum for author interviews.

Recommendations and Personalization. During its history, Amazon.com has continually sought to personalize its product and service offerings. These improvements have included greeting customers by name, instant recommendations, collaborative filtering and a number of other related features. The Company believes that personalization of a customer's shopping experience at the Company's Web site is an important element of the value proposition it offers to customers and intends to continue to enhance its personalized services.

Gift Center. In November 1997, Amazon.com launched its Gift Center, including features such as gift recommendations from Amazon.com editors, dynamic personalized gift-matching services and both traditional and electronic gift certificates. Customers can select and order gifts, choose from a number of

gift-wraps and have packages wrapped and sent with a personalized message.

Out-of-Print. Amazon.com began offering an out-of-print book service in March 1997. More than one million out-of-print titles are listed in the Company's catalog. Because of the difficulty of sourcing out-of-print titles, customers are advised to expect one- to three-month delivery times and that such titles may not be available at all.

Availability and Fulfillment. Many of the Company's titles are available for shipment within 24 hours, others are available within 48 to 72 hours and the remainder of in-print titles are generally available within

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four to six weeks, although some titles may not be available at all. Out-of-print titles generally are available in one to three months, although some titles may not be available at all. Customers may select from a variety of delivery options, including overnight and various international shipping options, as well as gift-wrapping services. The Company uses e-mail to notify customers of order status under various conditions. The Company seeks to provide rapid and reliable fulfillment of customer orders and to continue to improve its speed of availability and fulfillment.

MARKETING AND PROMOTION

Amazon.com's marketing strategy is designed to strengthen the Amazon.com brand name, increase customer traffic to the Amazon.com Web site, build strong customer loyalty, maximize repeat purchases and develop incremental revenue opportunities. Amazon.com seeks to build customer loyalty by creatively applying technology to deliver personalized programs and service, as well as creative and flexible merchandising. The Company employs a variety of media, business development and promotional methods to achieve these goals, including online and traditional advertising and public relations activities.

The Company also extends its market presence through its Associates Program, which includes thousands of enrolled members. The program enables Associate Web sites to make books available to their audiences with order fulfillment by Amazon.com.

CUSTOMER SERVICE

The Company believes that its ability to establish and maintain long-term relationships with its customers and encourage repeat visits and purchases depends, in part, on the strength of its customer support and service operations and staff. Furthermore, the Company seeks to achieve frequent communication with and feedback from its customers to continually improve the Amazon.com store and services. Amazon.com offers a number of e-mail addresses to enable customers to request information and to encourage feedback and suggestions. The Company has automated certain of the tools used by its customer support and service staff and intends to actively pursue enhancements to and further automation of its customer support and service systems and operations.

WAREHOUSING AND FULFILLMENT

The Company sources product from a network of book distributors and publishers. Although the Company carries its own inventory (some of which is purchased directly from publishers), it also relies on rapid fulfillment from major distributors and wholesalers that carry a broad selection of titles. The Company purchases a substantial majority of its products from Ingram Book Group ("Ingram") and Baker & Taylor, Inc. ("B&T"). Ingram is the Company's single largest supplier and accounted for 58% and 59% of the Company's inventory purchases in 1997 and 1996, respectively. See "Additional Factors That May Affect Future Results -- Reliance on Certain Suppliers."

The Company utilizes automated interfaces for sorting and organizing its orders to enable it to achieve the most rapid and economic purchase and delivery terms possible. The Company's proprietary software selects the orders that can be filled via electronic interfaces with vendors and forwards remaining orders to its special orders group. Under the Company's arrangements with distributors, electronically ordered books often are shipped by the distributor within hours of a receipt of an order from Amazon.com. The Company has developed customized information systems and trained dedicated ordering personnel who specialize in sourcing hard-to-find books.

TECHNOLOGY

The Company has implemented an array of site management, search, customer interaction, transaction-processing and fulfillment services and systems using a combination of its own proprietary technologies and commercially available, licensed technologies. The Company's current strategy is to focus its development efforts on creating and enhancing the specialized, proprietary software that is unique to its business and to license commercially developed technology for other applications where available and appropriate.

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The Company uses a set of applications for accepting and validating customer orders, organizing, placing and managing orders with suppliers, managing inventory, assigning inventory to customer orders and managing shipment of product to customers based on various ordering criteria. The Company's transaction-processing systems handle millions of items, a number of different availability statuses, gift-wrapping requests and multiple shipment methods and allow the customer to choose whether to receive single or several shipments based on availability. These applications also manage the process of accepting, authorizing and charging customer credit cards. The Amazon.com Web site also incorporates a variety of search and database tools.

A group of systems administrators and network managers monitor and operate the Company's Web site, network operations and transaction-processing systems. The continued uninterrupted operation of the Company's Web site and transaction-processing systems is essential to its business and it is the job of the site operations staff to ensure, to the greatest extent possible, their

reliability. The Company uses the services of three Internet service providers, UUNet Technologies, Inc., InterNAP Network Services LLC and Interconnected Associates, Inc., to obtain connectivity to the Internet over multiple dedicated lines.

COMPETITION

The online commerce market, particularly over the Web, is new, rapidly evolving and intensely competitive. In addition, the retail book industry is intensely competitive. The Company's current or potential competitors include (i) various online booksellers and vendors of other information-based products such as CDs and videotapes, including entrants into narrow specialty niches, (ii) a number of indirect competitors that specialize in online commerce or derive a substantial portion of their revenues from online commerce, through which retailers other than the Company may offer products and (iii) publishers, distributors and retail vendors of books, music and videotapes, including Barnes & Noble, Inc., Bertelsmann AG and other large specialty booksellers and integrated media corporations, many of which possess significant brand awareness, sales volume and customer bases. The Company believes that the principal competitive factors in its market are brand recognition, selection, personalized services, convenience, price, accessibility, customer service, quality of search tools, quality of editorial and other site content, reliability and speed of fulfillment. Many of the Company's competitors have longer operating histories, larger customer bases, greater brand recognition and significantly greater financial, marketing and other resources than the Company. Certain of the Company's competitors may be able to secure merchandise from vendors on more favorable terms, devote greater resources to marketing and promotional campaigns, adopt more aggressive pricing or inventory availability policies and devote substantially more resources to Web site and systems development than the Company. Increased competition may result in reduced operating margins, loss of market share and a diminished brand franchise. There can be no assurance that the Company will be able to compete successfully against current and future competitors.

The Company expects that competition in the online commerce market will intensify in the future. For example, as various market segments obtain large, loyal customer bases, participants in those segments may seek to leverage their market power to the detriment of participants in other market segments. In addition, new technologies and the expansion of existing technologies may increase the competitive pressures on online retailers, including the Company. For example, "shopping agent" technologies will permit customers to quickly compare the Company's prices with those of its competitors. Competitive pressures created by any one of the Company's competitors, or by the Company's competitors collectively, could have a material adverse effect on the Company's business, prospects, financial condition and results of operations. See "Additional Factors That May Affect Future Results -- Competition."

INTELLECTUAL PROPERTY

The Company regards its patents, copyrights, service marks, trademarks, trade dress, trade secrets, proprietary technology and similar intellectual property as critical to its success, and relies on trademark, copyright and patent law, trade secret protection and confidentiality and/or license agreements with its employees, customers, partners and others to protect its proprietary rights. The Company pursues the registration of its trademarks and service marks in the U.S. and internationally, and has applied for the registration of certain of its trademarks and service marks. In addition, the Company has filed U.S. and

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international patent applications covering certain of its proprietary technology. Effective trademark, service mark, copyright, patent and trade secret protection may not be available in every country in which the Company's products and services are made available online. The Company has licensed in the past, and expects that it may license in the future, certain of its proprietary rights, such as trademarks or copyrighted material, to third parties. While the Company attempts to ensure that the quality of its brand is maintained by such licensees, there can be no assurance that such licensees will not take actions that might materially adversely affect the value of the Company's proprietary rights or reputation, which could have a material adverse effect on the Company's business, prospects, financial condition and results of operations. There can be no assurance that the steps taken by the Company to protect its proprietary rights will be adequate or that third parties will not infringe or misappropriate the Company's copyrights, trademarks, trade dress, patents and similar proprietary rights. In addition, there can be no assurance that other parties will not assert infringement claims against the Company. The Company has been subject to claims and expects to be subject to legal proceedings and claims from time to time in the ordinary course of its business, including claims of alleged infringement of the trademarks and other intellectual property rights of third parties by the Company and its licensees. Such claims, even if not meritorious, could result in the expenditure of significant financial and managerial resources.

EMPLOYEES

As of December 31, 1997, the Company employed 614 full-time employees. The Company also employs independent contractors and other temporary employees in its editorial, fulfillment and finance departments. None of the Company's employees is represented by a labor union, and the Company considers its employee relations to be good. Competition for qualified personnel in the Company's industry is intense, particularly for software development and other technical staff. The Company believes that its future success will depend in part on its continued ability to attract, hire and retain qualified personnel. See "Additional Factors That May Affect Future Results -- Management of Potential Growth" and "-- Dependence on Key Personnel."

ADDITIONAL FACTORS THAT MAY AFFECT FUTURE RESULTS

In addition to other information in this Annual Report on Form 10-K, the following important factors should be carefully considered in evaluating the Company and its business because such factors currently have a significant impact or may have a significant impact on the Company's business, prospects,

financial condition and results of operations.

LIMITED OPERATING HISTORY; ACCUMULATED DEFICIT; ANTICIPATED LOSSES. The Company was incorporated in July 1994 and commenced offering products for sale on its Web site in July 1995. Accordingly, the Company has a limited operating history on which to base an evaluation of its business and prospects. The Company's prospects must be considered in light of the risks, expenses and difficulties frequently encountered by companies in their early stage of development, particularly companies in new and rapidly evolving markets such as online commerce. Such risks for the Company include, but are not limited to, an evolving and unpredictable business model and the management of growth. To address these risks, the Company must, among other things, maintain and increase its customer base, implement and successfully execute its business and marketing strategy, continue to develop and upgrade its technology and transaction-processing systems, improve its Web site, provide superior customer service and order fulfillment, respond to competitive developments and attract, retain and motivate qualified personnel. There can be no assurance that the Company will be successful in addressing such risks, and the failure to do so could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

Since inception, the Company has incurred significant losses and as of December 31, 1997 had an accumulated deficit of \$33.6 million. The Company believes that its success will depend in large part on its ability to (i) extend its brand position, (ii) provide its customers with outstanding value and a superior shopping experience and (iii) achieve sufficient sales volume to realize economies of scale. Accordingly, the Company intends to continue to invest heavily in marketing and promotion, product development and technology and operating infrastructure development. The Company also offers attractive pricing programs, which have reduced its gross margins. Because the Company has relatively low product gross margins,

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achieving profitability given planned investment levels depends upon the Company's ability to generate and sustain substantially increased revenue levels. As a result, the Company believes that it will continue to incur substantial operating losses for the foreseeable future and that the rate at which such losses will be incurred may increase significantly from current levels. Although the Company has experienced significant revenue growth in recent periods, such growth rates are not sustainable and will decrease in the future. In view of the rapidly evolving nature of the Company's business and its limited operating history, the Company believes that period-to-period comparisons of its operating results, including the Company's gross profit and operating expenses as a percentage of net sales, are not necessarily meaningful and should not be relied upon as an indication of future performance.

UNPREDICTABILITY OF FUTURE REVENUES; POTENTIAL FLUCTUATIONS IN QUARTERLY OPERATING RESULTS; SEASONALITY. As a result of the Company's limited operating history and the emerging nature of the markets in which it competes, the Company is unable to accurately forecast its revenues. The Company's current and future expense levels are based largely on its investment plans and estimates of future revenues and are to a large extent fixed. Sales and operating results generally depend on the volume of, timing of and ability to fulfill orders received, which are difficult to forecast. The Company may be unable to adjust spending in a timely manner to compensate for any unexpected revenue shortfall. Accordingly, any significant shortfall in revenues in relation to the Company's planned expenditures would have an immediate adverse effect on the Company's business, prospects, financial condition and results of operations. Further, as a strategic response to changes in the competitive environment, the Company may from time to time make certain pricing, service, marketing or acquisition decisions that could have a material adverse effect on its business, prospects, financial condition and results of operations. For example, the Company has agreed in certain of its promotional arrangements with Internet aggregators to make significant fixed payments. There can be no assurance that these arrangements will generate adequate revenues to cover the associated expenditures and any significant shortfall would have a material adverse effect on the Company's financial condition and results of operations. See Note 4 -- "Commitments" of Notes to Financial Statements.

The Company expects to experience significant fluctuations in its future quarterly operating results due to a variety of factors, many of which are outside the Company's control. Factors that may adversely affect the Company's quarterly operating results include (i) the Company's ability to retain existing customers, attract new customers at a steady rate and maintain customer satisfaction, (ii) the Company's ability to acquire product, to maintain appropriate inventory levels and to manage fulfillment operations, (iii) the Company's ability to maintain gross margins in its existing business and in future product lines and markets, (iv) the development, announcement or introduction of new sites, services and products by the Company and its competitors, (v) price competition or higher wholesale prices in the industry, (vi) the level of use of the Internet and online services and increasing consumer acceptance of the Internet and other online services for the purchase of consumer products such as those offered by the Company, (vii) the Company's ability to upgrade and develop its systems and infrastructure and attract new personnel in a timely and effective manner, (viii) the level of traffic on the Company's Web site, (ix) technical difficulties, system downtime or Internet brownouts, (x) the amount and timing of operating costs and capital expenditures relating to expansion of the Company's business, operations and infrastructure, (xi) the number of popular books introduced during the period, (xii) the level of merchandise returns experienced by the Company, (xiii) governmental regulation and taxation policies, (xiv) disruptions in service by common carriers due to strikes or otherwise and (xv) general economic conditions and economic conditions specific to the Internet, online commerce and the book industry.

The Company expects that it will experience seasonality in its business, reflecting a combination of seasonal fluctuations in Internet usage and traditional retail seasonality patterns. Internet usage and the rate of Internet growth may be expected to decline during the summer. Further, sales in the traditional retail book industry are significantly higher in the fourth calendar quarter of each year than in the preceding three quarters.

Due to the foregoing factors, in one or more future quarters the Company's operating results may fall below the expectations of securities analysts and investors. In such event, the trading price of the common stock would likely be materially adversely affected.

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COMPETITION. The online commerce market, particularly over the Web, is new, rapidly evolving and intensely competitive. In addition, the retail book industry is intensely competitive. The Company's current or potential competitors include (i) various online booksellers and vendors of other information-based products such as CDs and videotapes, including entrants into narrow specialty niches, (ii) a number of indirect competitors that specialize in online commerce or derive a substantial portion of their revenues from online commerce, through which retailers other than the Company may offer products and (iii) publishers, distributors and retail vendors of books, music and videotapes, including Barnes & Noble, Inc., Bertelsmann AG and other large specialty booksellers and integrated media corporations, many of which possess significant brand awareness, sales volume and customer bases. The Company believes that the principal competitive factors in its market are brand recognition, selection, personalized services, convenience, price, accessibility, customer service, quality of search tools, quality of editorial and other site content and reliability and speed of fulfillment. Many of the Company's competitors have longer operating histories, larger customer bases, greater brand recognition and significantly greater financial, marketing and other resources than the Company. Certain of the Company's competitors may be able to secure merchandise from vendors on more favorable terms, devote greater resources to marketing and promotional campaigns, adopt more aggressive pricing or inventory availability policies and devote substantially more resources to Web site and systems development than the Company. Increased competition may result in reduced operating margins, loss of market share and a diminished brand franchise. There can be no assurance that the Company will be able to compete successfully against current and future competitors.

The Company expects that competition in the online commerce market will intensify in the future. For example, as various market segments obtain large, loyal customer bases, participants in those segments may seek to leverage their market power to the detriment of participants in other market segments. In addition, new technologies and the expansion of existing technologies may increase the competitive pressures on online retailers, including the Company. For example, "shopping agent" technologies will permit customers to quickly compare the Company's prices with those of its competitors. Competitive pressures created by any one of the Company's competitors, or by the Company's competitors collectively, could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

SYSTEM DEVELOPMENT AND OPERATION RISKS. The Company's revenues depend on the number of visitors who shop on its Web site and the volume of orders it fulfills. Any system interruptions that result in the unavailability of the Company's Web site or reduced order fulfillment performance would reduce the volume of goods sold and the attractiveness of the Company's product and service offerings. The Company has experienced periodic system interruptions, which it believes will continue to occur from time to time. The Company uses an internally developed system for its Web site, search engine and substantially all aspects of transaction processing, including order management, cash and credit card processing, purchasing, inventory management and shipping. The Company will be required to add additional software and hardware and further develop and upgrade its existing technology, transaction-processing systems and network infrastructure to accommodate increased traffic on its Web site and increased sales volume through its transaction-processing systems. Any inability to do so may cause unanticipated system disruptions, slower response times, degradation in levels of customer service, impaired quality and speed of order fulfillment, or delays in reporting accurate financial information. There can be no assurance that the Company will be able to accurately project the rate or timing of increases, if any, in the use of its Web site or in a timely manner to effectively upgrade and expand its transaction-processing systems or to integrate smoothly any newly developed or purchased modules with its existing systems. Any inability to do so could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

Substantially all of the Company's computer and communications hardware is located at a single leased facility in Seattle, Washington. The Company's systems and operations are vulnerable to damage or interruption from fire, flood, power loss, telecommunications failure, break-ins, earthquake and similar events. The Company does not currently have redundant systems or a formal disaster recovery plan and does not carry sufficient business interruption insurance to compensate it for losses that may occur. Despite the implementation of network security measures by the Company, its servers are vulnerable to computer viruses, physical or electronic break-ins and similar disruptions, which could lead to interruptions, delays, loss of critical data or

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the inability to accept and fulfill customer orders. The occurrence of any of the foregoing events could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

MANAGEMENT OF POTENTIAL GROWTH. The Company has rapidly and significantly expanded its operations and anticipates that further expansion will be required to address potential growth in its customer base, to expand its product and service offerings and its international operations and to pursue other market opportunities. The Company's employee base has similarly expanded, growing from 158 employees as of December 31, 1996 to 614 employees as of December 31, 1997. The expansion of the Company's operations and employee base has placed, and is expected to continue to place, a significant strain on the Company's management, operational and financial resources. To manage the expected growth of its operations and personnel, the Company will be required to improve existing and implement new transaction-processing, operational and financial systems, procedures and controls and to expand, train and manage its growing employee base. There can be no assurance that the Company's current and planned personnel, systems, procedures and controls will be adequate to support the Company's future operations, that management will be able to hire, train,

retain, motivate and manage required personnel or that Company management will be able to successfully identify, manage and exploit existing and potential market opportunities. If the Company is unable to manage growth effectively, such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

RISKS OF NEW BUSINESS AREAS. The Company over time intends to expand its operations by promoting new or complementary products or sales formats and by expanding the breadth and depth of its product or service offerings. Expansion of the Company's operations in this manner would require significant additional expenses and development, operations and editorial resources and would strain the Company's management, financial and operational resources. Furthermore, the Company may not benefit from the first-mover advantage that it experienced in the online book market and gross margins attributable to new business areas may be lower than those associated with the Company's existing business activities. There can be no assurance that the Company will be able to expand its operations in a cost-effective or timely manner. Furthermore, any new business launched by the Company that is not favorably received by consumers could damage the Company's reputation or the Amazon.com brand. The lack of market acceptance of such efforts or the Company's inability to generate satisfactory revenues from such expanded services or products to offset their cost could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

RISKS OF INTERNATIONAL EXPANSION. The Company over time intends to expand its presence in foreign markets. To date, the Company has only limited experience in sourcing, marketing and distributing products on an international basis and in developing localized versions of its Web site and other systems. The Company expects to incur significant costs in establishing international facilities and operations, in promoting its brand internationally, in developing localized versions of its Web site and other systems and in sourcing, marketing and distributing products in foreign markets. There can be no assurance that the Company's international efforts will be successful. If the revenues resulting from international activities are inadequate to offset the expense of establishing and maintaining foreign operations, such inadequacy could have a material adverse effect on the Company's business, prospects, financial condition and results of operations. In addition, there are certain risks inherent in doing business on an international level, such as unexpected changes in regulatory requirements, export and import restrictions, tariffs and other trade barriers, difficulties in staffing and managing foreign operations, longer payment cycles, political instability, fluctuations in currency exchange rates, seasonal reductions in business activity in other parts of the world and potentially adverse tax consequences, any of which could adversely impact the success of the Company's international operations. There can be no assurance that one or more of such factors will not have a material adverse impact on the Company's future international operations and, consequently, on the Company's business, prospects, financial condition and results of operations.

RISKS OF BUSINESS COMBINATIONS AND STRATEGIC ALLIANCES. The Company may choose to expand its operations or market presence by entering into business combinations, investments, joint ventures or other strategic alliances with third parties. Any such transaction would be accompanied by the risks commonly encountered in such transactions. These include, among others, the difficulty of assimilating the operations,

technology and personnel of the combined companies, the potential disruption of the Company's ongoing business, the inability to retain key technical and managerial personnel, the inability of management to maximize the financial and strategic position of the Company through the successful integration of acquired businesses, additional expenses associated with amortization of acquired intangible assets, the maintenance of uniform standards, controls and policies and the impairment of relationships with existing employees and customers. There can be no assurance that the Company would be successful in overcoming these risks or any other problems encountered in connection with such business combinations, investments, joint ventures or other strategic alliances, or that such transactions will not have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

RAPID TECHNOLOGICAL CHANGE. To remain competitive, the Company must continue to enhance and improve the responsiveness, functionality and features of the Amazon.com online store. The Internet and the online commerce industry are characterized by rapid technological change, changes in user and customer requirements and preferences, frequent new product and service introductions embodying new technologies and the emergence of new industry standards and practices that could render the Company's existing Web site and proprietary technology and systems obsolete. The Company's success will depend, in part, on its ability to license leading technologies useful in its business, enhance its existing services, develop new services and technology that address the increasingly sophisticated and varied needs of its prospective customers and respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis. The development of Web site and other proprietary technology entails significant technical, financial and business risks. There can be no assurance that the Company will successfully implement new technologies or adapt its Web site, proprietary technology and transaction-processing systems to customer requirements or emerging industry standards. If the Company is unable, for technical, legal, financial or other reasons, to adapt in a timely manner in response to changing market conditions or customer requirements, such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

DEPENDENCE ON KEY PERSONNEL. The Company's performance is substantially dependent on the continued services and on the performance of its senior management and other key personnel, particularly Jeffrey P. Bezos, its President, Chief Executive Officer and Chairman of the Board. The Company does not have long-term employment agreements with any of its key personnel and maintains no "key person" life insurance policies. The loss of the services of any of its executive officers or other key employees could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

RELIANCE ON CERTAIN SUPPLIERS. The Company purchases a substantial majority of its products from two major vendors, Ingram and B&T. Ingram is the Company's single largest supplier and accounted for 58% and 59% of the Company's inventory purchases in 1997 and 1996, respectively. The Company has no long-term contracts or arrangements with any of its vendors that guarantee the availability of merchandise, the continuation of particular payment terms or the extension of credit limits. There can be no assurance that the Company's current vendors will continue to sell merchandise to the Company on current terms or that the Company will be able to establish new or extend current vendor relationships to ensure acquisition of merchandise in a timely and efficient manner and on acceptable commercial terms. If the Company were unable to develop and maintain relationships with vendors that would allow it to obtain sufficient quantities of merchandise on acceptable commercial terms, such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

IMPACT OF LOAN FACILITY. On December 23, 1997, the Company borrowed \$75 million pursuant to a three-year senior secured term credit agreement (the "Loan"). See "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Liquidity and Capital Resources." The Loan includes covenants restricting certain activities by the Company, including (i) the incurrence of additional indebtedness, (ii) consolidations, mergers and sales of assets and (iii) dividends and distributions to stockholders. In addition, financial covenants require the Company to, among other things, maintain a minimum cash balance, maintain certain levels of earnings or losses before interest, taxes, depreciation and amortization, limit its accounts payable aging and limit its capital and acquisition expenditures. The Loan contains standard events of default including, among other things, a change in ownership or control. As a result, the Loan may reduce

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the Company's operational flexibility and may limit its ability to pursue market opportunities. The Company's ability to generate planned future revenues, and therefore its ability to comply with the Loan covenants, may be affected by events beyond its control. If the Company were unable to satisfy the Loan covenants, the lending institutions would be entitled to exercise their remedies, including the right to declare all principal and interest immediately due and payable. If the Company were unable to make such payment, or were unable to repay the amount owing under the Loan at the end of its term, the lending institutions could foreclose on the Company's assets, substantially all of which are pledged as security for the Loan. In connection with the Loan, the Company issued warrants to purchase a total of 750,000 shares of the Company's common stock. All or a portion of the warrants will be canceled if the Company repays the Loan in full prior to certain specified dates. If the Company does not repay the Loan prior to such dates, and if any of the warrants are exercised, such exercise may dilute the economic interests of the Company's stockholders.

RISKS ASSOCIATED WITH DOMAIN NAMES. The Company currently holds various Web domain names relating to its brand, including the "Amazon.com" domain name. The acquisition and maintenance of domain names generally is regulated by governmental agencies and their designees. For example, in the United States, the National Science Foundation has appointed Network Solutions, Inc. as the exclusive registrar for the ".com," ".net" and ".org" generic top-level domains. The regulation of domain names in the United States and in foreign countries is subject to change. Governing bodies may establish additional top-level domains, appoint additional domain name registrars or modify the requirements for holding domain names. As a result, there can be no assurance that the Company will be able to acquire or maintain relevant domain names in all countries in which it conducts business. Furthermore, the relationship between regulations governing domain names and laws protecting trademarks and similar proprietary rights is unclear. The Company, therefore, may be unable to prevent third parties from acquiring domain names that are similar to, infringe upon or otherwise decrease the value of its trademarks and other proprietary rights. Any such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

GOVERNMENTAL REGULATION AND LEGAL UNCERTAINTIES. The Company is not currently subject to direct regulation by any domestic or foreign governmental agency, other than regulations applicable to businesses generally and laws or regulations directly applicable to access to online commerce. However, due to the increasing popularity and use of the Internet and other online services, it is possible that a number of laws and regulations may be adopted with respect to the Internet or other online services covering issues such as user privacy, pricing, content, copyrights, distribution and characteristics and quality of products and services. Furthermore, the growth and development of the market for online commerce may prompt calls for more stringent consumer protection laws that may impose additional burdens on those companies conducting business online. The adoption of any additional laws or regulations may decrease the growth of the Internet or other online services, which could, in turn, decrease the demand for the Company's products and services and increase the Company's cost of doing business, or otherwise have an adverse effect on the Company's business, prospects, financial condition and results of operations. Moreover, the applicability to the Internet and other online services of existing laws in various jurisdictions governing issues such as property ownership, sales and other taxes, libel and personal privacy is uncertain and may take years to resolve. Any such new legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to the Company's business, or the application of existing laws and regulations to the Internet and other online services could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

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EXECUTIVE OFFICERS AND DIRECTORS OF THE REGISTRANT

The following table sets forth certain information regarding the executive officers of the Company as of March 27, 1998:

<TABLE>

<CAPTION>

NAME	AGE	POSITION
------	-----	----------

<S>	----	---	<C>	<C>	-----
Jeffrey P. Bezos.....		34		President, Chief Executive Officer and Chairman of the Board	
George T. Aposporos.....		39		Vice President of Business Development	
Joy D. Covey.....		34		Chief Financial Officer, Vice President of Finance and Administration, and Secretary	
Richard L. Dalzell.....		40		Vice President and Chief Information Officer	
Mary E. Engstrom.....		35		Vice President of Publisher Affairs	
Sheldon J. Kaphan.....		45		Vice President and Chief Technology Officer	
John D. Risher.....		32		Senior Vice President of Product Development	
Joel R. Spiegel.....		42		Vice President of Engineering	
</TABLE>					

JEFFREY P. BEZOS. Mr. Bezos has been President and Chairman of the Board of the Company since founding it in 1994, and Chief Executive Officer since May 1996, and served as Treasurer and Secretary from May 1996 to March 1997. From December 1990 to June 1994, Mr. Bezos was employed by D.E. Shaw & Co., a Wall Street investment firm, becoming Senior Vice President in 1992. From April 1988 to December 1990, Mr. Bezos was employed by Bankers Trust Company, becoming Vice President in February 1990. Mr. Bezos received his B.S. in Electrical Engineering and Computer Science, Summa Cum Laude, from Princeton University.

GEORGE T. APOSPOROS. Mr. Aposporos joined the Company in May 1997 as Vice President of Business Development. From August 1995 to May 1997, Mr. Aposporos was founder and President of Digital Brands, Inc., a strategic consulting and interactive marketing firm. From March 1994 to August 1995, Mr. Aposporos served as Vice President at I.C.E., a Toronto-based multimedia developer and corporate communications firm. From 1989 to March 1994, Mr. Aposporos was self-employed as an independent producer in a variety of media. Mr. Aposporos was an Olin Scholar at Wesleyan University.

JOY D. COVEY. Ms. Covey joined the Company in December 1996 as Chief Financial Officer and Vice President of Finance and Administration, and became Secretary in March 1997. Ms. Covey also served as Treasurer of the Company from March 1997 to February 1998. From June 1995 to February 1996, Ms. Covey served as Vice President, Operations of the Broadcast Division of Avid Technology, Inc. ("Avid"), a developer of digital media systems, and from January 1995 to June 1995, Ms. Covey served as Vice President of Business Development for Avid. From July 1991 to January 1995, Ms. Covey served as Chief Financial Officer of Digidesign, Inc., a developer of random access digital audio systems and software. Prior to that, she was an associate at Wasserstein Perella & Co., and a certified public accountant at Arthur Young & Company (now Ernst & Young LLP). Ms. Covey received her B.S. in Business Administration, Summa Cum Laude, from California State University, Fresno, her M.B.A., With High Distinction, from Harvard Business School and her J.D., Magna Cum Laude, from Harvard Law School. She is a Certified Public Accountant and a member of the California State Bar.

RICHARD L. DALZELL. Mr. Dalzell joined the Company in August 1997 as Vice President and Chief Information Officer. From February 1990 to August 1997, Mr. Dalzell held several management positions within the Information Systems Division at Wal-Mart Stores, Inc., including Vice President of Information Systems from January 1994 to August 1997. From 1987 to 1990, Mr. Dalzell acted as the Business Development Manager for E-Systems, Inc. Prior to joining E-Systems, Inc. he served seven years in the United States Army as a teleprocessing officer. Mr. Dalzell received a B.S. in Engineering from the United States Military Academy, West Point, in 1979.

MARY E. ENGSTROM. Ms. Engstrom joined the Company in February 1997 as Vice President of Publisher Affairs. From December 1996 to February 1997, Ms. Engstrom served as Vice President of Product

Marketing of Symantec Corporation ("Symantec"), a developer of information management and productivity enhancement software, and from February 1996 to February 1997, Ms. Engstrom served as General Manager of the Security Business Unit of Symantec. From July 1989 to September 1994, Ms. Engstrom held several management positions at Microsoft Corporation, including Group Product Manager for Microsoft Access, Group Product Manager for Microsoft Project and Director of Marketing, Strategic Relations. Ms. Engstrom received her B.A. in Economics from the University of California, Berkeley, and her M.B.A. from the Anderson Graduate School of Management at the University of California, Los Angeles.

SHELDON J. KAPHAN. Mr. Kaphan has served as the Company's Vice President and Chief Technology Officer since March 1997. From October 1994 to March 1997, Mr. Kaphan served as Vice President of Research and Development of the Company. From October 1992 to July 1994, Mr. Kaphan served as senior engineer at Kaleida Labs Inc., a multimedia joint venture between Apple Computer Inc. and International Business Machines Corporation. Mr. Kaphan received his B.A. in Mathematics from the University of California, Santa Cruz.

JOHN D. RISHER. Mr. Risher joined the Company in February 1997 as Vice President of Product Development. Mr. Risher was promoted to Senior Vice President of Product Development in November 1997. From July 1991 to February 1997, Mr. Risher held a variety of marketing and project management positions at Microsoft Corporation, including Team Manager for Microsoft Access and Founder and Product Unit Manager for MS Investor, Microsoft's Web site for personal investment. Mr. Risher received his B.A. in Comparative Literature, Magna Cum Laude, from Princeton University and his M.B.A. from Harvard Business School.

JOEL R. SPIEGEL. Mr. Spiegel joined the Company in March 1997 as Vice President of Engineering. From March 1995 to March 1997, Mr. Spiegel held several positions with Microsoft Corporation, including Windows 95 Multimedia Development Manager, Windows Multimedia Group Manager and Product Unit Manager, Information Retrieval. From June 1986 to March 1995, he held a variety of positions at Apple Computer Inc., most recently as Senior Manager responsible

for new product development in the Apple Business Systems Division. Prior to that, Mr. Spiegel held software product development positions at a number of companies, including Hewlett-Packard Company and VisiCorp. Mr. Spiegel received his B.A. in Biology with Honors from Grinnell College.

BOARD OF DIRECTORS AT DECEMBER 31, 1997

<TABLE>		
<S>	<C>	<C>
Jeffrey P. Bezos.....	34	Chairman of the Board, President and Chief Executive Officer of the Company
Tom A. Alberg.....	57	Principal in Madrona Investment Group, L.L.C.
Scott D. Cook.....	44	Chairman of the Board of Intuit, Inc.
L. John Doerr.....	45	General Partner, Kleiner Perkins Caufield & Byers
Patricia Q. Stonesifer....	41	Chairman of the Gates Library Foundation and Former Senior Vice President of the Interactive Media Division of Microsoft Corporation
</TABLE>		

ITEM 2. PROPERTIES

The Company's principal administrative, engineering, marketing and customer service facilities total approximately 88,000 square feet and are located in Seattle, Washington under leases that expire in May 1999, July 1999 and January 2003. The Company's warehousing and merchandising operations are housed in an approximately 85,000-square-foot facility in Seattle, Washington under a lease that expires in October 1999, and in a 200,000-square-foot facility located in New Castle, Delaware under a lease that expires in October 2002. The Company anticipates that it will require additional administrative, customer service, warehouse and fulfillment space within the next 12 months, but that suitable additional space will be available on commercially reasonable terms, although there can be no assurance in this regard. The Company does not own any real estate.

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ITEM 3. LEGAL PROCEEDINGS

From time to time, the Company is subject to legal proceedings and claims in the ordinary course of business, including claims of alleged infringement of trademarks and other intellectual property rights. The Company currently is not aware of any legal proceedings or claims that the Company believes will have, individually or in the aggregate, a material adverse effect on the Company's business, prospects, financial condition and results of operations.

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

No matters were submitted for a vote of stockholders of the Company during the fourth quarter of the year ended December 31, 1997.

PART II

ITEM 5. MARKET FOR THE REGISTRANT'S COMMON STOCK AND RELATED STOCKHOLDER MATTERS

Market Information

The common stock is traded on The NASDAQ National Market under the symbol "AMZN." Information regarding the market prices of the Company's common stock may be found in Note 8 -- "Quarterly Results" of Notes to Financial Statements.

Holders

As of March 13, 1998 there were 304 stockholders of record of the common stock.

Dividends

The Company has never declared or paid cash dividends on its common stock. The Company currently intends to retain all future earnings to finance future growth and, therefore, does not anticipate paying any cash dividends in the foreseeable future. In addition, the Company is prohibited from paying cash dividends under the Loan. See Note 3 -- "Debt" of Notes to Financial Statements.

Use of Proceeds

The Company's registration statement under the Securities Act of 1933, as amended, for its initial public offering (the "Registration Statement") became effective on May 14, 1997. Offering proceeds, net of aggregate expenses of approximately \$4.9 million, were \$49.1 million. The Company has used approximately \$9.6 million of the net offering proceeds for working capital paid directly or indirectly to third parties, approximately \$7.2 million for the purchase or installation of machinery and equipment and approximately \$32.3 million for the purchase of temporary investments consisting of cash, cash equivalents and short-term investments. The Company has not used any of the net offering proceeds for construction of plant, building or facilities, purchases of real estate, acquisition of other businesses, or repayment of indebtedness. None of the net offering proceeds were paid directly or indirectly to directors, officers, or general partners of the Company or their associates, persons owning 10% or more of any class of the Company's securities, or affiliates of the Company.

Recent Sales of Unregistered Securities

In connection with the Loan, the Company issued warrants to purchase a total of 750,000 shares of the Company's common stock. The warrants will be canceled if the Company repays the Loan in full according to the following schedule: all warrants if repayment occurs within 12 months; warrants to purchase 675,000 shares if repayment occurs within 15 months; warrants to purchase 562,500 shares if repayment occurs within 18 months; warrants to purchase 450,000 shares if repayment occurs within 24 months; warrants to purchase 225,000 shares if repayment occurs within 30 months; and no warrants if repayment occurs after 30 months. Warrants become exercisable when they can no

longer be canceled and remain exercisable for five years after such date. The exercise price for the warrants is \$52.11 per share.

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ITEM 6. SELECTED FINANCIAL DATA

The following selected financial data should be read in conjunction with the financial statements and the notes thereto and the information contained herein in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations."

<TABLE>
<CAPTION>

	YEARS ENDED DECEMBER 31,			FOR THE PERIOD FROM JULY 5, 1994 (INCEPTION) TO DECEMBER 31, 1994
	1997	1996	1995	
	(IN THOUSANDS, EXCEPT PER SHARE DATA)			
<S>	<C>	<C>	<C>	<C>
STATEMENT OF OPERATIONS DATA:				
Net sales.....	\$147,758	\$15,746	\$ 511	\$ --
Cost of sales.....	118,945	12,287	409	--
	-----	-----	-----	-----
Gross profit.....	28,813	3,459	102	--
Operating expenses:				
Marketing and sales.....	38,964	6,090	200	--
Product development.....	12,485	2,313	171	38
General and administrative.....	6,573	1,035	35	14
	-----	-----	-----	-----
Total operating expenses.....	58,022	9,438	406	52
	-----	-----	-----	-----
Loss from operations.....	(29,209)	(5,979)	(304)	(52)
Interest income.....	1,898	202	1	--
Interest expense.....	(279)	--	--	--
	-----	-----	-----	-----
Net loss.....	\$(27,590)	\$(5,777)	\$(303)	\$(52)
	=====	=====	=====	=====
Pro forma basic and diluted loss per share(1).....	\$ (1.27)	\$ (0.31)	\$ (0.02)	\$ (0.00)
	=====	=====	=====	=====
Shares used in computation of pro forma basic and diluted loss per share(1).....	21,651	18,544	14,394	13,191
	=====	=====	=====	=====

</TABLE>

<TABLE>
<CAPTION>

	DECEMBER 31,			
	1997	1996	1995	1994
	(IN THOUSANDS)			
<S>	<C>	<C>	<C>	<C>
BALANCE SHEET DATA:				
Cash and cash equivalents.....	\$109,810	\$6,248	\$ 996	\$ 52
Working capital (deficiency).....	93,517	2,270	920	(16)
Total assets.....	149,006	8,271	1,084	76
Long-term debt, net of current portion.....	76,702	--	--	--
Stockholders' equity.....	28,486	3,401	977	8

</TABLE>

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(1) See Note 1 -- "Accounting Policies" of Notes to Financial Statements.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This Annual Report on Form 10-K and the documents incorporated herein by reference contain forward-looking statements based on current expectations, estimates and projections about the Company's industry, management's beliefs and certain assumptions made by management. All statements, trends, analyses and other information contained in this report relative to trends in net sales, gross margin, anticipated expense levels and liquidity and capital resources, as well as other statements, including, but not limited to, words such as "anticipate," "believe," "plan," "estimate," "expect," "seek" and "intend" and other similar expressions, constitute forward-looking statements. These forward-looking statements are not guarantees of future performance and are subject to certain risks and uncertainties that are difficult to predict. Accordingly, actual

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results may differ materially from those anticipated or expressed in such statements. Potential risks and uncertainties include, among others, those set forth below as well as in "Business -- Additional Factors That May Affect Future Results." Particular attention should be paid to the cautionary statements involving the Company's limited operating history, the unpredictability of its future revenues, the unpredictable and evolving nature of its business model, the intensely competitive online commerce and retail book environments and the risks associated with capacity constraints, systems development, management of growth and business expansion. Except as required by law, the Company undertakes no obligation to update any forward-looking statement, whether as a result of new information, future events or otherwise. Readers, however, should carefully review the factors set forth in other reports or documents that the Company files from time to time with the SEC.

OVERVIEW

Amazon.com is the leading online retailer of books. The Company also sells a smaller number of CDs, videotapes, audiotapes and other products. All of these products are sold through the Company's Web site. The Company was incorporated in July 1994 and commenced offering products for sale on its Web site in July 1995. Accordingly, the Company has a limited operating history on which to base an evaluation of its business and prospects. The Company's prospects must be considered in light of the risks, expenses and difficulties frequently encountered by companies in their early stage of development, particularly companies in new and rapidly evolving markets such as online commerce. Such risks for the Company include, but are not limited to, an evolving and unpredictable business model and the management of growth. To address these risks, the Company must, among other things, maintain and increase its customer base, implement and successfully execute its business and marketing strategy, continue to develop and upgrade its technology and transaction-processing systems, improve its Web site, provide superior customer service and order fulfillment, respond to competitive developments, and attract, retain and motivate qualified personnel. There can be no assurance that the Company will be successful in addressing such risks, and the failure to do so could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

Since inception, the Company has incurred significant losses and as of December 31, 1997 had an accumulated deficit of \$33.6 million. The Company believes that its success will depend in large part on its ability to (i) extend its brand position, (ii) provide its customers with outstanding value and a superior shopping experience and (iii) achieve sufficient sales volume to realize economies of scale. Accordingly, the Company intends to continue to invest heavily in marketing and promotion, product development and technology and operating infrastructure development. The Company also offers attractive pricing programs, which have reduced its gross margins. Because the Company has relatively low product gross margins, achieving profitability given planned investment levels depends upon the Company's ability to generate and sustain substantially increased revenue levels. As a result, the Company believes that it will continue to incur substantial operating losses for the foreseeable future and that the rate at which such losses will be incurred may increase significantly from current levels. Although the Company has experienced significant revenue growth in recent periods, such growth rates are not sustainable and will decrease in the future. In view of the rapidly evolving nature of the Company's business and its limited operating history, the Company believes that period-to-period comparisons of its operating results, including the Company's gross profit and operating expenses as a percentage of net sales, are not necessarily meaningful and should not be relied upon as an indication of future performance.

As a result of the Company's limited operating history and the emerging nature of the markets in which it competes, the Company is unable to accurately forecast its revenues. The Company's current and future expense levels are based largely on its investment plans and estimates of future revenues and are to a large extent fixed. Sales and operating results generally depend on the volume of, timing of and ability to fulfill orders received, which are difficult to forecast. The Company may be unable to adjust spending in a timely manner to compensate for any unexpected revenue shortfall. Accordingly, any significant shortfall in revenues in relation to the Company's planned expenditures would have an immediate adverse effect on the Company's business, prospects, financial condition and results of operations. Further, as a strategic response to changes in the competitive environment, the Company may from time to time make certain pricing, service, marketing or

acquisition decisions that could have a material adverse effect on its business, prospects, financial condition and results of operations. For example, the Company has agreed in certain of its promotional arrangements with Internet aggregators to make significant fixed payments. There can be no assurance that these arrangements will generate adequate revenues to cover the associated expenditures and any significant shortfall would have a material adverse effect on the Company's financial condition and results of operations.

The Company expects to experience significant fluctuations in its future quarterly operating results due to a variety of factors, many of which are outside the Company's control. Factors that may adversely affect the Company's quarterly operating results include (i) the Company's ability to retain existing customers, attract new customers at a steady rate and maintain customer satisfaction, (ii) the Company's ability to acquire product, to maintain appropriate inventory levels and to manage fulfillment operations, (iii) the Company's ability to maintain gross margins in its existing business and in future product lines and markets, (iv) the development, announcement or introduction of new sites, services and products by the Company and its competitors, (v) price competition or higher wholesale prices in the industry, (vi) the level of use of the Internet and online services and increasing consumer acceptance of the Internet and other online services for the purchase of consumer products such as those offered by the Company, (vii) the Company's ability to upgrade and develop its systems and infrastructure and attract new personnel in a timely and effective manner, (viii) the level of traffic on the Company's Web site, (ix) technical difficulties, system downtime or Internet brownouts, (x) the amount and timing of operating costs and capital expenditures relating to expansion of the Company's business, operations and infrastructure, (xi) the number of popular books introduced during the period, (xii) the level of merchandise returns experienced by the Company, (xiii) governmental regulation and taxation policies, (xiv) disruptions in service by common carriers due to strikes or otherwise and (xv) general economic conditions and economic conditions specific to the Internet, online commerce and the book industry.

The Company expects that it will experience seasonality in its business, reflecting a combination of seasonal fluctuations in Internet usage and traditional retail seasonality patterns. Internet usage and the rate of Internet growth may be expected to decline during the summer. Further, sales in the traditional retail book industry are significantly higher in the fourth calendar quarter of each year than in the preceding three quarters.

Due to the foregoing factors, in one or more future quarters the Company's operating results may fall below the expectations of securities analysts and investors. In such event, the trading price of the common stock would likely be materially adversely affected.

The Company has recorded aggregate deferred compensation of approximately \$3.3 million. The amount recorded represents the difference between the grant price and the deemed fair value of the Company's common stock for shares subject to options granted in 1997 and 1996. Deferred compensation is amortized over the vesting period of the options, which is typically five years. Amortization for the year ended December 31, 1997 was \$1.4 million. No amortization expense was recognized in 1996.

RESULTS OF OPERATIONS

Net Sales

<TABLE>
<CAPTION>

	1997	% CHANGE	1996	% CHANGE	1995
	-----	-----	-----	-----	----
	(IN THOUSANDS)				
<S>	<C>	<C>	<C>	<C>	<C>
Net sales.....	\$147,758	838%	\$15,746	2,981%	\$511

</TABLE>

Net sales are composed of the selling price of books and other merchandise sold by the Company, net of returns, as well as outbound shipping and handling charges. Growth in net sales reflects a significant increase in units sold due to the significant growth of the Company's customer base and repeat purchases from the Company's existing customers. This increase was partially offset by a decrease in prices during 1997. International sales represented 25%, 33% and 39% of net sales for the years ended December 31, 1997, 1996 and 1995, respectively.

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Gross Profit

<TABLE>
<CAPTION>

	1997	% CHANGE	1996	% CHANGE	1995
	-----	-----	-----	-----	-----
	(IN THOUSANDS)				
<S>	<C>	<C>	<C>	<C>	<C>
Gross profit.....	\$28,813	733%	\$3,459	3,291%	\$ 102
Gross margin.....	19.5%		22.0%		20.0%

</TABLE>

Gross profit equals sales less cost of sales, which consists of the cost of merchandise sold to customers and outbound and inbound shipping costs. Gross profit increased in absolute dollars reflecting the Company's increased sales volume. The Company's gross margin decreased due to a combination of lower prices and lower overall shipping margins, partially offset by improvements in product cost.

The Company believes that offering its customers attractive prices is an essential component of its business strategy. Accordingly, the Company offers 20% and 30% discounts on more than 400,000 titles, with featured titles discounted at 40% and certain "special value" editions discounted up to 89%. The Company may in the future expand or increase the discounts it offers to its customers and may otherwise alter its pricing structure and policies.

The Company over time intends to expand its operations by promoting new or complementary products or sales formats and by expanding the breadth and depth of its product or service offerings. Gross margins attributable to new business areas may be lower than those associated with the Company's existing business activities.

Marketing and Sales

<TABLE>
<CAPTION>

	1997	% CHANGE	1996	% CHANGE	1995
	-----	-----	-----	-----	-----
	(IN THOUSANDS)				
<S>	<C>	<C>	<C>	<C>	<C>
Marketing and sales.....	\$38,964	540%	\$6,090	2,945%	\$ 200
Percentage of net sales.....	26.4%		38.7%		39.1%

</TABLE>

Marketing and sales expenses consist primarily of advertising, public relations and promotional expenditures, as well as payroll and related expenses for personnel engaged in marketing, selling and fulfillment activities. All fulfillment costs not included in cost of sales, including the cost of operating and staffing distribution centers and customer service, are included in marketing and sales. Marketing and sales expenses increased primarily due to increases in the Company's advertising and promotional expenditures (including expenses associated with Internet aggregator promotional relationships), increased costs associated with fulfilling customer demand, increased personnel and related expenses required to implement the Company's marketing strategy and increased credit card merchant fees resulting from higher sales. Such expenses decreased as a percentage of net sales due to the significant increase in net sales. The Company intends to continue to pursue its aggressive branding and marketing campaign and expects its costs of fulfillment to increase based on anticipated sales growth. Therefore, the Company expects marketing and sales expenses to increase significantly in absolute dollars.

Product Development

<TABLE>
<CAPTION>

	1997	% CHANGE	1996	% CHANGE	1995
--	------	----------	------	----------	------

	-----	-----	-----	-----	-----
			(IN THOUSANDS)		
<S>	<C>	<C>	<C>	<C>	<C>
Product development.....	\$12,485	440%	\$2,313	1,253%	\$ 171
Percentage of net sales.....	8.4%		14.7%		33.5%

Product development expenses consist principally of payroll and related expenses for development, editorial, systems and telecommunications operations personnel and consultants, systems and telecommunications infrastructure and costs of acquired content. The increases in product development expenses were primarily attributable to increased staffing and associated costs related to enhancing the features, content and functionality of the Company's Web site and transaction-processing systems, as well as increased investment in systems and telecommunications infrastructure. Such expenses decreased significantly as a percentage of

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net sales due to the significant increase in net sales. To date, all product development costs have been expensed as incurred. The Company believes that continued investment in product development is critical to attaining its strategic objectives and, as a result, expects product development expenses to increase significantly in absolute dollars.

General and Administrative

<TABLE>					
<CAPTION>					
	1997	% CHANGE	1996	% CHANGE	1995
	-----	-----	-----	-----	-----
			(IN THOUSANDS)		
<S>	<C>	<C>	<C>	<C>	<C>
General and administrative.....	\$6,573	535%	\$1,035	2,857%	\$ 35
Percentage of net sales.....	4.4%		6.6%		6.8%

General and administrative expenses consist of payroll and related expenses for executive, accounting and administrative personnel, recruiting, professional fees and other general corporate expenses. The increase in general and administrative expenses was primarily due to increased salaries and related expenses associated with the hiring of additional personnel, increases in professional fees and, in 1997, costs attributable to being a public company. Such expenses decreased as a percentage of net sales due to the significant increase in net sales. The Company expects general and administrative expenses to increase in absolute dollars as the Company expands its staff and incurs additional costs related to the growth of its business.

INTEREST INCOME AND EXPENSE

<TABLE>					
<CAPTION>					
	1997	% CHANGE	1996	% CHANGE	1995
	-----	-----	-----	-----	-----
			(IN THOUSANDS)		
<S>	<C>	<C>	<C>	<C>	<C>
Interest income.....	\$1,898	840%	\$ 202	N/M	\$ 1
Interest expense.....	(279)	N/A	--	N/A	--

Interest income on cash, cash equivalents and short-term investments increased due to higher cash, cash equivalents and short-term investment balances resulting from the Company's financing activities.

Interest expense in 1997 consists of interest and amortization of deferred charges related to the Loan and interest on asset acquisitions financed through loans and capital leases.

INCOME TAXES

The Company has not generated any taxable income to date and therefore has not paid any federal income taxes since inception. Utilization of the Company's net operating loss carryforwards, which begin to expire in 2011, may be subject to certain limitations under Section 382 of the Internal Revenue Code of 1986, as amended. The Company has provided a full valuation allowance on the deferred tax asset, consisting primarily of net operating loss carryforwards, because of uncertainty regarding its realizability.

LIQUIDITY AND CAPITAL RESOURCES

At December 31, 1997 the Company's cash and cash equivalents were \$109.8 million, compared to \$6.2 million at December 31, 1996.

Net cash provided by operating activities of \$3.5 million for the year ended December 31, 1997 was primarily attributable to increases of \$29.8 million in accounts payable, \$5.1 million in other accrued expenses and \$2.9 million in accrued advertising, plus \$4.7 million in depreciation and amortization, largely offset by a net loss of \$27.6 million and increases of \$8.4 million in inventories and \$3.0 million in prepaid expenses and other assets. For 1996, cash used in operating activities was \$1.7 million and resulted from a net loss of \$5.8 million and increases of \$554,000 in inventories, \$307,000 in prepaid expenses and other assets and \$146,000 in deposits, largely offset by increases of \$2.8 million in accounts payable, \$598,000 in accrued advertising and \$1.4 million in other liabilities and accrued expenses, plus \$286,000 in depreciation and amortization. Net cash used in investing activities was \$22.5 million for the year ended December 31, 1997

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and consisted of purchases of short-term investments of \$20.5 million and purchases of fixed assets of \$7.2 million, partially offset by maturities of

short-term investments of \$5.2 million. For 1996, net cash used in investing activities consisted of \$1.2 million for the purchase of fixed assets. The large increases in the components of working capital on a period-to-period basis are a direct result of the rapid growth of the Company's revenues and related activities. Such growth has required the Company to purchase additional fixed assets and increase purchases of products, which resulted in corresponding increases in inventories and accounts payable.

Cash flows provided by financing activities of \$122.5 million for the year ended December 31, 1997 consisted of net proceeds of approximately \$72.7 million from the Loan obtained in December 1997, \$49.1 million from the Company's May 1997 initial public offering, \$518,000 from the exercise of common stock options and \$200,000 from the issuance of preferred stock. Cash flows of \$8.2 million attributable to financing activities for the year ended December 31, 1996 consisted primarily of net proceeds from the issuance of preferred stock.

On December 23, 1997, the Company borrowed \$75 million pursuant to a three-year senior secured term Loan. The purpose of the Loan is to finance working capital, capital additions, operations, acquisitions, joint ventures and general corporate purposes. The Loan is secured by a first priority lien on substantially all of the Company's assets. The Company has the option to choose from the following interest rate options: (i) a variable rate adjusted every one, two, three or six months at the Company's option and based on the London Interbank Offered Rate ("LIBOR") plus 3.50% per annum for the first six months of the Loan and 4.00% thereafter, or (ii) a variable rate of interest based on the lender's Base Rate plus 1.50% per annum for the first six months of the Loan and 2.00% thereafter. In connection with the Loan, in January 1998 the Company entered into certain interest rate risk management agreements. The Company is required to make mandatory prepayments on the Loan equal to 50% of the proceeds from any debt and/or equity offerings (other than the proceeds of certain permitted debt) and 100% of the proceeds from certain sales of assets that are not reinvested in replacement assets.

The Loan includes covenants restricting certain activities by the Company, including (i) the incurrence of additional indebtedness, (ii) consolidations, mergers and sales of assets and (iii) dividends and distributions to stockholders. In addition, financial covenants require the Company to, among other things, maintain a minimum cash balance, maintain certain levels of earnings or losses before interest, taxes, depreciation and amortization, limit its accounts payable aging and limit its capital and acquisition expenditures. The Loan contains standard events of default, including, among other things, a change in ownership or control. As a result, the Loan may reduce the Company's operational flexibility and may limit its ability to pursue market opportunities. The Company met all Loan covenants at December 31, 1997.

In connection with the Loan, the Company issued warrants to purchase a total of 750,000 shares of the Company's common stock. All or a portion of the warrants will be canceled if the Company repays the Loan in full prior to certain specified dates. If the Company does not repay the Loan prior to such dates, and if any of the warrants are exercised, such exercise may dilute the economic interests of the Company's stockholders. Warrants become exercisable when they can no longer be canceled and remain exercisable for five years after such date. The exercise price for the warrants is \$52.11 per share.

The Company expects to use the proceeds of the Loan to support its strategy of investing heavily in marketing and promotion, product development and technology and operating infrastructure development and may commit to significant fixed expenditures. The Company's ability to generate planned future revenues, and therefore its ability to comply with the Loan covenants, may be affected by events beyond its control. If the Company were unable to satisfy the Loan covenants, the lending institutions would be entitled to exercise their remedies, including the right to declare all principal and interest immediately due and payable. If the Company were unable to make such payment, or were unable to repay the amount owing under the Loan at the end of its term, the lending institutions could foreclose on the Company's assets, substantially all of which are pledged as security for the Loan.

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In November 1997, the Company purchased fixed assets through a financing agreement totaling approximately \$3.0 million and having an imputed interest rate of 7.7% and a term of three years. The debt is to be repaid in four equal payments.

As of December 31, 1997 the Company's principal sources of liquidity consisted of \$109.8 million of cash and cash equivalents and \$15.3 million of short-term investments. As of that date, the Company's principal commitments consisted of obligations outstanding under the Loan, obligations in connection with the acquisition of fixed assets, operating leases and commitments for advertising and promotional arrangements. Although the Company has no material commitments for capital expenditures, it anticipates a substantial increase in its capital expenditures and lease commitments consistent with anticipated growth in operations, infrastructure and personnel. In November 1997 the Company opened a 200,000-square-foot distribution center in Delaware and expanded its Seattle distribution center to 85,000 square feet. The Company may establish one or more additional distribution centers within the next 12 months, which would require it to commit to lease obligations, stock inventories, purchase fixed assets and install leasehold improvements. In addition, the Company has announced plans to continue to increase its merchandise inventory in order to provide better availability to customers and achieve purchasing efficiencies.

The Company has developed a plan to modify its information technology to recognize the Year 2000 and has, to the extent necessary, begun converting its critical data processing systems. Since the Company's systems and software are relatively new, management does not expect Year 2000 issues related to its own internal systems to be significant. The Company has initiated formal communications with all of its significant suppliers and service providers to determine the extent to which the Company's interface systems are vulnerable to those third parties' failure to remediate their own Year 2000 issues. There can be no guarantee that the systems of other companies, on which the Company relies, will be converted timely and will not have an adverse effect on the Company's systems. The Company currently expects the project to be complete in

1999.

The Company purchases a substantial majority of its products from two major vendors, Ingram and B&T. Ingram is the Company's largest supplier and accounted for 58% and 59% of the Company's inventory purchases in 1997 and 1996, respectively. The Company has no long-term contracts or arrangements with any of its vendors that guarantee the availability of merchandise, the continuation of particular payment terms or the extension of credit limits. There can be no assurance that the Company's current vendors will continue to sell merchandise to the Company on current terms or that the Company will be able to establish new or extend current vendor relationships to ensure acquisition of merchandise in a timely and efficient manner and on acceptable commercial terms. If the Company were unable to develop and maintain relationships with vendors that would allow it to obtain sufficient quantities of merchandise on acceptable commercial terms, such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

The Company believes that current cash and cash equivalent balances and short-term investments will be sufficient to meet its anticipated cash needs for at least 12 months. However, any projections of future cash needs and cash flows are subject to substantial uncertainty. If cash generated from operations is insufficient to satisfy the Company's liquidity requirements, the Company may seek to sell additional equity or debt securities or to obtain a line of credit. The sale of additional equity or convertible debt securities could result in additional dilution to the Company's stockholders. There can be no assurance that financing will be available in amounts or on terms acceptable to the Company, if at all. In addition, the Company will, from time to time, consider the acquisition of or investment in complementary businesses, products and technologies, which might increase the Company's liquidity requirements or cause the Company to issue additional equity or debt securities.

In 1997, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standard ("SFAS") No. 128, Earnings per Share. SFAS No. 128 replaced the previously reported primary and fully diluted earnings per share with basic and diluted earnings per share. Prior to SFAS No. 128, the SEC required that, even where antidilutive, common and common equivalent shares issued during the 12-month period prior to the filing of an initial public offering be included in the calculation of earnings per

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share as if they were outstanding for all periods presented (using the treasury stock method and the initial public offering price). Because of new requirements issued in 1998 by the SEC for companies that recently completed an initial public offering and interpretation by FASB of the initial application of SFAS No. 128, the number of shares used in the calculation of basic net loss per share has changed to exclude common equivalent shares, even when antidilutive, and exercised but unvested shares subject to repurchase by the Company. Previously reported periods affected by these changes in requirements include net loss per share calculations for the years ended December 31, 1997, 1996 and 1995.

The Company's total net loss for these periods has not changed. However, share count for the years ended December 31, 1997, 1996 and 1995 has been revised from 23,602,000, 22,655,000 and 18,933,000 to 21,651,000, 18,544,000 and 14,394,000, respectively. As a result, net loss per share for the years ended December 31, 1997, 1996 and 1995 has been revised from \$1.17, \$0.25 and \$0.02 to \$1.27, \$0.31 and \$0.02, respectively.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

INDEX TO FINANCIAL STATEMENTS

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REPORT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

Board of Directors
Amazon.com, Inc.

We have audited the accompanying balance sheets of Amazon.com, Inc. as of December 31, 1997 and 1996, and the related statements of operations, stockholders' equity and cash flows for each of the three years in the period ended December 31, 1997. Our audits also included the financial statement schedule listed in the Index at Item 14(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes

assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Amazon.com, Inc. at December 31, 1997 and 1996 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 1997, in conformity with generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

ERNST & YOUNG LLP

Seattle, Washington
January 19, 1998

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AMAZON.COM, INC.

BALANCE SHEETS
(IN THOUSANDS, EXCEPT SHARE AND PER SHARE DATA)

<TABLE>
<CAPTION>

		DECEMBER 31,	
		1997	1996
		-----	-----
<S>	<C>	<C>	<C>
ASSETS			
Current Assets:			
Cash and cash equivalents.....	\$109,810	\$ 6,248	
Short-term investments.....	15,256	--	
Inventories.....	8,971	571	
Prepaid expenses and other.....	3,298	321	
	-----	-----	
Total current assets.....	137,335	7,140	
Fixed assets, net.....	9,265	985	
Deposits.....	166	146	
Deferred charges.....	2,240	--	
	-----	-----	
Total assets.....	\$149,006	\$ 8,271	
	=====	=====	
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current Liabilities:			
Accounts payable.....	\$ 32,697	\$ 2,852	
Accrued advertising.....	3,454	598	
Accrued product development.....	--	500	
Other liabilities and accrued expenses.....	6,167	920	
Current portion of long-term debt.....	1,500	--	
	-----	-----	
Total current liabilities.....	43,818	4,870	
Long-term portion of debt.....	76,521	--	
Long-term portion of capital lease obligation.....	181	--	
Stockholders' Equity:			
Preferred stock, \$0.01 par value:			
Authorized shares -- 10,000,000			
Issued and outstanding shares -- none and 569,396 shares in 1997 and 1996, respectively.....	--	6	
Common stock, \$0.01 par value:			
Authorized shares -- 100,000,000			
Issued and outstanding shares -- 23,937,169 and 15,900,229 shares in 1997 and 1996, respectively.....	239	159	
Additional paid-in capital.....	63,792	9,873	
Deferred compensation.....	(1,930)	(612)	
Accumulated deficit.....	(33,615)	(6,025)	
	-----	-----	
Total stockholders' equity.....	28,486	3,401	
	-----	-----	
Total liabilities and stockholders' equity.....	\$149,006	\$ 8,271	
	=====	=====	

</TABLE>

See accompanying notes.
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AMAZON.COM, INC.

STATEMENTS OF OPERATIONS
(IN THOUSANDS, EXCEPT PER SHARE DATA)

<TABLE>
<CAPTION>

		YEARS ENDED DECEMBER 31,		
		1997	1996	1995
		-----	-----	-----
<S>	<C>	<C>	<C>	<C>
Net sales.....	\$147,758	\$15,746	\$ 511	
Cost of sales.....	118,945	12,287	409	
	-----	-----	-----	
Gross profit.....	28,813	3,459	102	
Operating expenses:				
Marketing and sales.....	38,964	6,090	200	
Product development.....	12,485	2,313	171	
General and administrative.....	6,573	1,035	35	
	-----	-----	-----	
Total operating expenses.....	58,022	9,438	406	
Loss from operations.....	(29,209)	(5,979)	(304)	

2018/6/22	https://www.sec.gov/Archives/edgar/data/1018724/0000891020-98-000448.txt		
Interest income.....	1,898	202	1
Interest expense.....	(279)	--	--
	-----	-----	-----
Net loss.....	\$ (27,590)	\$ (5,777)	\$ (303)
	=====	=====	=====
Pro forma basic and diluted loss per share.....	\$ (1.27)	\$ (0.31)	\$ (0.02)
	=====	=====	=====
Shares used in computation of pro forma basic and diluted loss per share.....	21,651	18,544	14,394
	=====	=====	=====
</TABLE>			
See accompanying notes.			
24			
<PAGE> 27			

AMAZON.COM, INC.								
STATEMENTS OF STOCKHOLDERS' EQUITY								
(IN THOUSANDS, EXCEPT SHARE DATA)								
<TABLE>								
<CAPTION>								
	PREFERRED STOCK		COMMON STOCK		ADVANCES	ADDITIONAL	DEFERRED	
ACCUMULATED	-----		-----		RECEIVED FOR	PAID-IN		
	SHARES	AMOUNT	SHARES	AMOUNT	COMMON STOCK	CAPITAL	COMPENSATION	
DEFICIT	-----	-----	-----	-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
Balance at December 31, 1994.....	--	\$ --	10,200,000	\$ 10	\$ 50	\$ --	\$ --	\$
(52)								
Sale of common stock.....	--	--	4,235,244	1,172	(50)	--	--	
--								
Reclassification of accumulated deficit due to termination of S Corporation status.....	--	--	--	(107)	--	--	--	
107								
Advances received for common stock.....	--	--	--	--	150	--	--	
--								
Exercise of common stock options.....	--	--	120,000	--	--	--	--	
--								
Net loss for the year ended December 31, 1995.....	--	--	--	--	--	--	--	
(303)								
	-----	-----	-----	-----	-----	-----	-----	-----

Balance at December 31, 1995.....	--	--	14,555,244	1,075	150	--	--	
(248)								
Reincorporation in Delaware.....	--	--	--	(929)	--	929	--	
--								
Sale of preferred stock, net of \$30 issuance costs.....	569,396	6	--	--	--	7,964	--	
--								
Sale of common stock.....	--	--	840,528	8	(150)	178	--	
--								
Exercise of common stock options.....	--	--	504,457	5	--	190	--	
--								
Unearned compensation related to stock options.....	--	--	--	--	--	612	(612)	
--								
Net loss for the year ended December 31, 1996.....	--	--	--	--	--	--	--	
(5,777)								
	-----	-----	-----	-----	-----	-----	-----	-----

Balance at December 31, 1996.....	569,396	6	15,900,229	159	--	9,873	(612)	
(6,025)								
Sale of preferred stock.....	5,000	--	--	--	--	200	--	
--								
Exercise of common stock options.....	--	--	1,365,564	14	--	504	--	
--								
Public stock offering, net of \$1,117 issuance costs.....	--	--	3,000,000	30	--	49,073	--	
--								
Conversion of preferred stock into common stock...	(574,396)	(6)	3,446,376	34	--	(28)	--	
--								
Issuance of common stock for fixed assets and accrued product development.....	--	--	225,000	2	--	1,498	--	
--								
Unearned compensation related to stock options.....	--	--	--	--	--	2,741	(2,741)	
--								
Amortization of unearned compensation related to stock options.....	--	--	--	--	--	(69)	1,423	
--								
Net loss for the year ended								

2018/6/22

https://www.sec.gov/Archives/edgar/data/1018724/0000891020-98-000448.txt

December 31, 1997.....	--	--	--	--	--	--	--
(27,590)							
	-----	-----	-----	-----	-----	-----	-----

Balance at December 31,							
1997.....	--	\$ --	23,937,169	\$ 239	\$ --	\$63,792	\$(1,930)
\$(33,615)							
	=====	=====	=====	=====	=====	=====	=====
=====							

<CAPTION>

	TOTAL STOCKHOLDERS' EQUITY -----
<S>	<C>
Balance at December 31,	
1994.....	\$ 8
Sale of common stock.....	1,122
Reclassification of accumulated deficit due to termination of S Corporation status.....	--
Advances received for common stock.....	150
Exercise of common stock options.....	--
Net loss for the year ended December 31, 1995.....	(303)

Balance at December 31,	
1995.....	977
Reincorporation in Delaware.....	--
Sale of preferred stock, net of \$30 issuance costs.....	7,970
Sale of common stock.....	36
Exercise of common stock options.....	195
Unearned compensation related to stock options.....	--
Net loss for the year ended December 31, 1996.....	(5,777)

Balance at December 31,	
1996.....	3,401
Sale of preferred stock.....	200
Exercise of common stock options.....	518
Public stock offering, net of \$1,117 issuance costs.....	49,103
Conversion of preferred stock into common stock...	--
Issuance of common stock for fixed assets and accrued product development.....	1,500
Unearned compensation related to stock options.....	--
Amortization of unearned compensation related to stock options.....	1,354
Net loss for the year ended December 31, 1997.....	(27,590)

Balance at December 31,	
1997.....	\$ 28,486
	=====

</TABLE>

See accompanying notes.
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AMAZON.COM, INC.

STATEMENTS OF CASH FLOWS
(IN THOUSANDS)

<TABLE>
<CAPTION>

	YEARS ENDED DECEMBER 31, -----		
	1997	1996	1995
	-----	-----	-----
<S>	<C>	<C>	<C>
OPERATING ACTIVITIES			
Net loss.....	\$(27,590)	\$(5,777)	\$(303)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Depreciation and amortization.....	3,388	286	19
Amortization of unearned compensation related to stock options.....	1,354	--	--
Changes in operating assets and liabilities:			
Inventories.....	(8,400)	(554)	(17)
Prepaid expenses and other.....	(2,977)	(307)	(14)
Deposits.....	(20)	(146)	--
Accounts payable.....	29,845	2,753	99
Accrued advertising.....	2,856	598	--
Other liabilities and accrued expenses.....	5,066	1,412	(16)
	-----	-----	-----

Net cash provided by (used in) operating activities.....	3,522	(1,735)	(232)
INVESTING ACTIVITIES			
Maturities of short-term investments.....	5,198	--	--
Purchases of short-term investments.....	(20,454)	--	--
Purchases of fixed assets.....	(7,221)	(1,214)	(52)
	-----	-----	-----
Net cash used in investing activities.....	(22,477)	(1,214)	(52)
FINANCING ACTIVITIES			
Proceeds from initial public offering.....	49,103	--	--
Proceeds from exercise of stock options and sale of common stock.....	518	231	1,272
Proceeds from sale of preferred stock.....	200	7,970	--
Proceeds from (repayment of) notes payable and long-term debt.....	75,000	--	(44)
Financing costs.....	(2,304)	--	--
	-----	-----	-----
Net cash provided by financing activities.....	122,517	8,201	1,228
	-----	-----	-----
Net increase in cash.....	103,562	5,252	944
Cash and cash equivalents at beginning of period.....	6,248	996	52
	-----	-----	-----
Cash and cash equivalents at end of period.....	\$109,810	\$ 6,248	\$ 996
	=====	=====	=====
SUPPLEMENTAL CASH FLOW INFORMATION			
Common stock issued for fixed assets and accrued product development.....	\$ 1,500	\$ --	\$ --
Fixed assets acquired under capital lease.....	\$ 362	\$ --	\$ --
Fixed assets acquired under financing agreement.....	\$ 3,021	\$ --	\$ --
Interest paid.....	\$ 30	\$ --	\$ --

</TABLE>

See accompanying notes.
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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS

NOTE 1 -- ACCOUNTING POLICIES

Description of Business

Amazon.com, Inc. ("Amazon.com" or the "Company") was incorporated on July 5, 1994. The Company is an online retailer of books and other information-based products on the Company's Web site and offers more than 2.5 million titles.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company invests certain of its excess cash in debt instruments of the U.S. government and its agencies, foreign governments and high-quality corporate issuers. The Company considers all highly liquid instruments with an original maturity of three months or less to be cash equivalents. Cash and cash equivalents are carried at cost, which approximates market.

Short-term Investments

At December 31, 1997, short-term investments consist primarily of high-quality corporate notes, and were classified as held-to-maturity and carried at cost, which approximates market. The average maturity of short-term investments at December 31, 1997 was 139 days with a weighted-average yield of 5.7%. Unrealized holding gains and losses at December 31, 1997 were not significant. At December 31, 1996, the Company did not hold any short-term investments.

Deferred Charges

On December 23, 1997, the Company borrowed \$75 million pursuant to a three-year senior secured term credit agreement (the "Loan"). At December 31, 1997, deferred charges consisted of fees associated with the Loan. The fees will be amortized over the life of the Loan using the straight-line method. During 1997 the Company recognized \$64,000 in deferred charge amortization.

Inventories

Inventories are valued at the lower of average cost or market.

The Company purchases a substantial majority of its products from two major vendors, Ingram Book Group ("Ingram") and Baker & Taylor, Inc. ("B&T"). Ingram is the Company's largest supplier and accounted for 58% and 59% of the Company's inventory purchases in 1997 and 1996, respectively. The Company has no long-term contracts or arrangements with any of its vendors that guarantee the availability of merchandise, the continuation of particular payment terms or the extension of credit limits. There can be no assurance that the Company's current vendors will continue to sell merchandise to the Company on current terms or that the Company will be able to establish new or extend current vendor relationships to ensure acquisition of merchandise in a timely and efficient manner and on acceptable commercial terms. If the Company were unable to develop and maintain relationships with vendors that would allow it to obtain sufficient quantities of merchandise on acceptable commercial terms, such inability could have a material adverse effect on the Company's business, prospects, financial condition and results of operations.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

Fixed Assets

Fixed assets are recorded at cost less accumulated depreciation. Depreciation of fixed assets is provided using primarily the straight-line method over the estimated useful lives of two to five years.

Income Taxes

The Company recognizes deferred tax assets and liabilities based on differences between the financial reporting and tax bases of assets and liabilities using the enacted tax rates and laws that are expected to be in effect when the differences are expected to be recovered. The Company has provided a full valuation allowance on the deferred tax asset, consisting primarily of net operating loss carryforwards, because of uncertainty regarding its realizability.

Revenue Recognition

The Company recognizes revenue from product sales, net of any discounts, when the products are shipped to customers. Outbound shipping and handling charges are included in net sales. Revenue from gift certificates is recognized upon product shipment following redemption. The Company provides an allowance for sales returns, which have been insignificant, based on historical experience. International sales were \$36.2 million, \$5.1 million and \$198,000 for the years ended December 31, 1997, 1996 and 1995, representing 25%, 33% and 39% of sales, respectively. No foreign country or geographical area accounted for more than 10% of revenue in any of the periods presented.

Advertising Costs

The cost of advertising is expensed as incurred. For the years ended December 31, 1997, 1996 and 1995, the Company incurred advertising expense of \$21.2 million, \$3.4 million and \$30,000, respectively.

Product Development

Product development expenses consist principally of payroll and related expenses for development, editorial, systems and telecommunications operations personnel and consultants, systems and telecommunications infrastructure and costs of acquired content. To date, all product development costs have been expensed as incurred.

Stock Compensation

The Company has elected to apply the disclosure-only provisions of Statement of Financial Accounting Standard ("SFAS") No. 123, Accounting for Stock-Based Compensation. Accordingly, the Company accounts for stock-based compensation using the intrinsic value method prescribed in Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees, and related interpretations. Compensation cost for stock options is measured as the excess, if any, of the fair value of the Company's common stock at the date of grant over the stock option exercise price.

Concentrations of Credit Risk

The Company is subject to concentrations of credit risk from its holdings of cash, cash equivalents and short-term investments. The Company's credit risk is managed by investing its cash in high-quality money market instruments and securities of the U.S. government and its agencies, foreign governments and high-quality corporate issuers. In addition, the Company's accounts receivable are not significant and are due from domestic banks. The Company believes it had no unusual concentrations of credit risk at December 31, 1997.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

Net Loss Per Share

In 1997, the Financial Accounting Standards Board ("FASB") issued SFAS No. 128, Earnings per Share. SFAS No. 128 replaced the previously reported primary and fully diluted earnings per share with basic and diluted earnings per share. Unlike primary earnings per share, basic earnings per share excludes any dilutive effects of options, warrants and convertible securities. Diluted earnings per share is very similar to the previously reported fully diluted earnings per share. Basic earnings per share is computed using the weighted-average number of common shares outstanding during the period. Diluted earnings per share is computed using the weighted-average number of common and common stock equivalent shares outstanding during the period. Common equivalent shares are excluded from the computation if their effect is antidilutive. Net loss per share amounts for all periods have been restated to conform to SFAS No. 128 requirements.

Pro forma loss per share is based on the weighted average number of common and common equivalent shares outstanding during each period. To calculate pro forma loss per share, all outstanding shares of convertible preferred stock are assumed to have been converted to common stock for all periods presented.

Prior to SFAS No. 128, the SEC required that, even where antidilutive, common and common equivalent shares issued during the 12-month period prior to the filing of an initial public offering be included in the calculation of earnings per share as if they were outstanding for all periods presented (using the treasury stock method and the initial public offering price). Because of new requirements issued in 1998 by the SEC for companies that recently completed an initial public offering and interpretation by FASB of the initial application of

SFAS No. 128, the number of shares used in the calculation of basic net loss per share has changed to exclude common equivalent shares, even when antidilutive, and exercised but unvested shares subject to repurchase by the Company. Previously reported periods affected by these changes in requirements include net loss per share calculations for the years ended December 31, 1997, 1996 and 1995.

The Company's total net loss for these periods has not changed. However, share count for the years ended December 31, 1997, 1996 and 1995 has been revised from 23,602,000, 22,655,000 and 18,933,000 to 21,651,000, 18,544,000 and 14,394,000, respectively. As a result, net loss per share for the years ended December 31, 1997, 1996 and 1995 has been revised from \$1.17, \$0.25 and \$0.02 to \$1.27, \$0.31 and \$0.02, respectively.

New Accounting Pronouncements

In June 1997, FASB issued SFAS No. 130, Reporting Comprehensive Income, which establishes standards for reporting comprehensive income, and SFAS No. 131, Disclosures about Segments of an Enterprise and Related Information, which establishes standards for reporting information about operating segments. The Company is required to adopt these statements in 1998. The Company does not expect the impact of these statements to be material.

Reclassifications

Certain prior-year balances have been reclassified to conform to the current-year presentation.

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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

NOTE 2 -- FIXED ASSETS

Fixed assets, at cost, consist of the following:

<TABLE>
<CAPTION>

	DECEMBER 31,	
	1997	1996
	-----	-----
	(IN THOUSANDS)	
<S>	<C>	<C>
Computers and equipment.....	\$ 7,118	\$1,031
Purchased software.....	4,505	134
Leasehold improvements.....	914	130
Leased assets.....	362	--
	-----	-----
	12,899	1,295
Less accumulated depreciation and amortization.....	3,634	310
	-----	-----
Fixed assets, net.....	\$ 9,265	\$ 985
	=====	=====

</TABLE>

NOTE 3 -- DEBT

Financing Arrangements

On December 23, 1997, the Company borrowed \$75 million pursuant to a three-year senior secured term Loan. The purpose of the Loan is to finance working capital, capital additions, operations, acquisitions, joint ventures and general corporate purposes. The Loan is secured by a first priority lien on substantially all of the Company's assets. The Company has the option to choose from the following interest rate options: (i) a variable rate adjusted every one, two, three or six months at the Company's option and based on the London Interbank Offered Rate ("LIBOR") plus 3.50% per annum for the first six months of the Loan and 4.00% thereafter, or (ii) a variable rate of interest based on the lender's Base Rate plus 1.50% per annum for the first six months of the Loan and 2.00% thereafter. In connection with the Loan, in January 1998 the Company entered into certain interest rate risk management agreements. The Company is required to make mandatory prepayments on the Loan equal to 50% of the proceeds from any debt and/or equity offerings (other than the proceeds of certain permitted debt) and 100% of the proceeds from certain sales of assets that are not reinvested in replacement assets.

The Loan includes covenants restricting certain activities by the Company, including (i) the incurrence of additional indebtedness, (ii) consolidations, mergers and sales of assets and (iii) dividends and distributions to stockholders. In addition, financial covenants require the Company to, among other things, maintain a minimum cash balance, maintain certain levels of earnings or losses before interest, taxes, depreciation and amortization, limit its accounts payable aging and limit its capital and acquisition expenditures. The Loan contains standard events of default, including, among other things, a change in ownership or control. As a result, the Loan may reduce the Company's operational flexibility and may limit its ability to pursue market opportunities. The Company met all Loan covenants at December 31, 1997.

In connection with the Loan, the Company issued warrants to purchase a total of 750,000 shares of the Company's common stock. All or a portion of the warrants will be canceled if the Company repays the Loan in full according to the following schedule: all warrants if repayment occurs within 12 months; warrants to purchase 675,000 shares if repayment occurs within 15 months; warrants to purchase 562,500 shares if repayment occurs within 18 months; warrants to purchase 450,000 shares if repayment occurs within 24 months; warrants to purchase 225,000 shares if repayment occurs within 30 months; and no warrants if repayment occurs after 30 months. Warrants become exercisable when they can no longer be canceled and remain exercisable for five years after such date. The exercise price for the warrants is \$52.11 per share.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

Financing Agreement for Purchase of Fixed Assets

In November 1997, the Company purchased fixed assets through a financing agreement with a vendor having an imputed interest rate of 7.7% and a term of three years. The debt is to be repaid in four equal payments.

Future minimum debt payments at December 31, 1997 are as follows:

<TABLE>
<CAPTION>

YEAR ENDING DECEMBER 31, ----- (IN THOUSANDS)	
<S>	<C>
1998.....	\$ 1,500
1999.....	761
2000.....	75,760

Total debt.....	78,021
Less current portion.....	1,500

Long-term debt.....	\$76,521
	=====

</TABLE>

NOTE 4 -- COMMITMENTS

The Company currently leases office and distribution center facilities and fixed assets under non-cancelable operating and capital leases. Rental expense under operating lease agreements for 1997, 1996 and 1995 was \$2 million, \$257,000 and \$12,000, respectively. The Company has also entered into certain advertising agreements.

Future minimum commitments as of December 31, 1997 are as follows:

<TABLE>
<CAPTION>

YEAR ENDING DECEMBER 31, ----- (IN THOUSANDS)	CAPITAL LEASE -----	OPERATING LEASES AND ADVERTISING -----
<S>	<C>	<C>
1998.....	\$145	\$13,908
1999.....	145	15,507
2000.....	60	13,171
2001.....	--	1,406
2002.....	--	1,176
Thereafter.....	--	23
	----	-----
Total minimum lease payments.....	\$350	\$45,191
		=====
Less imputed interest.....	55	

Present value of net minimum lease payments.....	295	
Less current portion.....	114	

Long-term capital lease obligation.....	\$181	
	=====	

</TABLE>

NOTE 5 -- STOCKHOLDERS' EQUITY

Reincorporation and Authorized Capital

On May 28, 1996, the Company reincorporated in the state of Delaware with authorized capital of 5,000,000 shares of \$0.01 par value preferred stock and 25,000,000 shares of \$0.01 par value common stock. The accompanying financial statements have been restated to reflect the reincorporation. On April 18, 1997, the Company increased its authorized common stock to 100,000,000 shares and increased its authorized preferred stock to 10,000,000 shares.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

Preferred Stock

In June 1996, the Company issued 569,396 shares of Series A convertible preferred stock at a price of \$14.05 per share. In January and February 1997, the Company sold an additional 5,000 shares of Series A preferred stock at \$40 per share. While outstanding, the preferred stock was convertible into common stock at the option of the holder, at any time, at a rate of six shares of common stock for one share of preferred stock. As of the closing of the initial public offering, all of the preferred stock outstanding was converted into an aggregate of 3,446,376 shares of common stock.

Common Stock

On November 23, 1996, the Company effected a four-for-one common stock split. On April 18, 1997, the Company effected a three-for-two common stock split. The accompanying financial statements have been restated to reflect these stock splits.

Initial Public Offering

On May 15, 1997, the Company completed an initial public offering of 3,000,000 shares of its common stock. Net proceeds to the Company aggregated \$49.1 million.

Stock Options

The Company's stock option plans consist of the 1997 Stock Option Plan and the 1994 Stock Option Plan (collectively, the "Plans"). Shares reserved under the Plans consist of 6,000,000 shares in the 1997 plan and 4,800,000 shares in the 1994 plan. Any shares of common stock available for issuance under the 1994 Stock Option Plan that are not issued under that plan may be added to the aggregate number of shares available for issuance under the 1997 Stock Option Plan.

Generally, options are granted by the Company's Board of Directors at an exercise price of not less than the fair market value of the Company's common stock at the date of grant. Each outstanding option granted prior to December 20, 1996 has a term of five years from the date of vesting. Each outstanding option granted on or subsequent to December 20, 1996 has a term of ten years from the date of grant. Subject to IRS limitations, options granted under the Plans generally become exercisable immediately. Options generally vest at the rate of 20% after year one, 20% after year two and 5% at the end of each quarter for years three through five. Shares issued upon exercise of options that are unvested are subject to repurchase by the Company upon termination of employment or services. At December 31, 1997, 809,921 shares of common stock were subject to repurchase.

During 1995, the Company granted a total of 360,000 nonqualified stock options outside of the Plans under separate agreements with three individuals. Under the terms of these agreements, the option prices range from \$0.333 to \$0.667 and vest at the rate of 40% on the date of grant, 30% after two years and 30% after four years. Unexercised options expire five years after the date of grant. At December 31, 1997, options for 156,000 shares of common stock were exercisable and options for 96,000 shares had been exercised.

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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

The following table summarizes the Company's stock option activity:

<TABLE>

<CAPTION>

	NUMBER OF SHARES	WEIGHTED AVERAGE EXERCISE PRICE
	-----	-----
<S>	<C>	<C>
Balance, December 31, 1994.....	1,176,816	\$ 0.001
Options granted.....	742,464	0.344
Options canceled.....	(30,000)	0.172
Options exercised.....	(120,000)	0.001

Balance December 31, 1995.....	1,769,280	0.142
Options granted:		
At fair market value.....	1,038,600	0.333
At less than fair market value.....	1,554,150	0.796
Options canceled.....	(528,722)	0.278
Options exercised.....	(504,457)	0.387

Balance December 31, 1996.....	3,328,851	0.448
Options granted:		
At fair market value.....	1,592,425	23.128
At less than fair market value.....	1,378,350	2.840
Options canceled.....	(424,230)	3.195
Options exercised.....	(1,365,564)	0.380

Balance December 31, 1997.....	4,509,832	8.949
	=====	

</TABLE>

At December 31, 1997, 4,660,145 shares of common stock were available for future grant under the Plans.

The following table summarizes information about options outstanding and exercisable at December 31, 1997:

<TABLE>

<CAPTION>

OPTIONS OUTSTANDING						OPTIONS EXERCISABLE	
		WEIGHTED- AVERAGE				WEIGHTED- AVERAGE	
RANGE OF EXERCISE PRICES	OPTIONS OUTSTANDING	REMAINING CONTRACTUAL LIFE	WEIGHTED- AVERAGE EXERCISE PRICE	OPTIONS EXERCISABLE	WEIGHTED- AVERAGE EXERCISE PRICE		
<S>	<C>	<C>	<C>	<C>	<C>		
\$ 0.001 - \$ 0.332	169,964	6.3 years	\$ 0.172	169,964	\$ 0.172		
0.333 - 1.000	1,528,035	6.5 years	0.599	1,379,433	0.596		
1.001 - 2.667	970,608	9.1 years	2.231	573,108	2.173		
2.668 - 4.667	320,200	9.2 years	4.416	283,574	4.444		
4.668 - 12.000	789,475	9.3 years	11.861	511,909	11.848		
12.001 - 25.313	283,100	9.6 years	21.978	234,363	21.983		
25.314 - 55.250	373,200	9.8 years	42.549	236,091	41.520		
55.251 - 62.563	75,250	9.9 years	58.078	36,773	58.006		
\$ 0.001 - \$62.563	4,509,832	8.2 years	\$ 8.949	3,425,215	\$ 7.739		

</TABLE>

The Company follows the intrinsic value method in accounting for its stock options. Had compensation cost been recognized based on the fair value at the date of grant for options granted in 1997, 1996 and 1995,

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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

the pro forma amounts of the Company's net loss and net loss per share for the years ended December 31, 1997, 1996 and 1995 would have been as follows:

<TABLE>
<CAPTION>

	FOR THE YEARS ENDED DECEMBER 31,		
	1997	1996	1995

	(IN THOUSANDS, EXCEPT PER SHARE DATA)		
<S>	<C>	<C>	<C>
Net loss -- as reported.....	\$(27,590)	\$(5,777)	\$ (303)
Net loss -- pro forma.....	(32,543)	(5,808)	(304)
Pro forma basic and diluted loss per common share -- as reported.....	\$ (1.27)	\$ (0.31)	\$(0.02)
Pro forma basic and diluted loss per common share -- pro forma.....	(1.50)	(0.31)	(0.02)

The fair value of each option grant was estimated using the Black-Scholes option-pricing model. For the year ended December 31, 1997, the weighted-average value was estimated using an expected life of three years, no dividends, risk-free interest rates ranging from 5.70% to 6.93% and a volatility of .50. For 1996 and 1995 the value was estimated using risk-free interest rates of 5.16% to 7.60%, an expected option life of three years and no expected dividends. As the Company was privately held in 1996 and 1995, expected volatility was not applicable. The weighted-average fair value of options granted during the years 1997, 1996 and 1995 was \$12.69, \$0.08 and \$0.06, respectively, for options granted at fair market value. The weighted-average fair value of options granted at less than fair market value during 1997 and 1996 was \$3.31 and \$0.53, respectively.

Deferred Compensation

The Company recorded aggregate deferred compensation of \$2.7 million and \$612,000 in 1997 and 1996, respectively. The amounts recorded represent the difference between the grant price and the deemed fair value of the Company's common stock for shares subject to options granted in 1997 and 1996. The amortization of deferred compensation will be charged to operations over the vesting period of the options, which is typically five years. Total amortization recognized in 1997 was \$1.4 million. No amortization was recognized in 1996.

Common Stock Reserved

At December 31, 1997, common stock reserved for future issuance was as follows:

<TABLE>	<C>
<S>	
Stock options.....	9,169,977
Common stock warrants.....	750,000

Total.....	9,919,977
	=====

</TABLE>

NOTE 6 -- INCOME TAXES

The Company did not provide an income tax benefit for any of the periods presented because it has experienced operating losses since inception. At December 31, 1997, the Company had net operating loss carryforwards of approximately \$29.9 million. Utilization of net operating loss carryforwards may be subject to certain limitations under Section 382 of the Internal Revenue Code. The carryforwards begin to expire in 2011.

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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred tax assets are as follows:

<TABLE>
<CAPTION>

	DECEMBER 31,	
	1997	1996
	-----	-----
	(IN THOUSANDS)	
<S>	<C>	<C>
Deferred tax assets:		
Net operating loss carryforwards.....	\$ 8,201	\$ 1,855
Reserves.....	1,395	--
Compensation expense.....	460	--
Other.....	306	--
	-----	-----
Total deferred tax assets.....	10,362	1,855

Valuation allowance for deferred tax assets.....	(10,362)	(1,855)
	-----	-----
Net deferred tax assets.....	\$ --	\$ --
	=====	=====

</TABLE>

NOTE 7 -- EMPLOYEE BENEFIT PLAN

The Company has a 401(k) savings plan covering substantially all of its employees. Eligible employees may contribute through payroll deductions. The Company matches employees' contributions at the discretion of the Company's Board of Directors. To date, the Company has not matched employee contributions to the 401(k) savings plan.

NOTE 8 -- QUARTERLY RESULTS (UNAUDITED)

The following tables contain selected unaudited Statement of Operations and stock price data for each quarter of 1997 and 1996. The Company believes that the following information reflects all normal recurring adjustments necessary for a fair presentation of the information for the periods presented. The operating results for any quarter are not necessarily indicative of results for any future period.

<TABLE>

<CAPTION>

	1997			
	4TH	3RD	2ND	1ST
	QUARTER	QUARTER	QUARTER	QUARTER
	-----	-----	-----	-----
	(IN THOUSANDS, EXCEPT PER SHARE DATA)			
<S>	<C>	<C>	<C>	<C>
Net sales.....	\$66,011	\$37,887	\$27,855	\$16,005
Gross profit.....	12,892	7,178	5,222	3,521
Net loss.....	(9,337)	(8,510)	(6,705)	(3,038)
Pro forma basic and diluted loss per share.....	(0.41)	(0.37)	(0.31)	(0.16)
Shares used in computation of pro forma basic and diluted loss per share.....	23,021	22,863	21,317	19,402
Stock sales prices per share:				
High.....	\$ 65.50	\$ 57.75	\$ 30.00	N/A
Low.....	\$ 42.25	\$ 18.13	\$ 15.75	N/A

</TABLE>

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AMAZON.COM, INC.

NOTES TO FINANCIAL STATEMENTS -- (CONTINUED)

<TABLE>

<CAPTION>

	1996			
	4TH	3RD	2ND	1ST
	QUARTER	QUARTER	QUARTER	QUARTER
	-----	-----	-----	-----
	(IN THOUSANDS, EXCEPT PER SHARE DATA)			
<S>	<C>	<C>	<C>	<C>
Net sales.....	\$ 8,468	\$ 4,173	\$ 2,230	\$ 875
Gross profit.....	1,891	911	477	180
Net loss.....	(2,299)	(2,380)	(767)	(331)
Pro forma basic and diluted loss per share.....	(0.12)	(0.12)	(0.04)	(0.02)
Shares used in computation of pro forma basic and diluted loss per share.....	19,085	19,041	18,339	17,712
Stock sales prices per share:				
High.....	N/A	N/A	N/A	N/A
Low.....	N/A	N/A	N/A	N/A

</TABLE>

Because of new requirements issued in 1998 by the SEC for companies that recently completed an initial public offering and interpretation by FASB of the initial application of SFAS No. 128, the number of shares used in the calculation of basic net loss per share has changed to exclude common equivalent shares, even when antidilutive, and exercised but unvested shares subject to repurchase by the Company. Previously reported periods affected by these changes in requirements include net loss per share calculations for the years ended December 31, 1997, 1996 and 1995.

The Company's total net loss for these periods has not changed. However, share count for the years ended December 31, 1997 and 1996 has been revised from 23,602,000 and 22,655,000 to 21,651,000 and 18,544,000, respectively. As a result, net loss per share for the years ended December 31, 1997 and 1996 has been revised from \$1.17 and \$0.25 to \$1.27 and \$0.31, respectively.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information regarding the Registrant's executive officers called for by Part III, Item 10, is set forth in Item 1 of Part I herein under the caption "Executive Officers of the Registrant." Information called for by Part III, Item 10, regarding the Registrant's directors is included in the Company's Proxy Statement relating to the Company's annual meeting of stockholders to be held on May 28, 1998, and is incorporated herein by reference. The information appears in the Proxy Statement under the caption "Election of Directors." Such Proxy Statement will be filed within 120 days of December 31, 1997, the Company's year end.

ITEM 11. EXECUTIVE COMPENSATION

Information called for by Part III, Item 11, is included in the Company's Proxy Statement relating to the Company's annual meeting of stockholders to be held on May 28, 1998, and is incorporated herein by reference. The information appears in the Proxy Statement under the caption "Executive Compensation." Such Proxy Statement will be filed within 120 days of December 31, 1997, the Company's year end.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

Information called for by Part III, Item 12, is included in the Company's Proxy Statement relating to the Company's annual meeting of stockholders to be held on May 28, 1998, and is incorporated herein by

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reference. The information appears in the Proxy Statement under the caption "Beneficial Ownership of Shares." Such Proxy Statement will be filed within 120 days of December 31, 1997, the Company's year end.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Information regarding certain of the Company's relationships and related transactions is set forth under "Certain Transactions" in the Company's Proxy Statement relating to the Company's annual meeting of stockholders to be held on May 28, 1998, and is incorporated herein by reference. Such Proxy Statement will be filed within 120 days of December 31, 1997, the Company's year end.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(A) LIST OF DOCUMENTS FILED AS A PART OF THIS REPORT:

(1) Index to Financial Statements:

- Report of Ernst & Young LLP, Independent Auditors
- Balance Sheets as of December 31, 1997 and 1996
- Statements of Operations for each of the three years ended December 31, 1997, 1996 and 1995
- Statements of Stockholders' Equity for each of the three years ended December 31, 1997, 1996 and 1995
- Statements of Cash Flows for each of the three years ended December 31, 1997, 1996 and 1995
- Notes to Financial Statements

(2) Index to Financial Statement Schedules:

II Valuation and Qualifying Accounts

All other schedules not listed above have been omitted because the required information is included in the financial statements or the notes thereto, or is not applicable or required.

(3) Index to Exhibits:

<TABLE>		
<CAPTION>		
EXHIBIT		
NUMBER	DESCRIPTION	
-----	-----	
<C>	<C>	<S>
3.1*	--	Restated Certificate of Incorporation of the Company.
3.2*	--	Bylaws of the Company.
10.1*+	--	Amended and Restated 1994 Stock Option Plan (version as of December 20, 1996 for Amended and Restated Grants and version as of December 20, 1996 for New Grants).
10.2*+	--	1997 Stock Option Plan.
10.3*+	--	Form of Indemnification Agreement between the Company and each of its Directors and Executive Officers.
10.4*+	--	Amended and Restated Incentive Stock Option Letter Agreement, effective October 24, 1994, from the Company to Sheldon J. Kaphan, as amended January 14, 1997.
10.5*+	--	Non-Qualified Stock Option Letter Agreement, effective December 6, 1995, from the Company to Tom A. Alberg.
10.6*+	--	Non-Qualified Stock Option Letter Agreement, effective December 6, 1995, from the Company to Tom A. Alberg.
10.7*+	--	Non-Qualified Stock Option Letter Agreement, effective December 20, 1996, from the Company to Joy D. Covey.

</TABLE>

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<PAGE> 40

<TABLE>		
<CAPTION>		
EXHIBIT		
NUMBER	DESCRIPTION	
-----	-----	
<C>	<C>	<S>
10.8*+	--	Incentive Stock Option Letter Agreement, effective December 20, 1996, from the Company to Joy D. Covey.
10.9*	--	Investor Rights Agreement, dated as of June 21, 1996, by and among the Company, Kleiner Perkins Caufield & Byers VIII, KPCB Information Sciences Zaibatsu Fund II and Jeffrey P.

		Bezos.
10.10*	--	Lease Agreement, dated July 1, 1996, as amended on December 21, 1996, January 9, 1997 and February 27, 1997, by and between the Company and Trident Investments, Inc.
10.11*	--	Lease Agreement, dated September 30, 1996, by and between the Company and Pacific Northwest Group A.
10.12**	--	Amendment No. 1 to Lease Agreement, dated July 16, 1997, by and between the Company and Pacific Northwest Group A.
10.13**	--	Amendment No. 2 to Lease Agreement, dated September 11, 1997, by and between the Company and Pacific Northwest Group A.
10.14*	--	Sublease Agreement, dated February 19, 1997, by and between C.C. Filson Company and the Company.
10.15*	--	Sublease Agreement, dated January 19, 1996, by and between the Company and Coast Wide Supply Co.
10.16*	--	Master Lease Agreement No. 6672336, dated February 12, 1997, by and between the Company and Digital Financial Services, a division of General Electric Capital Corporation.
10.17**	--	Lease Agreement, dated August 22, 1997, by and between the Company and McConnell Development, Inc.
10.18++	--	Credit Agreement, dated December 23, 1997, by and between the Company, Deutsche Bank AG, New York Branch/Cayman Islands Branch, Banque Paribas, BankBoston, N.A., Van Kampen American Capital and Silicon Valley Bank, with Deutsche Bank AG, New York Branch, as Administrative Agent.
10.19	--	Stock Purchase Warrant, Certificate No. 1, issued December 23, 1997 to Deutsche Bank AG, New York Branch.
10.20**	--	Subrogation Agreement dated as of June 19, 1996, by and between the Company and Jeffrey P. Bezos.
10.21	--	Lease Agreement, dated March 23, 1998, by and between Pacific NW Title Building, Inc. and the Company.
23.1	--	Consent of Ernst & Young LLP, Independent Auditors.
27.1	--	Financial Data Schedule.

</TABLE>

- -----
+ Executive Compensation Plan or Agreement

++ Confidential Treatment Requested

* Incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No.333-23795).

** Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the Quarterly Period Ended September 30, 1997.

(b) FORM 8-K:

On November 10, 1997, the Company filed a Form 8-K in connection with the Loan.

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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.

<TABLE>
<C>

<S>
AMAZON.COM, INC.

By: /s/ JEFFREY P. BEZOS

Jeffrey P. Bezos, President

and Chief Executive Officer

</TABLE>

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on the 30th day of March 1998.

<TABLE> <C>		<S>
/s/ JEFFREY P. BEZOS	-----	President, Chief Executive Officer and Chairman of the Board (Principal Executive Officer)
Jeffrey P. Bezos		
/s/ JOY D. COVEY	-----	Chief Financial Officer, Vice President of Finance and Administration (Principal Financial and Accounting Officer)
Joy D. Covey		
/s/ TOM A. ALBERG	-----	Director
Tom A. Alberg		
/s/ SCOTT D. COOK	-----	Director
Scott D. Cook		
/s/ L. JOHN DOERR	-----	Director
L. John Doerr		
/s/ PATRICIA Q. STONESIFER	-----	Director
Patricia Q. Stonesifer		

</TABLE>

AMAZON.COM, INC.

SCHEDULE II -- VALUATION AND QUALIFYING ACCOUNTS

ALLOWANCE FOR DOUBTFUL ACCOUNTS

<TABLE>
<CAPTION>

YEAR ENDED	BALANCE AT BEGINNING OF PERIOD	CHARGED/ (CREDITED) TO COSTS AND EXPENSES	COLLECTION OF ACCOUNTS PREVIOUSLY WRITTEN OFF	ACCOUNTS WRITTEN OFF	BALANCE AT END OF PERIOD
-----	-----	-----	-----	-----	-----
(IN THOUSANDS)					
<S>	<C>	<C>	<C>	<C>	<C>
December 31, 1997.....	\$20	\$203	\$ --	\$(154)	\$69
	===	=====	=====	=====	===
December 31, 1996.....	--	30	--	(10)	20
	===	=====	=====	=====	===
December 31, 1995.....	--	--	--	--	--
	===	=====	=====	=====	===

</TABLE>

INVENTORY VALUATION ALLOWANCE

<TABLE>
<CAPTION>

YEAR ENDED	BALANCE AT BEGINNING OF PERIOD	CHARGED/ (CREDITED) TO COSTS AND EXPENSES	INVENTORY DISPOSED OR WRITTEN OFF	BALANCE AT END OF PERIOD
-----	-----	-----	-----	-----
(IN THOUSANDS)				
<S>	<C>	<C>	<C>	<C>
December 31, 1997.....	\$ --	\$800	\$ --	\$800
	=====	=====	=====	=====
December 31, 1996.....	--	--	--	--
	=====	=====	=====	=====
December 31, 1995.....	--	--	--	--
	=====	=====	=====	=====

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INDEX TO EXHIBITS

<TABLE>
<CAPTION>
NUMBER

NUMBER	DESCRIPTION
-----	-----
<C>	<S>
3.1*	-- Restated Certificate of Incorporation of the Company.
3.2*	-- Bylaws of the Company.
10.1*+	-- Amended and Restated 1994 Stock Option Plan (version as of December 20, 1996 for Amended and Restated Grants and version as of December 20, 1996 for New Grants).
10.2*+	-- 1997 Stock Option Plan.
10.3*+	-- Form of Indemnification Agreement between the Company and each of its Directors and Executive Officers.
10.4*+	-- Amended and Restated Incentive Stock Option Letter Agreement, effective October 24, 1994, from the Company to Sheldon J. Kaphan, as amended January 14, 1997.
10.5*+	-- Non-Qualified Stock Option Letter Agreement, effective December 6, 1995, from the Company to Tom A. Alberg.
10.6*+	-- Non-Qualified Stock Option Letter Agreement, effective December 6, 1995, from the Company to Tom A. Alberg.
10.7*+	-- Non-Qualified Stock Option Letter Agreement, effective December 20, 1996, from the Company to Joy D. Covey.
10.8*+	-- Incentive Stock Option Letter Agreement, effective December 20, 1996, from the Company to Joy D. Covey.
10.9*	-- Investor Rights Agreement, dated as of June 21, 1996, by and among the Company, Kleiner Perkins Caufield & Byers VIII, KPCB Information Sciences Zaibatsu Fund II and Jeffrey P. Bezos.
10.10*	-- Lease Agreement, dated July 1, 1996, as amended on December 21, 1996, January 9, 1997 and February 27, 1997, by and between the Company and Trident Investments, Inc.
10.11*	-- Lease Agreement, dated September 30, 1996, by and between the Company and Pacific Northwest Group A.
10.12**	-- Amendment No. 1 to Lease Agreement, dated July 16, 1997, by and between the Company and Pacific Northwest Group A.
10.13**	-- Amendment No. 2 to Lease Agreement, dated September 11, 1997, by and between the Company and Pacific Northwest Group A.
10.14*	-- Sublease Agreement, dated February 19, 1997, by and between C.C. Filson Company and the Company.
10.15*	-- Sublease Agreement, dated January 19, 1996, by and between the Company and Coast Wide Supply Co.
10.16*	-- Master Lease Agreement No. 6672336, dated February 12, 1997, by and between the Company and Digital Financial Services, a division of General Electric Capital Corporation.
10.17**	-- Lease Agreement, dated August 22, 1997, by and between the Company and McConnell Development, Inc.
10.18++	-- Credit Agreement, dated December 23, 1997, by and between the Company, Deutsche Bank AG, New York Branch/Cayman Islands Branch, Banque Paribas, BankBoston, N.A., Van Kampen American Capital and Silicon Valley Bank, with Deutsche Bank

		AG, New York Branch, as Administrative Agent.
10.19	--	Stock Purchase Warrant, Certificate No. 1, issued December 23, 1997 to Deutsche Bank AG, New York Branch.
10.20**	--	Subrogation Agreement dated as of June 19, 1996, by and between the Company and Jeffrey P. Bezos.

<TABLE> <CAPTION> NUMBER			DESCRIPTION
- - - - -			-----
<C>	<C>	<S>	
10.21	--		Lease Agreement, dated March 23, 1998, by and between Pacific NW Title Building, Inc. and the Company.
23.1	--		Consent of Ernst & Young LLP, Independent Auditors.
27.1	--		Financial Data Schedule.

- - - - -

+ Executive Compensation Plan or Agreement

++ Confidential Treatment Requested

* Incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-23795).

** Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the Quarterly Period Ended September 30, 1997.

EXHIBIT 10.18

Redacted Version

CREDIT AGREEMENT

AMONG

AMAZON.COM, INC.,

DEUTSCHE BANK AG, NEW YORK BRANCH

AS ADMINISTRATIVE AGENT,

AND

THE OTHER FINANCIAL INSTITUTIONS PARTY HERETO

ARRANGED BY

DEUTSCHE MORGAN GRENFELL, INC.

DATED AS OF DECEMBER 23, 1997

"[*]" = omitted, confidential material, which material has been separately filed with the Securities and Exchange Commission pursuant to a request for confidential treatment.

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EXHIBITS

Exhibit A	Form of Notice of Conversion/Continuation
Exhibit B	Form of Compliance Certificate
Exhibit C	Form of Legal Opinion of Borrower's Counsel
Exhibit D	Form of Assignment and Acceptance
Exhibit E	Form of Promissory Note
Exhibit F	Form of Warrant
Exhibit G	Form of Consent of Lessors/Warehousemen

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CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of December 23, 1997, among Amazon.com, Inc., a Delaware corporation (the "Borrower"), the several financial institutions from time to time party to this Agreement (collectively, the "Lenders"; individually, a "Lender"), and Deutsche Bank AG, New York Branch, as administrative agent for the Lenders.

WHEREAS, the Lenders have agreed to make available to the Borrower a secured term loan facility upon the terms and conditions set forth in this Agreement;

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

ARTICLE I
DEFINITIONS

1.1 CERTAIN DEFINED TERMS

The following terms have the following meanings:

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the formation or acquisition of all or any portion of the capital stock, partnership interests, membership interests or equity of any Person, or otherwise, resulting in a Joint Venture or causing any Person to become a Subsidiary, or (c) a merger or consolidation or any other combination with another Person (other than a Person that is a Subsidiary) provided that the Borrower or the Subsidiary is the surviving entity.

"Affiliate" means, as to any Person, any other Person which, directly or

indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, membership interests, by contract, or otherwise.

"Agent" means Deutsche Bank in its capacity as administrative agent for the Lenders hereunder, and any successor administrative agent arising under Section 9.9.

"Agent-Related Persons" means Deutsche Bank and any successor agent arising under Section 9.9, together with their respective Affiliates (including, in the

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case of Deutsche Bank, the Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

"Agent's Payment Office" means the address for payments set forth on the signature page hereto in relation to the Agent, or such other address as the Agent may from time to time specify.

"Agreement" means this Credit Agreement.

"Arranger" means Deutsche Morgan Grenfell, Inc., a Delaware corporation.

"Assignee" has the meaning specified in subsection 10.8(a).

"Attorney Costs" means and includes all reasonable fees and disbursements of any law firm or other external counsel, the reasonable allocated cost of internal legal services and all disbursements of internal counsel.

"Bankruptcy Code" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. Section 101, et seq.).

"Base Rate" means, for any day, the higher of:

(a) 0.50% per annum above the latest Federal Funds Rate; and (b) the rate of interest in effect for such day as publicly announced from time to time by Deutsche Bank in New York, New York, as its "prime lending rate." The "prime lending rate" shall mean the rate announced by Deutsche Bank from time to time as its prime lending rate for secured commercial loans within the United States (but is not intended to be the lowest rate of interest charged by Deutsche Bank in connection with extensions of credit to debtors.)

Any change in the prime rate announced by Deutsche Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Borrowing" means a borrowing hereunder consisting of Loans of the same Type made to the Borrower on the same day by the Lenders under Article II, and, other than in the case of Base Rate Loans, having the same Interest Period.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close

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and, if the applicable Business Day relates to any LIBOR Rate Loan, means such a day on which dealings are carried on in the London interbank market.

"Capital Adequacy Regulation" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any bank or of any corporation controlling a bank.

"Capital Expenditure Component" shall mean, with respect to the fiscal years described below, the lower of Limit A and Limit B set forth below:

FISCAL YEAR	LIMIT A	LIMIT B
[*]		

in each case, where "Sales" means revenues on a GAAP basis for the relevant period as reported (or to be reported) on annual financial statements filed with the SEC or in connection with delivery of financial information under Section 6.1 hereof if such financial statements are no longer filed by the Borrower with the SEC.

"Cash Equivalents" means (i) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (ii) certificates of deposit, eurodollar time deposits, overnight bank deposits, bankers' acceptances and repurchase agreements of any Lender or any other commercial bank whose unsecured long-term debt obligations are rated at least A-1 by Standard & Poor's Ratings Service Group, a division of the McGraw Hill Companies, Inc., and any successor thereto ("S&P") or A3 by Moody's Investors Service, Inc. having maturities of one year or less from the date of acquisition, and (iii) commercial paper rated at least A-1 by S&P or P-1 by Moody's Investors Service, Inc., or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments.

"CERCLA" has the meaning specified in the definition of "Environmental Laws."

"Change of Control" means the occurrence of the following: (a) any single person or single entity or group of persons acting in concert that is not a significant shareholder of the Borrower as of the date of closing acquires 20% or more of the

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[*] Confidential Treatment Requested

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issued and outstanding stock of the Borrower and (b) the aggregate percentage of the issued and outstanding stock of the Borrower owned by Jeffrey Bezos, his immediate family (which only includes his spouse, his parents, his children, his siblings and his aunts and uncles) and their heirs which are members of his immediate family, trusts and other entities established for and controlled by Jeffrey Bezos and his immediate family and funds controlled by Kleiner Perkins Caufield & Byers is less than 40% in the aggregate.

"Closing Date" means the date on which all conditions precedent set forth in Section 4.1 are satisfied or waived by all Lenders (or, in the case of subsection 4.1(e), waived by the Person entitled to receive such payment).

"Code" means the Internal Revenue Code of 1986, and regulations promulgated thereunder.

"Collateral" means all property and interests in property and proceeds thereof now owned or hereafter acquired by the Borrower and its Subsidiaries in or upon which a Lien now or hereafter exists in favor of the Lenders, or the Agent on behalf of the Lenders, whether under this Agreement or under any other documents executed by any such Person and delivered to the Agent or the Lenders.

"Collateral Documents" means, collectively, (i) the Security Agreement, and all other security agreements, mortgages, deeds of trust, patent and trademark assignments, lease assignments, guarantees and other similar agreements between the Borrower or any Subsidiary and the Lenders or the Agents for the benefit of the Lenders now or hereafter delivered to the Lenders or the Agent pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the Uniform Commercial Code or comparable law) against the Borrower or any Subsidiary as debtor in favor of the Lenders or the Agent for the benefit of the Lenders as secured party, and (ii) any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of any of the foregoing.

"Commitment" means seventy-five million dollars (\$75,000,000).

"Commitment Letter" means that certain letter dated as of November 7, 1997, among the Arranger, the Agent and the Borrower.

"Compliance Certificate" means a certificate substantially in the form of Exhibit B.

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"Contingent Obligation" means, as to any Person, any direct or indirect liability of that Person, whether or not contingent, with or without recourse, (a) with respect to any Indebtedness, lease, dividend, letter of credit or other obligation (the "primary obligations") of another Person (the "primary obligor"), including any obligation of that Person (i) to purchase, repurchase or otherwise acquire such primary obligations or any security therefor, (ii) to advance or provide funds for the payment or discharge of any such primary obligation, or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet item, level of income or financial condition of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the holder of any such primary obligation against loss in respect thereof (each, a "Guaranty Obligation"); (b) with respect to any Surety Instrument issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings or payments; (c) to purchase any materials, supplies or other property from, or to obtain the services of, another Person if the relevant contract or other related document or obligation requires that payment for such materials, supplies or other property, or for such services, shall be made regardless of whether delivery of such materials, supplies or other property is ever made or tendered, or such services are ever performed or tendered, or (d) in respect of any Swap Contract. The amount of any Contingent Obligation shall, in the case of Guaranty Obligations, be deemed equal to the stated or determinable amount of the primary obligation in respect of which such Guaranty Obligation is made or, if not stated or if indeterminable, the maximum reasonably anticipated liability in respect thereof, and in the case of other Contingent Obligations, shall be equal to the maximum reasonably anticipated liability in respect thereof.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement to which such Person is a party or by which it or any of its property is bound.

"Conversion/Continuation Date" means any date on which, under Section 2.4, the Borrower (a) converts Loans of one Type to another Type, or (b) continues as Loans of the same Type, but with a new Interest Period, Loans having Interest Periods expiring on such date.

"Debt Consideration" means, with respect to any Acquisition or Investment, the aggregate amount, without duplication, of all Indebtedness and Contingent Obligations which would appear on a balance sheet of the Person subject to such

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Acquisition or Investment immediately after giving effect to such Acquisition or Investment to the extent such Indebtedness or Contingent Obligation is a recourse obligation of the Person making such Investment or consummating such Acquisition.

"Default" means any event or circumstance which, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

"Deutsche Bank" means Deutsche Bank AG, New York Branch, the New York Branch of Deutsche Bank AG, a German banking corporation.

"Disposition" means (i) the sale, lease, conveyance or other disposition of property, other than sales or other dispositions expressly permitted under subsection 7.2(a) or 7.2(b), and (ii) the sale or transfer by the Borrower or any Subsidiary of the Borrower of any equity securities issued by any Subsidiary of the Borrower and held by such transferor Person.

"Dollars," "dollars" and "\$" each mean lawful money of the United States.

"EBITDA" means, with respect to the Borrower and its Subsidiaries for any applicable period, Net Income for such period, plus, to the extent deducted in determining Net Income for such period, the aggregate amount of (i) Interest Expense, (ii) federal, state, local, foreign income and business and occupation taxes and up to \$150,000 of Delaware franchise taxes per fiscal year paid by the Borrower and (iii) depletion, depreciation and amortization of tangible and intangible assets (including, without limitation, amortization of unearned compensation in respect of stock options to the extent reported in accordance with GAAP in the Borrower's consolidated statements of cash flows).

"Eligible Assignee" means (i) a commercial bank organized under the laws of the United States, or any state thereof, and having a combined capital and surplus of at least \$100,000,000; (ii) a commercial bank organized under the laws of any other country which is a member of the Organization for Economic Cooperation and Development (the "OECD"), or a political subdivision of any such country, and having a combined capital and surplus of at least \$100,000,000, provided that such bank is acting through a branch or agency located in the country in which it is organized or another country which is also a member of the OECD; (iii) a Person that is primarily engaged in the business of commercial banking and that is (A) a Subsidiary of a Lender, (B) a Subsidiary of a Person of which a Lender is a Subsidiary, or (C) a Person of which a Lender is a Subsidiary; or (iv) a finance company, insurance company, other financial institution or fund, reasonably acceptable to the Agent, which has a combined capital and surplus in excess of

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\$100,000,000, which is regularly engaged in making, purchasing or investing in loans of the type proposed to be assigned to such assignee; provided, however, that no Eligible Assignee shall be an Affiliate or competitor of the Borrower, or an Affiliate of such competitor.

"Environmental Claims" means all claims, however asserted, by any Governmental Authority or other Person alleging potential liability or responsibility for violation of any Environmental Law, or for release or injury to the environment or threat to public health, personal injury (including sickness, disease or death), property damage, natural resources damage, or otherwise alleging liability or responsibility for damages (punitive or otherwise), cleanup, removal, remedial or response costs, restitution, civil or criminal penalties, injunctive relief, or other type of relief, resulting from or based upon the presence, placement, discharge, emission or release (including intentional and unintentional, negligent and non-negligent, sudden or non-sudden, accidental or non-accidental, placement, spills, leaks, discharges, emissions or releases) of any Hazardous Material at, in, or from property used by the Borrower, whether or not owned by the Borrower.

"Environmental Laws" means all federal, state or local laws, statutes, common law duties, rules, regulations, ordinances and codes, together with all administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authorities, in each case relating to environmental, health, safety and land use matters; including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Emergency Planning and Community Right-to-Know Act.

"Equity Consideration" shall mean, in connection with an Acquisition or Investment, the value (determined as of the date of such Acquisition or Investment) of all common equity of the Borrower used as consideration in making such Acquisition or Investment.

"ERISA" means the Employee Retirement Income Security Act of 1974, and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and, solely for purposes of provisions herein

relating to Section 412 of the Code, Sections 414(m) and (o) of the Code).

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"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations which is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"Eurodollar Reserve Percentage" has the meaning specified in the definition of "LIBOR Rate."

"Event of Default" means any of the events or circumstances specified in Section 8.1.

"Event of Loss" means, with respect to any property, any of the following: (a) any loss, destruction or damage of such property; (b) any pending or threatened institution of any proceedings for the condemnation or seizure of such property or for the exercise of any right of eminent domain; or (c) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such property, or confiscation of such property or the requisition of the use of such property.

"Exchange Act" means the Securities and Exchange Act of 1934, and regulations promulgated thereunder.

"Federal Funds Rate" means, for any day, the rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, "H.15(519)") on the preceding Business Day opposite the caption "Federal Funds (Effective)"; or, if for any relevant day such rate is not so published on any such preceding Business Day, the rate for such day will be the arithmetic mean as determined by the Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of three leading brokers of Federal funds transactions in New York City selected by the Agent.

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"FRB" means the Board of Governors of the Federal Reserve System, and any Governmental Authority succeeding to any of its principal functions.

"GAAP" means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Guaranty Obligation" has the meaning specified in the definition of "Contingent Obligation."

"Hazardous Materials" means all those substances that are regulated by, or which may form the basis of liability under, any Environmental Law, including all substances identified under any Environmental Law as a pollutant, contaminant, hazardous waste, hazardous constituent, special waste, hazardous substance, hazardous material, or toxic substance, or petroleum or petroleum derived substance or waste.

"Indebtedness" of any Person means, without duplication, (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business on terms of not more than 180 days); (c) all non-contingent reimbursement or payment obligations with respect to Surety Instruments; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to property acquired by the Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property); (f) all obligations with respect to capital leases; (g) all net obligations with respect to Swap Contracts; (h) all indebtedness referred to in clauses (a) through (g) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any

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Lien upon or in property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness; and (i) all Guaranty Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above.

"Indemnified Liabilities" has the meaning specified in Section 10.5.

"Indemnified Person" has the meaning specified in Section 10.5.

"Independent Auditor" has the meaning specified in subsection 6.1(a).

"Insolvency Proceeding" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

"Interest Expense" means, for any applicable period, the aggregate consolidated interest expense (both cash and non-cash and determined without regard to original issue discount) of the Borrower and its Subsidiaries for such period, as determined in accordance with GAAP, including, to the extent allocable to interest expense in accordance with GAAP, (i) all other fees paid or owed with respect to the issuance or maintenance of Contingent Obligations (including letters of credit of the Borrower and its Subsidiaries), (ii) net costs or benefits under Swap Contracts of the Borrower and its Subsidiaries and (iii) the portion of any payments made in respect of obligations in respect of capitalized leases of the Borrower and its Subsidiaries allocable to interest expense.

"Interest Margin" means

- (i) with respect to Base Rate Loans, 1.50%; and
- (ii) with respect to LIBOR Rate Loans, 3.50%;

provided that in each instance the Interest Margin shall increase by 0.50% following the sixth month anniversary of the disbursement of Loans hereunder.

"Interest Payment Date" means, as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and, as to any Base Rate Loan, the last Business Day of each calendar quarter and each date such Loan is converted into another Type of Loan; provided, however, that if any Interest Period

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for a LIBOR Rate Loan exceeds three months, the date that falls three months after the beginning of such Interest Period and after each Interest Payment Date thereafter is also an Interest Payment Date.

"Interest Period" means, as to any LIBOR Rate Loan, the period commencing on the Conversion/Continuation Date on which the Loan is converted into or continued as a LIBOR Rate Loan, and ending on the date one, two, three or six months thereafter as selected by the Borrower in its Notice of Conversion/Continuation;

provided that:

- (i) if any Interest Period would otherwise end on a day that is not a Business Day, that Interest Period shall be extended to the following Business Day unless, in the case of a LIBOR Rate Loan, the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day;
- (ii) any Interest Period pertaining to a LIBOR Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (iii) no Interest Period shall extend beyond the Maturity Date.

"Investment" means any investment, ownership or similar interest in any Person, whether by means of share purchase, capital, equity or similar contribution, including, without limitation, any Acquisition, and "Investment" shall include any loan or advance (including any Contingent Liability with respect thereto), time deposit or otherwise (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business and excluding trade receivables owing to the Borrower or its Subsidiaries in the ordinary course of business and on terms no less favorable to the Borrower and its Subsidiaries than would be obtained in an arms-length transaction with Persons which are not Affiliates of the Borrower). The original amount of any Investment shall be the original principal or capital amount thereof and shall, if made by the transfer or exchange or property other than cash, be deemed to have been made in an original principal or capital amount equal to the fair market value of such property.

"IRS" means the Internal Revenue Service, and any Governmental Authority succeeding to any of its principal functions under the Code.

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"Joint Venture" means a corporation, partnership, limited liability company, joint venture or other similar legal arrangement (whether created by contract or conducted through a separate legal entity) now or hereafter formed by the Borrower or any of its Subsidiaries with one or more other Persons in order to conduct a common venture or enterprise with such Person.

"Lender" has the meaning specified in the introductory clause hereto.

"Lending Office" means, as to any Lender, the office or offices of such Lender specified as its "Lending Office" or "Domestic Lending Office" or "LIBOR Lending Office," as the case may be, on Schedule 10.2, or such other office or offices as the Lender may from time to time notify the Borrower and the Agent.

"LIBOR Rate" means, for any Interest Period, with respect to LIBOR Rate Loans comprising part of the same Borrowing, the rate of interest per annum (rounded upward to the next 1/16th of 1%) determined by the Agent as follows:

LIBOR Rate = LIBOR

1.00 - Eurodollar Reserve Percentage

Where,

"Eurodollar Reserve Percentage" means for any day for any Interest Period the maximum reserve percentage (expressed as a decimal, rounded upward to the next 1/100th of 1%) in effect on such day (whether or not applicable to any Lender) under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities"); and

"LIBOR" means the rate of interest per annum determined by the Agent as the rate of interest at which dollar deposits in the approximate amount of the amount of the Loan to be made or continued as, or converted into, a LIBOR Rate Loan and for the relevant Interest Period therefor as quoted on the Telerate Page 3750 (as defined herein) as of 11:00 a.m. (London time) on the day two (2) Business Days before the commencement of such Interest Period. If Telerate Page 3750 is not available, such rate of interest shall be that quoted by the Reference Bank and having a maturity comparable to such Interest Period as would be offered to major banks in the London interbank market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

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The LIBOR Rate shall be adjusted automatically as to all LIBOR Rate Loans then outstanding as of the effective date of any change in the Eurodollar Reserve Percentage.

"LIBOR Rate Loan" means a Loan that bears interest based on the LIBOR Rate.

"Lien" means any security interest, mortgage, deed of trust, pledge, hypothecation, assignment for security purposes, charge, encumbrance, lien (statutory or other) of any kind or nature whatsoever in respect of any property (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the Uniform Commercial Code or any comparable law) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under an operating lease.

"Loan" means an extension of credit by a Lender to the Borrower under Article II, and may be a Base Rate Loan or a LIBOR Rate Loan (each, a "Type" of Loan).

"Loan Documents" means this Agreement, any Notes, the Warrants, the Collateral Documents, the Commitment Letter and all other documents delivered to the Agent or any Lender in connection herewith.

"Margin Stock" means "margin stock" as such term is defined in Regulation G, T, U or X of the FRB.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, condition (financial or otherwise) or prospects of the Borrower or the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Borrower or any Subsidiary to perform under any Loan Document and to avoid any Event of Default; or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability against the Borrower or any Subsidiary of any Loan Document, or (ii) the perfection or priority of any Lien granted under any of the Collateral Documents; provided, an effect described in the preceding clauses (a), (b), and (c) shall constitute a "Material Adverse Effect" only if it could reasonably be expected to materially impair the ability or legally enforceable obligation of the Borrower or any Subsidiary to perform its obligations under the Loan Documents or otherwise deprive the Lenders or any one of them of the practical realization of the principal benefits intended thereby.

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"Material Subsidiary" means, at any time, any Subsidiary which has not been designated by the Borrower as a "Non-Material Subsidiary" pursuant to Section 7.16.

"Maturity Date" means the earlier of (i) December 23, 2000 and (ii) the date the Obligations are accelerated pursuant to Section 8.2 hereof.

"Minimum Cash Balance" shall mean the sum of (a) the difference of (i) [*] 1 less (ii) cash interest payments that have already been paid hereunder in respect of the Loans plus (b) the positive difference, if any, of (i) the aggregate of all Special Investments after the date hereof less (ii) the aggregate of all Special Investment Returns after the date hereof.

"Multiemployer Plan" means a "multiemployer plan," within the meaning of Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes, is making, or is obligated to make contributions or, during the preceding three calendar years, has made, or been obligated to make, contributions.

"Net Income" means, for any applicable period, the aggregate of all amounts which, in accordance with GAAP, would be included as net income (or net loss (including any extraordinary losses)) on a consolidated statement of income of the Borrower and its Subsidiaries for such period; provided, however, that "Net Income" shall exclude (i) the effect of any extraordinary or other non-recurring non-cash gain outside the ordinary course of business and (ii) any write-up in the value of any asset (to the extent such write-up exceeds any write-down taken in connection with the same transaction or event which gave rise to such write-up).

"Net Issuance Proceeds" means, as to any issuance of debt for borrowed money or equity by any Person, cash and Cash Equivalent proceeds and instruments received or receivable by such Person in connection therewith, net of reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of such Person, such costs and expenses not to exceed 5% of the gross proceeds of such issuance.

"Net Proceeds" means, as to any Disposition by a Person, proceeds in cash, checks or other Cash Equivalent financial instruments as and when received by such Person, net of: (a) the direct costs relating to such Disposition excluding amounts payable to such Person or any Affiliate of such Person, (b) sale, use or other

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[*] Confidential Treatment Requested

1 To be increased by the percentage that facility is in excess of \$75 million.

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transaction taxes (including capital gains taxes) paid or payable by such Person as a direct result thereof, and (c) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Lien on the asset which is the subject of such Disposition to the extent such Lien is permitted hereunder. "Net Proceeds" shall also include proceeds paid on account of any Event of Loss, net of (i) all money actually applied to repair or reconstruct the damaged property or property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, and (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments.

"Non-Material Subsidiary" means any Subsidiary which is designated as such by the Borrower pursuant to Section 7.16.

"Note" means a promissory note executed by the Borrower in favor of a Lender pursuant to subsection 2.2(b), in substantially the form of Exhibit E.

"Notice of Conversion/Continuation" means a notice in substantially the form of Exhibit A.

"Obligations" means all advances, debts, liabilities, obligations, covenants and duties arising under any Loan Document owing by the Borrower to any Lender, the Agent, or any Indemnified Person, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising.

"Organization Documents" means, for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, and all applicable resolutions of the board of directors (or any committee thereof) of such corporation pertaining to the Loan Documents.

"Other Taxes" means any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any other Loan Documents.

"Participant" has the meaning specified in subsection 10.8(d).

"PBGC" means the Pension Benefit Guaranty Corporation, or any Governmental Authority succeeding to any of its principal functions under ERISA.

"Pension Plan" means a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which the Borrower sponsors, maintains, or to which it makes, is making, or is obligated to make contributions, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding five (5) plan years.

"Permitted Liens" has the meaning specified in Section 7.1.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or Governmental Authority.

"Plan" means an employee benefit plan (as defined in Section 3(3) of ERISA) which the Borrower sponsors or maintains or to which the Borrower makes, is making, or is obligated to make contributions and includes any Pension Plan.

"Pro Rata Share" means, as to any Lender at any time, the percentage equivalent (expressed as a decimal, rounded to the ninth decimal place) at such time of such Lender's Commitment divided by the combined Commitments of all Lenders.

"Reference Bank" means Deutsche Bank.

"Reportable Event" means, any of the events set forth in Section 4043(c) of ERISA or the regulations thereunder, other than any such event for which the 30-day notice requirement under ERISA has been waived by statute, regulation or otherwise.

"Required Cash Balance" shall mean the lesser of (i) [*] and (ii) the Minimum Cash Balance.

"Required Lenders" means at any time at least two Lenders then holding at least 51% of the then aggregate unpaid principal amount of the Loans, or, if no such principal amount is then outstanding, at least two Lenders then having Pro Rata Shares equal to at least 51% of the Commitments.

"Requirement of Law" means, as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon the Person or any of its property or to which the Person or any of its property is subject.

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[*] Confidential Treatment Requested

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"Responsible Officer" means the chief executive officer or the president of the Borrower, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants, the chief financial officer or the treasurer of the Borrower, or any other officer having substantially the same authority and responsibility.

"Restricted Person" shall mean any Person (a) which has not executed a guaranty as described in Section 6.14(d), (b) which has not executed a security agreement as described in Section 6.14(d) granting a perfected first priority security interest (subject only to Permitted Liens other than those described in Section 7.1(i)) in substantially all of the property of such Person (including, without limitation, all material property of such Person) in favor of the Agent for the benefit of the Lenders, or (c) the stock or other equity interests of which, to the extent owned, directly or indirectly, by the Borrower and its Affiliates, has not been pledged, to the Agent for the benefit of the Lenders pursuant to a pledge agreement as described in Section 6.14(d) which pledge agreement grants in favor of the Agent a perfected first priority pledge agreement (subject only to Permitted Liens other than those described in Section 7.1(i)), in each case of clauses (a), (b) and (c) of this definition, whether or not such Person is a Subsidiary of the Borrower.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Special Investment" shall mean, without duplication, each of the following: (a) Investments in Restricted Persons (excluding Investments to the extent made by the Borrower using Equity Consideration and including any Debt Consideration in respect thereof) and, (b) Investments consisting of the assumption or incurrence of Indebtedness by the Borrower, or any Subsidiary which is not Restricted Person, permitted under Section 7.5(h).

"Special Investment Return" shall mean, without duplication, each of the following: (a) the amount of all proceeds, dividends, or distributions (in each case to the extent consisting of cash and Cash Equivalents) received by the Borrower, or any Subsidiary which is not a Restricted Person, in respect of a Special Investment made by the Borrower or such Subsidiary, as the case may be, and applied, to extent required pursuant thereto in accordance with Section 2.6, but limited in the aggregate to the extent of the original amount of such Special Investment, (b) the amount of any Special Investment (if of the type described in clause (a) of the definition thereof) to the extent the Person in which such Special Investment was made ceases to be a Restricted Person and (c) the amount of any Special Investment consisting of a Contingent Obligation permitted under Section 7.8(e) to the extent the underlying obligation is satisfied, not by the Borrower, but by the primary obligor thereof, or

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another Person which is not the Borrower or an Affiliate of the Borrower. For purposes of clause (b) of this definition, the amount of a Special Investment

shall be deemed reduced from the original amount thereof by all proceeds, dividends and distributions received by the Borrower as described in clause (a) of this definition.

"Solvent" means, as to any Person at any time, that (a) the fair value of the property of such Person is greater than the amount of such Person's liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated for purposes of Section 101(31) of the Bankruptcy Code and, in the alternative, for purposes of the New York Uniform Fraudulent Transfer Act; (b) the present fair saleable value of the property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured; (c) such Person is able to realize upon its property and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business; (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature; and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital.

"Subordinated Debt" shall mean Indebtedness of the Borrower which is subordinated to the Obligations of the Borrower and the Subsidiaries hereunder in right of payment, exercise of remedies or both, on terms and conditions reasonably acceptable to the Agent and the Required Lenders.

"Subsidiary" of a Person means any corporation association, partnership, limited liability company, joint venture or other business entity of which more than 50% of the voting stock membership interests or other equity interests (in the case of Persons other than corporations), is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof. Unless the context otherwise clearly requires, references herein to a "Subsidiary" refer to a Subsidiary of the Borrower.

"Surety Instruments" means all letters of credit (including standby and commercial), banker's acceptances, bank guaranties, shipside bonds, surety bonds and similar instruments.

"Swap Contract" means any agreement (including any master agreement and any agreement, whether or not in writing, relating to any single transaction) that is an interest rate swap agreement, basis swap, forward rate agreement, commodity swap, commodity option, equity or equity index swap or option, bond option, interest rate

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option, forward foreign exchange agreement, rate cap, collar or floor agreement, currency swap agreement, cross-currency rate swap agreement, swaption, currency option or any other, similar agreement (including any option to enter into any of the foregoing).

"Taxes" means any and all present or future taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding, in the case of each Lender and the Agent, such taxes (including income taxes or franchise taxes) as are imposed on or measured by each Lender's net income by the jurisdiction (or any political subdivision thereof) under the laws of which such Lender or the Agent, as the case may be, is organized or maintains a lending office.

"Telerate Page 3750" means the display designated as "Page 3750" on the Telerate Service (or other such page as may replace Page 3750 on that service or such other service as may be nominated by the British Bankers' Association as the information vendor for the purpose of displaying British Bankers' Association Interest Settlement Rates for U.S. Dollar deposits).

"Type" has the meaning specified in the definition of "Loan."

"UCC" means the Uniform Commercial Code as in effect in the State of New York.

"Unfunded Pension Liability" means the excess of a Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"United States" and "U.S." each means the United States of America.

"Warrants" shall mean, the warrants for Common Stock, \$0.01 par value, of the Borrower, substantially in the form of Exhibit F, to be delivered to Agent for the benefit of the Lenders in proportion to their respective Pro Rata Shares, in three series, for 75,000 shares, 225,000 shares and 450,000 shares, respectively.

"Wholly-Owned Subsidiary" means any corporation in which (other than directors' qualifying shares required by law) 100% of the capital stock of each class having ordinary voting power, and 100% of the capital stock of every other class, in each case, at the time as of which any determination is being made, is owned, beneficially and of record, by the Borrower, or by one or more of the other Wholly-Owned Subsidiaries, or both.

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1.2 OTHER INTERPRETIVE PROVISIONS

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and subsection, Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(c) (i) The term "documents" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced.

(ii) The term "including" is not limiting and means "including without limitation."

(iii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding," and the word "through" means "to and including."

(iv) The term "property" includes any kind of property or asset, real, personal or mixed, tangible or intangible.

(d) Unless otherwise expressly provided herein, (i) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(e) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(f) This Agreement and other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their terms.

(g) This Agreement and the other Loan Documents are the result of negotiations among and have been reviewed by counsel to the Agent, the Borrower

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and the other parties, and are the products of all parties. Accordingly, they shall not be construed against the Lenders or the Agent merely because of the Agent's or Lenders' involvement in their preparation.

(h) Each reference hereunder to Subsidiaries is effective at such time and to the extent that the Borrower has existing Subsidiaries (as defined herein).

1.3 ACCOUNTING PRINCIPLES

(a) Unless the context otherwise clearly requires, all accounting terms not expressly defined herein shall be construed, and all financial computations required under this Agreement shall be made, in accordance with GAAP, consistently applied.

(b) References herein to "fiscal year" and "fiscal quarter" refer to such fiscal periods of the Borrower.

(c) In the event that GAAP changes during the term of this Agreement such that the covenants contained in Section 7.14 would then be calculated in a different manner or with different components or with components which are calculated differently, (i) the parties hereto agree to enter into negotiations with respect to amendments to this Agreement to conform those covenants as criteria for evaluating the Borrower's and its Subsidiaries' financial condition to substantially the same criteria as were effective prior to such change in GAAP, and (ii) the Borrower shall be deemed to be in compliance with the affected covenants contained in Section 7.14 during the 60 days following any change in GAAP if and to the extent that the Borrower would have been in compliance therewith under GAAP as in effect immediately before such change; provided, however, that this paragraph shall not be deemed to require the Borrower, the Agent or the Lenders to agree to modify any provision of this Agreement or any of the other Loan Documents to reflect any such change to GAAP and, if, after such 60 days, the parties, in their sole discretion, fail to reach agreement on such modifications, the terms of this Agreement will remain unchanged and the compliance by the Borrower with the covenants contained in Section 7.14 will be calculated in accordance with GAAP as in effect immediately before such change.

ARTICLE II
THE CREDIT

2.1 AMOUNTS AND TERMS OF COMMITMENT

Each Lender severally agrees, on the terms and conditions set forth herein, to make a single loan to the Borrower (each such loan, a "Loan") on the Closing Date in

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an amount not to exceed such Lender's Pro Rata Share of the Commitment. Amounts borrowed hereunder which are repaid or prepaid by the Borrower may not be reborrowed.

2.2 LOAN ACCOUNTS

(a) The Loan made by each Lender shall be evidenced by one or more loan accounts or records maintained by such Lender in the ordinary course of business. The loan accounts or records maintained by the Agent and each Lender shall be conclusive absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure so to record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Loans.

(b) Upon the request of any Lender made through the Agent, the Loans made by such Lender may be evidenced by one or more Notes, instead of loan accounts. Each such Lender shall endorse on the schedules annexed to its Note(s) the date, amount and maturity of the Loan made by it and the amount of each payment of principal made by the Borrower with respect thereto. Each such Lender is irrevocably authorized by the Borrower to endorse its Note(s) and each Lender's record shall be conclusive absent manifest error; provided, however, that the failure of a Lender to make, or an error in making, a notation thereon with respect to any Loan shall not limit or otherwise affect the obligations of the Borrower hereunder or under any such Note to such Lender.

2.3 FUNDING OF LOANS

(a) Each Lender will make the amount of its Pro Rata Share of the Commitment available to the Agent for the account of the Borrower at the Agent's Payment Office by 1:00 p.m. (New York City time) on the Closing Date in funds immediately available to the Agent. The proceeds of all such Loans will then be made available to the Borrower by the Agent by wire transfer in accordance with written instructions provided to the Agent by the Borrower of like funds as received by the Agent.

(b) During the first three (3) Business Days following the Closing Date, all Loans shall be Base Rate Loans.

2.4 CONVERSION AND CONTINUATION ELECTIONS

(a) The Borrower may, upon irrevocable written notice to the Agent in accordance with subsection 2.4(b):

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(i) elect, as of any Business Day, in the case of Base Rate Loans, or as of the last day of the applicable Interest Period, in the case of any other Type of Loans, to convert any such Loans (or any part thereof in an amount not less than \$1,000,000, or that is in an integral multiple of \$500,000 in excess thereof) into Loans of any other Type; or

(ii) elect, as of the last day of the applicable Interest Period, to continue as LIBOR Rate Loans any Loans having Interest Periods expiring on such day (or any part thereof in an amount not less than \$1,000,000, or that is in an integral multiple of \$500,000 in excess thereof).

(b) The Borrower shall deliver a Notice of Conversion/Continuation to be received by the Agent not later than 1:00 p.m. (New York City time) at least (i) three Business Days in advance of the Conversion/Continuation Date, if the Loans are to be converted into or continued as LIBOR Rate Loans; and (ii) one Business Day in advance of the Conversion/Continuation Date, if the Loans are to be converted into Base Rate Loans, specifying:

(A) the proposed Conversion/Continuation Date;

(B) the aggregate amount of Loans to be converted or renewed;

(C) the Type of Loans resulting from the proposed conversion or continuation; and

(D) other than in the case of conversions into Base Rate Loans, the duration of the requested Interest Period.

(c) If upon the expiration of any Interest Period applicable to LIBOR Rate Loans, the Borrower has failed to select timely a new Interest Period to be applicable to such LIBOR Rate Loans, or if any Event of Default then exists, the Borrower shall be deemed to have elected to convert such LIBOR Rate Loans into Base Rate Loans effective as of the expiration date of such Interest Period.

(d) The Agent will promptly notify each Lender of its receipt of a Notice of Conversion/Continuation, or, if no timely notice is provided by the Borrower, the Agent will promptly notify each Lender of the details of any automatic conversion. All conversions and continuations shall be made ratably according to the respective outstanding principal amounts of the Loans with respect to which the notice was given held by each Lender.

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(e) Unless the Required Lenders otherwise agree, during the existence of an Event of Default, the Borrower may not elect to have a Loan converted into or continued as a LIBOR Rate Loan.

(f) After giving effect to any conversion or continuation of Loans, there may not be more than three different Interest Periods in effect.

2.5 OPTIONAL PREPAYMENTS

Subject to Section 3.4, the Borrower may, at any time or from time to time, upon not less than one Business Day's (in the case of Base Rate Loans) or three Business Days' (in the case of LIBOR Rate Loans) notice to the Agent (which in either case shall be irrevocable one Business Day prior to the

proposed prepayment date), ratably prepay Loans in whole or in part, in minimum amounts of \$1,000,000 or any multiple of \$500,000 in excess thereof. Such notice of prepayment shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Agent will promptly notify each Lender of its receipt of any such notice, and of such Lender's Pro Rata Share of such prepayment. If such notice is given by the Borrower and not rescinded in writing by the Borrower more than one Business Day prior to the proposed prepayment date, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to each such date on the amount prepaid and any amounts required pursuant to Section 3.4.

2.6 MANDATORY PREPAYMENTS OF LOANS

(a) Asset Dispositions. If the Borrower or any Subsidiary shall at any time or from time to time make or agree to make a Disposition then (i) the Borrower shall promptly notify the Agent of such proposed Disposition (including the amount of the estimated Net Proceeds to be received by the Borrower or such Subsidiary in respect thereof) and (ii) promptly upon, and in no event later than 90 days after, receipt by the Borrower or the Subsidiary of the Net Proceeds of such Disposition, the Borrower shall prepay the Loans in an aggregate amount equal to the amount of such Net Proceeds; provided, however, that no such prepayment shall be required to the extent, in each case, such Net Proceeds are used within 90 days of receipt thereof to purchase replacement assets; provided further, that such notice and prepayment shall be required only if (A) such Net Proceeds exceed \$500,000 or (B) the aggregate of all Net Proceeds theretofore received by the Borrower and not reinvested or used to make a prepayment hereunder exceeds \$1,000,000 in any fiscal year.

(b) Event of Loss. If the Borrower or any Subsidiary shall at any time or from time to time suffer an Event of Loss, then (i) the Borrower shall promptly notify

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the Agent of such Event of Loss (including the amount of the estimated Net Proceeds to be received by the Borrower or such Subsidiary in respect thereof) and (ii) promptly upon, and in no event later than two (2) Business Days after, receipt by the Borrower or the Subsidiary of the Net Proceeds of such Event of Loss, the Borrower shall, to the extent not inconsistent with any lease to which the Borrower is bound, either (A) prepay the Loans in an aggregate amount equal to the amount of such Net Proceeds or (B) deposit an aggregate amount equal to the amount of such Net Proceeds into a blocked interest bearing account maintained with the Agent pending release for usage by the Borrower in a manner, and during the time, specified in the proviso below; provided, however, that no such prepayment shall be required to the extent, in each case, such Net Proceeds are used within 90 days, or provision for use within 180 days is made, of receipt thereof to repair, replace or restore the assets, if any, relating to such Event of Loss; provided further, that such notice and prepayment shall be required only if (i) such Net Proceeds exceed \$500,000 or (ii) the aggregate of all Net Proceeds theretofore received by the Borrower and not reinvested or used to make a prepayment hereunder exceeds \$1,000,000 in any fiscal year.

(c) Equity or Debt Issuance. If the Borrower shall issue new common or preferred equity, or shall incur additional Indebtedness (other than Indebtedness permitted under Sections 7.5(b), (c), (e) or (f)), the Borrower shall promptly notify the Agent of the estimated Net Issuance Proceeds of such issuance or incurrence to be received by the Borrower in respect thereof. Promptly upon, and in no event later than 3 days after, receipt by the Borrower of Net Issuance Proceeds of such issuance or incurrence, the Borrower shall prepay the Loans in an aggregate amount equal to 50% of the amount of such Net Issuance Proceeds.

(d) General. Any prepayments pursuant to this Section 2.6 shall be applied first to any Base Rate Loans then outstanding and then to LIBOR Rate Loans with the shortest Interest Periods remaining; provided, however, that if the amount of Base Rate Loans then outstanding is not sufficient to satisfy the entire prepayment requirement, the Borrower may, at its option, place any amounts which it would otherwise be required to use to prepay LIBOR Rate Loans on a day other than the last day of the Interest Period therefor in an interest-bearing account pledged to the Agent for the benefit of the Lenders until the end of such Interest Period at which time such pledged amounts will be applied to prepay such LIBOR Rate Loans. The Borrower shall pay, together with each prepayment under this Section 2.6, accrued interest on the amount prepaid and any amounts required pursuant to Section 3.4.

2.7 REPAYMENT

The Borrower shall repay the Loans in full, together with all accrued and unpaid interest thereon, on the Maturity Date.

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2.8 INTEREST

(a) Each Loan shall bear interest on the outstanding principal amount thereof from the Closing Date at a rate per annum equal to the LIBOR Rate or the Base Rate, as the case may be (and subject to the Borrower's right to convert to other Types of Loans under Section 2.4), plus the Interest Margin.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date. Interest shall also be paid on the date of any prepayment of Loans under Section 2.5 or 2.6 for the portion of the Loans so prepaid and upon payment (including prepayment) in full thereof and, during the existence of any Event of Default, interest shall be paid on demand of the Agent at the request or with the consent of the Required Lenders.

(c) Notwithstanding subsection (a) of this Section, while any Event of Default exists or after acceleration, the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all outstanding Loans, at a rate per annum which is determined by adding 2% per annum to the Interest Margin then in effect for such Loans; provided, however, that, on and after the expiration of any Interest Period applicable to any LIBOR Rate Loan outstanding on the date of occurrence of such Event of Default or acceleration, the principal amount of such Loan shall, during the continuation of such Event of Default or after acceleration, bear interest at a rate per annum equal to the Base Rate plus 3.5% (or, if later than six (6) months after the disbursement of Loans hereunder, plus 4%).

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrower to any Lender hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by such Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest that may be lawfully contracted for, charged or received by such Lender, and in such event the Borrower shall pay such Lender interest at the highest rate permitted by applicable law.

2.9 FEES

(a) Arrangement, Agency Fees. The Borrower shall pay a syndication and underwriting fee to the Arranger and to Deutsche Bank, for their respective accounts, and shall pay an agency fee to the Agent for the Agent's own account, as required by the Commitment Letter.

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2.10 COMPUTATION OF FEES AND INTEREST

(a) All computations of interest for Base Rate Loans when the Base Rate is determined by Deutsche Bank's "prime lending rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more interest being paid than if computed on the basis of a 365-day year). Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to the last day thereof.

(b) Each determination of an interest rate by the Agent shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Agent will, at the request of the Borrower or any Lender, deliver to the Borrower or the Lender, as the case may be, a statement showing the quotations used by the Agent in determining any interest rate and the resulting interest rate.

(c) The Reference Bank shall use its best efforts to furnish quotations of rates to the Agent as contemplated hereby.

2.11 PAYMENTS BY THE BORROWER

(a) All payments to be made by the Borrower shall be made without set-off, recoupment or counterclaim. Except as otherwise expressly provided herein, all payments by the Borrower shall be made to the Agent for the account of the Lenders at the Agent's Payment Office, and shall be made in dollars and in immediately available funds, no later than 2:00 p.m. (New York City time) on the date specified herein. The Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as expressly provided herein) of such payment in like funds as received. Any payment received by the Agent later than 2:00 p.m. (New York City time) shall be deemed to have been received on the following Business Day and any applicable interest or fee shall continue to accrue.

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, whenever any payment is due on a day other than a Business Day, such payment shall be made on the following Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

(c) Unless the Agent receives notice from the Borrower prior to the date on which any payment is due to the Lenders that the Borrower will not make such payment in full as and when required, the Agent may assume that the Borrower has

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made such payment in full to the Agent on such date in immediately available funds and the Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent the Borrower has not made such payment in full to the Agent, each Lender shall repay to the Agent on demand such amount distributed to such Lender, together with interest thereon at the Federal Funds Rate for each day from the date such amount is distributed to such Lender until the date repaid.

2.12 PAYMENTS BY THE LENDERS TO THE AGENT

(a) Unless the Agent receives notice from a Lender on or prior to the Closing Date that such Lender will not make available on the Closing Date to the Agent for the account of the Borrower the amount of that Lender's Pro Rata Share of the Commitment, the Agent may assume that each Lender has made such amount available to the Agent in immediately available funds on the Closing Date and the Agent may (but shall not be so required), in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent any Lender shall not have made its full amount available to the Agent

in immediately available funds and the Agent in such circumstances has made available to the Borrower such amount, that Lender shall on the Business Day following the Closing Date make such amount available to the Agent, together with interest at the Federal Funds Rate for each day during such period. A notice of the Agent submitted to any Lender with respect to amounts owing under this subsection (a) shall be conclusive, absent manifest error. If such amount is so made available, such payment to the Agent shall constitute such Lender's Loan on the Closing Date for all purposes of this Agreement.

(b) The failure of any Lender to make any Loan on the Closing Date shall not relieve any other Lender of any obligation hereunder to make a Loan on the Closing Date, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the Closing Date.

2.13 SHARING OF PAYMENTS, ETC.

If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its Pro Rata Share, such Lender shall immediately (a) notify the Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to

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that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off, but subject to Section 10.10) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments.

2.14 SECURITY

All obligations of the Borrower and the Subsidiaries under this Agreement, the Notes and all other Loan Documents shall be secured in accordance with the Collateral Documents.

ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY

3.1 TAXES

(a) Any and all payments by the Borrower to each Lender or the Agent under this Agreement and any other Loan Document shall be made free and clear of, and without deduction or withholding for any Taxes. In addition, the Borrower shall pay all Other Taxes.

(b) The Borrower agrees to indemnify and hold harmless each Lender and the Agent for the full amount of Taxes or Other Taxes (including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section) paid by the Lender or the Agent and any liability (including penalties, interest, additions to tax and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. Payment under this indemnification shall be made within 30 days after the date the Lender or the Agent makes written demand therefor.

(c) If the Borrower shall be required by law to deduct or withhold any Taxes or Other Taxes from or in respect of any sum payable hereunder to any Lender or the Agent, then:

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(i) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section) such Lender or the Agent, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made;

(ii) the Borrower shall make such deductions and withholdings;

(iii) the Borrower shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law; and

(iv) the Borrower shall also pay to each Lender or the Agent for the account of such Lender, at the time interest is paid, all additional amounts which the respective Lender specifies as necessary to preserve the after-tax yield the Lender would have received if such Taxes or Other Taxes had not been imposed.

(d) Within 30 days after the date of any payment by the Borrower of Taxes or Other Taxes, the Borrower shall furnish the Agent the original or a certified copy of a receipt evidencing payment thereof, or other evidence of payment satisfactory to the Agent.

(e) If the Borrower is required to pay additional amounts to any Lender or the Agent pursuant to subsection (c) of this Section, then such Lender shall use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its Lending Office so as to eliminate any such additional payment by the Borrower which may thereafter accrue, if such change in the judgment of such Lender is not otherwise disadvantageous to such Lender.

3.2 ILLEGALITY

(a) If any Lender reasonably determines that the introduction of any Requirement of Law, or any change in any Requirement of Law, or in the interpretation or administration of any Requirement of Law, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make LIBOR Rate Loans, then, on notice thereof by the Lender to the Borrower through the Agent, any obligation of that Lender to make LIBOR Rate Loans shall be suspended until the Lender notifies the Agent and the Borrower that the circumstances giving rise to such determination no longer exist.

(b) If a Lender reasonably determines that it is unlawful to maintain any LIBOR Rate Loan, the Borrower shall, upon its receipt of notice of such fact and

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demand from such Lender (with a copy to the Agent), prepay in full such LIBOR Rate Loans of that Lender then outstanding, together with interest accrued thereon and amounts required under Section 3.4, either on the last day of the Interest Period thereof, if the Lender may lawfully continue to maintain such LIBOR Rate Loans to such day, or immediately, if the Lender may not lawfully continue to maintain such LIBOR Rate Loan. If the Borrower is required to so prepay any LIBOR Rate Loan, then concurrently with such prepayment, the Borrower shall borrow from the affected Lender, in the amount of such repayment, a Base Rate Loan.

(c) If the obligation of any Lender to make or maintain LIBOR Rate Loans has been so terminated or suspended, the Borrower may elect, by giving notice to the Lender through the Agent that all Loans which would otherwise be made by the Lender as LIBOR Rate Loans shall be instead Base Rate Loans.

(d) Before giving any notice to the Agent under this Section, the affected Lender shall designate a different Lending Office with respect to its LIBOR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

3.3 INCREASED COSTS AND REDUCTION OF RETURN

(a) If any Lender reasonably determines that, due to either (i) the introduction of or any change in or in the interpretation of any law or regulation or (ii) the compliance by that Lender with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any LIBOR Rate Loans, then the Borrower shall be liable for, and shall from time to time, upon demand (with a copy of such demand to be sent to the Agent), pay to the Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs.

(b) If any Lender shall have reasonably determined that (i) the introduction of any Capital Adequacy Regulation, (ii) any change in any Capital Adequacy Regulation, (iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof, or (iv) compliance by the Lender (or its Lending Office) or any corporation controlling the Lender with any Capital Adequacy Regulation, affects or would affect the amount of capital required or expected to be maintained by the Lender or any corporation controlling the Lender and (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy and such Lender's desired return on capital) reasonably

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determines that the amount of such capital is increased as a consequence of its Commitment, loans, credits or obligations under this Agreement, then, upon demand of such Lender to the Borrower through the Agent, the Borrower shall pay to the Lender, from time to time as specified by the Lender, additional amounts sufficient to compensate the Lender for such increase.

3.4 FUNDING LOSSES

The Borrower shall reimburse each Lender and hold each Lender harmless from any loss (excluding consequential damages consisting of lost profits) or expense which the Lender may sustain or incur as a consequence of:

(a) the failure of the Borrower to make on a timely basis any payment of principal of any LIBOR Rate Loan;

(b) the failure of the Borrower to borrow the Loans on the Closing Date, or to continue or convert a Loan after the Borrower has given (or is deemed to have given) a Notice of Conversion/Continuation;

(c) the failure of the Borrower to make any prepayment in accordance with any notice delivered under Section 2.5;

(d) the prepayment (including pursuant to Sections 2.5 and 2.6) or other payment (including after acceleration thereof) of a LIBOR Rate Loan on a day

that is not the last day of the relevant Interest Period; or

(e) the automatic conversion under Section 2.4 of any LIBOR Rate Loan to a Base Rate Loan on a day that is not the last day of the relevant Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Rate Loans or from fees payable to terminate the deposits from which such funds were obtained. For purposes of calculating amounts payable by the Borrower to the Lenders under this Section and under subsection 3.3(a), each LIBOR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR used in determining the LIBOR Rate for such LIBOR Rate Loan by a matching deposit or other borrowing in the interbank eurodollar market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan is in fact so funded.

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3.5 INABILITY TO DETERMINE RATES

If the Agent reasonably determines that for any reason adequate and reasonable means do not exist for determining the LIBOR Rate for any requested Interest Period with respect to a proposed LIBOR Rate Loan, or that the LIBOR Rate applicable pursuant to subsection 2.8(a) for any requested Interest Period with respect to a proposed LIBOR Rate Loan does not adequately and fairly reflect the cost to the of funding such Loan, the Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBOR Rate Loans hereunder shall be suspended until the Agent revokes such notice in writing, which it shall do promptly when possible. Upon receipt of such notice, the Borrower may revoke any Notice of Conversion/Continuation then submitted by it. If the Borrower does not revoke such Notice, the Lenders shall make, convert or continue the Loans, as proposed by the Borrower, in the amount specified in the applicable notice submitted by the Borrower, but such Loans shall be made, converted or continued as Base Rate Loans instead of LIBOR Rate Loans.

3.6 CERTIFICATES OF LENDERS

Any Lender claiming reimbursement or compensation under this Article III shall deliver to the Borrower (with a copy to the Agent) a certificate setting forth in reasonable detail the amount payable to the Lender hereunder and such certificate shall be conclusive and binding on the Borrower in the absence of manifest error.

3.7 SURVIVAL

The agreements and obligations of the Borrower in this Article III shall survive the payment of all other Obligations.

ARTICLE IV
CONDITIONS PRECEDENT

4.1 CONDITIONS OF LOANS

The obligation of each Lender to make its Loan hereunder is subject to the condition that the Agent has received on or before the Closing Date all of the following, in form and substance satisfactory to the Agent and each Lender, and in sufficient copies for each Lender:

(a) Credit Agreement and Notes. This Agreement, the Notes and the Warrants executed by each party thereto;

(b) Resolutions; Incumbency.

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(i) Copies of the resolutions of the board of directors of the Borrower and each Subsidiary that may become party to a Loan Document authorizing the transactions contemplated hereby, certified as of the Closing Date by the Secretary or an Assistant Secretary of such Person; and

(ii) A certificate of the Secretary or Assistant Secretary or an executive officer of the Borrower, and each Subsidiary that may become party to a Loan Document certifying the names and true signatures of the officers of the Borrower or such Subsidiary authorized to execute, deliver and perform, as applicable, this Agreement, and all other Loan Documents to be delivered by it hereunder;

(c) Organization Documents; Good Standing. Each of the following documents:

(i) the articles or certificate of incorporation and the bylaws of the Borrower and each Subsidiary party to any Loan Document as in effect on the Closing Date, certified by the Secretary or Assistant Secretary of the Borrower or such Subsidiary as of the Closing Date; and

(ii) a good standing certificate for the Borrower and each Subsidiary party to any Loan Document from the Secretary of State (or similar, applicable Governmental Authority) of its state of incorporation and each state where the Borrower or such Subsidiary is qualified to do business as a foreign corporation as of a recent date;

(d) Legal Opinions. An opinion of Perkins Coie - Seattle, counsel to the Borrower and addressed to the Agent and the Lenders, substantially in the form of Exhibit C;

(e) Payment of Fees. Evidence of payment by the Borrower of all accrued and unpaid fees, costs and expenses to the extent then due and payable on the Closing Date, together with Attorney Costs of Deutsche Bank to the extent invoiced prior to or on the Closing Date; including any such costs, fees and expenses arising under or referenced in Sections 2.9 and 10.4;

(f) Collateral Documents. The Collateral Documents, executed by the Borrower, in appropriate form for recording, where necessary, together with:

(i) copies of all UCC-1 financing statements filed, registered or recorded to perfect the security interests of the Agent for the benefit of the Lenders, or other evidence satisfactory to the Agent that there has been filed, registered or

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recorded all financing statements and other filings, registrations and recordings necessary and advisable to perfect the Liens of the Agent for the benefit of the Lenders in accordance with applicable law (provided that filings to be made in connection with Intellectual Property Collateral (as defined in the Security Agreement) shall be made within seven days after the Closing Date);

(ii) written advice relating to such Lien and judgment searches as the Agent shall have requested, and such termination statements or other documents as may be necessary to confirm that the Collateral is subject to no other Liens in favor of any Persons (other than Permitted Liens);

(iii) funds sufficient to pay any filing or recording tax or fee in connection with any and all UCC-1 financing statements; and

(iv) evidence that all other actions necessary or, in the reasonable opinion of the Agent or the Lenders, desirable, to perfect and protect the first priority security interest created by the Collateral Documents and to enhance the Agent's ability to preserve and protect its interests in and access to the Collateral, have been taken;

(g) Insurance Policies. Standard lenders' payable endorsements with respect to the insurance policies or other instruments or documents evidencing insurance coverage on the properties of the Borrower in accordance with Section 6.6;

(h) Certificate. A certificate signed by a Responsible Officer, dated as of the Closing Date, stating that:

(i) the representations and warranties contained in Article V are true and correct on and as of such date, as though made on and as of such date;

(ii) no Default or Event of Default exists or would result from making the Loans under Article II; and

(iii) there has occurred since September 30, 1997, no event or circumstance that has resulted or could reasonably be expected to result in a Material Adverse Effect; and

(i) Other Documents. Such other approvals, opinions, documents or materials as the Agent or any Lender may reasonably request.

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4.2 CONDITIONS TO CONTINUATIONS/CONVERSIONS

The obligation of each Lender to continue or convert any Loan under Section 2.4 is subject to the satisfaction of the following conditions precedent on the relevant Conversion/Continuation Date:

(a) Notice of Conversion/Continuation. The Agent shall have received a Notice of Conversion/Continuation;

(b) Continuation of Representations and Warranties. The representations and warranties in Article V shall be true and correct on and as of such Conversion/Continuation Date with the same effect as if made on and as of such Conversion/Continuation Date (except to the extent such representations and warranties solely and expressly refer to an earlier date, in which case they shall be true and correct as of such earlier date); and

(c) No Existing Default. No Default or Event of Default shall exist or shall result from such continuation or conversion.

Each Notice of Conversion/Continuation submitted by the Borrower hereunder shall constitute a representation and warranty by the Borrower hereunder, as of the date of each such notice and as of each Conversion/Continuation Date, as applicable, that the conditions in Section 4.2 are satisfied.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Agent and each Lender that:

5.1 CORPORATE EXISTENCE AND POWER

The Borrower and each of its Subsidiaries:

(a) is a corporation, partnership, limited liability company or similar entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation;

(b) has the power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver, and perform its obligations under the Loan Documents;

(c) is duly qualified as a foreign corporation, partnership, limited liability company or similar entity and is licensed and in good standing under the laws

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of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all Requirements of Law; except, in each case referred to in clause (c) or clause (d), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.2 CORPORATE AUTHORIZATION; NO CONTRAVENTION

The execution, delivery and performance by the Borrower and its Subsidiaries of this Agreement and each other Loan Document to which such Person is party, have been duly authorized by all necessary corporate, partnership, limited liability company or similar entity action, and do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any breach or contravention of, or the creation of any Lien under, any document evidencing any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its property is subject; or

(c) violate any Requirement of Law.

5.3 GOVERNMENTAL AUTHORIZATION

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority (except for recordings or filings in connection with the Liens granted to the Agent under the Collateral Documents and except for state and federal securities laws filings in connection with the issuance of the Warrants that may be required) is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Borrower or any of its Subsidiaries of the Agreement or any other Loan Document.

5.4 BINDING EFFECT

This Agreement and each other Loan Document to which the Borrower or any of its Subsidiaries is a party constitute the legal, valid and binding obligations of the Borrower and any of its Subsidiaries to the extent it is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

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5.5 LITIGATION

Except as specifically disclosed in Schedule 5.5, as of the date of this Agreement there are no actions, suits, proceedings, claims or disputes pending, or to the best knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against the Borrower, or its Subsidiaries or any of their respective properties which:

(a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) if determined adversely to the Borrower or its Subsidiaries, would reasonably be expected to have a Material Adverse Effect.

No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement or any other Loan Document, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided.

5.6 NO DEFAULT

No Default or Event of Default exists or would result from the incurring of any Obligations by the Borrower or from the grant or perfection of the Liens of the Agent and the Lenders on the Collateral. As of the Closing Date, neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect, or that would, if such default had occurred after the Closing Date, create an Event of Default under subsection 8.1(e).

5.7 ERISA COMPLIANCE

Except as specifically disclosed in Schedule 5.7:

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state law. Each Plan which is intended to qualify under Section 401(a) of the Code has received

a favorable determination letter from the IRS and to the best knowledge of the Borrower, nothing has occurred which would cause the loss of such qualification. The Borrower and each ERISA Affiliate has made all required contributions to any Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

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(b) There are no pending or, to the best knowledge of Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c)(i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA, which in the case of each of the foregoing clauses (i) through (v) could reasonably be expected to have a Material Adverse Effect.

5.8 USE OF PROCEEDS; MARGIN REGULATIONS

The proceeds of the Loans are to be used solely for the purposes set forth in and permitted by Section 6.12 and Section 7.7. Neither the Borrower nor any Subsidiary is generally engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock.

5.9 TITLE TO PROPERTIES

The Borrower and each Subsidiary have good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of their respective businesses, except for such defects in title which could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of the Closing Date, the property of the Borrower and its Subsidiaries is subject to no Liens, other than Permitted Liens.

5.10 TAXES

The Borrower and its Subsidiaries have filed all Federal and other material tax returns and reports required to be filed, and have paid all Federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which

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are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower or any Subsidiary that would, if made, have a Material Adverse Effect.

5.11 FINANCIAL CONDITION

(a) The unaudited consolidated financial statements of the Borrower and its Subsidiaries dated September 30, 1997, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date:

(i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, subject to ordinary, good faith year-end audit adjustments;

(ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and results of operations for the period covered thereby; and

(iii) except as specifically disclosed in Schedule 5.11, show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its consolidated Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Contingent Obligations.

(b) Since September 30, 1997, there has been no Material Adverse Effect.

5.12 ENVIRONMENTAL MATTERS

(a) Except as specifically disclosed in Schedule 5.12, the on-going operations of the Borrower and each of its Subsidiaries comply in all respects with all Environmental Laws, except such non-compliance which would not (if enforced in accordance with applicable law) result in liability in excess of \$2,000,000 in the aggregate.

(b) Except as specifically disclosed in Schedule 5.12, the Borrower and each of its Subsidiaries have obtained all licenses, permits, authorizations and registrations required under any Environmental Law ("Environmental Permits") and

necessary for their respective ordinary course operations, all such Environmental Permits are in good standing, and the Borrower and each of its Subsidiaries are in compliance with all material terms and conditions of such Environmental Permits except to the extent the failure to have such Environmental Permits or to comply therewith could not reasonably be expected to have a Material Adverse Effect.

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(c) Except as specifically disclosed in Schedule 5.12, none of the Borrower, any of its Subsidiaries or any of their respective present property or operations, is subject to any outstanding written order from or agreement with any Governmental Authority, nor subject to any judicial or docketed administrative proceeding, respecting any Environmental Law, Environmental Claim or Hazardous Material, which would if adversely determined, result in a liability or in economic loss in excess of \$2,000,000 in the aggregate.

(d) Except as specifically disclosed in Schedule 5.12, there are no Hazardous Materials or other conditions or circumstances existing with respect to any property of the Borrower or any Subsidiary, or arising from operations prior to the Closing Date, of the Borrower or any of its Subsidiaries that would reasonably be expected to give rise to Environmental Claims with a potential liability of the Borrower and its Subsidiaries in excess of \$2,000,000 in the aggregate for any such condition, circumstance or property. In addition, (i) neither the Borrower nor any Subsidiary has any underground storage tanks (x) that are not properly registered or permitted under applicable Environmental Laws, or (y) that are leaking or disposing of Hazardous Materials off-site, and (ii) the Borrower and its Subsidiaries have notified all of their employees of the existence, if any, of any health hazard arising from the conditions of their employment and have met all notification requirements under Title III of CERCLA and all other Environmental Laws.

5.13 COLLATERAL DOCUMENTS

(a) As of the date hereof, the provisions of each of the Collateral Documents are effective to create in favor of the Agent for the benefit of the Lenders, a legal, valid and enforceable security interest in all right, title and interest of the Borrower and its Subsidiaries in the collateral described therein; and financing statements have been delivered to the Agent for filing in the offices in all of the jurisdictions listed in the schedule to the Security Agreement and executed Patent Assignments, Trademarks Assignments and Copyright Assignments have been delivered to the Agent for filing in the U.S. Patent and Trademark Office and the U.S. Copyright Office and upon the filing of such assignments and such financing statements in such offices, the Agent, for the benefit of the Lenders, will have a perfected first priority security interest (subject only to Permitted Liens) in the collateral described thereon in which a security interest may be perfected by the filing of such financing statements or assignments, and upon delivery of those items of Collateral for which physical possession is the method for perfection, the Agent, for the benefit of the Lenders will have a valid, first priority security interest thereon.

(b) All representations and warranties of the Borrower and any of its Subsidiaries party thereto contained in the Collateral Documents are true and correct.

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5.14 REGULATED ENTITIES

None of the Borrower, any Person controlling the Borrower, or any Subsidiary, is an "Investment Company" within the meaning of the Investment Company Act of 1940. The Borrower is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other Federal or state statute or regulation limiting its ability to incur Indebtedness.

5.15 NO BURDENSOME RESTRICTIONS

As of the date of this Agreement, neither the Borrower nor any Subsidiary is a party to or bound by any Contractual Obligation, or subject to any restriction in any Organization Document, or any Requirement of Law, which could reasonably be expected to have a Material Adverse Effect.

5.16 COPYRIGHTS, PATENTS, TRADEMARKS AND LICENSES, ETC.

The Borrower or its Subsidiaries own or are licensed or otherwise have the right to use all of the patents, trademarks, service marks, trade names, copyrights, contractual franchises, authorizations and other rights that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Subsidiary infringes upon any rights held by any other Person. Except as specifically disclosed in Schedule 5.5, no claim or litigation regarding any of the foregoing is pending or threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of the Borrower, proposed, which, in either case, could reasonably be expected to have a Material Adverse Effect.

5.17 SUBSIDIARIES

As of the date of this Agreement, the Borrower has no Subsidiaries other than those specifically disclosed in part (a) of Schedule 5.17 hereto and has no Investments in any other corporation or entity other than those specifically disclosed in part (b) of Schedule 5.17.

5.18 INSURANCE

Except as specifically disclosed in Schedule 5.18, the properties of the Borrower and its Subsidiaries are insured with financially sound and reputable

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insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or such Subsidiary operates.

5.19 SOLVENCY

The Borrower and each of its Material Subsidiaries are Solvent.

5.20 FULL DISCLOSURE

None of the representations or warranties made by the Borrower or any Subsidiary in the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the statements contained in any exhibit, report, statement or certificate furnished by or on behalf of the Borrower or any Subsidiary in connection with the Loan Documents (including the offering and disclosure materials delivered by or on behalf of the Borrower to the Lenders prior to the Closing Date), contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

ARTICLE VI
AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid or unsatisfied, unless the Required Lenders waive compliance in writing:

6.1 FINANCIAL STATEMENTS

The Borrower shall deliver to the Agent, in form and detail reasonably satisfactory to the Agent and the Required Lenders, with sufficient copies for each Lender:

(a) as soon as available, but not later than 95 days after the end of each fiscal year, a copy of the audited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such year, setting forth in each case in comparative form the figures for the previous fiscal year, and accompanied by the opinion of Ernst & Young LLP or another nationally recognized independent public accounting firm ("Independent Auditor") which report shall state

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that such consolidated financial statements present fairly the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years with the exception of changes noted therein. Such opinion shall not be qualified or limited because of a restricted or limited examination by the Independent Auditor of any material portion of the Borrower's or any Subsidiary's records;

(b) as soon as available, but not later than 50 days after the end of each of the first three fiscal quarters of each fiscal year a copy of the unaudited consolidated balance sheet (including a statement of stockholders' equity) of the Borrower and its Subsidiaries as of the end of such quarter and the related consolidated statements of income and cash flows for the period commencing on the first day and ending on the last day of such quarter, and certified by a Responsible Officer as fairly presenting, in accordance with GAAP (subject to normal good faith year-end audit adjustments), the financial position and the results of operations of the Borrower and the Subsidiaries;

(c) concurrent with the delivery of each of the reports required under clauses (a) and (b) above, a good faith reasonable estimate by the Borrower for the Non-Material Subsidiaries of such Non-Material Subsidiaries' (i) total (gross) revenues (on a consolidated basis) for the four fiscal quarter period ending as of the report date and (ii) total assets (on a consolidated basis), as of the last day of the fiscal quarter ending as of the report date, reported on a net book value basis; provided, that any Non-Material Subsidiary which has less than four fiscal quarters of financial information shall annualize the financial results of its operations for purposes of this Section 6.1(c).

6.2 CERTIFICATES; OTHER INFORMATION

The Borrower shall furnish to the Agent, with sufficient copies for each Lender:

(a) concurrently with the delivery of the financial statements referred to in subsection 6.1(a), a certificate of the Independent Auditor stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(b) concurrently with the delivery of the financial statements referred to in subsections 6.1(a) and (b), a Compliance Certificate executed by a Responsible Officer;

(c) promptly, copies of all financial statements and reports that

the Borrower sends to its shareholders, and copies of all financial statements and regular,

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periodical or special reports (including Forms 10K, 10Q and 8K) that the Borrower or any Subsidiary may make to, or file with, the SEC;

(d) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary as the Agent, at the request of any Lender, may from time to time reasonably request; and

(e) concurrently with the delivery of the financial statements referred to in subsections 6.1(a) and (b) and immediately prior to each Acquisition or Investment resulting in a Person becoming a Subsidiary, a certification of a Responsible Officer specifying which of the Subsidiaries of the Borrower are Non-Material Subsidiaries and demonstrating compliance with Section 7.16 (after giving effect to such Acquisition or Investment), together with the information required under Section 6.1(c).

6.3 NOTICES

The Borrower shall promptly notify the Agent and each Lender:

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

(b) of (i) any breach or non-performance of, or any default under, any Contractual Obligation of the Borrower or any of its Subsidiaries which could reasonably be expected to result in a Material Adverse Effect; and (ii) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between the Borrower or any of its Subsidiaries and any Governmental Authority which could have a Material Adverse Effect, if adversely determined;

(c) of the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Subsidiary (i) in which the amount of damages claimed is \$2,000,000 (or its equivalent in another currency or currencies) or more, (ii) in which injunctive or similar relief is sought and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement or any Loan Document;

(d) upon, but in no event later than 10 days after, becoming aware of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Borrower or any Subsidiary or any of their respective properties pursuant to any applicable Environmental Laws, (ii) all other Environmental Claims, and (iii) any environmental or similar condition on any real property adjoining or in the vicinity of the property of the Borrower or any

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Subsidiary that could reasonably be anticipated to cause such property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of such property under any Environmental Laws;

(e) of any other litigation or proceeding affecting the Borrower or any of its Subsidiaries which the Borrower would be required to report to the SEC pursuant to the Exchange Act, within four days after reporting the same to the SEC;

(f) of any of the following events affecting the Borrower, together with a copy of any notice with respect to such event that may be required to be filed with a Governmental Authority and any notice delivered by a Governmental Authority to the Borrower with respect to such event:

(i) an ERISA Event;

(ii) if any of the representations and warranties in Section 5.7 ceases to be true and correct;

(iii) the adoption of any new Pension Plan or other Plan subject to Section 412 of the Code;

(iv) the adoption of any amendment to a Pension Plan or other Plan subject to Section 412 of the Code, if such amendment results in a material increase in contributions or Unfunded Pension Liability; or

(v) the commencement of contributions to any Pension Plan or other Plan subject to Section 412 of the Code; and

(g) of any material change in accounting policies or financial reporting practices by the Borrower or any of its consolidated Subsidiaries.

Each notice under this Section shall be accompanied by a written statement by a Responsible Officer setting forth details of the occurrence referred to therein, and stating what action the Borrower or any affected Subsidiary proposes to take with respect thereto and at what time. Each notice under subsection 6.3(a) shall describe with particularity any and all clauses or provisions of this Agreement or other Loan Document that have been (or foreseeably will be) breached or violated.

6.4 PRESERVATION OF CORPORATE EXISTENCE, ETC.

The Borrower shall, and shall cause each Subsidiary to:

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(a) preserve and maintain in full force and effect its corporate, partnership, limited liability or other existence and good standing under the laws of its state or jurisdiction of incorporation or formation;

(b) preserve and maintain in full force and effect all governmental rights, privileges, qualifications, permits, licenses and franchises necessary or desirable in the normal conduct of its business except in connection with transactions permitted by Section 7.3 and sales of assets permitted by Section 7.2;

(c) use reasonable efforts, in the ordinary course of business, to preserve its business organization and goodwill (subject in the case of Subsidiaries, to transactions permitted under Sections 7.2 and 7.3); and

(d) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.5 MAINTENANCE OF PROPERTY

The Borrower shall maintain, and shall cause each Subsidiary to maintain, and preserve all its property which is used or useful in its business in good working order and condition, ordinary wear and tear excepted and make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, except as permitted by Section 7.2.

6.6 INSURANCE

In addition to insurance requirements set forth in the Collateral Documents, the Borrower shall maintain, and shall cause each of its Subsidiaries to maintain, with financially sound and reputable independent insurers, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons; including workers' compensation insurance, public liability and property and casualty insurance which amount shall not be reduced by the Borrower in the absence of 30 days' prior notice to the Agent. All such insurance shall name the Agent as loss payee/mortgagee and as additional insured, for the benefit of the Lenders, as their interests may appear. Upon request of the Agent or any Lender, the Borrower shall furnish the Agent, with sufficient copies for each Lender, at reasonable intervals (but not more than once per calendar year) a certificate of a Responsible Officer of the Borrower (and, if requested by the Agent, any insurance broker of the Borrower)

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setting forth the nature and extent of all insurance maintained by the Borrower and its Subsidiaries in accordance with this Section or any Collateral Documents (and which, in the case of a certificate of a broker, were placed through such broker).

6.7 PAYMENT OF OBLIGATIONS

The Borrower shall, and shall cause each Subsidiary to, pay and discharge as the same shall become due and payable, all their respective obligations and liabilities, including:

(a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary;

(b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and

(c) all indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

6.8 COMPLIANCE WITH LAWS

The Borrower shall comply, and shall cause each Subsidiary to comply, in all material respects with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business (including the Federal Fair Labor Standards Act), except such as may be contested in good faith or as to which a bona fide dispute may exist.

6.9 COMPLIANCE WITH ERISA

The Borrower shall, and shall cause each of its ERISA Affiliates to: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; and (c) make all required contributions to any Plan subject to Section 412 of the Code.

6.10 INSPECTION OF PROPERTY AND BOOKS AND RECORDS

The Borrower shall maintain and shall cause each Subsidiary to maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions

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and matters involving the assets and business of the Borrower and such Subsidiary. The Borrower shall permit, and shall cause each Subsidiary to permit, in each case no more frequently than annually prior to the occurrence of an Event of Default, representatives and independent contractors (which, in the case of any auditing personnel, shall be employees of a nationally recognized accounting firm) of the Agent who execute and deliver to the Borrower a confidentiality agreement consistent with Section 10.9 hereof to visit and inspect any of their respective properties, to examine their respective corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss their respective affairs, finances and accounts with their respective directors, officers, and independent public accountants, all at the reasonable expense of the Borrower and at such reasonable times during normal business hours, upon reasonable advance notice to the Borrower; provided, however, when an Event of Default exists the Agent or any Lender may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice; provided, further however, that such inspections shall be permitted with such frequency as may reasonably be desired by the Agent on and after the occurrence of a Default or an Event of Default.

6.11 ENVIRONMENTAL LAWS

(a) The Borrower shall, and shall cause each Subsidiary to, conduct its operations and keep and maintain its property in compliance with all Environmental Laws in all material respects.

(b) Upon the written request of the Agent or any Lender, the Borrower shall submit and cause each of its Subsidiaries to submit, to the Agent with sufficient copies for each Lender, at the Borrower's sole cost and expense, at reasonable intervals, a report providing an update of the status of any environmental, health or safety compliance, hazard or liability issue identified in any notice or report required pursuant to subsection 6.3(d), that could, individually or in the aggregate, result in liability in excess of \$500,000.

6.12 USE OF PROCEEDS

The Borrower shall use the proceeds of the Loans only for one or more of the following: working capital, acquisitions permitted hereunder, funding operations, Joint Ventures permitted hereunder and other general corporate purposes not in contravention of any Requirement of Law or of any Loan Document.

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6.13 SWAP CONTRACTS

Within 30 days of the Closing Date, the Borrower shall enter into Swap Contracts providing protection against fluctuations in interest rates with one or more financial institutions each having a combined capital and surplus of at least \$100,000,000 with respect to at least \$37,500,000 of the Loans, which agreements shall provide for not less than a one-year term and contain such other terms and provisions as are customary and satisfactory to the Agent.

6.14 FURTHER ASSURANCES

(a) The Borrower shall ensure that all written information, exhibits and reports furnished to the Agent or the Lenders do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and will promptly disclose to the Agent and the Lenders and correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgment or recordation thereof.

(b) Promptly upon request by the Agent or the Required Lenders, the Borrower shall (and shall cause any of its Subsidiaries to) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register, any and all such further acts, deeds, conveyances, security agreements, mortgages, assignments, estoppel certificates, financing statements and continuations thereof, termination statements, notices of assignment, transfers, certificates, assurances and other instruments the Agent or such Required Lenders, as the case may be, may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the properties, rights or interests covered by any of the Collateral Documents, except as otherwise provided in the Loan Documents, (iii) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agent and Lenders the rights granted or now or hereafter intended to be granted to the Lenders under any Loan Document or under any other document executed in connection therewith.

(c) Within 20 days of the Closing Date, (i) the Borrower shall deliver to the Agent, lien search results evidencing the filing of Financing Statements (as defined in the Security Agreement) in the jurisdictions listed in Schedule 6.14 hereto, naming the Borrower as "debtor" and the Agent as "secured party" and confirming that no other financing statements have been filed with respect to the Collateral in such jurisdictions (other than Permitted Liens) and (ii) the Borrower shall use its diligent

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efforts to obtain from its lessors/warehousemen a consent substantially in the form attached hereto as Exhibit G.

(d) Promptly upon any Person becoming after the date hereof a Subsidiary of the Borrower, the Borrower:

(i) shall cause such Subsidiary to execute and deliver to the Agent a guaranty of all of the Obligations in form and substance reasonably acceptable to the Required Lenders and the Agent;

(ii) shall cause such Subsidiary to execute and deliver to the Agent a security agreement granting a security interest in all of such Subsidiary's assets in favor of the Agent for the benefit of the Lenders as security for the Obligations (including the obligations of such Subsidiary under the guaranty referred to in clause (i) above), in form and substance reasonably acceptable to the Required Lenders and the Agent and shall cause to be delivered to the Agent with respect to such Subsidiary the documents referred to in Section 4.1, mutatis mutandis, together with such opinions in form and substance and from counsel reasonably satisfactory to the Agent, as the Agent may require; and

(iii) shall cause each Person that is the Borrower or an Affiliate of the Borrower that is the direct owner of any shares of capital stock (or other evidence of beneficial ownership) of such Subsidiary to execute and deliver to the Agent a pledge agreement pledging in favor of the Agent for the benefit of the Lenders as security for the Obligations, all of such capital stock, in form and substance reasonably acceptable to the Required Lenders and the Agent, and shall cause to be delivered to the Agent certificates evidencing all of the issued and outstanding shares of capital stock (or other evidence of beneficial ownership) of such Subsidiary, together with undated stock powers (or similar instruments of transfer) owned by such Persons duly executed in blank and appropriately completed Uniform Commercial Code financing statements, if applicable, with respect thereto (or, if any such shares of capital stock (or other evidence of beneficial ownership) are not represented by certificates, confirmation and evidence satisfactory to the Agent that the security interest in such shares (or other such evidence) has been transferred and/or registered in accordance with the laws of the applicable jurisdictions so as to create a valid first-priority perfected security interest therein for the benefit of the Agent and the Lenders) and together with such opinions in form and substance and from counsel reasonably satisfactory to the Agent, as the Agent may reasonably require;

provided, that in the case of an Acquisition where the Borrower and its Affiliates acquire less than 100% of the common shares or other common voting equity interests of a Person, the Borrower shall be required to provide the security agreement and

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guaranty provided for in clauses (i) and (ii) above only if consented to by the holders of at least 95% (other than the Borrower and its Affiliates) of the common shares or other common voting equity interests of such Person; provided, further, that the Borrower shall be required to make a good faith request for such consent from such holders; provided, further, if all of the common shares or other common voting equity interests of such Person are subsequently acquired by the Borrower and its Affiliates, such Person shall promptly comply with clauses (i) and (ii) above.

ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid or unsatisfied, unless the Required Lenders waive compliance in writing:

7.1 LIMITATION ON LIENS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its property, whether now owned or hereafter acquired, other than the following ("Permitted Liens"):

(a) any Lien (other than a Lien on the Collateral) existing on property of the Borrower or any Subsidiary on the Closing Date and set forth in Schedule 7.1 securing Indebtedness outstanding on such date;

(b) any Lien created under any Loan Document;

(c) Liens for taxes, fees, assessments or other governmental charges which are not delinquent or remain payable without penalty, or to the extent that non-payment thereof is permitted by Section 6.7, provided that no notice of lien has been filed or recorded under the Code;

(d) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Liens arising in the ordinary course of business which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens (other than any Lien imposed by ERISA and other than on the Collateral) consisting of pledges or deposits required in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation;

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(f) Liens (other than Liens on the Collateral) on the property of the Borrower or its Subsidiary securing (i) the non-delinquent performance of bids, trade contracts (other than for borrowed money), leases, statutory

obligations, (ii) contingent obligations on surety and appeal bonds, and (iii) other non-delinquent obligations of a like nature; in each case, incurred in the ordinary course of business, provided all such Liens in the aggregate would not (even if enforced) cause a Material Adverse Effect;

(g) Liens (other than Liens on the Collateral) consisting of judgment or judicial attachment liens, provided that the enforcement of such Liens is effectively stayed and all such liens in the aggregate at any time outstanding for the Borrower and its Subsidiaries do not exceed \$2,000,000;

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

(i) Liens on assets of corporations which become Subsidiaries after the date of this Agreement, provided, however, that such Liens existed at the time the respective corporations became Subsidiaries and were not created in anticipation thereof;

(j) Liens on assets acquired in an Acquisition, which Liens existed prior to the completion of the Acquisition and were not created in contemplation thereof;

(k) purchase money security interests on any property (together with proceeds, but not products, thereof) acquired or held by the Borrower or its Subsidiaries in the ordinary course of business, securing Indebtedness incurred or assumed for the purpose of financing all or any part of the cost of acquiring such property; provided that (i) any such Lien attaches to such property concurrently with or within 20 days after the acquisition thereof, (ii) such Lien attaches solely to the property (together with the proceeds, but not products, thereof) so acquired in such transaction, (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such property, and (iv) the annual amortization of the principal amount of the Indebtedness secured by any and all such purchase money security interests shall not at any time exceed, together with, without duplication, the annual lease payments in respect of Indebtedness permitted under Section 7.5(g) as required (or elected by the Borrower) to be stated per GAAP in its cash flow statements as amortization, \$5,000,000;

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(l) Liens securing obligations in respect of capital leases on assets subject to such leases, provided that such capital leases are otherwise permitted hereunder;

(m) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution; provided that (i) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Borrower in excess of those set forth by regulations promulgated by the FRB except as provided on Schedule 7.1 hereof, and (ii) such deposit account is not intended by the Borrower or any Subsidiary to provide collateral to the depository institution; and

(n) Liens consisting of pledges of cash collateral or government securities to secure on a mark-to-market basis obligations under Swap Contracts entered into in the ordinary course of business as bona fide hedging transactions, provided that (i) the counterparty to such Swap Contract is under a similar requirement to deliver similar collateral from time to time to the Borrower or the Subsidiary party thereto, and (ii) the aggregate value of such collateral so pledged by the Borrower and the Subsidiaries together in favor of any counterparty does not at any time exceed \$2,000,000.

7.2 DISPOSITION OF ASSETS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any property (including accounts and notes receivable, with or without recourse) or enter into any agreement to do any of the foregoing, except:

(a) dispositions of inventory, or used, worn-out or surplus equipment, all in the ordinary course of business; and

(b) the sale of equipment to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment, or the proceeds of such sale are reasonably promptly applied, consistent with Section 2.6, to the purchase price of such replacement equipment; and

(c) dispositions not otherwise permitted hereunder which are made for fair market value; provided, that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition, (ii) the aggregate sales price

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from such disposition shall be paid in cash, (iii) Net Proceeds thereof are applied as set forth in Section 2.6 hereof.

Promptly upon the request of the Borrower, the Agent shall take all actions, at the cost and expense of the Borrower, necessary to release its security interest in assets that are disposed of in compliance with this

Agreement.

7.3 CONSOLIDATIONS AND MERGERS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except:

(a) any Subsidiary may merge with the Borrower, provided that the Borrower shall be the continuing or surviving corporation, or with any one or more Subsidiaries; provided that if any transaction shall be between a Subsidiary and a Wholly-Owned Subsidiary, the Wholly-Owned Subsidiary shall be the continuing or surviving corporation; provided, further, no Subsidiary which has Indebtedness permitted under Section 7.5(e) or Contingent Obligations permitted under Section 7.8(d) shall merge with the Borrower or any other Subsidiary of the Borrower; and

(b) any Subsidiary may sell all or substantially all of its assets (upon voluntary liquidation or otherwise), to the Borrower or another Subsidiary with respect to which the Borrower owns an equal or greater percentage interest of the stock or other equity ownership interests.

7.4 LOANS AND INVESTMENTS

The Borrower shall not purchase or acquire, or suffer or permit any Subsidiary to purchase or acquire, or make any commitment therefor, any capital stock, equity interest, or any obligations or other securities of, or any interest in, any Person, or make or commit to make any Acquisitions, or make or commit to make any other Investment in, any Person including any Affiliate of the Borrower, except for:

(a) Investments in Cash Equivalents;

(b) extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business;

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(c) subject to Section 7.14(d), extensions of credit by the Borrower to any of its Subsidiaries or by any of its Subsidiaries to another of its Subsidiaries;

(d) extensions of credit by the Borrower to any of its employees in an individual amount for each employee not to exceed \$250,000 at any one time outstanding, in an aggregate amount for all such extensions of credit not to exceed \$1,000,000 at any one time outstanding, and in all cases having a maturity no longer than eighteen (18) months; and

(e) Investments in connection with Acquisitions and Special Investments to the extent the same are permitted under Section 7.14(d) and, if both before and after giving effect thereto, no Default or Event of Default exists would result therefrom;

provided, in the case of extensions of credit described in clauses (c) and (d) above, such Indebtedness shall rank at least pari passu with all other Indebtedness of the borrowing Person and shall be evidenced by a promissory note (which in the case of clause (c) shall be a demand note) pledged by the Borrower or the lending Subsidiary to the Agent, for the benefit of the Lenders.

7.5 LIMITATION ON INDEBTEDNESS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, create, incur, assume, suffer to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) Indebtedness incurred pursuant to this Agreement;

(b) Indebtedness consisting of Contingent Obligations permitted pursuant to Section 7.8;

(c) Indebtedness existing on the Closing Date and set forth in Schedule 7.5;

(d) Indebtedness consisting of Subordinated Debt incurred after the Closing Date;

(e) Indebtedness of a Subsidiary which was the subject of an Acquisition permitted hereunder provided that such Indebtedness existed at the time of such Acquisition and was not incurred in contemplation thereof;

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(f) Indebtedness incurred in connection with capital leases permitted pursuant to Section 7.9(a) or Section 7.9(c) (without duplication of the amounts permitted thereunder);

(g) Indebtedness secured by Liens permitted by Section 7.1(k);

(h) Indebtedness of the Borrower consisting of Contingent Obligations in respect of Indebtedness permitted under Section 7.5(g) or in connection with a capital lease permitted pursuant to Section 7.9(c); provided, that the rental payments and amortization in respect thereof shall, for purposes of determining compliance with the limits set forth in Sections 7.1(k) and 7.9(c) be treated as if payable by the Borrower; and

(i) Indebtedness consisting of extensions of credit permitted under Sections 7.4(c).

7.6 TRANSACTIONS WITH AFFILIATES

The Borrower shall not, and shall not suffer or permit any Subsidiary to, enter into any transaction with any Affiliate of the Borrower, except upon fair and reasonable terms no less favorable to the Borrower or such Subsidiary than would obtain in a comparable arm's-length transaction with a Person not an Affiliate of the Borrower or such Subsidiary; provided, that, such transactions shall be permitted with respect to Wholly-Owned Subsidiaries so long as either individually or in the aggregate such transactions could not reasonably be expected to result in a Material Adverse Effect; provided, further, that such transactions shall be permitted with respect to Subsidiaries (other than Wholly-Owned Subsidiaries) so long as the aggregate value of all such transactions does not exceed \$2,000,000.

7.7 USE OF PROCEEDS

(a) The Borrower shall not, and shall not suffer or permit any Subsidiary to, use any portion of the Loan proceeds, directly or indirectly, (i) to purchase or carry Margin Stock, (ii) to repay or otherwise refinance indebtedness of the Borrower or others incurred to purchase or carry Margin Stock, (iii) to extend credit for the purpose of purchasing or carrying any Margin Stock, or (iv) to acquire any security in any transaction that is subject to Section 13 or 14 of the Exchange Act.

(b) The Borrower shall not, directly or indirectly, use any portion of the Loan proceeds (i) knowingly to purchase Ineligible Securities from the Arranger during any period in which the Arranger makes a market in such Ineligible Securities, (ii) knowingly to purchase during the underwriting or placement period Ineligible

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Securities being underwritten or privately placed by the Arranger, or (iii) to make payments of principal or interest on Ineligible Securities underwritten or privately placed by the Arranger and issued by or for the benefit of the Borrower or any Affiliate of the Borrower. The Arranger is a registered broker-dealer and permitted to underwrite and deal in certain Ineligible Securities; and "Ineligible Securities" means securities which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

7.8 CONTINGENT OBLIGATIONS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, create, incur, assume or suffer to exist any Contingent Obligations except:

(a) endorsements for collection or deposit in the ordinary course of business;

(b) Swap Contracts entered into in the ordinary course of business for companies similarly situated as the Borrower as bona fide hedging transactions including, without limitation, the Swap Contracts required under Section 6.13;

(c) Contingent Obligations of the Borrower and its Subsidiaries existing as of the Closing Date and listed in Schedule 7.8;

(d) without duplication of the amounts permitted under Section 7.5(e), Contingent Obligations of a Subsidiary which was the subject of an Acquisition permitted hereunder provided that such Contingent Obligations existed at the time of such Acquisition and were not incurred in contemplation thereof; and

(e) without duplication of the amounts permitted under Section 7.5(h), Contingent Obligations of the Borrower in respect of Indebtedness of the type described therein, subject in any case to the limits described therein.

7.9 LEASE OBLIGATIONS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, create or suffer to exist any obligations for the payment of rent for any property under lease or agreement to lease, except for:

(a) leases of the Borrower and of Subsidiaries in existence on the Closing Date and any renewal, extension or refinancing thereof;

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(b) operating leases entered into by the Borrower or any Subsidiary after the Closing Date in the ordinary course of business for companies similarly situated as the Borrower;

(c) capital leases other than those permitted under clause (a) of this Section, entered into by the Borrower or any Subsidiary after the Closing Date to finance the acquisition of equipment; provided that the aggregate annual amount of rental payments for all such capital leases as required (or elected by the Borrower) to be stated per GAAP in its cash flow statements as amortization, together with, without duplication, the aggregate principal amortization in respect of Indebtedness permitted under Section 7.5(f) shall not exceed in any fiscal year, \$5,000,000.

7.10 RESTRICTED PAYMENTS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any shares of any class of its capital stock, or purchase, redeem or otherwise acquire for value any shares of its capital stock or any warrants, rights or options to acquire such shares, now or hereafter outstanding; except that (a) the Borrower may declare and make dividend payments, stock splits, or other distributions payable solely in its common stock, (b) the Borrower may purchase or redeem stock of the Borrower from former employees who acquired the stock pursuant to an option plan of the Borrower but with respect to which the former employee's rights to such stock are not vested, (c) Subsidiaries of the Borrower which are organized as limited liability companies or as limited partnerships may, if no Default or Event of Default then exists or would result therefrom, declare and make the minimum amount of annual dividends and distributions necessary in order for the partners or members thereof, as the case may be, to satisfy the tax liability accruing to such partners or members, in respect of the net income of such Subsidiary and (d) in addition to the foregoing, the Borrower and its Subsidiaries may declare and pay dividends and distributions, and to consummate purchases and redemptions, in an aggregate annual amount not to exceed \$1,000,000 provided that no Default or Event of Default exists or would result therefrom.

7.11 ERISA

The Borrower shall not, and shall not suffer or permit any of its ERISA Affiliates to: (a) engage in a nonexempt prohibited transaction or violation of ERISA's fiduciary responsibility rules with respect to any Plan which has resulted or could reasonably expected to result in liability of the Borrower in an aggregate amount in excess of \$1,000,000; or (b) engage in a transaction that could reasonably be expected to be subject to Section 4069 or 4212(c) of ERISA.

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7.12 CHANGE IN BUSINESS

The Borrower shall not, and shall not suffer or permit any Subsidiary to, engage in any material line of business substantially different from lines of business primarily relating to sales and distribution of goods and services over the Internet and similar electronic media; it being understood that Subsidiaries may engage in material lines of business with respect to goods and services ancillary or substantially related to the foregoing.

7.13 ACCOUNTING CHANGES

The Borrower shall not, and shall not suffer or permit any Subsidiary to, make any material change in accounting treatment or reporting practices, except as required by GAAP, or change the fiscal year of the Borrower or of any Subsidiary (except, in the case of Subsidiaries, to the extent necessary for such Subsidiaries' fiscal year and application of GAAP to be consistent with that of the Borrower).

7.14 FINANCIAL COVENANTS

(a) Minimum Cash Balance. The Borrower shall maintain at all times a minimum balance of readily available unencumbered cash and Cash Equivalents on deposit in deposit or similar accounts at least equal to the Required Cash Balance.

(b) EBITDA/Negative EBITDA Covenant. The Borrower's EBITDA, measured at end of the first fiscal quarter of 1998 for the quarter then ended, at the end of the second fiscal quarter of 1998 for the two consecutive fiscal quarters then ended, at the end of the third fiscal quarter of 1998 for the three consecutive fiscal quarters then ended, and at each quarter end thereafter for the three consecutive quarters then ended shall not be less than the amounts indicated below for such quarter end (and, if expressed as a deficit, the Borrower's EBITDA loss shall not be greater than the amount indicated below for the relevant period):

[*]

provided that for purposes hereof, "EBITDA" shall be determined without reduction for non-cash charges consisting of expenses recognized with respect to goodwill, intangibles, and purchased research and development related to Acquisitions permitted hereunder and accounted for during the relevant measuring period.

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(c) Maximum Payable Days. As of the end of each fiscal quarter, the product of (i) the quotient of (A) the accounts payable (excluding accounts payable in respect of general administration and marketing to the extent not included in cost of goods sold as reported per GAAP) of the Borrower as of the end of such fiscal quarter divided by (B) the product of (I) the cost of goods sold as reported per GAAP by the Borrower for such fiscal quarter and to be disclosed in financials to be filed with the SEC times (II) 4 times (ii) 365, shall be equal to or less than 100.

(d) Capital Expenditures/Acquisitions. (i) Without duplication, the aggregate capital expenditures made, Acquisitions consummated, and Special Investments made pursuant to Section 7.4(e), by the Borrower and its Subsidiaries, shall not exceed in any fiscal year the Capital Expenditure Component plus [*] (excluding any Equity Consideration paid in connection

therewith). (ii) Capital expenditures (excluding Acquisitions) made by the Borrower and its Subsidiaries, in the aggregate, in any fiscal year, shall not exceed the Capital Expenditure Component for such fiscal year; (iii) The aggregate amount, without duplication, of Acquisitions consummated and Special Investments made by the Borrower and its Subsidiaries in the aggregate for any fiscal year shall not exceed [*]; it being understood that the use of common stock, \$0.01 par value, of the Borrower, to consummate Acquisitions shall not be limited (including as specified in the parenthetical clause at the end of subsection (d)(i) above).

7.15 SUBORDINATED DEBT

Not, and not permit any of its Subsidiaries to:

- (a) subject to clause (c) below, make any payment (whether of principal, interest or otherwise) on any Subordinated Debt on any day other than the stated, scheduled date for such payment set forth in the documents and instruments evidencing such Subordinated Debt (which shall in all cases for principal be at least 45 days later than the Maturity Date);
- (b) make any payment on any Subordinated Debt in contravention or violation of the subordination provisions thereof; or
- (c) prepay, redeem, purchase or defease any Subordinated Debt, or make any deposit for any of the foregoing purposes; or

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(d) enter into any amendment or modification of any Subordinated Debt.

7.16 NON-MATERIAL SUBSIDIARIES

The Borrower shall not permit (i) the total (gross) revenues of all Non-Material Subsidiaries in the aggregate for the preceding four fiscal quarter period to exceed [*] of total (gross) revenues of the Borrower and all its Subsidiaries for such period or (ii) total assets, as of the last day of the preceding fiscal quarter, with a net book value in excess of [*] of the total net book value of total assets of the Borrower and all its Subsidiaries, in each case, based upon the Borrower's most recent annual or quarterly financial statements delivered to the Agent under Section 6.1; provided, that the Borrower shall have the power to designate in writing to the Agent any Non-Material Subsidiary as a Material Subsidiary, subject to all provisions in this Agreement concerning Material Subsidiaries, (within three days of determining non-compliance with this Section 7.16) for the purposes of complying with this Section 7.16; provided further any Subsidiary which is acquired or formed in connection with a permitted Acquisition or otherwise has been a Subsidiary of the Borrower for less than four fiscal quarters shall, for purposes of the foregoing tests, include its financial results for the relevant fiscal quarters (i.e., those necessary to report four fiscal quarters of revenues) prior to becoming a Subsidiary of the Borrower, as if such Subsidiary had become a Subsidiary of the Borrower at the beginning of such four fiscal quarter period. Subject to the foregoing and delivery of the certificate called for in Section 6.2, the Borrower may from time to time designate Subsidiaries as Non-Material Subsidiaries.

ARTICLE VIII
EVENTS OF DEFAULT

8.1 EVENT OF DEFAULT

Any of the following shall constitute an "Event of Default":

- (a) Non-Payment. The Borrower fails to pay, (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within 5 days after the same becomes due, any interest, fee or any other amount payable hereunder or under any other Loan Document; or

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- (b) Representation or Warranty. Any representation or warranty by the Borrower or any Subsidiary made or deemed made herein, in any other Loan Document, or which is contained in any certificate, document or financial or other statement by the Borrower, any Subsidiary, or any Responsible Officer, furnished at any time under this Agreement, or in or under any other Loan Document, is incorrect in any material respect on or as of the date made or deemed made; or
- (c) Specific Defaults. (i) The Borrower fails to perform or observe any term, covenant or agreement contained in any of Section 6.1, 6.2, 6.3, or 6.6 or in Article VII other than Sections 7.6 and 7.13; provided, failure to promptly notify the Agent of a non-material Default shall not constitute an Event of Default if the underlying event giving rise to such Default has been cured or waived; or (ii) the Borrower fails to perform or observe any term, covenant or agreement contained in Section 6.9 and such default shall continue unremedied for a period of 3 days; or

(d) Other Defaults. The Borrower or any Subsidiary party thereto fails to perform or observe any other term or covenant contained in this

Agreement or any other Loan Document, and such default shall continue unremedied for a period of 20 days (or such longer period of time of not more than 45 days as is reasonably necessary to cure provided that the Borrower is diligently pursuing a cure and then only if the cure can reasonably be effected during such extended period) after the earlier of (i) the date upon which a Responsible Officer knew or reasonably should have known of such failure or (ii) the date upon which written notice thereof is given to the Borrower by the Agent or any Lender; provided in the case of Warrants, such default shall exist with respect to or be asserted by, a holder thereof which is a Lender or an Affiliate of a Lender; or

(e) Cross-Default. The Borrower or any Subsidiary (i) fails to make any payment in respect of any Indebtedness or Contingent Obligation having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than \$1,000,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the relevant document on the date of such failure; or (ii) fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any agreement or instrument relating to any such Indebtedness or Contingent Obligation, and such failure continues after the applicable grace or notice period, if any, specified in the relevant document on the date of such failure, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of

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such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable prior to its stated maturity, or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; provided, in the case of undrawn committed facilities which have not been terminated by the parties (other than the Borrower or its Subsidiaries) thereto, the Borrower shall have ten (10) days to either cure the underlying default or terminate such facility; or

(f) Insolvency; Voluntary Proceedings. The Borrower or any Subsidiary (i) ceases or fails to be solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against the Borrower or any Subsidiary, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of the Borrower's or any Subsidiary's properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within 60 days after commencement, filing or levy; (ii) the Borrower or any Subsidiary admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) the Borrower or any Subsidiary acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its property or business; or

(h) ERISA. (i) An ERISA Event shall occur with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of \$1,000,000; or (ii) the aggregate amount of Unfunded Pension Liability among all Pension Plans at any time exceeds \$1,000,000; or (iii) the Borrower or any ERISA Affiliate shall fail to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of \$1,000,000; or

(i) Monetary Judgments. One or more non-interlocutory judgments, non-interlocutory orders, decrees or arbitration awards is entered against the Borrower

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or any Subsidiary involving in the aggregate a liability (i) (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) as to any single or related series of transactions, incidents or conditions, of \$2,000,000 or more, or (ii) as to any single or related series of transactions, incidents or conditions, of \$10,000,000 or more (whether or not covered by third-party insurance as to which the insurer does not dispute coverage), and the same shall remain unvacated and unstayed pending appeal for a period of 30 days after the entry thereof; or

(j) Non-Monetary Judgments. Any non-monetary judgment, order or decree is entered against the Borrower or any Subsidiary which does or would reasonably be expected to have a Material Adverse Effect, and there shall be any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(k) Change of Control. There occurs any Change of Control which shall have continued for three (3) days; or

(l) Adverse Change. There occurs a Material Adverse Effect; or

(m) Invalidity of Subordination Provisions. The subordination provisions of any agreement or instrument governing any Subordinated Debt is for any reason revoked or invalidated, or otherwise cease to be in full force and effect, the Borrower, its shareholders, or their Affiliates contest in any manner the validity or enforceability thereof or denies that it has any further liability or obligation thereunder, or the Indebtedness hereunder is for any reason subordinated or does not have the priority contemplated by this Agreement or such subordination provisions; or

(n) Collateral.

(i) (A) Any provision of any Collateral Document shall for any reason cease to be valid and binding on or enforceable in any material respect against the Borrower or any Subsidiary party thereto (other than Non-Material Subsidiaries which do not have any material Collateral) or (B) the Borrower or any Subsidiary shall state that any provision of any Collateral Document shall for any reason cease to be valid and binding on or enforceable against the Borrower or any Subsidiary party thereto in writing or bring an action to limit its obligations or liabilities thereunder; or

(ii) any Collateral Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in the Collateral purported to be covered thereby or such security interest shall for any reason cease to

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be a perfected and first priority security interest with respect to any material item of collateral subject only to Permitted Liens.

8.2 REMEDIES

If any Event of Default occurs, the Agent shall, at the request of, or may, with the consent of, the Required Lenders,

(a) if the Closing Date has not occurred, declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; and

(c) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any event specified in subsection (f) or (g) of Section 8.1 (in the case of clause (i) of subsection (g) upon the expiration of the 60-day period mentioned therein), the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Agent or any Lender.

8.3 RIGHTS NOT EXCLUSIVE

The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

8.4 CERTAIN FINANCIAL COVENANT DEFAULTS

In the event that, after taking into account any extraordinary charge to earnings taken or to be taken as of the end of any fiscal period of the Borrower (a "Charge"), and if solely by virtue of such Charge, there would exist an Event of Default due to the breach of any of Section 7.14(b) as of such fiscal period end date, such Event of Default shall be deemed to arise upon the earlier of (a) the date after such fiscal period end date on which the Borrower announces publicly it will take, is taking or

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has taken such Charge (including an announcement in the form of a statement in a report filed with the SEC) or, if such announcement is made prior to such fiscal period end date, the date that is such fiscal period end date, and (b) the date the Borrower delivers to the Agent its audited annual or unaudited quarterly financial statements in respect of such fiscal period reflecting such Charge as taken.

8.5 NON-MATERIAL SUBSIDIARIES

Notwithstanding any provision hereof to the contrary, any non-compliance by a Non-Material Subsidiary (or the failure of the Borrower to cause a Non-Material Subsidiary to comply) with, or the occurrence with respect to, the provisions of Sections 5.16, 5.19, 6.7, 8.1(f) and 8.1(g) shall not constitute an Event of Default unless such non-compliance could reasonably be expected to have a Material Adverse Effect.

8.6 ACQUIRED SUBSIDIARIES

Notwithstanding anything contained in Section 8.1(b) to the contrary, the failure of any representation or warranty contained herein or any of the Loan Documents with respect to any Subsidiary which was acquired pursuant to an

Acquisition permitted hereunder to be correct in all material respects on or as of the date made or deemed made, which failure relates solely to events, circumstances or conditions occurring or existing prior to such Acquisition, shall not constitute a Default or Event of Default hereunder if the aggregate liability or impairment to Collateral which could reasonably be expected to result from all such failures does not exceed \$2,000,000.

ARTICLE IX
THE AGENT

9.1 APPOINTMENT AND AUTHORIZATION

Each Lender hereby irrevocably (subject to Section 9.9) appoints, designates and authorizes the Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants,

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functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent.

9.2 DELEGATION OF DUTIES

The Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

9.3 LIABILITY OF AGENT

None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by the Borrower or any Subsidiary or Affiliate of the Borrower, or any officer thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or any other Loan Document, or for the value of or title to any Collateral, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of the Borrower or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of the Borrower or any of the Borrower's Subsidiaries or Affiliates.

9.4 RELIANCE BY AGENT

(a) The Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Agent. The Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems

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appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.1, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent by the Agent to such Lender for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to the Lender.

9.5 NOTICE OF DEFAULT

The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Agent for the account of the Lenders, unless the Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." The Agent will notify the Lenders of its receipt of any such notice.

The Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Article VIII; provided, however, that unless and until the Agent has received any such request, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

9.6 CREDIT DECISION

Each Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by the Agent hereinafter taken, including any review of the affairs of the Borrower and its Subsidiaries, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to the Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and its Subsidiaries, the value of and title to any Collateral, and all applicable bank regulatory laws relating to the transactions

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contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by the Agent, the Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Borrower which may come into the possession of any of the Agent-Related Persons.

9.7 INDEMNIFICATION OF AGENT

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Borrower and without limiting the obligation of the Borrower to do so), pro rata, from and against any and all Indemnified Liabilities; provided, however, that no Lender shall be liable for the payment to the Agent-Related Persons of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Lender shall reimburse the Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Agent is not reimbursed for such expenses by or on behalf of the Borrower. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of the Agent.

9.8 AGENT IN INDIVIDUAL CAPACITY

Deutsche Bank and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower and its Subsidiaries and Affiliates as though Deutsche Bank were not the Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, Deutsche Bank or its Affiliates may

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receive information regarding the Borrower or its Affiliates (including information that may be subject to confidentiality obligations in favor of the Borrower or such Subsidiary) and acknowledge that the Agent shall be under no obligation to provide such information to them. With respect to its Loans, Deutsche Bank shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Agent, and the terms "Lender" and "Lenders" include Deutsche Bank in its individual capacity.

9.9 SUCCESSOR AGENT

The Agent may, and at the request of the Required Lenders shall, resign as Agent upon 30 days' notice to the Lenders. If the Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders which successor agent shall, if no Default or Event of Default then exists, be approved by the Borrower. If no successor agent is appointed prior to the effective date of the resignation of the Agent, the Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Agent" shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article IX and Sections 10.4 and 10.5 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor agent has accepted appointment as Agent by the date which is 30 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective

and the Lenders shall perform all of the duties of the Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

9.10 WITHHOLDING TAX

(a) If any Lender is a "foreign corporation, partnership or trust" within the meaning of the Code and such Lender claims exemption from, or a reduction of, U.S. withholding tax under Sections 1441 or 1442 of the Code, such Lender agrees with and in favor of the Agent, to deliver to the Agent:

(i) if such Lender claims an exemption from, or a reduction of, withholding tax under a United States tax treaty, properly completed IRS Forms 1001 and W-8 before the payment of any interest in the first calendar year and before the payment of any interest in each third succeeding calendar year during which interest may be paid under this Agreement;

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(ii) if such Lender claims that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, two properly completed and executed copies of IRS Form 4224 before the payment of any interest is due in the first taxable year of such Lender and in each succeeding taxable year of such Lender during which interest may be paid under this Agreement, and IRS Form W-9; and

(iii) such other form or forms as may be required under the Code or other laws of the United States as a condition to exemption from, or reduction of, United States withholding tax.

Such Lender agrees to promptly notify the Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(b) If any Lender claims exemption from, or reduction of, withholding tax under a United States tax treaty by providing IRS Form 1001 and such Lender sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of the Borrower to such Lender, such Lender agrees to notify the Agent of the percentage amount in which it is no longer the beneficial owner of Obligations of the Borrower to such Lender. To the extent of such percentage amount, the Agent will treat such Lender's IRS Form 1001 as no longer valid.

(c) If any Lender claiming exemption from United States withholding tax by filing IRS Form 4224 with the Agent sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of the Borrower to such Lender, such Lender agrees to undertake sole responsibility for complying with the withholding tax requirements imposed by Sections 1441 and 1442 of the Code.

(d) If any Lender is entitled to a reduction in the applicable withholding tax, the Agent may withhold from any interest payment to such Lender an amount equivalent to the applicable withholding tax after taking into account such reduction. If the forms or other documentation required by subsection (a) of this Section are not delivered to the Agent, then the Agent may withhold from any interest payment to such Lender not providing such forms or other documentation an amount equivalent to the applicable withholding tax.

(e) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that the Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Agent of a change in circumstances which rendered the exemption from, or reduction

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of, withholding tax ineffective, or for any other reason) such Lender shall indemnify the Agent fully for all amounts paid, directly or indirectly, by the Agent as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to the Agent under this Section, together with all costs and expenses (including Attorney Costs). The obligation of the Lenders under this subsection shall survive the payment of all Obligations and the resignation or replacement of the Agent.

9.11 COLLATERAL MATTERS

(a) The Agent is authorized on behalf of all the Lenders, without the necessity of any notice to or further consent from the Lenders, from time to time to take any action with respect to any Collateral or the Collateral Documents which may be necessary to perfect and maintain perfected the security interest in and Liens upon the Collateral granted pursuant to the Collateral Documents.

(b) The Lenders irrevocably authorize the Agent, at its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral (i) upon termination of the Commitments and payment in full of all Loans and all other Obligations known to the Agent and payable under this Agreement or any other Loan Document; (ii) constituting property sold or to be sold or disposed of as part of or in connection with any disposition permitted hereunder; (iii) constituting property in which the Borrower or any Subsidiary owned no interest at the time the Lien was granted or at any time thereafter; (iv) constituting property leased to the Borrower or any Subsidiary under a lease which has expired or been terminated in a transaction permitted under this Agreement or is about to expire and which has not been, and is not intended by the Borrower or such Subsidiary to be, renewed or extended; (v) consisting of an instrument evidencing Indebtedness or other debt instrument, if the indebtedness

evidenced thereby has been paid in full; or (vi) if approved, authorized or ratified in writing by the Required Lenders or all the Lenders, as the case may be, as provided in subsection 10.1(f). Upon request by the Agent at any time, the Lenders will confirm in writing the Agent's authority to release particular types or items of Collateral pursuant to this subsection 9.11(b).

(c) Each Lender agrees with and in favor of each other (which agreement shall not be for the benefit of the Borrower or any Subsidiary) that the Borrower's obligation to such Lender under this Agreement and the other Loan Documents is not and shall not be secured by any real property collateral now or hereafter acquired by such Lender.

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ARTICLE X MISCELLANEOUS

10.1 AMENDMENTS AND WAIVERS

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by the Borrower or any applicable Subsidiary therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agent at the written request of the Required Lenders) and the Borrower and acknowledged by the Agent, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment, or consent shall, unless in writing and signed by all the Lenders and the Borrower and acknowledged by the Agent, do any of the following:

(a) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2), unless such Lender has consented thereto in writing;

(b) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment (including without limit mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document;

(c) reduce the principal of, or the rate of interest specified herein on any Loan, or (subject to clause (ii) below) any fees or other amounts payable hereunder or under any other Loan Document;

(d) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which is required for the Lenders or any of them to take any action hereunder; or

(e) amend the definition of "Required Lenders," this Section, or Section 2.13, or any provision herein providing for consent or other action by all Lenders; or

(f) release any material portion of the Collateral except as otherwise may be provided in a Loan Document or except where the consent of the Required Lenders only is specifically provided for;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Required Lenders or all the Lenders, as the case may be, affect the rights or duties of the Agent under this

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Agreement or any other Loan Document, and (ii) the Commitment Letter may be amended, or rights or privileges thereunder waived, in a writing executed by the parties thereto.

10.2 NOTICES

(a) All notices, requests and other communications shall be in writing (including, unless the context expressly otherwise provides, by facsimile transmission, provided that any matter transmitted by the Borrower by facsimile (i) shall be immediately confirmed by a telephone call to the recipient at the number specified on Schedule 10.2, and (ii) shall be followed promptly by delivery of a hard copy original thereof) and mailed, faxed or delivered, to the address or facsimile number specified for notices on Schedule 10.2; or, as directed to the Borrower or the Agent, to such other address as shall be designated by such party in a written notice to the other parties, and as directed to any other party, at such other address as shall be designated by such party in a written notice to the Borrower and the Agent.

(b) All such notices, requests and communications shall, when transmitted by overnight delivery, or faxed, be effective when delivered for overnight (next-day) delivery, or transmitted in legible form by facsimile machine, respectively, or if mailed, upon the third Business Day after the date deposited into the U.S. mail, or if delivered, upon delivery; except that notices pursuant to Article II or IX shall not be effective until actually received by the Agent.

(c) Any agreement of the Agent and the Lenders herein to receive certain notices by telephone or facsimile is solely for the convenience and at the request of the Borrower. The Agent and the Lenders shall be entitled to rely on the authority of any Person purporting to be a Person authorized by the Borrower to give such notice and the Agent and the Lenders shall not have any liability to the Borrower or other Person on account of any action taken or not taken by the Agent or the Lenders in reliance upon such telephonic or facsimile notice. The obligation of the Borrower to repay the Loans shall not be affected in any way or to any extent by any failure by the Agent and the Lenders to receive written confirmation of any telephonic or facsimile notice or the receipt by the

Agent and the Lenders of a confirmation which is at variance with the terms understood by the Agent and the Lenders to be contained in the telephonic or facsimile notice.

10.3 NO WAIVER; CUMULATIVE REMEDIES

No failure to exercise and no delay in exercising, on the part of the Agent or any Lender, any right, remedy, power or

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privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

10.4 COSTS AND EXPENSES

The Borrower shall:

(a) whether or not the transactions contemplated hereby are consummated, pay or reimburse Deutsche Bank (including in its capacity as Agent) within five Business Days after demand (subject to subsection 4.1(e)) for all reasonable costs and expenses incurred by Deutsche Bank (including in its capacity as Agent) in connection with the development, preparation, delivery, administration and execution of, and any amendment, supplement, waiver or modification to (in each case, whether or not consummated), this Agreement, any Loan Document and any other documents prepared in connection herewith or therewith, and the consummation of the transactions contemplated hereby and thereby, including reasonable Attorney Costs incurred by Deutsche Bank (including in its capacity as Agent) with respect thereto, but excluding printing, duplicating, mailing and travel costs related to the syndication of the Loans; and

(b) pay or reimburse the Agent, the Arranger and each Lender within five Business Days after demand (subject to subsection 4.1(e)) for all costs and expenses (including reasonable Attorney Costs) incurred by them in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or any other Loan Document during the existence of an Event of Default or after acceleration of the Loans (including in connection with any "workout" or restructuring regarding the Loans, and including in any Insolvency Proceeding or appellate proceeding); and

(c) pay or reimburse Deutsche Bank (including in its capacity as Agent) within five Business Days after demand (subject to subsection 4.1(e)) for all appraisal (including the allocated cost of internal appraisal services), audit, environmental inspection and review (including the allocated cost of such internal services), search and filing costs, fees and expenses, incurred or sustained by Deutsche Bank (including in its capacity as Agent) in connection with the matters referred to under subsections (a) and (b) of this Section.

10.5 BORROWER INDEMNIFICATION

(a) Whether or not the transactions contemplated hereby are consummated, the Borrower shall indemnify, defend and hold the Agent-Related Persons, and each Lender and each of its respective officers, directors, employees, counsel, agents and

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attorneys-in-fact (each, an "Indemnified Person") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including reasonable Attorney Costs) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Loans and the termination, resignation or replacement of the Agent or replacement of any Lender) be imposed on, incurred by or asserted against any such Person in any way relating to or arising out of this Agreement or any document contemplated by or referred to herein, or the transactions contemplated hereby, or any action taken or omitted by any such Person under or in connection with any of the foregoing, including with respect to any investigation, litigation or proceeding (including any Insolvency Proceeding or appellate proceeding) related to or arising out of this Agreement or the Loans or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "Indemnified Liabilities"); provided, that the Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities resulting solely from the gross negligence or willful misconduct of or from a breach of contract by such Indemnified Person. The agreements in this Section shall survive payment of all other Obligations.

(c) Survival; Defense. The obligations in this Section shall survive payment of all other Obligations. At the election of any Indemnified Person, the Borrower shall defend such Indemnified Person using legal counsel reasonably satisfactory to such Indemnified Person in such Person's sole discretion, at the sole cost and expense of the Borrower. All amounts owing under this Section shall be paid within 30 days after demand.

10.6 MARSHALLING; PAYMENTS SET ASIDE

Neither the Agent nor the Lenders shall be under any obligation to marshall any assets in favor of the Borrower or any other Person or against or in payment of any or all of the Obligations. To the extent that the Borrower makes a payment to the Agent or the Lenders, or the Agent or the Lenders exercise their right of set-off, and such payment or the proceeds of such set-off or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Agent or such Lender in its discretion) to be

repaid to a trustee, receiver or any other party, in connection with any Insolvency Proceeding or otherwise, then (a) to the extent of such recovery the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Agent upon demand its pro rata share of any amount so recovered from or repaid by the Agent.

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10.7 SUCCESSORS AND ASSIGNS

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Borrower may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Agent and each Lender.

10.8 ASSIGNMENTS, PARTICIPATIONS, ETC.

(a) Any Lender may, with the written consent of the Agent and the Borrower which shall not be unreasonably withheld, at any time assign and delegate to one or more Eligible Assignees (provided that no written consent of the Agent or the Borrower shall be required in connection with any assignment and delegation by a Lender to an Eligible Assignee that is an Affiliate of such Lender or to another Lender; provided, further, no Borrower consent shall be required if there is a continuing Default or an Event of Default) (each an "Assignee") all, or any ratable part of all, of the Loans, the Commitments and the other rights and obligations of such Lender hereunder, in a minimum amount of \$5,000,000; provided, however, that the Borrower and the Agent may continue to deal solely and directly with such Lender in connection with the interest so assigned to an Assignee until (i) written notice of such assignment, together with payment instructions, addresses and related information with respect to the Assignee, shall have been given to the Borrower and the Agent by such Lender and the Assignee; (ii) such Lender and its Assignee shall have delivered to the Borrower and the Agent an Assignment and Acceptance in the form of Exhibit D ("Assignment and Acceptance") together with any Note or Notes subject to such assignment and (iii) the assignor Lender or Assignee has paid to the Agent a processing fee in the amount of \$3,500.

(b) From and after the date that the Agent notifies the assignor Lender that the proposed assignee is an approved Eligible Assignee (to the extent approval is necessary), that it has received (and provided its consent with respect to) an executed Assignment and Acceptance and payment of the above-referenced processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assignor Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under the Loan Documents.

(c) Within five Business Days after its receipt of notice by the Agent that it has received an executed Assignment and Acceptance and payment of the processing

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fee, the Borrower shall execute and deliver to the Agent, new Notes evidencing such Assignee's assigned Loans and Commitment and, if the assignor Lender has retained a portion of its Loans and its Commitment, replacement Notes in the principal amount of the Loans retained by the assignor Lender (such Notes to be in exchange for, but not in payment of, the Notes held by such Lender). Immediately upon each Assignee's making its processing fee payment under the Assignment and Acceptance, this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Commitment allocated to each Assignee shall reduce such Commitments of the assigning Lender pro tanto.

(d) Any Lender may at any time sell to one or more commercial banks or other Persons not Affiliates of the Borrower (a "Participant") participating interests in any Loans, the Commitment of that Lender and the other interests of that Lender (the "originating Lender") hereunder and under the other Loan Documents; provided, however, that (i) the originating Lender's obligations under this Agreement shall remain unchanged, (ii) the originating Lender shall remain solely responsible for the performance of such obligations, (iii) the Borrower and the Agent shall continue to deal solely and directly with the originating Lender in connection with the originating Lender's rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has rights to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment, consent or waiver would require unanimous consent of the Lenders as described in the first proviso to Section 10.1, and (v) each such participation shall be in an aggregate principal amount of at least \$3,000,000 (or such lesser amount as shall equal the portion of the originating Lender's Loans for which participating interests have not been sold hereunder). In the case of any such participation, the Participant shall be entitled to the benefit of Sections 3.1, 3.3 and 10.5 as though it were also a Lender hereunder, and if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement.

(e) Notwithstanding any other provision in this Agreement, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement and the Note held by it in favor of any Federal Reserve Bank in accordance with Regulation A of the FRB or U.S. Treasury Regulation 31

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CFR Section 203.14, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law.

10.9 CONFIDENTIALITY

Agent and each Lender agree to take and to cause their Affiliates to take normal and reasonable precautions and exercise due care to maintain the confidentiality of all information identified as "confidential" or "secret" by the Borrower as well as information that, given its nature, should reasonably be believed by such Persons to be confidential, provided to them by the Borrower or any Subsidiary, or by the Agent on such Borrower's or Subsidiary's behalf, under this Agreement or any other Loan Document. Neither the Agent, the Lender nor any of their Affiliates shall use any such information other than in connection with or in enforcement of this Agreement and the other Loan Documents or to the extent such information (i) was or becomes generally available to the public other than as a result of disclosure by the Agent, such Lender, or their respective Affiliate or (ii) was or becomes available on a non-confidential basis from a source other than the Borrower or a Subsidiary, provided that such source is not bound by a confidentiality agreement with the Borrower or a Subsidiary known to the Agent, such Lender, or their respective Affiliate; provided, however, that the Agent, any Lender, or any of their respective Affiliates may disclose such information at the request or pursuant to any requirement of any Governmental Authority to which the Lender is subject or in connection with an examination of such Lender by any such authority (with subsequent notice thereof promptly given to the Borrower) or, after having given notice to the Borrower (unless such notice is prohibited by law) and reasonable opportunity, in light of the circumstances, for the Borrower to obtain a confidentiality agreement or a protective order (substantively similar to the requirements herein), as appropriate, (A) pursuant to subpoena or other court process; (B) when required to do so in accordance with the provisions of any applicable Requirement of Law; (C) to the extent reasonably required in connection with any litigation or proceeding to which the Agent, any Lender or their respective Affiliates may be party; (D) to the extent reasonably required in connection with the exercise of any remedy hereunder or under any other Loan Document; provided, further, that the Agent, any Lender, or any of their respective Affiliates may disclose such information (W) to such Lender's independent auditors and other professional advisors; (X) to any Participant or Assignee, actual or potential, provided that such Person agrees in writing for the express benefit of the Borrower to keep such information confidential to the same extent required of the Lenders hereunder; (Y) as to any Lender or its Affiliate, as expressly permitted under the terms of any other document or agreement regarding confidentiality to which the Borrower or any Subsidiary is party or is deemed party with such Lender or such Affiliate; and (Z) to its Affiliates; however, in each of the

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foregoing clauses (W) through (Z), (i) the agreement referred to in clause (Y) is made for the express benefit of the Borrower; (ii) disclosure to any Person is prohibited unless the Agent or such Lender believes in good faith that such Person is not a competitor of the Borrower; and (iii) any disclosure made in accordance with the foregoing clauses (W) through (Z) is made to Persons only on a need-to-know basis.

10.10 SET-OFF

In addition to any rights and remedies of the Lenders provided by law, if an Event of Default exists or the Loans have been accelerated, each Lender is authorized at any time and from time to time, without prior notice to the Borrower, any such notice being waived by the Borrower to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender to or for the credit or the account of the Borrower against any and all Obligations owing to such Lender, now or hereafter existing, irrespective of whether or not the Agent or such Lender shall have made demand under this Agreement or any Loan Document and although such Obligations may be contingent or unmatured. Each Lender agrees promptly to notify the Borrower and the Agent after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

10.11 AUTOMATIC DEBITS OF FEES

With respect to any arrangement fee, underwriting fee or other fee, or any other cost or expense (including Attorney Costs) due and payable to the Agent, Deutsche Bank or the Arranger under the Loan Documents, the Borrower hereby irrevocably authorizes Deutsche Bank to debit any deposit account of the Borrower with Deutsche Bank in an amount such that the aggregate amount debited from all such deposit accounts does not exceed such fee or other cost or expense. If there are insufficient funds in such deposit accounts to cover the amount of the fee or other cost or expense then due, such debits will be reversed (in whole or in part, in Deutsche Bank's sole discretion) and such amount not debited shall be deemed to be unpaid. No such debit under this Section shall be deemed a set-off.

10.12 NOTIFICATION OF ADDRESSES, LENDING OFFICES, ETC.

Each Lender shall notify the Agent in writing of any changes in the

address to which notices to the Lender should be directed, of addresses of any Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as the Agent shall reasonably request.

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10.13 COUNTERPARTS

This Agreement may be executed in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

10.14 SEVERABILITY

The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

10.15 NO THIRD PARTIES BENEFITED

This Agreement is made and entered into for the sole protection and legal benefit of the Borrower, the Lenders, the Agent and the Agent-Related Persons, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents.

10.16 GOVERNING LAW AND JURISDICTION

(a) THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK; PROVIDED THAT THE AGENT AND THE LENDERS SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE BORROWER, THE AGENT AND THE LENDERS CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE BORROWER, THE AGENT AND THE LENDERS IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO. THE BORROWER, THE AGENT AND THE

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LENDERS EACH WAIVE PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY NEW YORK LAW.

10.17 WAIVER OF JURY TRIAL

THE BORROWER, THE LENDERS AND THE AGENT EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR ANY AGENT-RELATED PERSON, PARTICIPANT OR ASSIGNEE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE BORROWER, THE LENDERS AND THE AGENT EACH AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

10.18 ENTIRE AGREEMENT

This Agreement, together with the other Loan Documents, embodies the entire agreement and understanding among the Borrower, the Lenders and the Agent, and supersedes all prior or contemporaneous agreements and understandings of such Persons, verbal or written, relating to the subject matter hereof and thereof.

[Signature page(s) follows]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered in New York, New York by their proper and duly authorized officers as of the day and year first above written.

AMAZON.COM, INC.

By: Joy D. Covey

Title: Chief Financial Officer

DEUTSCHE BANK AG, NEW YORK BRANCH, as
Administrative Agent

By: Ira Lubinsk

Title: Vice President

By: Inken S. Finnamore

Title: Assistant Vice President

DEUTSCHE BANK AG, NEW YORK BRANCH AND CAYMAN
ISLANDS BRANCH, as a Bank

By: William W. McGinty

Title: Director

By: Ira Lubinsky

Title: Vice President

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VAN KAMPEN AMERICAN CAPITAL PRIME RATE INCOME
TRUST, as a Lender

By: Jeffery W. Maillet

Title: Sr. Vice President & Director

By:

Title:

BANKBOSTON N.A., as a Bank

By: David B. Herter

Title: Managing Director

By:

Title:

BANQUE PARIBAS, as a Bank

By: Nanci Meyer

Title: Vice President

By: [signature illegible]

Title: Director

SILICON VALLEY BANK, as a Bank

By: Laurita J. Hernandez

Title: Vice President

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By:_____
Title:_____

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<SEQUENCE>3
<DESCRIPTION>STOCK PURCHASE WARRANT
<TEXT>

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EXHIBIT 10.19

THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON DECEMBER 23, 1997 AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE TRANSFERRED IN VIOLATION OF SUCH ACT OR LAWS OR THE RULES AND REGULATIONS THEREUNDER (PROVIDED AMAZON RECEIVES AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO IT TO SUCH EFFECT) OR THE PROVISIONS OF THIS WARRANT.

STOCK PURCHASE WARRANT

Closing Date: December 23, 1997 Certificate No. 1

For value received, Amazon.com, Inc., a Delaware corporation ("Amazon"), hereby grants to Deutsche Bank AG, New York Branch, for the benefit of the lenders party to that certain Credit Agreement (as hereinafter defined), or its registered assigns (the "Registered Holder"), the right to purchase from Amazon 750,000 shares of Warrant Stock at a price of \$52.11 per share (as adjusted from time to time hereunder), (the "Exercise Price"). This Warrant is the warrant (the "Warrant") issued pursuant to the terms of the Credit Agreement (as amended or modified, the "Credit Agreement"), dated as of December 23, 1997, among Amazon, the other financial institutions party thereto and Deutsche Bank AG, New York Branch, as administrative agent. Certain capitalized terms used herein are defined in Section 6 hereof. Capitalized terms used herein but not otherwise defined herein shall have the meanings set forth for such terms in the Credit Agreement. The amount and kind of securities purchasable pursuant to the rights granted hereunder and the Exercise Price are subject to adjustment pursuant to the provisions contained in this Warrant.

Amazon and the Registered Holder agree that the value of this Warrant shall be zero (\$0) for tax purposes.

This Warrant is subject to the following provisions:

Section 1. Exercise of Warrant.

1.A. Exercise Period. Subject to Section 2.D, the Registered Holder may exercise, in whole or in part, the purchase rights represented by this Warrant at any time and from time to time in series as follows (provided any such exercise shall be for

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a minimum of 100 shares of Warrant Stock unless less than 100 shares of Warrant Stock are then issuable hereunder):

- (i) with respect to 75,000 shares of Warrant Stock (as adjusted from time to time hereunder) issuable upon exercise of this Warrant, on December 23, 1998 (the "Series I Warrant Stock");
- (ii) with respect to 225,000 shares of Warrant Stock (as adjusted from time to time hereunder) issuable upon exercise of this Warrant, on December 23, 1999 (the "Series II Warrant Stock"); and
- (iii) with respect to 450,000 shares of Warrant Stock (as adjusted from time to time hereunder) issuable upon exercise of this Warrant, on December 23, 2000 (the "Series III Warrant Stock"),

in each case to and including the fifth anniversary of the date on which such series first becomes exercisable (the "Exercise Period").

1.B. Exercise Procedure.

(i) This Warrant shall be deemed to have been exercised when Amazon has received all of the following items (the "Exercise Time"):

- (a) a completed Exercise Agreement, as described in paragraph 1.C below, executed by the Person exercising all or part of the purchase rights represented by this Warrant (the "Purchaser");
- (b) this Warrant;
- (c) if this Warrant is not registered in the name of the Purchaser, an Assignment or Assignments in the form set forth in Exhibit II hereto evidencing the assignment of this Warrant to the Purchaser, in which case the Registered Holder shall have complied with the provisions set forth in Section 8 hereof; and

(d) either (1) a check payable to Amazon in an amount equal to the product of the Exercise Price multiplied by the number of shares of Warrant Stock being purchased upon such exercise (the "Aggregate Exercise Price"), (2) a written notice to Amazon that the Person is exercising the Warrant (or a portion thereof) by authorizing Amazon to withhold from issuance a number of shares of Warrant Stock issuable

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upon such exercise of the Warrant which when multiplied by the Market Price of the Warrant Stock is equal to the Aggregate Exercise Price (and

such withheld shares shall no longer be issuable under this Warrant).

(ii) Certificates for shares of Warrant Stock purchased upon exercise of this Warrant shall be delivered by Amazon to the Purchaser within five business days after the date of the Exercise Time. Unless this Warrant has expired or all of the purchase rights represented hereby have been exercised, Amazon shall prepare a new Warrant, substantially identical hereto, representing the rights formerly represented by this Warrant which have not expired or been exercised and shall, within such five-day period, deliver such new Warrant to the Person designated for delivery in the Exercise Agreement. The rights of, and restrictions on, the holders of Underlying Common Stock set forth herein will survive the expiration of this Warrant and the exercise in full of all of the purchase rights represented hereby.

(iii) The Warrant Stock issuable upon the exercise of this Warrant shall be deemed to have been issued to the Purchaser at the Exercise Time, and the Purchaser shall be deemed for all purposes to have become the record holder of such Warrant Stock at the Exercise Time.

(iv) The issuance of certificates for shares of Warrant Stock upon exercise of this Warrant shall be made without charge to the Registered Holder or the Purchaser for any issuance tax in respect thereof or other cost incurred by Amazon in connection with such exercise and the related issuance of shares of Warrant Stock (other than any transfer taxes resulting from a simultaneous exercise and transfer). Each share of Warrant Stock issuable upon exercise of this Warrant shall, upon payment of the Exercise Price therefor, be fully paid and nonassessable and free from all liens, encumbrances, adverse claims and charges with respect to the issuance thereof.

(v) Amazon shall not close its books against the transfer of this Warrant or of any share of Warrant Stock issued or issuable upon the exercise of this Warrant in any manner which interferes with the timely exercise of this Warrant. Amazon shall from time to time take all such action as may be necessary to assure that the par value per share of the unissued Warrant Stock acquirable upon exercise of this Warrant is at all times equal to or less than the sum of the Exercise Price then in effect.

(vi) Amazon shall assist and cooperate with any Registered Holder or Purchaser required to make any governmental filings or obtain any governmental approvals prior to or in

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connection with any exercise of this Warrant (including, without limitation, making any filings required to be made by Amazon).

(vii) Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of Amazon, the exercise of any portion of this Warrant may, at the election of the holder hereof, be conditioned upon the consummation of the public offering or such sale of Amazon in which case such exercise shall not be deemed to be effective until the consummation of such transaction.

(viii) Amazon shall at all times reserve and keep available out of its authorized but unissued shares of Warrant Stock, solely for the purpose of issuance upon the exercise of the Warrant, such number of shares of Warrant Stock as are issuable upon the exercise of the Warrant. All shares of Warrant Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, encumbrances, adverse claims and charges. Amazon shall take all such actions as may be necessary to ensure that all such shares of Warrant Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any securities exchange (or the Nasdaq Stock Market) upon which shares of Warrant Stock may be listed (except for official notice of issuance which shall be immediately delivered by Amazon upon each such issuance).

1.C. Exercise Agreement. Upon any exercise of this Warrant, the Exercise Agreement shall be substantially in the form set forth in Exhibit I hereto, except that if the shares of Warrant Stock are not to be issued in the name of the Person in whose name this Warrant is registered, the Exercise Agreement shall also state the name of the Person to whom the certificates for the shares of Warrant Stock are to be issued, and if the number of shares of Warrant Stock to be issued does not include all the shares of Warrant Stock purchasable hereunder, it shall also state the name of the Person to whom a new Warrant for the unexercised portion of the rights hereunder is to be delivered.

Section 2. Adjustment of Exercise Price and Number of Shares. The Exercise Price shall be subject to adjustment from time to time as provided in this Section 2, and the number of shares of Warrant Stock obtainable upon exercise of this Warrant shall be subject to adjustment from time to time as provided in this Section 2.

2.A. Subdivision or Combination of Common Stock. If Amazon at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its

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outstanding shares of Common Stock into a greater number of shares, the Exercise Price in effect immediately prior to such subdivision shall be proportionately reduced and the number of shares of Warrant Stock obtainable upon exercise of this Warrant shall be proportionately increased. If Amazon at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Exercise Price in effect immediately prior to such combination shall be proportionately increased and the number of shares of Warrant Stock obtainable upon exercise of this Warrant shall be proportionately decreased.

2.B. Reorganization, Reclassification, Consolidation, Merger or

Sale. Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of Amazon's assets to another Person or other transaction which is effected in such a way that holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, other than an event otherwise provided for in this Section 2, is referred to herein as an "Organic Change." Prior to the consummation of any Organic Change, Amazon shall make appropriate provision to ensure that the holders of this Warrant shall thereafter have the right to acquire and receive, upon exercise of this Warrant during the Exercise Period and upon payment of the Exercise Price then in effect, such shares of stock, securities or other assets as may be issued or payable with respect to or in exchange for the number of shares of Warrant Stock immediately theretofore acquirable and receivable upon exercise of this Warrant had such Organic Change not taken place. In any such case, Amazon shall make appropriate provision with respect to such holders' rights and interests to ensure that the provisions of this Section 2 and Section 3 hereof shall thereafter be applicable to the Warrants. Amazon shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than Amazon) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

2.C. Minimum Adjustment; Rounding. In the event any adjustment of the Exercise Price pursuant to this Section 2 shall result in an adjustment of the Exercise Price of less than \$.05 per share, no such adjustment shall be made, but any such lesser adjustment shall be carried forward and shall be made at the time and together with the next subsequent adjustment which, together with any adjustments so carried forward, shall amount to \$.05 or more per share; provided, however, that upon any adjustment of the

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Exercise Price resulting from any event set forth in this Section 2, the foregoing figure of \$.05 per share (or such figure as last adjusted) shall be proportionately adjusted; and provided, further, that upon the exercise of this Warrant, the Company shall make all necessary adjustments not theretofore made to the Exercise Price up to and including the date upon which this Warrant is exercised or repurchased. All calculations under this Section 2 shall be rounded to the nearest cent or the nearest share, as the case may be.

2.D. Clawback. In the event Amazon repays all outstanding principal, accrued interest, fees and expenses (for which expenses Amazon has received notice from Agent or any Lender as of the date the principal is repaid in full) in accordance with the terms of the Credit Agreement in full and the Commitment of the Lenders is terminated on the dates set forth below, this Warrant shall immediately (with no further action on the part of Amazon or the Registered Holder) terminate and be of no further force or effect with respect to the number of shares of Warrant Stock set forth in the corresponding column below:

<TABLE>
<CAPTION>

Payment and Termination Date	Warrant Terminated with respect to:
<S> on or prior to December 23, 1998	<C> 100% of Series I, II and III
After December 23, 1998 but prior to March 23, 1999	100% of Series II and III
After March 23, 1999, but prior to June 23, 1999	50% of Series II and 100% of Series III
After June 23, 1999, but prior to December 23, 1999	100% of Series III
After December 23, 1999, but prior to June 23, 2000	50% of Series III
Thereafter	None

</TABLE>

Section 3. Liquidating Dividends. If Amazon pays a dividend upon the Common Stock payable otherwise than in cash out of earnings or earned surplus (determined in accordance with applicable corporate law and generally accepted accounting principles consistently applied), except for a stock dividend payable in shares of Common Stock or any distribution to holders of Common Stock in respect of the sale of all or substantially all of Amazon's assets to another Person; provided that Amazon has complied with Section 2 of this Warrant (a "Liquidating Dividend"), then, (i) upon exercise hereof and payment of the

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Exercise Price, Amazon shall pay to the Registered Holder of this Warrant, the Liquidating Dividend which would have been paid to such Registered Holder on the Warrant Stock had this Warrant been fully exercised immediately prior to the date on which a record is taken for such Liquidating Dividend, or, if no record is taken, the date as of which the record holders of Common Stock entitled to such dividends are to be determined; or (ii) in lieu of clause (i), at the option of the holder (such option to be exercised in writing by the holder at

least 10 days after receipt of notice of such dividend from Amazon), the Exercise Price in effect immediately prior to the close of business on the record date fixed for the determination of holders of any class of securities entitled to receive such Liquidating Dividend shall be reduced, effective as of the close of business on such record date, to a price determined by multiplying such Exercise Price by a fraction:

(A) the numerator of which shall be the Market Price in effect on such record date or, if any class of Common Stock trades on an ex-dividend basis, the date prior to the commencement of ex-dividend trading, less the value of such dividend or distribution (as determined by the Board of Directors of the Company in the good faith, reasonable exercise of its business judgment) applicable to one share of Common Stock, and

(B) the denominator of which shall be such Market Price.

There shall be no additional adjustments under this Section 3 upon the consummation of any such Liquidating Dividend.

Section 4. Certificates, Notices and Consents.

4.A. Certificates. Upon the occurrence of any event requiring adjustments of the Exercise Price and/or number of shares subject to this Warrant pursuant to Section 2, Amazon shall mail to the Registered Holder (by registered or certified mail, postage prepaid) a certificate signed by the President or a Vice President and by the Treasurer or an Assistant Treasurer of Amazon, setting forth in reasonable detail the events requiring the adjustment and the method by which such proposed adjustment was calculated, specifying the adjusted Exercise Price and/or number of shares subject to this Warrant after giving effect to the proposed adjustment(s).

4.B. Notices. If Amazon after the date hereof, and so long as this Warrant(s) shall be outstanding, shall propose to:

(i) pay any dividend (including, without limitation, any extraordinary dividend) payable in

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stock to the holders of Common Stock or to make any other distribution to the holders of Common Stock, or any pro rata subscription offer to holders of Common Stock to purchase any additional shares of any class of stock or any other rights or options (other than stock repurchases under Amazon's employee stock option plans as in effect on the date hereof or similar plans or other repurchase agreements in effect on the date hereof; or

(ii) effect any Organic Change or sale transaction described in Section 2.B or the liquidation, dissolution or winding up of Amazon;

then, in each such case, Amazon shall mail (by registered or certified mail, postage prepaid) to the Registered Holders notice of such proposed action, which shall specify the date on which the books of Amazon shall close, or a record date shall be established, for determining holders of Common Stock entitled to receive such stock dividends or other distribution or participate in such offering, or the date on which such Organic Change, liquidation, dissolution or winding up shall take place or commence, as the case may be, and the date as of which it is expected that holders of Common Stock of record shall be entitled to receive securities or other property deliverable upon such action, if any such date is to be fixed.

Such notice shall be mailed, in the case of any action described by clause (i) above, at least 10 days prior to the record date for determining holders of Common Stock for purposes of receiving such payment or offer, and in case of clause (ii) above, at least 20 days prior to the date upon which such action takes place.

4.C. Failure and Defects. Failure to mail any certificate or notice, or any defect in any certificate or notice, pursuant to this Section 4, shall not affect the legality or validity of the adjustment of the Exercise Price and/or number of shares of Warrant Stock subject to this Warrant pursuant to Section 2.

Section 5. Registration and Qualification.

5.A. Piggyback Registration. If prior to December 23, 2007 Amazon proposes (whether at the request of any other Person or otherwise) to register any security under the Securities Act on any registration form (otherwise than for the registration of securities to be offered and sold pursuant to (a) an employee

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benefit plan, (b) a dividend or interest reinvestment plan, (c) other similar plans or (d) reclassifications of securities, mergers, consolidations and acquisitions of assets on Form S-4 or any successor thereto) prescribed by the Securities and Exchange Commission (the "Commission") permitting a secondary offering or distribution, Amazon shall promptly give to the holders of Underlying Common Stock written notice of such proposal which shall describe in detail the proposed registration and distribution (including those jurisdictions where registration or qualification under the securities or blue sky laws is intended) and, upon the written request of any holder of Underlying Common Stock given within 15 days after the date of any such notice, proceed to include in such registration such shares of Underlying Common Stock as have been requested by any such holder to be included in such registration; provided, however, that Amazon shall not be required to give such notice to the holder of a Warrant if

the Warrant is not exercisable prior to the anticipated effective date of the registration. Amazon shall in each instance use its reasonable best efforts to cause any Underlying Common Stock (the holders of which shall have so requested registration thereof) to be registered under the Securities Act and qualified under the securities or blue sky laws of any jurisdiction requested by a prospective seller, all to the extent necessary to permit the sale or other disposition thereof (in the manner stated in such request) by a prospective seller of the securities so registered.

If the registration of which Amazon gives notices is for a registered public offering involving an underwriting, Amazon shall so advise the holders of Underlying Common Stock as a part of the written notice given pursuant to this section. In such event, the right of any holder of Underlying Common Stock to registration pursuant to this section shall be conditioned upon such holder's participation in such underwriting and the inclusion of such holder's Underlying Common Stock in the underwriting, to the extent requested, to the extent provided herein. All holders of Underlying Common Stock proposing to distribute their securities through such underwriting shall (together with Amazon and the other holders distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by Amazon. Notwithstanding any other provision of this section, if the managing underwriter determines and advises Amazon in writing that, in its opinion, the inclusion of the Underlying Common Stock with the securities being registered by Amazon and other shares of prospective sellers would materially adversely affect the distribution of all such securities, then the managing underwriter may limit the number of shares of Underlying Common Stock and other prospective sellers to be included in the registration and underwriting, on a pro rata basis based on the

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total number of securities (including, without limitation, Underlying Common Stock) entitled to registration pursuant to registration rights granted by Amazon; provided, however, no such reduction may reduce the number of securities being sold by all the holders of securities entitled to registration other than Amazon to less than fifteen percent (15%) of the shares being sold in such offering. To facilitate the allocation of shares in accordance with the above provisions, Amazon or the underwriters may round the number of shares allocated to any holder of Underlying Common Stock or other holder to the nearest 100 shares. If any holder of Underlying Common Stock or other securities entitled to registration disapproves of the terms of any such underwriting, such holder may elect to withdraw therefrom by written notice to Amazon and the managing underwriter delivered at least twenty-one (21) days prior to the effective date of the registration statement. Any securities excluded or withdrawn from such underwriting shall be withdrawn from such registration, and shall not be transferred in a public distribution prior to one hundred twenty (120) days after the effective date of the registration statement relating thereto. In the event of such delay, Amazon shall use its reasonable best efforts to effect any registration or qualification under the Securities Act and the securities or blue sky laws of any jurisdiction as may be necessary to permit such prospective seller to make its proposed offering and sale following the end of such period of delay.

The Company shall have the right to terminate or withdraw any registration initiated by it under this section prior to the effectiveness of such registration, whether or not any holder of Underlying Common Stock has elected to include securities in such registration.

The holder of Underlying Common Stock who has requested Underlying Common Stock to be included in a registration pursuant to this Section 5.A by acceptance hereof or thereof, agrees to execute an underwriting agreement with such underwriter that is (i) reasonably satisfactory to such holder and (ii) in customary form.

5.B. Registration and Qualification Procedures. Whenever Amazon is required by the provisions of Section 5.A to use its reasonable best efforts to effect the registration of any of its securities under the Securities Act, Amazon shall, as expeditiously as possible:

(i) prepare and file with the Commission a registration statement with respect to such securities and use its reasonable best efforts to cause such registration statement to become effective and, before filing a registration statement or prospectus or any amendments or supplements thereto, furnish to

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counsel selected by the majority of holders of Underlying Common Stock participating in such registration copies of all documents proposed to be filed with the Commission or other federal, state or local agencies, which documents shall be subject to the review and comments of such counsel;

(ii) prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective and the prospectus current for up to 60 days after the effectiveness of the registration statement (or such shorter time as is required to effect the distribution and sale of all the securities subject to such registration statement) and, subject to the foregoing limitations, to comply with the provisions of the Securities Act with respect to the sale of all securities covered by such registration statement whenever the seller of such securities shall desire to sell the same;

(iii) furnish to each seller such number of copies of preliminary prospectuses and prospectuses and each supplement or amendment thereto and such other documents as each seller may reasonably request in order to facilitate the sale or other disposition of the securities owned by such seller in conformity with (A) the requirements of the Securities Act and (B) the seller's proposed method of distribution;

(iv) use its reasonable best efforts to register or qualify the securities covered by such registration statement under the securities or blue sky laws of such jurisdictions within the United States as each seller shall reasonably request, and do such other reasonable acts and things as may be required of it to enable each seller to consummate the sale or other disposition in such jurisdictions of the securities owned by such seller; provided, however, that Amazon shall not be required in order to accomplish any of the foregoing to (A) qualify as a foreign corporation or consent to a general and unlimited service of process in any such jurisdiction, (B) qualify as a dealer in securities or (C) register or qualify in any jurisdiction if Amazon would be required to pay income taxes in such jurisdictions solely as a result of such registration or qualification;

(v) if such registration is underwritten, use its reasonable best efforts to furnish, at the request of any underwriter (A) on the date such securities are delivered to the underwriters for sale pursuant to such registration, an opinion, dated such date, of counsel representing Amazon for purposes of such registration, addressed to the underwriters covering such legal matters with respect to the registration in respect of which such opinion is being given as the underwriters may reasonably request and are customarily included in such an opinion and (B) letters, dated the

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effective date of the registration statement and the date such securities are delivered to the underwriters for sale pursuant to such registration, from a firm of independent certified public accountants of recognized standing selected by Amazon, addressed to the underwriters covering such financial, statistical and accounting matters with respect to the registration in respect of which such letters are being given as the underwriters may reasonably request and are customarily included in such letters;

(vi) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the Commission, and make available to its security holders as soon as reasonably practicable an earnings statement satisfying the provisions of Section 11(a) of the Securities Act;

(vii) enter into and perform an underwriting agreement with the managing underwriter, if any, selected as provided in Section 5.A, containing customary terms;

(viii) provide a transfer agent and registrar for all such Underlying Common Stock not later than the effective date of such registration statement;

(ix) notify each seller of any Underlying Common Stock included in any such registration statement, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event as a result of which the prospectus included in such registration statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, at the request of any such seller, Amazon shall prepare a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of the Common Stock or other securities, such prospectus shall not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading; and

(x) otherwise keep each seller advised in writing as to the initiation and progress of any registration under Section 5.A.

5.C. Allocation of Expenses. If Amazon is required by the provisions of Section 5.A to use its reasonable best efforts to effect the registration or qualification under the Securities Act or any state securities or blue sky laws of any of the Underlying Common Stock, Amazon shall pay all expenses in connection therewith, including, without limitation, (i) all expenses incident to filing with the National Association of Securities Dealers, Inc., (ii) registration fees, (iii) printing expenses, (iv) accounting and legal fees and expenses, (v) expenses of any special audits incident to or required by any such registration or

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qualification, (vi) expenses of complying with the securities or blue sky laws of any jurisdictions in connection with such registration or qualification and (vii) the reasonable fees and expenses of one counsel to the holders of Underlying Common Stock selected by a majority of such holders participating in such registration or qualification; provided, however, Amazon shall not be liable for (A) any discounts or commissions to any underwriter applicable to the securities registered on behalf of the holders of Underlying Common Stock or (B) any stock transfer taxes incurred in respect of the Warrant Stock sold by the sellers.

5.D. Indemnification. In connection with any registration or qualification of securities under Section 5.A, Amazon shall indemnify the participating holders of Underlying Common Stock and each underwriter thereof, including each Person, if any, who is an officer or director of, or who controls, such holders or underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, against all actual out-of-pocket losses, claims, damages, liabilities and expenses (including reasonable costs of investigation and attorneys' fees and expenses, whether in an action brought by a third party or by the parties hereto), arising, directly or indirectly, out of or based upon (i) any untrue, or alleged untrue, statement of a material fact contained in any registration statement, preliminary prospectus, prospectus or notification or offering circular (as amended or supplemented if Amazon shall have furnished any amendments or supplements thereto); (ii) any omission, or alleged omission, to state therein a material fact required to be stated therein or necessary to make the statements therein

in light of the circumstances in which they were made, not misleading; or (iii) any violation by Amazon of any federal, state or common law rule or regulation applicable to Amazon and relating to action or inaction required of Amazon in connection with any such registration, provided, however, that with respect to any untrue statement or omission or alleged untrue statement or omission made in any preliminary prospectus, the indemnity agreement contained in this sentence shall not apply to the extent that (i) any loss, claim, damage, liability or expense results from the fact that a current copy of the prospectus was sent or given to the Person asserting any such loss, claim, damage, liability or expense at or prior to the written confirmation of the sale of the Underlying Common Stock confirmed to such Person if it is determined that it was the responsibility of the participating holder or any of its directors, officers or agents, or any underwriter, to provide such person with a current copy of the prospectus and such current copy of the prospectus would have cured the defect giving rise to such loss, claim, damage, liability or expense; and (ii) such losses, claims, damages, liabilities or expenses arise out of or are based upon any untrue statement or alleged untrue statement or omission or alleged omission based solely upon information furnished in

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writing to Amazon by such holder or underwriter expressly for use therein.

The participating holders of Underlying Common Stock shall indemnify Amazon and each underwriter thereof, including each Person, if any, who is an officer or director of Amazon or who controls Amazon or such underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, against all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation and attorneys' fees and expenses, whether in an action brought by a third party or by the parties hereto), arising out of or based upon (x) any untrue, or alleged untrue, statement of a material fact contained in any registration statement, preliminary prospectus or notification or offering circular (as amended or supplemented if Amazon shall have furnished any amendments or supplements thereto); or (y) any omission, or alleged omission, to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made not misleading or (z) any violation by Amazon of any federal, state or common law rule or regulation applicable to Amazon and relating to action or inaction required of such holder in connection with any such registration, but only to the extent that such untrue statement or alleged untrue statement or omission or alleged omission was based solely upon information furnished in writing to Amazon by such holder of Underlying Common Stock expressly for use therein; provided, however, that with respect to any untrue statement or omission or alleged untrue statement or omission made in any preliminary prospectus, the indemnity agreement contained in this sentence shall not apply to the extent that any loss, claim, damage, liability or expense results from the fact that a current copy of the prospectus was not sent or given to the Person asserting any such loss, claim, damage, liability or expense at or prior to the written confirmation of the sale of the Underlying Common Stock confirmed to such Person if it is determined that it was the responsibility of Amazon or any of its directors, officers or agents, or any underwriter, to provide such person with a current copy of the prospectus and such current copy of the prospectus would have cured the defect giving rise to such loss, claim, damage, liability or expense; and provided further, that the obligations of each such holders of Underlying Common Stock shall be limited to an amount equal to the net proceeds to such holder from the sale of Underlying Common Stock as contemplated herein.

Promptly upon receipt by a party to be indemnified under this Section 5.D of notice of the commencement of any action against such indemnified party in respect of which indemnity or reimbursement may be sought against any indemnifying party under this Section 5.D, such indemnified party shall notify the

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indemnifying party in writing of the commencement of such action, but the failure so to notify the indemnifying party shall not relieve it of any liability which it may have to any indemnified party, unless such failure shall materially adversely affect the defense of such action. If notice of commencement of any such action shall be given to the indemnifying party as above provided, the indemnifying party shall be entitled to participate in and, to the extent it may wish, jointly with any other indemnifying party similarly notified, to assume the defense of such action at its own expense, with counsel chosen by it and satisfactory to such indemnified party. The indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be paid by the indemnified party unless (i) the indemnifying party agrees in writing to pay the same, (ii) the indemnifying party fails to assume the defense of such action with counsel reasonably satisfactory to the indemnified party or (iii) the named parties to any such action (including any impleaded parties) have been advised by such counsel that representation of such indemnified party and the indemnifying party by the same counsel would be inappropriate under applicable standards of professional conduct (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of such indemnified party). No indemnifying party shall be liable for any settlement entered into without its consent.

If the indemnification provided for in this Section 5.D shall for any reason be unenforceable by an indemnified party, although otherwise available in accordance with its terms, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages, liabilities or expenses with respect to which such indemnified party has claimed indemnification, in such proportion as is appropriate to reflect the relative

fault of the indemnified party on the one hand and the indemnifying party on the other in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations; provided, further, that the obligations of each such holder of Underlying Common Stock shall be limited to an amount equal to the net proceeds to such holder from the sale of Common Stock as contemplated herein. Amazon and each holder of Underlying Common Stock agree that it would not be just and equitable if contribution pursuant hereto were to be determined by pro rata allocation or by any other method of allocation which does not take into account such equitable considerations. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or expenses referred to herein shall be deemed to

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include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending against any action or claim which is the subject hereof. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who is not guilty of such fraudulent misrepresentation.

Each holder of Underlying Common Stock bearing the legend required by Section 11, by acceptance hereof or thereof, as the case may be, agrees to the indemnification provisions of this Section 5.D.

5.E. Supplying Information. Amazon and each holder of Underlying Common Stock shall cooperate with each other in supplying such information as may be necessary for any of such parties to complete and file any information reporting forms presently or hereafter required by the Commission or any commissioner or other authority administering the blue sky or securities laws of any jurisdiction where shares of Common Stock are proposed to be sold pursuant to Section 5.A.

Section 6. Definitions. The following terms have meanings set forth below:

"Agent" has the meaning provided in the Credit Agreement.

"Commitment" has the meaning provided in the Credit Agreement.

"Common Stock" means the Common Stock and any capital stock of any class of Amazon hereafter authorized which is not limited to a fixed sum or percentage of par or stated value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon any liquidation, dissolution or winding up of Amazon.

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

"Lenders" has the meaning provided in the Credit Agreement.

"Majority Warrant Holders" means the holders of Underlying Common Stock representing a majority of the shares of Underlying Common Stock then in existence.

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"Market Price" means as to any security (other than the Warrants) the average of the closing prices of such security's sales on all domestic securities exchanges on which such security may at the time be listed or quoted, including for this purpose, The Nasdaq Stock Market, or, if there have been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such security is not so listed or quoted, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such case averaged over a period of 30 consecutive business days immediately prior to the day as of which "Market Price" is being determined; provided, that if such security is listed on any domestic securities exchange the term "business days" as used in this sentence means business days on which such exchange is open for trading. If at any time such security is not listed on any domestic securities exchange or quoted on The Nasdaq Stock Market or the domestic over-the-counter market, the "Market Price" shall be the fair value thereof determined by Amazon; provided, that if the holders of Warrants representing a majority of the Warrant Stock issuable under then-outstanding Warrants do not agree with Amazon's determination of Market Price set forth in the notice delivered by Amazon in connection with the event giving rise to the determination of Market Price, then such holders of Warrants representing a majority of the Warrant Stock issuable under then-outstanding Warrants may deliver written notice (the "Objection Notice") specifying the Market Price as determined by such holders within 10 days after receipt of Amazon's notice specifying the Market Price. Amazon and the holders of Warrants representing a majority of the Warrant Stock issuable under then-outstanding Warrants shall then negotiate in good faith in an attempt to agree on the Market Price, and if they are unable to agree within 20 days after delivery of the Objection Notice, then Market Price shall be determined by an investment banking firm selected by the American Arbitration Association (the "Appraiser"). The fees and expenses of the Appraiser shall be paid by Amazon. Any determination of Market Price of a security will be made without giving effect to any discount for any lack of liquidity attributable to a lack of a public market for such security, any block discount or discount attributable to the size of any Person's

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holdings of such security, any minority interest or any voting rights thereof or lack thereof. The "Market Price" of a Warrant means the excess of (i) the Market Price of the shares of Warrant Stock obtainable upon exercise thereof over (ii) the Aggregate Exercise Price of the Warrant Stock payable in connection with such exercise. For purposes of Section 1.B(i)(d)(2) above, the "Market Price" of any debt security of Amazon or any Subsidiary thereof shall be equal to the principal amount thereof plus all accrued interest thereon plus all premium and other amounts owing with respect thereto.

"Person" has the meaning provided in the Credit Agreement.

"Registered Holder" with respect to any Warrant means the Person who is reflected as the holder thereof on the register maintained by Amazon for such purpose, and "Registered Holders" at any time means all Registered Holders of Warrants then outstanding.

"Securities Act" means the Securities Act of 1933, as amended.

"Underlying Common Stock" means (i) the Common Stock issued or issuable upon exercise of the Warrants (including the Warrant Stock), and (ii) any Common Stock issued or issuable with respect to the securities referred to in clause (i) above by way of stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization. For purposes of this Warrant, any Person who holds Warrants shall be deemed to be the holder of the Underlying Common Stock obtainable upon exercise of the Warrants in connection with the transfer thereof or otherwise regardless of any restriction or limitation on the exercise of the Warrants. As to any particular shares of Underlying Common Stock, such shares shall cease to be Underlying Common Stock when they have been (a) effectively registered under the Securities Act and disposed of in accordance with the registration statement covering them or (b) distributed to the public through a broker, dealer or market maker pursuant to Rule 144 under the Securities Act (or any similar provision then in force).

"Warrant Stock" means the Common Stock or other securities issued or issuable upon exercise of the

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Warrant (including the Series I, Series II and Series III Warrant Stock).

Section 7. No Voting Rights; Limitations of Liability. Prior to the exercise of this Warrant and except as otherwise specifically provided herein or in the Credit Agreement, this Warrant shall not entitle the holder hereof to any voting rights or other rights as a stockholder of Amazon. No provision hereof, in the absence of affirmative action by the Registered Holder to purchase Warrant Stock, and no enumeration herein of the rights or privileges of the Registered Holder shall give rise to any liability of such holder for the Exercise Price of Warrant Stock acquirable by exercise hereof or as a stockholder of Amazon.

Section 8. Warrant Transferable. Subject to the transfer conditions referred to in the legend endorsed hereon, this Warrant and all rights hereunder are transferable, in whole or in part, without charge to the Registered Holder, upon surrender of this Warrant with a properly executed Assignment (in the form of Exhibit II hereto) at the principal office of Amazon; provided that such transfer shall be at least equal to 3.3% of any series of Warrant Stock being transferred. Notwithstanding the foregoing, this Warrant and the Common Stock issued upon exercise of this Warrant may not be transferred without the consent of Amazon, which consent will only be withheld or delayed, if the proposed transferee is, has a major financial interest (excluding any mutual fund, investment banker or similar investment advisor with any such major financial interest as a result of accounts held by or on account of its customers in the ordinary course of business), or is an employee or affiliate of, a competitor of Amazon; provided, that the holders of Warrants may, without the consent of Amazon, transfer any interest therein to any lender or to any Affiliate of any lender.

Section 9. Warrant Exchangeable for Different Denominations. This Warrant is exchangeable, upon the surrender hereof by the Registered Holder at the principal office of Amazon, for new Warrants of like tenor representing in the aggregate the purchase rights hereunder, and each of such new Warrants shall represent such portion of such rights as is designated by the Registered Holder at the time of such surrender. All Warrants representing portions of the rights hereunder are referred to herein as the "Warrants."

Section 10. Replacement. Upon receipt of evidence reasonably satisfactory to Amazon (an affidavit of the Registered Holder shall be satisfactory) of the loss, theft, destruction or mutilation of any certificate evidencing this Warrant, and in the case of any such loss, theft or destruction, upon receipt of an indemnity reasonably satisfactory to Amazon (it being understood

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that an unsecured indemnity by the initial holder of the Warrants will in any event be satisfactory), or in the case of any such mutilation, upon surrender of such certificate, Amazon shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like tenor and dated the date of such lost, stolen, destroyed or mutilated certificate.

Section 11. Legend. The certificates representing shares of Warrant Stock issued upon exercise of the Warrants shall be endorsed with the legend set forth as follows:

"The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, and may not be transferred unless registered under such Act or an exemption from registration is available (provided that Amazon may require an opinion of counsel reasonably satisfactory to it to such effect). Any transfer thereof is also subject to the conditions specified in the Stock Purchase Warrant of Amazon.com, Inc. (the "Company") dated as of December 23, 1997. A copy of the form of such Warrant is on file with the Secretary of the Company, and will be furnished without charge by the Company to the holder of this certificate upon written request to the Secretary of the Company at its headquarters."

Such legend shall be removed upon the request of the holder of such certificate; provided that removal of such legend shall be in compliance with applicable federal and state securities laws (and Amazon receives an opinion of counsel reasonably satisfactory to it that such legend is no longer necessary on such certificate to protect Amazon from a violation of such federal or state securities) and that there are no further restrictions on shares represented by such certificate under this Warrant.

Section 12. Securities Law Compliance. The holder of this Warrant, by acceptance hereof, acknowledges that this Warrant is being acquired for the holder's account, for the benefit of the Lenders under the Credit Agreement, and for investment purposes only and not with a view toward distribution or resale, and that the holder will not offer, sell, transfer, assign or otherwise dispose of this Warrant or any shares of Common Stock to be issued upon exercise hereof except under circumstances that will not result in a violation of the Securities Act or any state securities laws.

Section 13. Rule 144 and 144A Reporting.

(i) With a view to making available to the Holders of Warrants or any holders of Underlying Common Stock the benefits of certain rules and regulations of the Commission which may permit

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the sale of Underlying Common Stock to the public without registration, Amazon agrees, to:

(a) make and keep public information available as those terms are understood and defined in Rule 144;

(b) file with the Commission in a timely manner all reports and other documents required of Amazon under the Securities Act and Exchange Act; and

(c) furnish to the holder of Warrants or Underlying Common Stock forthwith upon request of a written statement by Amazon as to its compliance with the reporting requirements of Rule 144, and of the Exchange Act, a copy of the most recent annual or quarterly report of Amazon filed with the Commission, if any, and such other reports and documents of Amazon and other information in the possession of or reasonably obtainable by Amazon as the Holder or such holders may reasonably request in availing themselves of any rule or regulation of the Commission allowing them to sell securities without registration under the Securities Act.

(ii) With a view to making available to the holders of Warrants or holders of Warrant Stock the benefits of certain rules and regulations of the Commission which may permit the sale of Warrants or Warrant Stock to qualified institutional buyers, Amazon agrees, upon request, to provide to such holders and prospective purchasers of Warrants or Warrant Stock with the following information which shall be reasonably current:

(a) a brief statement of the nature of the business of Amazon and the products and services it offers; and

(b) a copy of Amazon's most recent balance sheet and profit and loss and retained earnings statements and similar audited financial statements for the two preceding fiscal years.

Section 14. Consent for Additional Registration Rights. Amazon shall not grant rights to register any of its securities under the Securities Act to any other Person or entity without the consent of the Majority Warrant Holders if the grant of any such rights would be senior to the rights granted hereunder to the holder of the Warrant. Amazon may grant registration rights in the future which are on parity with those granted hereunder to the holders of the Underlying Common Stock

Section 15. Notices. Except as otherwise expressly provided herein, all notices referred to in this Warrant shall be

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in writing (including facsimile) and shall be delivered either personally, sent by reputable express courier service (charges prepaid) sent by registered or certified mail, return receipt requested, postage prepaid or forwarded by facsimile and shall be deemed to have been given when so delivered, sent or deposited in the U. S. Mail (i) to Amazon, at its principal executive offices and (ii) to the Registered Holder of this Warrant and the holders of Underlying Common Stock, at such holder's address as it appears in the records of Amazon (unless otherwise indicated by any such holder), or if given by facsimile, when such facsimile is transmitted to the facsimile number specified in the Credit

Agreement with respect to Amazon and, with respect to the Registered Holder and the holders of Underlying Common Stock, as it appears in the records of Amazon (unless otherwise indicated by such holder).

Section 16. Amendment and Waiver. Except as otherwise provided herein, the provisions of the Warrants may be amended and Amazon may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if Amazon has obtained the written consent of the Majority Warrant Holders; provided, that no such action may change the Exercise Price of the Warrants or the number of shares or class of stock obtainable upon exercise of each Warrant without the written consent of the holders of Underlying Common Stock representing 100% of the shares of Underlying Common Stock.

Section 17. Descriptive Headings; Governing Law. The descriptive headings of the several Sections and paragraphs of this Warrant are inserted for convenience only and do not constitute a part of this Warrant. The corporate law of the State of Delaware shall govern all issues concerning the relative rights of Amazon and its stockholders. All other questions concerning the construction, validity and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the laws of the State of New York, without giving effect to any choice of law or conflict provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

Section 18. Certain Expenses. In addition to any other amounts payable hereunder, Amazon shall pay all issuance expenses incurred in connection with, and all taxes (other than stock transfer taxes) and other governmental charges that may be imposed in respect of, the issuance, sale and delivery of the Warrants or the shares of Underlying Common Stock.

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Warrant - Amazon.com, Inc.

IN WITNESS WHEREOF, Amazon has caused this Warrant to be signed and attested by its duly authorized officers and to be dated the Closing Date hereof.

AMAZON.COM, INC.

By: /s/ Joy D. Covey

Its: Chief Financial Officer

Attest:

/s/ Alan Caplan

General Counsel

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EXHIBIT I

EXERCISE AGREEMENT

(To be executed only upon partial
or full exercise of the within Warrant)

The undersigned registered Holder of the within Warrant irrevocably exercises the within Warrant for and subscribes for _____ shares of Common Stock of Amazon.com, Inc. and agrees to make payment therefor in the amount of \$_____, all at the price and on the terms and conditions specified in the within Warrant and requests that a certificate (or _____ certificates in denominations of _____ shares) for the shares of Common Stock of _____ hereby subscribed for be issued in the name of and delivered to [choose one] (a) the undersigned or (b) _____, whose address is _____, and if such shares of Common Stock shall not include all the shares of Common Stock issuable as provided in the within Warrant, that a new Warrant of like tenor for the number of shares of Common Stock of _____ not being subscribed for hereunder be issued in the name of and _____, whose address is _____.

Dated: _____, _____

By: _____
(Signature of Registered Holder)

Signature Guarantee:

By: _____
[Title]

EXHIBIT II

ASSIGNMENT FORM

(To be executed only upon the assignment
of the within Warrant)

FOR VALUE RECEIVED the undersigned registered Holder of the within Warrant hereby sells, assigns and transfer unto (the "Transferee"), whose address is all of the rights of the undersigned under the within Warrant, with respect to _____ shares of Common Stock of Amazon.com, Inc. and if such shares of Common Stock shall not include all the shares of Common Stock issuable as provided in the within Warrant, that a new Warrant of like tenor for the number of shares of Common Stock of _____ not being transferred hereunder be issued in the name of and delivered to the undersigned, and does hereby irrevocably constitute and appoint
Attorney to register such transfer on the books of maintained for the purpose, with full power of substitution in the premises. By signing below, the transferee agrees to be bound by all of the terms and conditions of the within Warrant.

Dated _____, ____

Signature Guaranteed: By _____
(Signature of Registered Holder)

- _____
By _____
[Title]

Accepted and Agreed this
____ day of _____, ____:

By _____
(Signature of Transferee)

</TEXT>
</DOCUMENT>
<DOCUMENT>
<TYPE>EX-10.21
<SEQUENCE>4
<DESCRIPTION>LEASE AGREEMENT DATED MARCH 23, 1998
<TEXT>

EXHIBIT 10.21

MARTIN SMITH INC	OFFICE LEASE
500 WATERMARK TOWER	
1109 FIRST AVENUE	
SEATTLE, WA 98101-2988	215 COLUMBIA BUILDING
TEL 682-3300 FAX 340-1283	

THIS LEASE is made this 20th day of March 1998 by and between PACIFIC NW TITLE BUILDING, INC., A WASHINGTON CORPORATION ("Landlord"), and AMAZON.COM, INC., A DELAWARE CORPORATION ("Tenant"), who agree as follows:

1. FUNDAMENTAL TERMS. As used in this Lease, the following capitalized terms shall have the following meanings:
- (a) "Land" means the land on which the Building is located, situated in the City of Seattle, County of King, State of Washington, which is described on Exhibit A.
- (b) "Building" means the building in which the Premises are located, commonly known as the 215 Columbia Building, the street address of which is 215 Columbia Street, Seattle, Washington 98104.
- (c) "Premises" means that certain space outlined in red in Exhibit B and located on the third and fourth floors of the Building designated as Suite 400.
- (d) "Agreed Areas" means the agreed amount of rentable square feet of space in the Building and the Premises. Landlord and Tenant stipulate and agree for all purposes under this Lease that the Building contains approximately 43,840 rentable square feet of space (the "Building Area") and that the Premises contain approximately 22,820 rentable square feet of space (the "Premises Area"). Landlord and Tenant further agree that the Building Area may exclude portions of the Building which are used for other than office purposes, such as areas used for retail purposes or for storage purposes.
- (e) "Tenant's Share" means the Premises Area divided by the Building Area, expressed as a percentage, which is fifty-two and five one-hundredths percent (52.05%).
- If a portion of the Building is damaged or condemned, or any other event occurs which alters the number of rentable square feet of space in the

Premises or the Building, then Landlord shall adjust Tenant's Share to equal the number of rentable square feet of space then existing in the Premises (as altered by such event) divided by the number of rentable square feet of space then existing in the Building (as altered by such event).

(f) "Commencement Date" means May 1, 1998, or such earlier date as provided in Section 4 hereof.

(g) "Expiration Date" means May 31, 1999.

(h) "Term" means the period of time commencing on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to this Lease.

(i) "Minimum Monthly Rent" means Twenty-eight Thousand Five Hundred Twenty-five and 00/100ths Dollars (\$28,525.00) per month during the Term of this Lease:

(j) "Permitted Use" means use for purposes of general business/administrative offices for an internet- based bookseller.

(k) "Base Year" means the calendar year 1998.

(l) "Prepaid Rent" means Twenty-eight Thousand Five Hundred Twenty-five and 00/100ths Dollars (\$28,525.00).

(m) "Security Deposit" means Twenty-eight Thousand Five Hundred Twenty-five and no/100ths Dollars (\$28,525.00).

(n) "Landlord's Address for Notice" means 215 Columbia Building, c/o Martin Smith Inc, 1109 First Avenue, Suite 500, Seattle, Washington 98101-2988.

(o) "Landlord's Address for Payment of Rent" means 215 Columbia Building, c/o Martin Smith Inc, 1109 First Avenue, Suite 500, Seattle, Washington 98101-2988.

(p) "Tenant's Address for Notice" means Amazon.com, Inc., Attn: General Counsel, 1516 Second Avenue, Suite 400, Seattle, Washington 98104.

(q) "Landlord's Agent" means Martin Smith Inc or such other agent as Landlord may appoint from time to time.

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(r) "Broker(s)" means Martin Smith Inc representing the Landlord and Washington Partners, Inc. representing the Tenant.

(s) "Exhibits" means the following Exhibits to this Lease:

- Exhibit A - Legal Description of the Property
- Exhibit B - Outline Drawing of the Premises
- Exhibit C - Work Letter
- Exhibit D - Rules and Regulations

(t) "Rider" means the following Rider which is attached hereto: Rider dated March 20, 1998 by and between PACIFIC NW TITLE BUILDING, INC., A WASHINGTON CORPORATION ("Landlord"), and AMAZON.COM, INC., A DELAWARE CORPORATION ("Tenant").

(u) "Definitions" means the words and phrases defined in Section 42 captioned "Definitions".

2. PREMISES. Landlord leases to Tenant and Tenant leases from Landlord the Premises for the Term.

3. APPURTENANCES. Tenant, and its authorized representatives, shall have the right to use, in common with others and subject to the Rules and Regulations, the Common Areas of the Building. Landlord shall have the right, in Landlord's sole discretion, from time to time to (i) make changes to the Building interior and exterior and Common Areas, including without limitation, changes in the location, size, shape, number and appearance thereof, (ii) to close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available, and (iii) to use the Common Areas while engaged in making additional improvements, repairs or alterations to the Building. All of the windows and exterior walls of the Premises and any space in the Premises used for shafts, stacks, pipes, conduits, ducts, electrical equipment or other utilities or Building facilities are reserved solely to Landlord and Landlord shall have rights of access through the Premises for the purpose of operating, maintaining and repairing the same, provided, however, that such changes shall not materially affect Tenant's access to, or use and occupancy of, the Premises.

4. TERM.

(a) COMMENCEMENT DATE. This Lease shall become legally binding as of the earlier of the date Landlord and Tenant execute this Lease or the date Tenant enters onto the Premises or any portion thereof with Landlord's consent, and shall remain in full force and effect thereafter until the expiration of the Term, unless sooner terminated pursuant to this Lease. The Term shall commence on the Commencement Date and expire on the Expiration Date, unless sooner terminated pursuant to this Lease. The Commencement Date shall be the date specified in Section 1.

(i) Notwithstanding anything to the contrary in this Section, Tenant shall have the right to enter onto the Premises at any time after full execution of this Lease by Landlord and Tenant solely for the purpose of installation of cabling, communications equipment, office equipment and office furniture. No Rent shall be due for such early access to the Premises.

(ii) If Tenant shall occupy the Premises or any portion thereof for the Permitted Use prior to the Commencement Date specified in Section 1 then Tenant shall pay Minimum Monthly Rent for such occupancy from and after the date

of such early occupancy. Landlord acknowledges that Tenant intends to occupy the third floor in the Premises for the operation of its business as soon as possible, and Tenant may so occupy the third floor prior to the Commencement Date.

(b) TENANT TERMINATION RIGHTS. If Landlord is unable to deliver possession of the Premises to Tenant on the Commencement Date as a result of causes beyond its reasonable control, Landlord shall not be liable for any damage caused by failing to deliver possession and this Lease shall not be void or voidable. Tenant shall not be liable for Rent until Landlord delivers possession of the Premises to Tenant. No delay in delivery of possession of the Premises to Tenant shall change the Expiration Date or operate to extend the Term. If Landlord does not deliver possession of the Premises to Tenant within thirty (30) days of the Commencement Date, then Tenant may elect to terminate this Lease by giving notice to Landlord within thirty (30) days following the end of such thirty (30) day period.

(c) CONFIRMATION OF COMMENCEMENT DATE. When the Commencement Date as provided herein has been established as an earlier or later date than the Commencement Date specified in Section 1, Landlord shall confirm the Commencement Date by notice to Tenant.

5. MINIMUM MONTHLY RENT; LATE CHARGE.

(a) MINIMUM MONTHLY RENT. Tenant shall pay to Landlord the Minimum Monthly Rent without deduction, offset, prior notice or demand, in advance on the first day of each month during the Term. Minimum Monthly Rent for any partial month shall be prorated at the rate of 1/30th of the Minimum Monthly Rent per day. Minimum Monthly Rent is exclusive of any sales, franchise, business or occupation or other tax based on rents (other than Landlord's general income taxes) and should such taxes apply during the Term, the Minimum Monthly Rent shall be increased by the amount of such taxes. All Rent shall be paid to Landlord at Landlord's Address for Payment of Rent or at such other address as Landlord may specify by notice to Tenant.

(b) LATE CHARGE. Tenant acknowledges that the late payment by Tenant of any Rent will cause Landlord to incur administrative, collection, processing and accounting costs and expenses not contemplated under this Lease, the exact amount of which are extremely difficult or impracticable to fix. Therefore, if any

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Rent is not received by Landlord from Tenant by the fifth (5th) BUSINESS day after such Rent is due, Tenant shall immediately pay to Landlord a late charge equal to five percent (5%) of the amount of such Rent or Seventy-five and No/100th Dollars (\$75.00), whichever is greater. Landlord and Tenant agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for its loss caused by Tenant's nonpayment. Should Tenant pay said late charge but fail to pay contemporaneously therewith all unpaid amounts of Rent, Landlord's acceptance of this late charge shall not constitute a waiver of Tenant's default with respect to Tenant's nonpayment nor prevent Landlord from exercising all other rights and remedies available to Landlord under this Lease or under law.

6. PREPAID RENT AND SECURITY DEPOSIT. On execution of this Lease, Tenant shall deposit with Landlord the Prepaid Rent, as monthly rent for the first full month of the Term for which Rent is payable, and the Security Deposit, as a Security Deposit for the performance by Tenant of the provisions of this Lease. If Tenant is in default, Landlord may use the Security Deposit, or any portion of it, to cure the default, including without limitation, paying for the cost of any work necessary to restore the Premises, the Tenant improvements and any alterations to good condition or to compensate Landlord for all damage sustained by Landlord resulting from Tenant's default. Tenant shall within five (5) days of demand pay to Landlord a sum equal to the portion of the Security Deposit expended or applied by Landlord as provided in this Section so as to maintain the Security Deposit in the sum initially deposited with Landlord. If Tenant is not in default as of the expiration or termination of the Term, including without limitation, in default in payment of the Rent for the last month of the Term, then Landlord shall return the Security Deposit, without interest, to Tenant within a reasonable period of time after the expiration or termination of the Term. Landlord's obligations with respect to the Security Deposit are those of a debtor and not a trustee. Landlord may commingle the Security Deposit with Landlord's general and other funds.

7. REAL PROPERTY TAXES.

(a) PAYMENT OF TENANT'S SHARE OF INCREASES IN REAL PROPERTY TAXES. Commencing January 1, 1999, Tenant shall pay to Landlord, as Additional Rent, monthly, in advance on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of Tenant's Share of all increases in Real Property Taxes that are or will be levied or assessed against the Property during each calendar year during the Term over and above the Real Property Taxes that are levied or assessed against the Property during the Base Year as reasonably estimated by Landlord. Such Additional Rent is exclusive of any sales, franchise, business or occupation or other tax based on rents and should such taxes apply during the Term, such Additional Rent shall be increased by the amount of such taxes. Within one hundred twenty (120) days after the end of each calendar year during the Term, Landlord shall furnish to Tenant a statement of the Real Property Taxes for the preceding calendar year and Tenant's Share of the increase in Real Property Taxes. If Tenant's Share of the increase in such Real Property Taxes for that calendar year over such Real Property Taxes for the Base Year exceeds the monthly payments made by Tenant, then Tenant shall pay Landlord the deficiency within thirty (30) days after receipt of the statement. If Tenant's payments made during that calendar year exceed Tenant's Share of the increase in such Real Property Taxes for that calendar year over such Real Property Taxes for the Base Year, then, at Landlord's option, either Landlord shall pay Tenant the excess at the time Landlord furnishes the statement to Tenant, or Tenant shall be entitled to offset the excess against the next installment(s) of Minimum Monthly Rent and Additional Rent, provided, however, that at the end of the Term Landlord shall pay Tenant the excess at the time Landlord furnishes the statement to Tenant.

(b) GENERAL AND SPECIAL ASSESSMENTS. With respect to any general or special assessments which may be levied against or upon the Property, or which under the laws then in force may be evidenced by improvement or other bonds or may be paid in annual installments, only the amount of such annual installment, and interest due thereon, shall be included in the computation of Real Property Taxes.

(c) PRORATION. Tenant's Share of Real Property Taxes shall be prorated on the basis of a 360-day year to account for any fractional portion of a tax year included in the Term at its commencement and expiration.

(d) NO EFFECT ON MINIMUM MONTHLY RENT. Notwithstanding anything to the contrary in this Section, the Minimum Monthly Rent payable by Tenant shall in no event be less than the Minimum Monthly Rent specified in Section 1.

8. PERSONAL PROPERTY TAXES. Tenant shall pay prior to delinquency all personal property taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Premises or elsewhere. If possible, Tenant shall cause such trade fixtures, furnishings, equipment and all other personal property of Tenant to be assessed and billed separately from the Property.

9. OPERATING COSTS.

(a) PAYMENT OF TENANT'S SHARE OF INCREASES IN OPERATING COSTS. Commencing January 1, 1999, Tenant shall pay to Landlord, as Additional Rent, monthly, in advance on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of Tenant's Share of the increase in the Operating Costs of the Property for each calendar year during the Term over the Operating Costs for the Base Year as reasonably estimated by Landlord. Landlord shall reasonably estimate the Operating Costs for the Base Year and for each calendar year during the Term based on the Operating Costs that would have been incurred if the Building had been 95% occupied during the Base Year or each such calendar year, as the case may be, taking into account historical operating costs for the Building. Such Additional Rent is exclusive of any sales, franchise, business or occupation or other tax based on rents and should such taxes apply during the Term, such Additional Rent shall be increased by the amount of such taxes. Within one hundred twenty (120) days after the end of each calendar year during the Term, Landlord shall furnish to Tenant a statement of the Operating Costs for the preceding calendar year and Tenant's Share of the increase in the Operating Costs. If Tenant's Share of the

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increase in the Operating Costs for that calendar year over the Operating Costs for the Base Year exceeds the monthly payments made by Tenant, then Tenant shall pay Landlord the deficiency within thirty (30) days after receipt of the statement. If Tenant's payments made during that calendar year exceed Tenant's Share of the increase in the Operating Costs for that calendar year over the Operating Costs for the Base Year, then, at Landlord's option, either Landlord shall pay Tenant the excess at the time Landlord furnishes the statement to Tenant, or Tenant shall be entitled to offset the excess against the next installment(s) of Minimum Monthly Rent and Additional Rent, provided, however, that at the end of the Term Landlord shall pay Tenant the excess at the time Landlord furnishes the statement to Tenant.

(b) PRORATION. Tenant's Share of Operating Costs shall be prorated on the basis of a 360 day year to account for any fractional portion of a year included in the Term at its commencement and expiration.

(c) NO EFFECT ON MINIMUM MONTHLY RENT. Notwithstanding anything to the contrary in this Section, the Minimum Monthly Rent payable by Tenant shall in no event be less than the Minimum Monthly Rent specified in Section 1.

(d) RIGHT TO EXAMINE LANDLORD'S BOOKS AND RECORDS. Tenant or its authorized representative shall have the right to examine Landlord's books and records relating to Operating Costs of the Property upon reasonable prior notice specifying such records Tenant desires to examine, during normal business hours at the place or places where such records are normally kept by sending such notice no later than ninety (90) days following the furnishing of the Landlord's statement of the Operating Costs for the preceding calendar year and Tenant's Share of the increase in the Operating Costs. Tenant may take exception to matters included in Operating Costs, or Landlord's computation of Tenant's Share, by sending notice specifying such exception and the reasons therefor to Landlord no later than thirty (30) days after Landlord makes such records available for examination. Landlord's statement of the Operating Costs for the preceding calendar year and Tenant's Share of the increase in the Operating Costs shall be considered final, except as to matters to which exception is taken after examination of Landlord's books and records relating to Operating Costs of the Property in the foregoing manner and within the foregoing times. Tenant acknowledges that Landlord's ability to budget and incur expenses depends on the finality of such statement, and accordingly agrees that time is of the essence of this Section. If Tenant takes exception to any matter contained in such statement as provided herein, Landlord shall refer the matter to an independent certified public accountant, whose certification as to the proper amount shall be final and conclusive as between Landlord and Tenant. Tenant shall promptly pay the cost of such certification unless such certification determines that Landlord's statement of the Operating Costs overstated the Operating Costs by more than five percent (5%). Pending resolution of any such exceptions in the foregoing manner, Tenant shall continue paying Tenant's Share of Operating Costs in the amounts determined by Landlord, subject to adjustment after any such exceptions are so resolved. If such certification determines that Landlord's statement of the Operating Costs overstated the Operating Costs, then Tenant shall receive a credit for Tenant's Share of the amount of such overstatement against payments of Rent next due.

10. USE. Tenant shall use the Premises for the Permitted Use and for no other use without Landlord's prior consent. Tenant agrees that it has determined to its satisfaction that the Premises can be used for the Permitted Use. Tenant waives any right to terminate this Lease if the Premises cannot be used for the Permitted Use during the Term unless the prohibition on use is the result of

actions taken by Landlord. Tenant's use of the Premises shall be in accordance with the following:

(a) INSURANCE. Tenant shall not do, bring, or keep anything in or about the Premises or the Property that will cause a cancellation of any insurance covering the Property. If the rate of any insurance carried by Landlord on the Property as published by the Washington Survey and Rating Bureau, or any successor rating bureau or agency, is increased as a result of Tenant's use, then Tenant shall pay to Landlord not less than ten (10) days before the date Landlord is obligated to pay a premium on the insurance, a sum equal to the difference between the original premium and the increased premium.

(b) COMPLIANCE WITH LAWS. Tenant shall comply with all Laws concerning the Premises and Tenant's use of the Premises. Landlord shall comply with all Laws concerning the Building and the Building common areas and the operation and maintenance thereof.

(c) WASTE, NUISANCE AND IMPROPER USE. Tenant shall not use the Premises in any manner that will constitute waste, nuisance or unreasonable annoyance to other tenants in the Building, including without limitation, (i) the use of loudspeakers or sound or light apparatus that can be heard or seen outside the Premises, (ii) for cooking or other activities that cause odors that can be detected outside the Premises, or (iii) for lodging or sleeping rooms.

(d) DAMAGE TO PROPERTY. Tenant shall not do anything in, on or about the Premises that will cause damage to the Property.

(e) RULES AND REGULATIONS. Tenant and its authorized representatives shall comply with the Rules and Regulations set forth on Exhibit D attached hereto. Landlord shall have the right to amend, on thirty (30) days advance written notice, the Rules and Regulations from time to time. In the event of a conflict between this Lease and the Rules and Regulations, as amended, this Lease shall control. Landlord shall have the right to enforce the Rules and Regulations. Landlord shall have no liability or responsibility whatsoever with respect to the noncompliance by other tenants or their authorized representatives with any of such Rules and Regulations.

11. HAZARDOUS SUBSTANCES. Tenant shall not dispose of or otherwise allow the release of any Hazardous Substances in, on or under the Premises, or the Property, or in any tenant improvements or alterations placed on the Premises by Tenant. Tenant represents and warrants to Landlord that Tenant's intended use of the

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Premises does not involve the use, production, disposal or bringing on to the Premises of any Hazardous Substances, except for products normally used in general business offices which constitute Hazardous Substances, provided that such products are used, stored and disposed of in accordance with applicable laws and manufacturer's and supplier's guidelines. Tenant shall promptly comply with all laws and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction, relating to the use, collection, treatment, disposal, storage, control, removal or cleanup of Hazardous Substances, on or under the Premises or the Property, or incorporated in any tenant improvements or alterations, at Tenant's expense.

(a) COMPLIANCE; NOTIFICATION. After notice to Tenant and a reasonable opportunity for Tenant to effect such compliance, Landlord may, but is not obligated to, enter upon the Premises and take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest in the Premises and the Property, provided, however that Landlord shall not be obligated to give Tenant notice and an opportunity to effect such compliance if (i) such delay might result in material adverse harm to the Premises, or the Property, or (ii) an emergency exists. Tenant shall reimburse Landlord for the full amount of all costs and expenses incurred by Landlord in connection with such compliance activities, and such obligation shall continue even after expiration or termination of the Term. Tenant shall notify Landlord immediately of any release of any Hazardous Substances on the Premises or the Property.

(b) INDEMNITY BY TENANT. Tenant agrees to hold Landlord harmless from and against any and all damages, charges, cleanup costs, remedial actions, costs and expenses, which may be imposed on, incurred or paid by, or asserted against Landlord, the Premises or the Property by reason of, or in connection with (1) any misrepresentation, breach of warranty or other default by Tenant under this Lease, or (2) the acts or omissions of Tenant, its authorized representatives, or any subtenant or other person for whom Tenant would otherwise be liable, resulting in the release of any Hazardous Substances on the Premises or the Property.

(c) INDEMNITY BY LANDLORD. Landlord agrees to hold Tenant harmless from and against any and all damages, charges, cleanup costs, remedial actions, costs and expenses, which may be imposed on, incurred or paid by, or asserted against Tenant, the Premises or the Property by reason of, or in connection with (i) any misrepresentation, breach of warranty or other default by Landlord under this Lease or (ii) the acts or omissions of Landlord, its authorized representatives, or any other person for whom Landlord would otherwise be liable, resulting in the release of any Hazardous Substances on the Premises or the Property.

(d) ACKNOWLEDGMENT AS TO HAZARDOUS SUBSTANCES. Tenant acknowledges that the Premises may contain Hazardous Substances, and Tenant accepts the Premises and the Building notwithstanding such Hazardous Substances. Landlord represents to Tenant that, to the best of Landlord's knowledge without independent investigation or inquiry, as of the date of execution of this Lease; (i) there has been no release in the Premises or the Building of any Hazardous Substances in violation of any applicable Laws, and (ii) the Premises and the Building contain no asbestos-containing materials. The term "Landlord's knowledge" means and includes only the actual knowledge of Landlord, without giving effect to any principles of imputed or constructive knowledge and without any duty of inquiry. If Landlord is required by any law to take any action to remove or abate any Hazardous Substances, or if Landlord deems it necessary to conduct special maintenance or testing procedures with regard to any Hazardous Substances, or to

remove or abate any Hazardous Substances, Landlord may take such action or conduct such procedures at times and in a manner that Landlord deems appropriate under the circumstances, and Tenant shall permit the same.

(e) SURVIVAL. The provisions of this Section shall survive the expiration or sooner termination of the Term. No subsequent modification or termination of this Lease by agreement of the parties or otherwise shall be construed to waive or to modify any provisions of this Section unless the termination or modification agreement or other document expressly so states in writing.

12. LANDLORD'S MAINTENANCE; INCLUSION IN OPERATING COSTS.

(a) LANDLORD'S MAINTENANCE. Except as provided in Section 13 captioned "Tenant's Maintenance; Remedies", Section 23 captioned "Destruction" and Section 24 captioned "Condemnation" and except for damage caused by any negligent or intentional act or omission of Tenant or its authorized representatives, Landlord shall maintain in good condition and repair the following:(i) the structural parts of the Building, which structural parts include only the foundations, bearing and exterior walls (excluding glass and doors), subflooring and roof, (ii) the building standard lighting fixtures, window coverings and ceiling tiles and the unexposed electrical, plumbing and sewage systems, including without limitation, those portions lying outside the Premises, (iii) the heating, ventilating and air-conditioning system, if any, servicing the Building, (iv) the lobbies, corridors, elevators, public or common restrooms and other common areas of the Building, and (v) the sidewalks, grounds, landscaping, parking and loading areas, if any, and other common areas of the Property.

(b) INCLUSION IN OPERATING COSTS. The cost of maintaining, repairing, replacing or servicing the portions of the Building that Landlord is required to maintain pursuant to this Section shall be included in Operating Costs to the extent provided in Section 9 captioned "Operating Costs".

13. TENANT'S MAINTENANCE; REMEDIES.

(a) TENANT'S MAINTENANCE. Except as provided in Section 12 captioned "Landlord's Maintenance; Inclusion in Operating Costs", Section 23 captioned "Destruction" and Section 24 captioned "Condemnation" and except for damage caused by any negligent or intentional act or omission of Landlord or its authorized representatives, Tenant, at its cost, shall maintain in good condition and repair the Premises (ordinary wear and tear excepted), including without limitation, all of the Tenant Improvements (except for latent defects), Tenant's alterations, Tenant's trade fixtures, Tenant's personal property, signs, walls, interior partitions, wall coverings, windows, non-building standard window coverings, glass, doors, carpeting and resilient flooring,

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non-building standard ceiling tiles, plumbing fixtures and non-building standard lighting fixtures. Tenant shall be liable for any damage to the Premises and the Building resulting from the acts or omissions of Tenant or its authorized representatives.

(b) LANDLORD'S REMEDIES. If Tenant fails to maintain the Premises in good condition and repair as required by Subsection 13(a) and if such failure is not cured within thirty (30) days after notice of such failure is given by Landlord to Tenant, then Landlord may, at its option, cause the Premises to be maintained in good condition and repair and Tenant shall promptly reimburse Landlord for all costs incurred by Landlord in performance of Tenant's obligation to maintain the Premises.

14. TENANT IMPROVEMENTS AND ALTERATIONS; TRADE FIXTURES.

(a) TENANT IMPROVEMENTS AND ALTERATIONS. Tenant accepts the Premises in "AS IS" condition without any obligations for the performance of improvements or other work by Landlord. Tenant shall not make any improvements or alterations (other than cabling) to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld. If Tenant desires to make any improvements or alterations to the Premises and obtains Landlord's consent as described herein, Tenant shall pay for such improvements and alterations as described in the Work Letter attached hereto as Exhibit C. If Tenant's improvements and alterations coincide with Landlord's long-term plans for the building, Landlord may, in Landlord's sole discretion, pay for all or a portion of such improvements and alterations made to the Premises. Tenant shall not make any other improvements or alterations to the Premises without Landlord's prior consent. Any improvements and alterations made by either party shall remain on and be surrendered with the Premises on expiration or termination of the Term, except that Landlord can elect, at the time Landlord gives it consent, to require Tenant to remove any improvements and alterations that Tenant has made to the Premises. If Landlord so elects, Tenant, at its cost, shall restore the Premises to the condition designated by Landlord in its election, before the last day of the Term. Any improvements and alterations that remain on the Premises on expiration or termination of the Term shall automatically become the property of Landlord and title to such improvements and alterations shall automatically pass to Landlord at such time without any payment therefor by Landlord to Tenant. If Tenant or its authorized representatives make any improvements or alterations to the Premises as provided in this Section, then such improvements and alterations (i) shall be made in a first class manner in conformity with then building standard improvements, (ii) shall be made utilizing then building standard materials, (iii) shall be made in compliance with the Rules and Regulations and the reasonable directions of Landlord, (iv) shall be made pursuant to a valid building permit to be obtained by Tenant, at its cost, (v) shall be made in conformity with then applicable Laws, including without limitation, building codes, and (vi) shall not be commenced until five (5) days after Landlord has received notice from Tenant stating the date the installation of such improvements and alterations is to commence so that Landlord can post and record an appropriate notice of nonresponsibility.

(b) TRADE FIXTURES. Tenant may install any trade fixtures in or on the Premises with Landlord's prior consent, which shall not be unreasonably withheld.

15. MECHANICS' LIENS. Tenant shall pay, or cause to be paid, all costs of labor, services and/or materials supplied in connection with any Work. Tenant shall keep the Property free and clear of all mechanics' liens and other liens resulting from any Work. Prior to the commencement of any Work or the supply or furnishing of any labor, services and/or materials in connection with any Work, Tenant shall provide Landlord with a labor and material payment bond in an amount equal to one hundred percent (100%) of the aggregate price of all contracts therefor, with release of the bond conditioned on Tenant's payment in full of all claims of lien claimants for such labor, services and/or materials supplied in the prosecution of the Work. Said payment bond shall name Landlord as a primary obligee, shall be given by a surety which is satisfactory to Landlord, and shall be in such form as Landlord shall approve in its sole discretion. Tenant shall have the right to contest the correctness or validity of any such lien if, immediately on demand by Landlord, it procures and records a lien release bond issued by a responsible corporate surety in an amount sufficient to satisfy statutory requirements therefor in the State of Washington. Tenant shall promptly pay or cause to be paid all sums awarded to the claimant on its suit, and, in any event, before any execution is issued with respect to any judgment obtained by the claimant in its suit or before such judgment becomes a lien on the Premises, whichever is earlier. If Tenant shall be in default under this Section, by failing to provide security for or satisfaction of any mechanic's or other liens, then Landlord may (but shall not be obligated to), in addition to any other rights or remedies it may have, discharge said lien by (i) paying the claimant an amount sufficient to settle and discharge the claim, (ii) procuring and recording a lien release bond, or (iii) taking such other action as Landlord shall deem necessary or advisable, and, in any such event, Tenant shall pay as Additional Rent, on Landlord's demand, all costs (including reasonable attorney fees) incurred by Landlord in settling and discharging such lien together with interest thereon in accordance with Section 39 captioned "Interest on Unpaid Rent" from the date of Landlord's payment of said costs. Landlord's payment of such costs shall not waive any default of Tenant under this Section.

16. UTILITIES AND SERVICES.

(a) UTILITIES AND SERVICES FURNISHED BY LANDLORD. Landlord shall furnish the Premises with:

(i) Electricity for lighting and power suitable for the use of the Premises for ordinary general office purposes; provided, however, that Tenant shall not at any time have a connected electrical load for lighting purposes in excess of the wattage per square foot of Premises Area required for building standard amounts of lighting, or a connected load for all other power requirements in excess of four (4) watts per square foot of Premises Area as determined by Landlord, and the electricity so provided for lighting and power shall not exceed such limits, subject to any lower limits set by any governmental authority with respect thereto;

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(ii) Subject to the reasonable limitations of the existing building systems, heating, ventilating and air-conditioning to maintain a temperature range in the Premises which is customary for similar office space in the Seattle, Washington area (but in compliance with any applicable governmental regulations with respect thereto). Tenant agrees to keep closed, when necessary, blinds, draperies and windows which must be closed to provide for the efficient operation of the heating and air conditioning systems, if any, and Tenant agrees to cooperate with Landlord and to abide by the regulations and requirements which Landlord may prescribe for the proper functioning and protection of the heating, ventilating and air-conditioning system, if any. If Tenant requires heating, ventilating and air conditioning to the Premises other than during normal business hours from 7:00 A.M. to 6:00 P.M. Mondays through Fridays and from the hours of 9:00 A.M. to 1:00 P.M. on Saturdays, except other than the stated Saturday hours, Sundays and those legal holidays generally observed in the State of Washington, Landlord shall, upon Tenant's request made not less than 24 hours before the time Tenant requires the after hour service, and not later than Noon on the Friday before any Saturday or Sunday on which Tenant requires such service, and not later than Noon of the day before any holiday on which Tenant requires such service (except as otherwise provided in the Rules and Regulations), furnish such heating, ventilating and air conditioning. If Tenant receives such services, then Tenant shall pay, upon demand, an amount equal to Tenant's proportionate share of the actual direct cost to Landlord in providing the heating, ventilating and air conditioning outside of normal business hours;

(iii) Water for restroom and drinking purposes and access to restroom facilities;

(iv) Elevator service for general office pedestrian usage if the Building is serviced by elevators;

(v) Relamping of building-standard light fixtures;

(vi) Washing of interior and exterior surfaces of exterior windows with reasonable frequency; and

(vii) Janitorial service five (5) times per week, except holidays.

(b) PAYMENT FOR EXCESS UTILITIES AND SERVICES. All services and utilities for the Premises not required to be furnished by Landlord pursuant to Section 16(a) shall be paid for by Tenant. If Tenant requires, on a regular basis, water, heat, air conditioning, electric current, elevator or janitorial service in excess of that provided for in Section 16(a), then Tenant shall first obtain the consent of Landlord which consent shall not be unreasonably withheld. If Landlord consents to such excess use, Landlord may install an electric current or water meter (including, without limitation, any additional wiring, conduit or panel required therefor) to measure the excess electric current or water consumed by Tenant or may cause the excess usage to be measured by other reasonable methods (e.g. by temporary "check" meters or by survey). Tenant shall pay to Landlord upon demand (i) the cost of any and all water, heat, air conditioning, electric current, janitorial, elevator or other services or

utilities required to be furnished to Tenant in excess of the services and utilities required to be furnished by Landlord as provided in Section 16(a); (ii) the cost of installation, maintenance and repair of any meter installed in the Premises; (iii) the cost of all electricity and water consumed by Tenant in connection with any dedicated heating, ventilating and/or air conditioning, computer power and/or air conditioning, telecommunications or other special systems of Tenant, including any power usage other than through existing standard 110-volt AC outlets; and (iv) any cost incurred by Landlord in keeping account of or determining such excess utilities or services furnished to Tenant. Landlord's failure to bill Tenant for any such excess utilities or services shall not waive Landlord's right to bill Tenant for the excess at a later time.

(c) TEMPERATURE BALANCE. Landlord makes no representation to Tenant regarding the adequacy or fitness of the heating, ventilating and air-conditioning systems, if any, in the Building to maintain temperatures that may be required for, or because of, any of Tenant's equipment which uses other than the fractional horsepower normally required for office equipment, and Landlord shall have no liability for loss or damage suffered by Tenant or others in connection therewith. If the temperature otherwise maintained in any portion of the Premises by the heating, air conditioning or ventilation system is affected as a result of (i) any lights, machines or equipment (including without limitation electronic data processing machines) used by Tenant in the Premises, (ii) the occupancy of the Premises by more than one person per two hundred (200) square feet of rentable area therein, (iii) an electrical load for lighting or power in excess of the limits per square foot of rentable area of the Premises specified in Section 16(a), or (iv) any rearrangement of partitioning or other improvements, Landlord may install any equipment, or modify any existing equipment (including the standard air conditioning equipment) Landlord deems necessary to restore the temperature balance. The cost of any such equipment, including without limitation, the cost of design and installation thereof, and the cost of operating, metering, maintaining or repairing the same, shall be paid by Tenant to Landlord upon demand. Tenant shall not install or operate window-mounted heating or air-conditioning units.

(d) SPECIAL ELECTRICAL OR WATER CONNECTIONS; ELECTRICITY USE. Tenant will not, without the prior consent of Landlord, which shall not be unreasonably withheld, connect or use any apparatus or device in the Premises (i) using current in excess of 110 volts or (ii) which will cause the amount of electricity, water, heating, air conditioning or ventilation furnished to the Premises to exceed the amount required for use of the Premises for ordinary general office purposes during normal business hours or (iii) which would cause Tenant's connected load to exceed any limits established in Section 16(a). Tenant shall not connect with electric current except through existing outlets in the Premises and shall not connect with water pipes except through existing plumbing fixtures in the Premises. In no event shall Tenant's use of electricity exceed the capacity of existing feeders to the Building or the risers or wiring installation, and Landlord may prohibit the use of any electrical equipment which in Landlord's opinion will overload such wiring or interfere with the use thereof by other tenants in the Building. If Landlord consents to the use of equipment requiring such changes, Tenant shall pay the cost of installing any additional risers, panels or other facilities that may be necessary to furnish energy to the Premises.

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Landlord will not permit additional coring of the floor of the Premises in order to install new electric outlets in the Premises unless Tenant furnishes Landlord with X-ray scans of the floor area where the Tenant wishes to place additional electrical outlets and Landlord, in its absolute discretion, is satisfied, on the basis of such X-ray scans and other information obtained by Landlord, that coring of the floor in order to install such additional outlets will not weaken the structure of the floor.

(e) LANDLORD'S DUTIES. Landlord shall not be in default under this Lease or liable for any damages resulting from, or incidental to, any of the following, nor shall any of the following be an actual or constructive eviction of Tenant, nor shall the Rent be abated by reason of: (i) failure to furnish or delay in furnishing any of the services described in this Section when such failure or delay is caused by accident or any condition beyond the reasonable control of Landlord, including the making of necessary repairs or improvements to the Premises or to the Building, (ii) any electrical surges or spikes, or (iii) failure to make any repair or to perform any maintenance, unless such failure shall persist for an unreasonable time after notice of the need for such repair or maintenance is given to Landlord by Tenant. Landlord shall use reasonable efforts to remedy any interruption in the furnishing of such services.

(f) GOVERNMENTAL REGULATIONS. Any other provisions of this Section notwithstanding, if any governmental authority or utility supplier imposes any laws, controls, conditions, or other restrictions upon Landlord, Tenant, or the Building, relating to the use or conservation of energy or utilities, mandated changes in temperatures to be maintained in the Premises or the Building or the reduction of automobile or other emissions (collectively, the "Controls"), or in the event Landlord is required or elects to make alterations to the Building in order to comply with the Controls, Landlord may, in its reasonable discretion, comply and may require Tenant to comply with the Controls or make such alterations to the Building in order to comply with the Controls. Such compliance and the making of such alterations shall not constitute an actual or constructive eviction of Tenant, impose on Landlord any liability whatsoever, or entitle Tenant to any abatement of Rent.

17. INDEMNITY.

(a) GENERALLY. Tenant shall hold Landlord harmless from and against any and all damages arising out of any damage to any persons or property occurring in, on or about the Premises or the Property resulting from the acts or omissions of Tenant or its authorized representatives. Landlord shall hold Tenant harmless from and against any and all damages arising out of any damage to any persons or property occurring in, on or about the Premises or the Property resulting from the acts or omissions of Landlord or its authorized representatives. A party's obligation under this Section to indemnify and hold the other party harmless shall be limited to the sum that exceeds the amount of

insurance proceeds, if any, received by the party being indemnified.

(b) CONCURRENT NEGLIGENCE OF LANDLORD AND TENANT. Notwithstanding Section 17(a) above, in the event of concurrent negligence of Tenant, or its authorized representatives, on the one hand, and that of Landlord, or its authorized representatives, on the other hand, which concurrent negligence results in damage to any persons or property occurring in, on or about the Premises or the Property, either party's obligation to indemnify the other party as set forth in Section 17(a) shall be limited to the extent of the negligence of the indemnifying party, or its authorized representatives, including the indemnifying party's proportional share of costs and attorneys' fees incurred in connection with any claims, actions or proceedings brought with respect to such damage.

(c) WAIVER OF WORKER'S COMPENSATION IMMUNITY. The indemnification obligations contained in this Section shall not be limited by any worker's compensation, benefit or disability laws, and each indemnifying party hereby waives (solely for the benefit of the indemnified party) any immunity that said indemnifying party may have under the Industrial Insurance Act, Title 51 RCW and similar worker's compensation, benefit or disability laws.

(d) PROVISIONS SPECIFICALLY NEGOTIATED. LANDLORD AND TENANT ACKNOWLEDGE BY THEIR EXECUTION OF THIS LEASE THAT EACH OF THE INDEMNIFICATION PROVISIONS OF THIS LEASE (SPECIFICALLY INCLUDING BUT NOT LIMITED TO THOSE RELATING TO WORKER'S COMPENSATION BENEFITS AND LAWS) WERE SPECIFICALLY NEGOTIATED AND AGREED TO BY LANDLORD AND TENANT.

18. EXEMPTION OF LANDLORD FROM LIABILITY. Landlord and Landlord's Agent shall not be liable for injury to Tenant's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, its authorized representatives, or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury resulting from conditions arising upon the Premises or upon other portions of the Building or the Property unless such injury or damage is caused by the negligence or willful misconduct of Landlord or its authorized representatives.

19. COMMERCIAL GENERAL LIABILITY AND PROPERTY DAMAGE INSURANCE. Tenant, at its cost, shall maintain commercial general liability insurance (including contractual liability and products and completed operations liability) with liability limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate, insuring against all liability of Tenant and its authorized representatives arising out of or in connection with Tenant's use and occupancy of the Premises and property damage insurance with liability limits of not less than \$500,000. All such commercial general liability and property damage insurance shall insure performance by Tenant of the indemnity provisions of Section 17 captioned "Indemnity". Landlord and Landlord's Agent shall be additional named insureds on such insurance policy.

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20. TENANT'S FIRE INSURANCE. Tenant, at its cost, shall maintain on all of Tenant's Alterations, Trade Fixtures and Personal Property in, on or about the Premises, a policy of standard All Risk fire insurance, in an amount equal to at least their full replacement cost. The proceeds of any such policy shall be used by Tenant for the restoration of Tenant's Alterations and Trade Fixtures and the replacement of its Personal Property. Any portion of such proceeds not used for such restoration shall belong to Tenant.

21. WAIVER OF SUBROGATION. Landlord and Tenant release each other, and their respective authorized representatives, from any claims for damage to any person or to the Premises and the Building and to Tenant's Alterations, Trade Fixtures and Personal Property that are caused by or result from risks insured against under any insurance policies carried by the parties, in force at the time of any such damage and collectible. Landlord and Tenant shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any insurance policy. Neither party shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy required by this Lease.

22. OTHER INSURANCE MATTERS. All insurance required to be carried by Tenant under this Lease shall: (i) be issued by insurance companies authorized to do business in the State of Washington with a rating of A/VI or better as rated in the most recent edition of Best's Insurance Reports; (ii) be issued as a primary policy, and (iii) contain an endorsement requiring thirty (30) days' prior written notice from the insurance company to both parties, to Landlord's Agent, and, if requested by Landlord, to Landlord's lender, before cancellation or change in the coverage, scope, or amount of any policy. Each policy or a certificate of the policy, together with evidence of payment of premiums, shall be deposited with Landlord on or before the Commencement Date, and on renewal of the policy not less than ten (10) days before expiration of the term of the policy.

23. DESTRUCTION.

(a) INSURED DAMAGE. If during the Term the Premises or the Building are partially or totally destroyed by any casualty that is covered by any insurance carried by Landlord covering the Building, rendering the Premises partially or totally inaccessible or unusable, Landlord shall restore the Premises or the Building to substantially the same condition as they were in immediately before such destruction, if (i) the insurance proceeds available to Landlord equal or exceed the cost of such restoration, (ii) in the opinion of a registered architect or engineer appointed by Landlord such restoration can be completed within one hundred eighty (180) days after the date of destruction, and (iii) such restoration is permitted under then existing laws to be done in such a manner as to return the Premises, or the Building, as the case may be, to substantially the same condition as they were in immediately before such destruction. To the extent that the insurance proceeds must be paid to a

mortgagee under, or must be applied to reduce any debt secured by, a mortgage covering the Property, the insurance proceeds shall be deemed not to be available to Landlord unless such mortgagee permits Landlord to use the insurance proceeds for such restoration. Such destruction shall not terminate this Lease.

(b) MAJOR OR UNINSURED DAMAGE. If during the Term the Premises or the Building are partially or totally destroyed by any casualty and Landlord is not obligated under Section 23(a) captioned "Insured Damage" to restore the Premises or the Building, as the case may be, then (i) Landlord may, at its election, restore the Premises or the Building to substantially the same condition as they were in immediately before such destruction, or (ii) either party may terminate this Lease effective as of the date of such destruction on notice to the other party within sixty (60) days after the date of destruction. If Landlord does not give Tenant notice within sixty (60) days after the date of such destruction of its election to restore the Premises or the Building, as the case may be, Landlord shall be deemed to have elected to terminate this Lease. If Landlord elects to restore the Premises or the Building, as the case may be, Landlord shall use commercially reasonable efforts to complete such restoration within one hundred eighty (180) days after the date on which Landlord obtains all permits necessary for such restoration, provided, however, that such one hundred eighty (180) day period shall be extended by a period equal to any delays caused by Force Majeure, and such destruction shall not terminate this Lease.

(c) DAMAGE TO THE BUILDING. If during the Term the Building is partially destroyed by any casualty and if in the opinion of Landlord the Building should be restored in such a way as to materially alter the Premises, then Landlord may, at Landlord's election, terminate this Lease by giving notice to Tenant of Landlord's election to do so within sixty (60) days after the date of such destruction.

(d) EXTENT OF LANDLORD'S OBLIGATION TO RESTORE. If Landlord is required or elects to restore the Premises as provided in this Section, Landlord shall not be required to restore alterations made by Tenant, Tenant's trade fixtures and Tenant's personal property, such excluded items being the sole responsibility of Tenant to restore.

(e) ABATEMENT OR REDUCTION OF RENT. In case of damage to, or destruction of, the Premises or the Building the Rent shall be abated or reduced, between the date of destruction and the date of completion of restoration, by an amount that is in the same ratio to the Rent as the total number of square feet of the Premises that are so damaged or destroyed bears to the total number of square feet in the Premises.

24. CONDEMNATION. If during the Term there is any taking of part or all of the Premises or the Building by condemnation, then the rights and obligations of the parties shall be as follows:

(a) MINOR TAKING. If there is a taking of less than ten percent (10%) of the Premises, this Lease shall remain in full force and effect.

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(b) MAJOR TAKING. If there is a taking of ten percent (10%) or more of the Premises and if the remaining portion of the Premises is of such size or configuration that Tenant is unable to conduct its business in the Premises, then the Term shall terminate as of the date of taking.

(c) TAKING OF PART OF THE BUILDING. If there is a taking of a part of the Building other than the Premises and if in the opinion of Landlord the Building should be restored in such a way as to materially alter the Premises, then Landlord may terminate the Term by giving notice to such effect to Tenant within sixty (60) days after the date of vesting of title in the condemnor and the Term shall terminate as of the date specified in such notice, which date shall not be less than sixty (60) days after the giving of such notice.

(d) AWARD. The entire award for the Premises, the Building and the Property, shall belong to and be paid to Landlord, Tenant hereby assigning to Landlord Tenant's interest therein, if any, provided, however, that Tenant shall have the right to claim and recover from the condemnor compensation for the loss of any alterations made by Tenant, Tenant's trade fixtures, Tenant's personal property, moving expenses and business interruption.

(e) ABATEMENT OF RENT. If any part of the Premises is taken by condemnation and this Lease remains in full force and effect, on the date of taking the Rent shall be reduced by an amount that is in the same ratio to the Rent as the total number of square feet in the Premises taken bears to the total number of square feet in the Premises immediately before the date of taking.

25. ASSIGNMENT AND SUBLETTING.

(a) LANDLORD'S CONSENT; DEFINITIONS. Tenant acknowledges that the Building is a multi-tenant office building, occupied by tenants specifically selected by Landlord, and that Landlord has a legitimate interest in the type and quality of such tenants, the location of tenants in the Building and in controlling the leasing of space in the Building so that Landlord can better meet the particular needs of its tenants and protect and enhance the relative image, position and value of the Building in the office building market. Tenant further acknowledges that the rental value of the Premises may fluctuate during the Term in accordance with market conditions, and, as a result, the Rent paid by Tenant under the Lease at any particular time may be higher or lower than the then market rental value of the Premises. Landlord and Tenant agree, and the provisions of this Section are intended to so provide, that, if Tenant voluntarily assigns its interest in this Lease or in the Premises or subleases any part or all of the Premises, one-half (1/2) of the net profits from any increase in the market rental value of the Premises shall belong solely to Landlord. Tenant acknowledges that, if Tenant voluntarily assigns this Lease or subleases any part or all of the Premises, Tenant's investment in the subject portion of the Premises (specifically including, but not limited to, tenant improvements, good will or other assets) may be lost or reduced as a result of such action.

(b) CONSENT REQUIRED. Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease any part or all of the Premises, without Landlord's prior consent, which consent shall not be unreasonably withheld. Any assignment, encumbrance or sublease without Landlord's consent shall be voidable and, at Landlord's election, shall constitute a default by Tenant under this Lease. In determining whether to approve a proposed assignment or sublease, Landlord shall place primary emphasis on the proposed transferee's reputation and creditworthiness, the character of the business to be conducted by the proposed transferee at the Premises and the affect of such assignment or subletting on the tenant mix in the Building. In addition, Landlord shall have the right to approve the specific form of any assignment or sublease agreement. In no event shall Landlord be obligated to consent to any assignment or subletting which increases (i) the Operating Costs, (ii) the burden on the Building services, or (iii) the foot traffic, elevator usage or security concerns in the Building, or creates an increased probability of the comfort and/or safety of the Landlord and other tenants in the Building being unreasonably compromised or reduced (for example, but not exclusively, Landlord may deny consent to an assignment or subletting where the space will be used for a school or training facility, an entertainment, sports or recreation facility, retail sales to the public (unless Tenant's permitted use is retail sales), a personnel or employment agency, a medical office, or an embassy or consulate or similar office. Landlord shall not be obligated to approve an assignment or subletting to (x) a current tenant of the Building or (y) a prospective tenant of the Building with whom Landlord is then negotiating. Landlord's foregoing rights and options shall continue throughout the entire term of this Lease. No consent to any assignment, encumbrance or sublease shall constitute a waiver of the provisions of this Section and no other or subsequent assignment, encumbrance or sublease shall be made without Landlord's prior consent. Neither an assignment or subletting nor the collection of Rent by Landlord from any person other than Tenant, nor the application of any such Rent as provided in this Section shall be deemed a waiver of any of the provisions of this Section or release Tenant from its obligation to comply with the terms and provisions of this Lease and Tenant shall remain fully and primarily liable for all of Tenant's obligations under this Lease, including the obligation to pay Rent under this Lease. Any personal guarantee(s) of Tenant's obligations under this Lease shall remain in full force and effect following any such assignment or subletting. Landlord may condition approval of an assignment or subletting hereunder on an increase in the amount of the Security Deposit or on receipt of personal guarantees of the assignee's or sublessee's obligations under this Lease. If Landlord approves of an assignment or subletting hereunder and this Lease contains any renewal options, expansion options, rights of first refusal, rights of first negotiation or any other rights or options pertaining to additional space in the Building, such rights and/or options shall not run to the assignee or subtenant, it being agreed by the parties hereto that any such rights and options are personal to Tenant named herein and may not be transferred.

(c) CONDITIONS TO ASSIGNMENT OR SUBLEASE. Tenant agrees that any instrument by which Tenant assigns or sublets all or any portion of the Premises shall expressly provide that the assignee or subtenant may not further assign or sublet the assigned or sublet space without Landlord's prior consent (which consent shall not, subject to Landlord's rights under Section 25(b), be unreasonably withheld or delayed), and that the

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assignee or subtenant will comply with all of the provisions of this Lease and that Landlord may enforce the Lease provisions directly against such assignee or subtenant. If this Lease is assigned, whether or not in violation of the terms and provisions of this Lease, Landlord may collect Rent from the assignee. If the Premises, or any part thereof, is sublet, Landlord may, upon a default under this Lease, collect rent from the subtenant. In either event, Landlord may apply the amount collected from the assignee or subtenant to Tenant's obligation to pay Rent under this Lease.

(d) EVENTS CONSTITUTING AN ASSIGNMENT OR SUBLEASE. For purposes of this Section, the following events shall be deemed an assignment or sublease, as appropriate: (i) the issuance of equity interests (whether stock, partnership interests or otherwise) in Tenant, or any assignee or subtenant, if applicable, or any entity controlling any of them, to any person or group of related persons, in a single transaction or a series of related or unrelated transactions, such that, following such issuance, such person or group shall have Control (as defined below) of Tenant, or any assignee or subtenant, if applicable; or (ii) a transfer of Control of Tenant, or any assignee or subtenant, if applicable, or any entity controlling any of them, in a single transaction or a series of related or unrelated transactions (including, without limitation, by consolidation, merger, acquisition or reorganization), except that the transfer of outstanding capital stock or other listed equity interests by persons or parties other than "insiders" within the meaning of the Securities Exchange Act of 1934, as amended, through the "over-the-counter" market or any recognized national or international securities exchange, shall not be included in determining whether Control has been transferred. "Control" shall mean direct or indirect ownership of fifty percent (50%) or more of all the legal and equitable interest in any business entity.

Notwithstanding anything to the contrary in this Section, Tenant may assign this Lease or sublet the whole or any part of the Premises, including the Right of First Offer granted to Tenant by Landlord as set forth in Section 43 of the Rider, to: (a) any corporation in whom or with which Tenant may be merged or consolidated, provided that the net worth of the resulting corporation is at least equal to the greater of (i) the net worth of Tenant on the date hereof, or (ii) the net worth of Tenant immediately prior to such merger or consolidation, or (b) any entity to whom Tenant sells all of its assets; provided that such corporation or such entity described in (a) and (b) above expressly assumes all of Tenant's obligation hereunder and otherwise complies with the provisions of Subsection 25(c) entitled "Conditions to Assignment or Sublease".

(e) PROCESSING EXPENSES. Tenant shall pay to Landlord the amount of Landlord's cost of processing each proposed assignment or subletting, including without limitation, attorneys' and other professional fees, and the cost of Landlord's administrative, accounting and clerical time (collectively, "Processing Costs"), and the amount of all direct and indirect expense incurred

by Landlord arising from the assignee or sublessee taking occupancy of the subject space, including without limitation, costs of freight elevator operation for moving of furnishings and trade fixtures, security service, janitorial and cleaning service, rubbish removal service, costs of changing signage, and costs of changing locks and making new keys (collectively, "Occupancy Costs"). Notwithstanding anything to the contrary herein, Landlord shall not be required to process any request for Landlord's consent to an assignment or subletting until Tenant has paid to Landlord the amount of Landlord's estimate of the Processing Costs and the Occupancy Costs.

(f) CONSIDERATION TO LANDLORD. In the event of any assignment or sublease, whether or not requiring Landlord's consent, Landlord shall be entitled to receive, as Additional Rent, one-half (1/2) of any net consideration, including without limitation, payment for leasehold improvements owned by Landlord, paid by the assignee or subtenant for the assignment or sublease and, in the case of sublease, one-half (1/2) of the excess of the amount of rent paid for the sublet space by the subtenant over the total amount of Minimum Monthly Rent under Section 5 and Additional Rent under Sections 7 and 9. Upon Landlord's request, Tenant shall assign to Landlord all amounts to be paid to Tenant by the assignee or subtenant and shall direct such assignee or subtenant to pay the same directly to Landlord. If there is more than one sublease under this Lease, the amounts (if any) to be paid by Tenant to Landlord pursuant to the preceding sentence shall be separately calculated for each sublease and amounts due Landlord with regard to any one sublease may not be offset against rental and other consideration pertaining due under any other sublease.

With regard to an approved assignment or subletting, Tenant acknowledges that Landlord's agreement to deal directly with the assignee or subtenant with regard to such party's occupancy of the Premises and the administration of the Lease, without requiring Tenant to monitor or become directly involved in such matters, constitutes appropriate and acceptable consideration for the capture by Landlord of any rent or consideration paid by the assignee or subtenant in excess of that required to be paid by Tenant under the Lease.

(g) PROCEDURES. If Tenant desires to assign this Lease or any interest therein or sublet all or part of the Premises, Tenant shall give Landlord written notice thereof designating the space proposed to be sublet and the terms proposed. Landlord shall have the prior right and option (to be exercised by written notice to Tenant given within fifteen (15) days after receipt of Tenant's notice) (i) to sublet from Tenant any portion of the Premises proposed by Tenant to be sublet, for the term for which such portion is proposed to be sublet, but at the same Rent (including Additional Rent as provided for in Sections 7 and 9) as Tenant is required to pay to Landlord under this Lease for the same space, computed on a pro rata square footage basis, and during the term of such sublease Tenant shall be released of its obligations under the Lease with regard to the subject space, (ii) if the term of the sublease (including any renewal terms) will expire during the final eighteen (18) months of the Term (or if Tenant has exercised a renewal option, if any, then during the final eighteen (18) months of the subject renewal period), to terminate this Lease as it pertains to the portion of the Premises so proposed by Tenant to be sublet, or (iii) to approve Tenant's proposal to sublet conditional upon Landlord's subsequent written approval of the specific sublease obtained by Tenant and the specific subtenant named therein. If Landlord exercises its option in (i) above, then Landlord may, at Landlord's sole cost, construct improvements in the subject space and, so long as the improvements are suitable for general office purposes, Landlord shall have no obligation to restore the subject space to its original condition following the termination of the sublease. If Landlord exercises its option described in (iii) above, Tenant shall submit to Landlord for

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Landlord's written approval Tenant's proposed sublease agreement (in which the proposed subtenant shall be named) together with a current reviewed or audited financial statement prepared by a certified public accountant for such proposed subtenant and a credit report on such proposed subtenant prepared by a recognized credit reporting agency. If Landlord fails to exercise any aforesaid option to sublet or to terminate, this shall not be construed as or constitute a waiver of any of the provisions of this Section. If Landlord exercises any such option to sublet or to terminate, Landlord shall not have any liability for any real estate brokerage commission(s) or with respect to any of the costs and expenses that Tenant may have incurred in connection with its proposed subletting, and Tenant agrees to hold Landlord harmless from and against any and all claims (including, without limitation, claims for commissions) arising from such proposed subletting. Landlord's foregoing rights and options shall continue throughout the Term. For purposes of this Section, a proposed assignment of this Lease in whole or in part shall be deemed a proposed subletting of such space.

(h) DOCUMENTATION. No permitted subletting by Tenant shall be effective until there has been delivered to Landlord a counterpart of the sublease in which the subtenant agrees to be and remain jointly and severally liable with Tenant for the payment of Rent pertaining to the sublet space and for the performance of all of the terms and provisions of this Lease; provided, however, that the subtenant shall be liable to Landlord for rent only in the amount set forth in the sublease. No permitted assignment shall be effective unless and until there has been delivered to Landlord a counterpart of the assignment in which the assignee assumes all of Tenant's obligations under this Lease arising on or after the date of the assignment. The failure or refusal of a subtenant or assignee to execute any such instrument shall not release or discharge the subtenant or assignee from its liability as set forth above.

(i) NO MERGER. Without limiting any of the provisions of this Section, if Tenant has entered into any subleases of any portion of the Premises, the voluntary or other surrender of this Lease by Tenant, or a mutual cancellation by Landlord and Tenant, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies or, at the option of Landlord, operate as an assignment to Landlord of any or all such subleases or subtenancies.

26. DEFAULT. The occurrence of any of the following shall constitute a

default by Tenant under this Lease:

(a) FAILURE TO PAY RENT. Failure to pay Rent when due, if the failure continues for a period of three (3) days after notice of such default has been given by Landlord to Tenant.

(b) FAILURE TO COMPLY WITH RULES AND REGULATIONS. Failure to comply with the Rules and Regulations, if the failure continues for a period of ten (10) days after notice of such default is given by Landlord to Tenant. If the failure to comply cannot reasonably be cured within ten (10) days, then Tenant shall not be in default under this Lease if Tenant commences to cure the failure to comply within ten (10) days and diligently and in good faith continues to cure the failure to comply.

(c) OTHER DEFAULTS. Failure to perform any other provision of this Lease, if the failure to perform is not cured within thirty (30) days after notice of such default has been given by Landlord to Tenant. If the default cannot reasonably be cured within thirty (30) days, then Tenant shall not be in default under this Lease if Tenant commences to cure the default within thirty (30) days and diligently and in good faith continues to cure the default.

(d) APPOINTMENT OF TRUSTEE OR RECEIVER. The appointment of a trustee or receiver to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days.

27. REMEDIES. If Tenant commits a default, Landlord shall have the following alternative remedies, which are in addition to any remedies now or later allowed by law:

(a) MAINTAIN LEASE IN FORCE. Maintain this Lease in full force and effect and recover the Rent and other monetary charges as they become due, without terminating Tenant's right to possession, irrespective of whether Tenant shall have abandoned the Premises. If Landlord elects to not terminate the Lease, Landlord shall have the right to attempt to re-let the Premises at such rent and upon such conditions and for such a term, and to do all acts necessary to maintain or preserve the Premises as Landlord deems reasonable and necessary without being deemed to have elected to terminate the Lease including removal of all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. In the event any such re-letting occurs, this Lease shall terminate automatically upon the new Tenant taking possession of the Premises. Notwithstanding that Landlord fails to elect to terminate the Lease initially, Landlord at any time during the term of this Lease may elect to terminate this Lease by virtue of such previous default of Tenant.

(b) TERMINATE LEASE. Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including without limitation thereto, the following: (i) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to

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perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including without limitation, any costs or expenses incurred by Landlord in (A) retaking possession of the Premises, including reasonable attorney fees therefor, (B) maintaining or preserving the Premises after such default, (C) preparing the Premises for reletting to a new tenant, including repairs or necessary alterations to the Premises for such reletting, (D) leasing commissions, and (E) any other costs necessary or appropriate to relet the Premises; plus (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable state law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. As used in Subsection 27(b)(i) the "worth at the time of award" is computed by allowing interest at the rate of eighteen percent (18%) per year from the date of default. As used in Subsections 27(b)(ii) and 27(b)(iii) the "worth at the time of award" is computed by discounting such amounts at the discount rate of eight percent (8%) per year.

28. BANKRUPTCY.

(a) ASSUMPTION OF LEASE. If Tenant becomes a Debtor under Chapter 7 of the Bankruptcy Code ("Code") or a petition for reorganization or adjustment of debts is filed concerning Tenant under Chapters 11 or 13 of the Code, or a proceeding is filed under Chapter 7 of the Code and is transferred to Chapters 11 or 13 of the Code, the Trustee or Tenant, as Debtor and as Debtor-In-Possession, may not elect to assume this Lease unless, at the time of such assumption, the Trustee or Tenant has:

(i) Cured all defaults under the Lease and paid all sums due and owing under the Lease or provided Landlord with "Adequate Assurance" (as defined below) that: (i) within ten (10) days from the date of such assumption, the Trustee or Tenant will completely pay all sums due and owing under this Lease and compensate Landlord for any actual pecuniary loss resulting from any existing default or breach of this Lease, including without limitation, Landlord's reasonable costs, expenses, accrued interest, and attorneys' fees incurred as a result of the default or breach; (ii) within twenty (20) days from

the date of such assumption, the Trustee or Tenant will cure all non-monetary defaults and breaches under this Lease, or, if the nature of such non-monetary defaults is such that more than twenty (20) days are reasonably required for such cure, that the Trustee or Tenant will commence to cure such non-monetary defaults within twenty (20) days and thereafter diligently prosecute such cure to completion; and (iii) the assumption will be subject to all of the provisions of this Lease.

(ii) For purposes of this Section, Landlord and Tenant acknowledge that, in the context of a bankruptcy proceeding involving Tenant, at a minimum, "Adequate Assurance" shall mean: (i) the Trustee or Tenant has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that the Trustee or Tenant will have sufficient funds to fulfill the obligations of Tenant under this Lease; (ii) the Bankruptcy Court shall have entered an Order segregating sufficient cash payable to Landlord and/or the Trustee or Tenant shall have granted a valid and perfected first lien and security interest and/or mortgage in or on property of Trustee or Tenant acceptable as to value and kind to Landlord, to secure to Landlord the obligation of the Trustee or Tenant to cure the monetary and/or non-monetary defaults and breaches under this Lease within the time periods set forth above; and (iii) the Trustee or Tenant, at the very minimum, shall deposit a sum equal to two (2) month's Minimum Monthly Rent to be held by Landlord (without any allowance for interest thereon) to secure Tenant's future performance under the Lease.

(b) ASSIGNMENT OF LEASE. If the Trustee or Tenant has assumed the Lease pursuant to the provisions of this Section for the purpose of assigning Tenant's interest hereunder to any other person or entity, such interest may be assigned only after the Trustee, Tenant or the proposed assignee have complied with all of the terms, covenants and conditions of this Lease, including, without limitation, those with respect to Additional Rent. Landlord and Tenant acknowledge that such terms, covenants and conditions are commercially reasonable in the context of a bankruptcy proceeding of Tenant. Any person or entity to which this Lease is assigned pursuant to the provisions of the Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon request execute and deliver to Landlord an instrument confirming such assignment.

(c) ADEQUATE PROTECTION. Upon the filing of a petition by or against Tenant under the Code, Tenant, as Debtor and as Debtor-In-Possession, and any Trustee who may be appointed agree to adequately protect Landlord as follows: (i) to perform each and every obligation of Tenant under this Lease until such time as this Lease is either rejected or assumed by Order of the Bankruptcy Court; (ii) to pay all monetary obligations required under this Lease, including without limitation, the payment of Minimum Monthly Rent, Tenant's Share of Real Property Taxes, Tenant's Share of Operating Costs and any other sums payable by Tenant to Landlord under this Lease which is considered reasonable compensation for the use and occupancy of the Premises; (iii) provide Landlord a minimum of thirty (30) days prior written notice, unless a shorter period is agreed to in writing by the parties, of any proceeding relating to any assumption of this Lease or any intent to abandon the Premises, which abandonment shall be deemed a rejection of this Lease; and (iv) to perform to the benefit of Landlord as otherwise required under the Code. The failure of Tenant to comply with the above shall result in an automatic rejection of this Lease.

29. LIMITATION OF ACTIONS. Any claim, demand, right or defense of any kind by Tenant which is based upon or arises in connection with this Lease or the negotiations prior to its execution, shall be barred unless Tenant commences an action thereon, or interposes in a legal proceeding a defense by reason thereof, within one (1) year after the date of the act or omission on which such claim, demand, right or defense is based.

30. LIMITATION ON LANDLORD'S LIABILITY. Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Landlord are made and intended not as personal

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covenants, undertakings and agreements or for the purpose of binding Landlord personally or the assets of Landlord except Landlord's interest in the Property, but are made and intended for the purpose of binding only the Landlord's interest in the Property. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against Landlord or its partners and their respective heirs, legal representatives, successors and assigns on account of this Lease or on account of any covenant, undertaking or agreement of Landlord contained in this Lease.

31. SIGNS. Tenant shall not have the right to place, construct or maintain any sign, advertisement, awning, banner or other exterior decoration without Landlord's consent, which shall not be unreasonably withheld. Any sign that Tenant has Landlord's consent to place, construct and maintain shall comply with all laws, and Tenant shall obtain any approval required by such laws. Landlord makes no representation with respect to Tenant's ability to obtain such approval.

32. LANDLORD'S RIGHT TO ENTER THE PREMISES. Landlord and its authorized representatives shall have the right to enter the Premises at reasonable times and upon reasonable prior notice (except in an emergency when no such notice shall be required) for any of the following purposes: (i) to determine whether the Premises are in good condition and whether Tenant is complying with its obligations under this Lease, (ii) to do any maintenance; to make any restoration to the Premises or the Building that Landlord has the right or the obligation to perform, and to make any improvements to the Premises or the Building that Landlord deems necessary, (iii) to serve, post or keep posted any notices required or allowed under the provisions of this Lease, (iv) to post any ordinary "For Sale" signs at any time during the Term and to post any ordinary "For Lease" signs during the last ninety (90) days of the Term, and (v) to show the Premises to prospective brokers, agents, purchasers, tenants or lenders, at any time during the Term.

Landlord shall not be liable in any manner for any inconvenience,

annoyance, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this Section, except damage resulting from the negligent or willful acts of Landlord or its authorized representatives. Tenant shall not be entitled to an abatement or reduction of Rent if Landlord exercises any right reserved in this Section. Landlord shall conduct its activities on the Premises as allowed in this Section in a reasonable manner so as to cause minimal inconvenience, annoyance or disturbance to Tenant.

33. SUBORDINATION. This Lease is and shall be prior to any mortgage recorded after the date of this Lease affecting the Property. If, however, a lender requires that this Lease be subordinate to any mortgage, this Lease shall be subordinate to that mortgage if Landlord first obtains from the lender a written agreement that provides substantially the following:

"As long as Tenant performs its obligations under this Lease, no foreclosure of, deed given in lieu of foreclosure of, or sale under the mortgage, and no steps or procedures taken under the mortgage, shall affect Tenant's rights under this Lease. "

Tenant shall attorn to any purchaser at any foreclosure sale, or to any grantee or transferee designated in any deed given in lieu of foreclosure. Tenant shall execute the written agreement and any other documents required by the lender to accomplish the purposes of this Section.

34. RIGHT TO ESTOPPEL CERTIFICATES. Tenant, within ten (10) days after notice from Landlord, shall execute and deliver to Landlord, in recordable form, a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified and stating the modifications. The certificate shall also state the amount of Minimum Monthly Rent, the dates to which Rent has been paid in advance, and the amount of any Prepaid Rent or Security Deposit and such other matters as Landlord may reasonably request. Failure to deliver the certificate within such ten (10) day period shall be conclusive upon Tenant for the benefit of Landlord and any successor to Landlord, that this Lease is in full force and effect and has not been modified except as may be represented by Landlord requesting the certificate.

35. TRANSFER OF LANDLORD'S INTEREST. If Landlord sells or transfers the Property, Landlord, on consummation of the sale or transfer, shall be released from any liability thereafter accruing under this Lease if Landlord's successor has assumed in writing, for the benefit of Tenant, Landlord's obligations under this Lease. If any Security Deposit or Prepaid Rent has been paid by Tenant, Landlord shall transfer such Security Deposit or Prepaid Rent to Landlord's successor and on such transfer Landlord shall be discharged from any further liability with respect to such Security Deposit or Prepaid Rent.

36. ATTORNEYS' FEES. If either party shall bring any action for relief against the other party, declaratory or otherwise, arising out of this Lease, including any action by Landlord for the recovery of Rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorneys' fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment.

37. SURRENDER; HOLDING OVER.

(a) SURRENDER. On expiration or ten (10) days after termination of the Term, Tenant shall surrender the Premises and all Tenant's improvements and alterations to Landlord broom clean and in good condition. Tenant shall remove all of its trade fixtures and personal property within the time period stated in this Section. Tenant, at its cost, shall perform all restoration made necessary by, and repair any damage to the Premises caused by, the removal of its trade fixtures, personal property and signs to Landlord's reasonable satisfaction within the time period stated in this Section. Landlord may, at its election, retain or dispose of in any manner any of Tenant's trade fixtures or personal property that Tenant does not remove from the Premises on expiration or within ten (10) days after termination of the Term as allowed or required by the provisions of this

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Lease by giving ten (10) days notice to Tenant. Title to any such trade fixtures and personal property that Landlord elects to retain or dispose of on expiration of such ten (10) day period shall vest in Landlord. Tenant waives all claims against Landlord for any damage to Tenant resulting from Landlord's retention or disposition of any such trade fixtures and personal property. Tenant shall be liable to Landlord for Landlord's costs for storing, removing and disposing of Tenant's trade fixtures and personal property. If Tenant fails to surrender the Premises to Landlord on expiration or ten (10) days after termination of the Term as required by this Section, Tenant shall pay Landlord Rent in an amount equal to one and one-half (1-1/2) times the Minimum Monthly Rent applicable for the month immediately prior to the expiration or termination of the Term for the entire time Tenant thus remains in possession and Tenant shall hold Landlord harmless from all damages resulting from Tenant's failure to timely surrender the Premises, including without limitation, (i) any Rent payable by, or any damages claimed by, any prospective tenant of any part or all of the Premises, and (ii) Landlord's damages resulting from such prospective tenant rescinding or refusing to enter into the prospective lease of part or all of the Premises by reason of Tenant's failure to timely surrender the Premises. If Tenant, without Landlord's prior consent, remains in possession of the Premises after expiration or termination of the Term, or after the date in any notice given by Landlord to Tenant terminating this Lease, such possession by Tenant shall be deemed to be a tenancy at sufferance terminable at any time by either party.

(b) HOLDING OVER WITH LANDLORD'S CONSENT. If Tenant, with Landlord's prior consent, remains in possession of the Premises after expiration or termination of the Term, or after the date in any notice given by Landlord to Tenant terminating this Lease, such possession by Tenant shall be deemed to be a month-to-month tenancy terminable by Landlord by a notice given to Tenant at least twenty (20) days prior to the end of any such monthly period or by Tenant by a notice given to Landlord at least thirty (30) days prior to the end of any such monthly period. During such month-to-month tenancy, Tenant shall pay Rent in the amount then agreed to in writing by Landlord and Tenant. All provisions

of this Lease, except those pertaining to term, shall apply to the month-to-month tenancy.

38. AGENCY DISCLOSURE; BROKER.

(a) AGENCY DISCLOSURE. Martin Smith Inc hereby discloses that it represents the Landlord in this transaction.

(b) BROKER. Landlord and Tenant each represent to the other that neither is represented by any broker, agent or finder with respect to this Lease in any manner, except the Broker(s). The commission due to the Broker(s) shall be paid by Landlord pursuant to a separate agreement. Each party agrees to indemnify and hold the other party harmless from and against any and all liability, costs, damages, causes of action or other proceedings instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in any manner whatsoever in connection with this Lease. If Tenant engages a broker, agent or finder other than Washington Partners, Inc. to represent Tenant in connection with any renewal of this Lease, then the commission or any fee of such broker, agent or finder shall be paid by Tenant.

39. INTEREST ON UNPAID RENT. In addition to the Late Charge as provided in Section 5(b), Rent not paid when due shall bear interest from the date due until paid at the rate of eighteen percent (18%) per year, or the maximum legal rate of interest, whichever is less.

40. CONSENT. Whenever the consent of either Landlord or Tenant is required under this Lease, such consent shall not be effective unless given in writing and shall not be unreasonably withheld or delayed, provided, however, that such consent may be conditioned as provided in this Lease.

41. DEFINITIONS. As used in this Lease, the following words and phrases, whether or not capitalized, shall have the following meanings:

(a) "Additional Rent" means pass-throughs of increases in Operating Costs and Taxes, as defined in this Lease, and other monetary sums to be paid by Tenant to Landlord under the provisions of this Lease.

(b) "Alteration" means any addition or change to, or modification of, the Premises made by Tenant, including without limitation, fixtures, but excluding trade fixtures as defined in this Section.

(c) "Authorized representatives" means any officer, agent, employee, independent contractor or invitee of either party.

(d) "Award" means all compensation, sums or anything of value awarded, paid or received on a total or partial condemnation.

(e) "Common Areas" means all areas outside the Premises and within the Building or on the Land that are provided and designated by Landlord from time to time for the general, non-exclusive use of Landlord, Tenant and other tenants of the Building and their authorized representatives, including without limitation, common entrances, lobbies, corridors, stairways and stairwells, elevators, escalators, public restrooms and other public portions of the Building.

(f) "Condemnation" means the exercise of any governmental power, whether by legal proceedings or otherwise, by a condemnor and a voluntary sale or transfer by Landlord to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

(g) "Condemnor" means any public or quasi-public authority or entity having the power of condemnation.

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(h) "Damage" means any injury, deterioration, or loss to a person, property, the Premises or the Building caused by another person's acts or omissions or by Acts of God. Damage includes death.

(i) "Damages" means a monetary compensation or indemnity that can be recovered in the courts by any person who has suffered damage to his person, property or rights through another's acts or omissions.

(j) "Date of taking" means the date the condemnor has the right to possession of the property being condemned.

(k) "Encumbrance" means any mortgage, deed of trust or other written security device or agreement affecting the Premises, and the note or other obligation secured by it, that constitutes security for the payment of a debt or performance of an obligation.

(l) "Expiration" means the coming to an end of the time specified in the Lease as its duration, including any extension of the Term.

(m) "Force majeure" means strikes, lockouts, labor disputes, shortages of labor or materials, fire or other casualty, Acts of God or any other cause beyond the reasonable control of a party.

(n) "Good condition" means the good physical condition of the Premises and each portion of the Premises, including without limitation, all of the Tenant Improvements, Tenant's alterations, Tenant's trade fixtures, Tenant's Personal Property, all as defined in this Section, signs, walls, interior partitions, windows, window coverings, glass, doors, carpeting and resilient flooring, ceiling tiles, plumbing fixtures and lighting fixtures, all of which shall be in conformity with building standard finishes, ordinary wear and tear, damage by fire or other casualty and taking by condemnation excepted.

(o) "Hazardous substances" means any industrial waste, toxic waste, chemical contaminant or other substance considered hazardous, toxic or lethal to persons or property or designated as hazardous, toxic or lethal to persons or property under any laws, including without limitation, asbestos material or

materials containing asbestos.

(p) "Hold harmless" means to defend and indemnify from all liability, losses, penalties, damages as defined in this Section, costs, expenses (including without limitation, attorneys' fees), causes of action, claims or judgments arising out of or related to any damage, as defined in this Section, to any person or property.

(q) "Law" means any constitution, statute, ordinance, regulation, rule, resolution, judicial decision, administrative order or other requirement of any federal, state, county, municipal or other governmental agency or authority having jurisdiction over the parties or the Property, or both, in effect either at the time of execution of this Lease or at any time during the Term, including without limitation, any regulation or order of a quasi-official entity or body (e. g. board of fire examiners or public utilities) and any legally effective conditions, covenants or restrictions affecting the Property.

(r) "Lender" means the mortgagee, beneficiary, secured party or other holder of an encumbrance, as defined in this Section.

(s) "Lien" means a charge imposed on the Premises by someone other than Landlord, by which the Premises are made security for the performance of an act.

(t) "Maintenance" means repairs, replacement, repainting and cleaning.

(u) "Mortgage" means any deed of trust, mortgage or other written security device or agreement affecting the Premises, and the note or other obligation secured by it, that constitutes security for the payment of a debt or performance of an obligation.

(v) "Mortgagee" means the beneficiary under a deed of trust or mortgagee under a mortgage.

(w) "Mortgagor" means the grantor or trustor under a deed of trust or mortgagor under a mortgage.

(x) "Operating Costs" means all costs of any kind incurred by Landlord in operating, cleaning, equipping, protecting, lighting, repairing, replacing, heating, air-conditioning, maintaining and insuring the Property. Operating Costs shall include, without limitation, the following costs: (i) salaries, wages, bonuses and other compensation (including hospitalization, medical, surgical, retirement plan, pension plan, union dues, life insurance, including group life insurance, welfare and other fringe benefits, and vacation, holidays and other paid absence benefits) relating to employees of Landlord or its agents directly engaged in the operation, repair, or maintenance of the Property; (ii) payroll, social security, workers' compensation, unemployment and similar taxes with respect to such employees of Landlord or its authorized representatives, and the cost of providing disability or other benefits imposed by law or otherwise, with respect to such employees; (iii) uniforms (including the cleaning, replacement and pressing thereof) provided to such employees; (iv) premiums and other charges incurred by Landlord with respect to fire, earthquake, other casualty, all risk, rent loss and liability insurance, any other insurance as is deemed necessary or advisable in the reasonable judgment of Landlord and, after the Base Year, costs of repairing an insured casualty to the extent of the deductible amount under the applicable insurance policy; (v) water charges and sewer rents or fees; (vi) license, permit and inspection fees; (vii) sales, use and excise taxes on goods and services purchased by Landlord in connection with the operation, maintenance or repair of the Property and Building systems and equipment; (viii) telephone, facsimile, messenger, express delivery service, postage, stationery supplies and other expenses incurred in

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connection with the operation, management, maintenance, or repair of the Property; (ix) property management fees and expenses; (x) repairs to and physical maintenance of the Property, including building systems and appurtenances thereto and normal repair and replacement of worn-out equipment, facilities and installations, but excluding the replacement of major building systems (except to the extent provided in (xvi) and (xvii) below); (xi) janitorial, window cleaning, security, extermination, water treatment, rubbish removal, plumbing and other services and inspection or service contracts for elevator, electrical, HVAC, mechanical and other building equipment and systems or as may otherwise be necessary or proper for the operation or maintenance of the Property; (xii) supplies, tools, materials, and equipment used in connection with the operation, maintenance or repair of the Property; (xiii) accounting, legal and other professional fees and expenses; (xiv) painting the exterior or the public or common areas of the Building and the cost of maintaining the sidewalks, landscaping and other common areas of the Property; (xv) all costs and expenses for electricity, chilled water, air conditioning, water for heating, gas, fuel, steam, heat, lights, power and other energy related utilities required in connection with the operation, maintenance and repair of the Property; (xvi) the cost of any improvements which Landlord elects to capitalize made by Landlord to the Property during the Term in compliance with the requirements of any laws or regulation or insurance requirement with which the Property was not required to comply during the Base Year, as reasonably amortized by Landlord, with interest on the unamortized balance at the rate of twelve percent (12%) per year, or the maximum legal rate of interest, whichever is less; (xvii) the cost of any improvements which Landlord elects to capitalize made by Landlord to the Property during the term of this Lease for the protection of the health and safety of the occupants of the Property or that are intended to reduce other Operating Costs, as reasonably amortized by Landlord, with interest on the unamortized balance at the rate of twelve percent (12%) per year, or the maximum legal rate of interest, whichever is less; (xviii) a reasonable reserve for repair or replacement of equipment used in the maintenance or operation of the Property; (xix) the cost of furniture, draperies, carpeting, landscaping and other customary and ordinary items of personal property (excluding paintings, sculptures and other works of art) provided by Landlord for use in common areas of the Building or in the Building office (to the extent that such Building office is dedicated to the operation and management of the Property), such costs to be amortized over the useful life thereof; (xx) any such expenses and costs resulting from substitution of work, labor, material or services in lieu of any of the above itemizations, or for any

such additional work, labor, services or material resulting from compliance with any laws or orders applicable to the Property; (xxi) Building office rent or rental value; and (xxii) all other costs which, in accordance with generally accepted accounting principles used by Landlord, as applied to the maintenance and operation of office and/or retail buildings, are properly chargeable to the operation and maintenance of the Property.

Operating Costs shall not include the following:(i) depreciation on the Building; (ii) debt service; (iii) capital improvements, except as otherwise provided in clauses (xvi) and (xvii) above, (iv) rental under any ground or underlying leases; (v) Real Property Taxes, (vi) attorneys' fees and expenses incurred in connection with lease negotiations with prospective tenants; (vii) the cost of tenant improvements; (viii) advertising expenses; or (ix) real estate broker's or other leasing commissions.

(y) "Parties" means Landlord and Tenant.

(z) "Party" means Landlord or Tenant.

(aa) "Person" means one or more human beings, or legal entities or other artificial persons, including without limitation, partnerships, corporations, trusts, estates, associations and any combination of human beings and legal entities.

(bb) "Property" means the Premises, Building and Land.

(cc) "Provision" means any term, agreement, covenant, condition, clause, qualification, restriction, reservation, or other stipulation in the Lease that defines or otherwise controls, establishes, or limits the performance required or permitted by either party.

(dd) "Real Property Taxes" means any form of tax, assessment, general assessment, special assessment, lien, levy, bond obligation, license fee, license tax, tax or excise on rent, or any other levy, charge or expense, together with any statutory interest thereon, (individually and collectively, the "Impositions"), now or hereafter imposed or required by any authority having the direct or indirect power to tax, including any federal, state, county or city government or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, (individually and collectively, the "Governmental Agencies") on any interest of Landlord or Tenant or both (including any legal or equitable interest of Landlord or its mortgagee, if any) in the Premises or the Property, including without limitation:

(i) any Impositions upon, allocable to or measured by the area of the Premises or the Property, or the rental payable hereunder, including without limitation, any gross income tax or excise tax levied by any Governmental Agencies with respect to the receipt of such rental; or

(ii) any Impositions upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair or use or occupancy by Tenant of the Premises or any portion thereof; or

(iii) any Impositions upon or with respect to the building equipment and personal property used in connection with the operation and maintenance of the Property or upon or with respect to the furniture, fixtures and decorations in the common areas of the Property.

(iv) any Impositions upon this Lease or this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises; or

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(v) any Impositions by Governmental Agencies (whether or not such Impositions constitute tax receipts) in substitution, partially or totally, of any impositions now or previously included within the definition of real property taxes, including those calculated to increase tax increments to Governmental Agencies and to pay for such services as fire protection, water drainage, street, sidewalk and road maintenance, refuse removal or other governmental services formerly provided without charge to property owners or occupants; or

(vi) any and all costs, including without limitation, the fees of attorneys, tax consultants and experts, incurred by Landlord should Landlord elect to negotiate or contest the amount of such real property taxes in formal or informal proceedings before the Governmental Agency imposing such real property taxes; provided, however, that real property taxes shall in no event include Landlord's general income, inheritance, estate, gift or franchise taxes.

(ee) "Rent" means Minimum Monthly Rent, as adjusted from time to time under this Lease, Additional Rent, Prepaid Rent, Security Deposit, all as defined in this Section, payments of Tenant's Share of increases in Real Property Taxes and Operating Costs, insurance, utilities and other charges payable by Tenant to Landlord.

(ff) "Rentable square feet of space" as to the Premises or the Building, as the case may be, means the number of usable square feet of space times the applicable R/U Ratio(s) as defined in this Section.

(gg) "Restoration" means the reconstruction, rebuilding, rehabilitation and repairs that are necessary to return damaged portions of the Premises and the Building to substantially the same physical condition as they were in immediately before the damage.

(hh) "R/U Ratio" means the rentable area of a floor of the Building divided by the usable area of such floor, both of which shall be computed in accordance with American National Standard Z65.1-1996 Method of Measuring Floor Space in Office Buildings as published by the Building Owners and Managers Association, as amended from time to time.

(ii) "Substantially complete" or "substantially completed" or "substantial completion" means the completion of Landlord's construction

obligation, subject to completion or correction of "punch list" items, that is, minor items of incomplete or defective work or materials or mechanical maladjustments that are of such a nature that they do not materially interfere with or impair Tenant's use of the Premises for the Permitted Use.

(jj) "Successor" means assignee, transferee, personal representative, heir, or other person or entity succeeding lawfully, and pursuant to the provisions of this Lease, to the rights or obligations of either party.

(kk) "Tenant Improvements" means (i) the improvements and alterations set forth in Exhibit C, (ii) window coverings, lighting fixtures, plumbing fixtures, cabinetry and other fixtures installed by either Landlord or Tenant at any time during the Term, and (iii) any improvements and alterations of the Premises made for Tenant by Landlord at any time during the Term.

(ll) "Tenant's personal property" means Tenant's equipment, furniture, and movable property placed in the Premises by Tenant.

(mm) "Tenant's trade fixtures" means any property attached to the Premises by Tenant.

(nn) "Termination" means the ending of the Term for any reason before expiration, as defined in this Section.

(oo) "Work" means the construction of any improvements or alterations or the performance of any repairs done by Tenant or caused to be done by Tenant on the Premises as permitted by this Lease.

42. MISCELLANEOUS PROVISIONS.

(a) ENTIRE AGREEMENT. This Lease sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them. This Lease may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized officer or representative of each party hereto.

(b) GOVERNING LAW. This Lease shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington.

(c) SEVERABILITY. Should any of the provisions of this Lease be found to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision shall be stricken and the remainder of this Lease shall nonetheless remain in full force and effect unless striking such provision shall materially alter the intention of the parties.

(d) JURISDICTION. In the event any action is brought to enforce any of the provisions of this Lease, the parties agree to be subject to exclusive in personam jurisdiction in the Superior Court, King County, for the State of Washington or in the United States District Court for the Western District of Washington and agree that in any such action venue shall lie exclusively at Seattle, Washington.

(e) WAIVER. No waiver of any right under this Lease shall be effective unless contained in a writing signed by a duly authorized officer or representative of the party sought to be charged with the waiver and no

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waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future right or of any other right arising under this Lease.

(f) CAPTIONS. Section captions contained in this Lease are included for convenience only and form no part of the agreement between the parties.

(g) NOTICES. All notices or requests required or permitted under this Lease shall be in writing. If given by Landlord such notices or requests may be personally delivered or sent by certified mail, return receipt requested, postage prepaid. If given by Tenant such notices or requests may be personally delivered or sent by certified mail, return receipt requested, postage prepaid. Such notices or requests shall be deemed given when so delivered or mailed, irrespective of whether such notice or request is actually received by the addressee. All notices or requests to Landlord shall be sent to Landlord at Landlord's Address for Notice and all notices or requests to Tenant shall be sent to Tenant at Tenant's Address for Notice. Either party may change the address to which notices shall be sent by notice to the other party.

(h) BINDING EFFECT. Subject to the provisions of Section 25 captioned "Assignment and Subletting", this Lease shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. No permitted assignment of this Lease or Tenant's rights hereunder shall be effective against Landlord unless and until an executed counterpart of the instrument of assignment shall have been delivered to Landlord and Landlord shall have been furnished with the name and address of the assignee. The term "Tenant" shall be deemed to include the assignee under any such permitted assignment.

(i) EFFECTIVENESS. This Lease shall not be binding or effective until properly executed and delivered by Landlord and Tenant.

(j) GENDER AND NUMBER. As used in this Lease, the masculine shall include the feminine and neuter, the feminine shall include the masculine and neuter, the neuter shall include the masculine and feminine, the singular shall include the plural and the plural shall include the singular, as the context may require.

(k) TIME OF THE ESSENCE. Time is of the essence in the performance of all covenants and conditions in this Lease for which time is a factor.

DATED the date first above written.

LANDLORD:

TENANT:

Pacific NW Title Building, Inc., a Washington corporation

/s/ Pete Murphy

By

President

Its

Amazon.com, Inc., a Delaware corporation

/s/ Oswaldo Fernando Duenas

By

Vice President - Operations

Its

By

Its

By

Its

This Lease has been prepared for submission to you and your attorney. Martin Smith Inc is not authorized to give legal or tax advice. Neither Landlord nor Martin Smith Inc makes any representations or recommendations as to the legal sufficiency, legal effect or tax consequences of this document or any transaction relating thereto. These are questions for your attorney with whom you should consult before signing the document to determine whether your legal rights are adequately protected.

[Notary attached]

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<TYPE>EX-23.1

<SEQUENCE>5

<DESCRIPTION>CONSENT OF ERNST & YOUNG LLP

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<PAGE> 1

EXHIBIT 23.1

CONSENT OF ERNST & YOUNG LLP, INDEPENDENT AUDITORS

We consent to the incorporation by reference in Amendment No. 1 to the Registration Statement (Form S-8 No. 333-28763) pertaining to the 1997 Stock Option Plan and the Amended and Restated 1994 Stock Option Plan of Amazon.com, Inc. of our report dated January 19, 1998, with respect to the financial statements and schedule of Amazon.com, Inc. included in the Annual Report (Form 10-K) of Amazon.com, Inc. for the year ended December 31, 1997.

ERNST & YOUNG LLP

Seattle, Washington
March 30, 1998

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<TYPE>EX-27.1

<SEQUENCE>6

<DESCRIPTION>FINANCIAL DATA SCHEDULE

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THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE AMAZON.COM, INC. FORM 10-K FOR THE YEAR ENDED DECEMBER 31, 1997, THE AMAZON.COM, INC. FORM 10-Q FOR THE PERIOD ENDED SEPTEMBER 30, 1997, AND THE AMAZON.COM, INC. FORM 10-Q FOR THE PERIOD ENDED JUNE 30, 1997 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

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2018/6/22

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