

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

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

FOR THE QUARTER ENDED SEPTEMBER 30, 2000.

OR

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

FOR THE TRANSITION PERIOD FROM TO .

COMMISSION FILE NUMBER: 000-24786

ASPEN TECHNOLOGY, INC.  
(Exact name of registrant as specified in its charter)

DELAWARE  
(State or other jurisdiction of  
incorporation or organization)

04-2739697  
(I.R.S. Employer  
Identification No.)

TEN CANAL PARK, CAMBRIDGE, MASSACHUSETTS 02141  
(Address of principal executive office and zip code)

(617) 949-1000  
Registrant's telephone number, including area code:

Indicate by check mark whether the registrant: (1) has filed reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding twelve 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  No

As of October 31, 2000, there were 29,714,274 shares of the Registrant's  
common stock (par value \$.10 per share) outstanding.

ASPEN TECHNOLOGY, INC.  
 QUARTERLY REPORT ON FORM 10-Q

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## ITEM 1. FINANCIAL STATEMENTS

## ASPEN TECHNOLOGY, INC

CONSOLIDATED CONDENSED BALANCE SHEETS  
(IN THOUSANDS)

	SEPTEMBER 30, 2000	JUNE 30, 2000
	----- (UNAUDITED)	-----
Current Assets:		
Cash and cash equivalents.....	\$ 44,225	\$ 49,371
Short-term investments.....	62,250	64,161
Accounts receivable, net.....	78,225	81,781
Unbilled services.....	22,760	21,894
Current portion of long-term installments receivable, net.....	27,879	24,873
Deferred tax asset.....	3,300	3,300
Prepaid expenses and other current assets.....	18,562	16,175
	-----	-----
Total current assets.....	257,201	261,555
	-----	-----
Long-term installments receivable, net.....	33,346	28,301
	-----	-----
Property and leasehold improvements, at cost.....	98,368	92,343
Accumulated depreciation.....	(59,133)	(56,250)
	-----	-----
	39,235	36,093
	-----	-----
Computer software development costs, net.....	7,372	7,026
Intangible assets, net.....	22,907	8,856
Deferred tax asset.....	3,775	10,130
Other assets.....	12,996	12,984
	-----	-----
	\$376,832	\$364,945
	=====	=====
Current Liabilities:		
Current portion of long-term debt.....	\$ 2,898	\$ 1,327
Accounts payable and accrued expenses.....	45,862	53,392
Unearned revenue.....	15,038	13,903
Deferred revenue.....	23,761	23,553
	-----	-----
Total current liabilities.....	87,559	92,175
	-----	-----
Long-term debt, less current maturities.....	2,246	1,923
5 1/4% Convertible subordinated debentures.....	86,250	86,250
Deferred revenue, less current portion.....	13,954	14,374
Other liabilities.....	1,063	1,025
	-----	-----
Stockholders' Equity:		
Common stock.....	2,988	2,906
Additional paid-in capital.....	193,930	173,591
Accumulated deficit.....	(7,437)	(3,752)
Accumulated other comprehensive loss.....	(3,219)	(3,045)
Treasury stock, at cost.....	(502)	(502)
	-----	-----
Total stockholders' equity.....	185,760	169,198
	-----	-----
	\$376,832	\$364,945
	=====	=====

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

## ASPEN TECHNOLOGY, INC.

CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS  
(UNAUDITED AND IN THOUSANDS, EXCEPT PER SHARE DATA)

	THREE MONTHS ENDED SEPTEMBER 30,	
	2000	1999
Software licenses.....	\$32,582	\$21,507
Service and other.....	36,906	31,845
Total revenues.....	69,488	53,352
Cost of software licenses.....	2,565	2,076
Cost of service and other.....	22,320	20,138
Selling and marketing.....	24,718	19,328
Research and development.....	14,992	11,722
General and administrative.....	6,565	5,568
Charge for in-process research and development.....	5,000	--
Total costs and expenses.....	76,160	58,832
Loss from operations.....	(6,672)	(5,480)
Other (expense) income, net.....	(134)	50
Interest income, net.....	1,541	981
Loss before benefit from income taxes.....	(5,265)	(4,449)
Benefit from income taxes.....	(1,580)	(1,379)
Net loss.....	\$(3,685)	\$(3,070)
Basic and diluted loss per share.....	\$ (0.13)	\$ (0.11)
Basic and diluted weighted average shares outstanding.....	29,181	27,789

The accompanying notes are an integral component of these financial statements.

## ASPEN TECHNOLOGY, INC.

CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS  
(UNAUDITED AND IN THOUSANDS)

	THREE MONTHS ENDED SEPTEMBER 30,	
	2000	1999
	-----	-----
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
NET LOSS.....	\$ (3,685)	\$(3,070)
Adjustments to reconcile net loss to net cash provided by operating activities (net of acquisition-related activity disclosed below):		
Depreciation and amortization.....	4,898	4,387
Charge for in-process research and development.....	5,000	--
Deferred income taxes.....	514	--
Decrease in accounts receivable.....	3,891	13,792
Increase in unbilled services.....	(1,132)	(1,978)
Decrease (increase) in installments receivable.....	4,702	(3,165)
(Increase) decrease in prepaid expenses and other current assets.....	(2,324)	713
Decrease in accounts payable and accrued expenses.....	(8,750)	(3,145)
Increase in unearned revenue.....	577	1,557
Decrease in deferred revenue.....	(3,667)	(2,201)
	-----	-----
Net cash provided by operating activities.....	24	6,890
	-----	-----
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of property and leasehold improvements.....	(4,739)	(1,353)
Sale (purchase) of investment securities.....	2,241	(4,999)
Decrease (increase) in other long-term assets.....	226	(70)
Increase in computer software development costs.....	(1,184)	(717)
Decrease in other long-term liabilities.....	(247)	(112)
Cash used in the purchase of business, net of cash acquired.....	(8,969)	--
	-----	-----
Net cash used in investing activities.....	(12,672)	(7,251)
	-----	-----
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Issuance of common stock under employee stock purchase plans.....	2,118	1,998
Exercise of stock options.....	5,867	97
Payments of long-term debt and capital lease obligations.....	(377)	(1,603)
	-----	-----
Net cash provided by financing activities.....	7,608	492
	-----	-----
EFFECTS OF EXCHANGE RATE CHANGES ON CASH.....	(106)	(79)
	-----	-----
(DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS.....	(5,146)	52
CASH AND CASH EQUIVALENTS, beginning of period.....	49,371	34,039
	-----	-----
CASH AND CASH EQUIVALENTS, end of period.....	\$ 44,225	\$34,091
	=====	=====

During the three months ended September 30, 2000, the Company acquired a company in a purchase transaction. This acquisition is summarized as follows-

Fair value of assets acquired, excluding cash.....	\$ 22,857
Payments in connection with the acquisitions, net of cash acquired.....	(8,969)
	-----
Liabilities assumed.....	\$ 13,888
	=====

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

## ASPEN TECHNOLOGY, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS  
SEPTEMBER 30, 2000  
(UNAUDITED)

## 1. BASIS OF PRESENTATION

In the opinion of management, the accompanying consolidated condensed financial statements have been prepared in conformity with generally accepted accounting principles and include all adjustments, consisting only of normal recurring adjustments, necessary for a fair presentation. The results of operations for the three month period ended September 30, 2000 are not necessarily indicative of the results to be expected for the full year. It is suggested that these interim consolidated condensed financial statements be read in conjunction with the audited consolidated financial statements for the year ended June 30, 2000, which are contained in the Company's Form 10-K, as previously filed with the Securities and Exchange Commission.

## 2. ACCOUNTING POLICIES

## (a) Revenue Recognition

Effective July 1, 1998, the Company adopted Statement of Position (SOP) No. 97-2, "Software Revenue Recognition." SOP 97-2 was issued by the American Institute of Certified Public Accountants in October 1997 in order to provide guidance on applying generally accepted accounting principles in recognizing revenue on software transactions. The adoption of SOP 97-2 did not have a material impact on the Company's financial position, results of operations or cash flows. License revenue, including license renewals, consists principally of revenue earned under fixed-term and perpetual software license agreements and is generally recognized upon shipment of the software if collection of the resulting receivable is probable, the fee is fixed or determinable, and vendor-specific objective evidence exists for all undelivered elements to allow allocation of the total fee to all delivered and undelivered elements of the arrangement. Revenues under such arrangements, which may include several different software products and services sold together, are allocated to each element based on the residual method in accordance with SOP 98-9, "Software Revenue Recognition, with Respect to Certain Transactions." Under the residual method, the fair value of the undelivered elements is deferred and subsequently recognized when earned. The Company has established sufficient vendor specific objective evidence for professional services, training and maintenance and support services. Accordingly, software license revenue is recognized under the residual method in arrangements in which software is licensed with professional services, training and maintenance and support services. The Company uses installment contracts as a standard business practice and has a history of successfully collecting under the original payment terms without making concessions on payments, products or services.

Service revenues from fixed-price contracts are recognized using the percentage-of-completion method, measured by the percentage of costs (primarily labor) incurred to date as compared to the estimated total costs (primarily labor) for each contract. When a loss is anticipated on a contract, the full amount thereof is provided currently. Service revenues from time and expense contracts and consulting and training revenue are recognized as the related services are performed. Services that have been performed but for which billings have not been made are recorded as unbilled services, and billings that have been recorded before the services have been performed are recorded as unearned revenue in the accompanying consolidated balance sheets.

Installments receivable represent the present value of future payments related to the financing of noncancelable term and perpetual license agreements that provide for payment in installments over a one- to five-year period. A portion of each installment agreement is recognized as interest income in the accompanying consolidated condensed statements of operations. The interest rate utilized for the three month periods ended September 30, 2000 and 1999 was 9.0% and 8.5%, respectively. At September 30, 2000, the Company had long term installments receivable of approximately \$5.0 million denominated in foreign currencies. The September 2000 foreign installments receivable mature through October 2004 and have been hedged with specific foreign currency contracts. There have been no material gains or losses recorded relating to hedge

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS -- (CONTINUED)  
(UNAUDITED)

contracts for the periods presented. The Company does not use derivative financial instruments for speculative or trading purposes.

In December 1999, the Securities and Exchange Commission issued Staff Accounting Bulletin (SAB) No. 101, "Revenue Recognition in Financial Statements." SAB 101 provides guidance on the recognition, disclosure and presentation of revenue in financial statements. SAB 101, as amended by SAB 101A and SAB 101B, is required to be implemented no later than the fourth fiscal quarter of fiscal years beginning after December 15, 1999. The Company does not expect that any impact of adoption will be material.

(b) Computer Software Development Costs

Certain computer software development costs are capitalized in the accompanying consolidated condensed balance sheets. Capitalization of computer software development costs begins upon the establishment of technological feasibility. Amortization of capitalized computer software development costs is included in cost of revenues and is provided on a product-by-product basis using the straight-line method, beginning upon commercial release of the product and continuing over the remaining estimated economic life of the product, not to exceed three years. Total amortization expense charged to operations in each of the three month periods ending September 30, 2000 and 1999 was approximately \$0.8 million.

(c) Net Income (Loss) Per Share

Basic earnings (loss) per share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per share reflect the dilution of potentially dilutive securities, primarily stock options, based on the treasury stock method.

The following dilutive effect of potential common shares were excluded from the calculation of diluted weighted average shares outstanding as their effect would be anti-dilutive (in thousands):

	THREE MONTHS ENDED SEPTEMBER 30,	
	2000	1999
Options and Warrants.....	3,521	412
Convertible Debt.....	410	401
	-----	---
Total.....	3,931	813
	=====	===

(d) Investments

Securities purchased to be held for indefinite periods of time, and not intended at the time of purchase to be held until maturity, are classified as available-for-sale securities. Securities classified as available-for-sale are required to be recorded at market value in the financial statements. Unrealized gains and losses have been accounted for as a separate component of stockholders' equity and accumulated other comprehensive loss. Realized investment gains and losses were not material in the three month periods ending September 30, 2000 and 1999, respectively. Investments held as of September 30, 2000 consist of \$50.3 million in U.S. Corporate Bonds, \$5.0 million in U.S. Government Bonds and \$7.0 million in Certificates of Deposit. The Company does not use derivative financial instruments in its investment portfolio.

(e) Derivative Instruments and Hedging

Effective July 1, 2000, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 133 "Accounting for Derivative Instruments and Hedging Activities." SFAS No. 133 requires

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS -- (CONTINUED)  
(UNAUDITED)

that all derivatives, including foreign currency exchange contracts, be recognized on the balance sheet at fair value. Derivatives that are not hedges must be recorded at fair value through earnings. If a derivative is a hedge, depending on the nature of the hedge, changes in the fair value of the derivative are either offset against the change in fair value of assets, liabilities or firm commitments through earnings or recognized in other comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a derivative's change in fair value is to be immediately recognized in earnings. The adoption of SFAS No. 133 resulted in an immaterial cumulative effect on income and other comprehensive income for the Company.

Forward foreign exchange contracts are used primarily by the Company to hedge certain balance sheet exposures resulting from changes in foreign currency exchange rates. Such exposures primarily result from portions of the Company's assets that are denominated in currencies other than the U.S. dollar, primarily the Japanese Yen and certain European currencies. These foreign exchange contracts are entered into to hedge recorded installments receivable made in the normal course of business, and accordingly, are not speculative in nature. As part of its overall strategy to manage the level of exposure to the risk of foreign currency exchange rate fluctuations, the Company hedges the majority of its installments receivable denominated in foreign currencies. At September 30, 2000, the Company had effectively hedged \$8.4 million of installments receivable denominated in foreign currency. The Company does not hold or transact in financial instruments for purposes other than risk management.

The Company records its foreign currency exchange contracts at fair value in its consolidated balance sheet and the related gains or losses on these hedge contracts are recognized in earnings. Gains and losses resulting from the impact of currency exchange rate movements on forward foreign exchange contracts are designated to offset certain accounts receivable and are recognized as other income or expense in the period in which the exchange rates change and offset the foreign currency losses and gains on the underlying exposures being hedged. A small portion of the forward foreign currency exchange contract is designated to hedge the future interest income of the related receivables. The gains and losses resulting from the impact of currency rate movements on forward currency exchange contracts are recognized in other comprehensive income for this portion of the hedge.

The following table provides information about the Company's foreign currency derivative financial instruments outstanding as of September 30, 2000. The information is provided in U.S. dollar amounts, as presented in the Company's consolidated condensed financial statements. The table presents the notional amount (at contract exchange rates) and the weighted average contractual foreign currency rates (in thousands, except average contract rates):

	NOTIONAL AMOUNT	AVERAGE CONTRACT RATE
	-----	-----
Japanese Yen.....	\$ 3,578	107.71
British Pound Sterling.....	3,110	1.52
German Deutsche Mark.....	644	1.70
French Franc.....	574	6.21
Swiss Franc.....	461	1.52
Netherlands Guilder.....	28	2.40
	-----	
	\$ 8,395	
	=====	
Estimated fair value.....	8,390*	

\* The estimated fair value is based on the estimated amount at which the contracts could be settled based on forward exchange rates as of September 30, 2000. The market risk associated with these instruments



NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS -- (CONTINUED)  
(UNAUDITED)

resulting from currency exchange rate movements is expected to offset the market risk of the underlying installments being hedged. The credit risk is that the Company's banking counterparties may be unable to meet the terms of the agreements. The Company minimizes such risk by limiting its counterparties to major financial institutions. In addition, the potential risk of loss with any one party resulting from this type of credit risk is monitored. Management does not expect any loss as a result of default by other parties. However, there can be no assurances that the Company will be able to mitigate market and credit risks described above.

### 3. SALE OF INSTALLMENTS RECEIVABLE

The Company sold, with limited recourse, certain of its installment contracts to two financial institutions for approximately \$11.4 million during the three-month period ended September 30, 2000. The financial institutions have partial recourse to the Company only upon non-payment by the customer under the installments receivable. The amount of recourse is determined pursuant to the provisions of the Company's contracts with the financial institutions and varies depending upon whether the customers under the installment contracts are foreign or domestic entities. Collections of these receivables reduce the Company's recourse obligations, as defined.

At September 30, 2000, the balance of the uncollected principal portion of all contracts sold was \$104.4 million. The Company's potential recourse obligation related to these contracts is approximately \$4.8 million. In addition, the Company is obligated to pay additional costs to the financial institutions in the event of default by the customer.

### 4. ACQUISITION

On August 29, 2000, the Company acquired ICARUS Corporation and ICARUS Services Limited (together, ICARUS), a market leader in providing software that is used by process manufacturing industries to estimate plant capital costs and evaluate project economics. The Company acquired 100% of the outstanding shares and options to purchase shares of ICARUS for a purchase price of approximately \$24.9 million. This acquisition was accounted for as a purchase, and accordingly, the results of operations from the date of acquisition are included in the Company's consolidated statements of operations commencing as of the acquisition date. The fair market value of assets acquired and liabilities assumed was based on independent appraisal. The portion of the purchase price allocated to in-process research and development represents projects that had not yet reached technological feasibility and had no alternative future use. Pro forma information related to this acquisition is not presented as it is not material. The purchase price was allocated to the fair market value of assets acquired and liabilities assumed, as follows (in thousands):

DESCRIPTION -----	AMOUNT -----	LIFE -----
Purchased in-process research and development.....	\$ 5,000	--
Acquired technology.....	9,590	6 years
Goodwill.....	5,103	6 years
Other intangibles.....	401	2 years
	-----	
	20,094	
Net book value of tangible assets acquired, less liabilities assumed.....	7,557	
	-----	
	27,651	
Less-Deferred taxes.....	2,701	
	-----	
	\$24,950	
	=====	

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS -- (CONTINUED)  
(UNAUDITED)

Allocation of the purchase price for this acquisition was based on an estimate of the fair value of the net assets acquired and is subject to adjustment based on the finalization of the purchase price allocation.

5. COMPREHENSIVE INCOME (LOSS)

Comprehensive income (loss) is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The components of comprehensive income (loss) for the three months ended September 30, 2000 and 1999 are as follows (in thousands):

	THREE MONTHS ENDED SEPTEMBER 30,	
	2000	1999
Net income (loss).....	\$(3,685)	\$(3,070)
Unrealized gain (loss) on investments.....	330	(18)
Foreign currency adjustment.....	(532)	726
Foreign currency exchange contract hedge.....	28	--
Comprehensive income (loss).....	\$(3,859)	\$(2,362)

6. RESTRUCTURING AND OTHER CHARGES

In the fourth quarter of fiscal 1999, the Company undertook certain actions to restructure its business. The restructuring resulted from a lower than expected level of license revenues which adversely affected fiscal year 1999 operating results. The license revenue shortfall resulted primarily from delayed decision making driven by economic difficulties among customers in certain of our core vertical markets. The restructuring plan resulted in a pre-tax restructuring charge totaling \$17.9 million. The following discusses the components of the restructuring and other charges.

Close-down/consolidation of facilities: Approximately \$10.2 million of the restructuring charge relates to the termination of facility leases and other lease-related costs. The facility leases have remaining terms ranging from one month to six years. The amount accrued reflects the Company's best estimate of actual costs to buy out the leases in certain cases or the net cost to sublease the properties in other cases. Included in this amount is the write off of certain assets, primarily building and leasehold improvements and adjustments to certain obligations that relate to the closing of facilities. Employee Severance, Benefits and Related Costs: Approximately \$4.3 million of the restructuring charge relates to the reduction in workforce.

As of September 30, 2000, there was approximately \$3.2 million remaining in the accrued expenses relating to the restructuring. Substantially all of this amount relates to the close-down/consolidation of facilities.

7. SEGMENT INFORMATION

SFAS No. 131 established standards for reporting information about operating segments in the Company's financial statements. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is the Chief Executive Officer of the Company.

The Company is organized geographically and by line of business. The Company has three major lines of business operating segments: license, consulting services and maintenance and training. The Company also evaluates certain subsets of business segments by vertical industries as well as by product categories. While the Executive Management Committee evaluates results in a number of different ways, the line of business management structure is the primary basis for which it assesses financial performance and allocates resources.

## ASPEN TECHNOLOGY, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS -- (CONTINUED)  
(UNAUDITED)

The accounting policies of the line of business operating segments are the same as those described in the Company's Form 10-K for the fiscal year ended June 30, 2000. The Company does not track assets or capital expenditures by operating segments. Consequently, it is not practical to show assets, capital expenditures, depreciation or amortization by operating segments. The following table presents a summary of operating segments (in thousands):

	LICENSE	CONSULTING SERVICES	MAINTENANCE AND TRAINING	TOTAL
	-----	-----	-----	-----
Three Months Ended September 30, 2000-				
Revenues from unaffiliated customers.....	\$32,582	\$24,407	\$12,499	\$69,488
Controllable expenses.....	11,565	17,403	3,266	32,234
	-----	-----	-----	-----
Controllable margin(1).....	\$21,017	\$ 7,004	\$ 9,233	\$37,254
	=====	=====	=====	=====
Three Months Ended September 30, 1999-				
Revenues from unaffiliated customers.....	\$21,507	\$21,036	\$10,809	\$53,352
Controllable expenses.....	11,990	15,174	2,198	29,362
	-----	-----	-----	-----
Controllable margin(1).....	\$ 9,517	\$ 5,862	\$ 8,611	\$23,990
	=====	=====	=====	=====

(1) The Controllable Margins reported reflect only the expenses of the line of business and do not represent the actual margins for each operating segment since they do not contain an allocation for selling and marketing, general and administrative, development and other corporate expenses incurred in support of the line of business.

## Profit Reconciliation (in thousands):

	THREE MONTHS ENDING SEPTEMBER 30,	
	2000	1999
	-----	-----
Total controllable margin for reportable segments.....	\$ 37,254	\$ 23,990
Selling and marketing.....	(20,924)	(14,531)
Research and development.....	(1,624)	(75)
General and administrative and overhead.....	(16,378)	(14,864)
Charge for in-process research and development.....	(5,000)	--
Interest and other income and expense, net.....	1,407	1,031
	-----	-----
Loss before benefit from income taxes.....	\$ (5,265)	\$ (4,449)
	=====	=====

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

THE FOLLOWING DISCUSSION AND ANALYSIS OF OUR FINANCIAL CONDITION AND RESULTS OF OPERATIONS SHOULD BE READ IN CONJUNCTION WITH OUR CONSOLIDATED FINANCIAL STATEMENTS AND THE RELATED NOTES APPEARING ELSEWHERE IN THIS QUARTERLY REPORT ON FORM 10-Q AND IN OUR ANNUAL REPORT ON FORM 10-K FOR THE FISCAL YEAR ENDED JUNE 30, 2000. THIS DISCUSSION AND ANALYSIS CONTAINS FORWARD-LOOKING STATEMENTS THAT INVOLVE RISKS, UNCERTAINTIES AND ASSUMPTIONS. OUR ACTUAL RESULTS MAY DIFFER MATERIALLY FROM THOSE ANTICIPATED IN THESE FORWARD-LOOKING STATEMENTS AS A RESULT OF A NUMBER OF FACTORS, INCLUDING THOSE SET FORTH UNDER "FACTORS THAT MAY AFFECT FUTURE RESULTS AND THE TRADING PRICE OF OUR COMMON STOCK" AND ELSEWHERE IN THIS QUARTERLY REPORT.

RESULTS OF OPERATIONS: COMPARISON OF THE THREE MONTHS ENDED SEPTEMBER 30, 2000 AND 1999

We acquired ICARUS in the first quarter of fiscal 2001 and acquired M2R in the fourth quarter of fiscal 2000. Both of these acquisitions were accounted for as purchase transactions. We have subsequently taken steps to integrate the operations and reorganize our operations and our new subsidiaries. As a result of these acquisitions, our operating results for the three month periods ended September 30, 2000 and 1999 are not comparable.

Total Revenues

Revenues are derived from software licenses and maintenance and other services. Total revenues for the three months ended September 30, 2000 were \$69.5 million, an increase of 30.2% from \$53.4 million in the comparable period of fiscal 2000.

Total revenues from customers outside the United States were \$28.6 million or 41.2% of total revenues for the three months ended September 30, 2000, as compared to \$22.9 million or 42.9% of total revenues for the comparable period in fiscal 2000. The geographical mix of license revenues can vary from quarter to quarter; however, for fiscal 2001, the overall mix of revenues from customers outside the United States is expected to be relatively consistent with the prior year.

Software License Revenues

Software license revenues represented 46.9% of total revenues for the three months ended September 30, 2000, as compared to 40.3% in the comparable period of fiscal 2000. Revenues from software licenses for the three months ended September 30, 2000 were \$32.6 million, an increase of 51.5% from \$21.5 million in the comparable period of fiscal 2000. This percentage increase was primarily attributable to an increased penetration in the market as well as increased sales of our eSupply Chain suite of products.

Service and Other Revenues

Revenues from service and other consist of consulting services, post contract support on software licenses, training and sales of documentation. Revenues from service and other for the three months ended September 30, 2000 were \$36.9 million, an increase of 15.9% from \$31.8 million in the comparable period in fiscal 2000. This increase reflects a continued demand for our services implementation expertise, as well as higher levels of software maintenance revenues attributable to the relatively higher fiscal 2000 license revenues.

Cost of Software Licenses

Cost of software licenses consists of royalties, amortization of previously capitalized software costs, costs related to the delivery of software (including disk duplication and third party software costs), printing of manuals and packaging. Cost of software licenses for the three months ended September 30, 2000 was

\$2.6 million, an increase of 23.6% from \$2.1 million in the comparable period of fiscal 2000. Cost of software licenses as a percentage of revenues from software licenses was 7.9% for the three months ended September 30, 2000 as compared to 9.7% for the three months ended September 30, 1999. The percentage decrease was due primarily to the higher revenue base.

#### Cost of Service and Other

Cost of service and other consists of the cost of execution of application consulting services, technical support expenses, the cost of training services and the cost of manuals sold separately. Cost of service and other for the three months ended September 30, 2000 was \$22.3 million, an increase of 10.8% from \$20.1 million in the comparable period in fiscal year 2000. Cost of service and other as a percentage of service and other revenues was 60.5% in the three months ended September 30, 2000 and 63.2% in the comparable period of fiscal year 2000. This percentage decrease was primarily a result of increased revenue per hour and improved utilization rates of billable engineers in the three months ended September 30, 2000, as well as software maintenance revenues which increased at a rate higher than the costs required to support the higher revenue base.

#### Selling and Marketing Expenses

Selling and marketing expenses for the three months ended September 30, 2000 were \$24.7 million, an increase of 27.9% from \$19.3 million in the comparable period in fiscal year 2000. As a percentage of total revenues, selling and marketing expenses were 35.6% for the three months ended September 30, 2000, as compared to 36.2% for the comparable period in fiscal 2000. The dollar increase was attributable to an expense base that increased to support a higher license revenue level. We continue to selectively invest in sales personnel and regional sales offices to improve our geographic proximity to our customers, to maximize the penetration of existing accounts and to add new customers. The increase in costs also was attributable to our continued investment in partnerships, the addition of costs relating to ICARUS and M2R, and initiatives to expand market awareness of our company and our products and services.

#### Research and Development Expenses

Research and development expenses consist primarily of personnel and outside consultancy costs required to conduct our product development efforts. Capitalized research and development costs are amortized over the estimated remaining economic life of the relevant product, not to exceed three years. Research and development expenses during the three months ended September 30, 2000 were \$15.0 million, an increase of \$3.3 million, or 27.9%, from \$11.7 million in the comparable period of fiscal 2000. As a percentage of revenues, research and development costs were 21.6% for the three months ended September 30, 2000, as compared to 22.0% for the same period in fiscal 2000. The increase in costs was attributable to the roll out of our new net market solutions, the addition of costs relating to the acquisition of ICARUS, and other internet initiatives including the majority of the \$1.0 million of costs invested in PetroVantage. We capitalized 7.6% of our total research and development costs during the three months ended September 30, 2000 as compared to 5.3% in the comparable period of fiscal year 2000.

#### General and Administrative Expenses

General and administrative expenses consist primarily of salaries of administrative, executive, financial and legal personnel, outside professional fees, and amortization of certain intangibles. General and administrative expenses were \$6.6 million for the three months ended September 30, 2000 and \$5.6 million for the comparable period in fiscal 2000. This increase was due to the amortization of intangibles related to the ICARUS and M2R acquisitions, the addition of costs relating to the ICARUS and M2R acquisitions, and the additional personnel hired to support our growth.

#### Charge for In-Process Research and Development

In connection with the acquisition of ICARUS in August 2000, approximately \$5.0 million of the purchase price was allocated to in-process research and development projects based upon an independent appraisal. This allocation represented the estimated fair value based on risk-adjusted cash flows related to the incomplete research and development projects. At the date of acquisition, the development of these projects had not yet reached technological feasibility, and the research and development in progress had no alternative future uses. Accordingly, these costs were expensed as of the acquisition date.

At the acquisition date, ICARUS was conducting design, development, engineering and testing activities associated with the completion of its next-generation product. This project involved developing a framework that will unify ICARUS' cost engine technology and user modules into one seamless architecture. At the acquisition date, the technologies under development ranged from 15 to 80 percent complete based on engineering man-month data and technological progress. Anticipated completion dates ranged from 5 to 12 months at an estimated cost of \$0.5 million.

In making the purchase price allocation, we considered present value calculations of income, an analysis of project accomplishments and remaining outstanding items, an assessment of overall contributions, as well as project risks. The value assigned to purchased in-process technology was determined by estimating the costs to develop the acquired technology into commercially viable products, estimating the resulting net cash flows from the projects, and discounting the net cash flows to their present value. The revenue projection used to value the in-process research and development was based on estimates of relevant market sizes and growth factors, expected trends in technology, and the nature and expected timing of new product introductions by us and our competitors. The resulting net cash flows from such projects are based on estimates of cost of sales, operating expenses, and income taxes from such projects. The rates utilized to discount the net cash flows to their present value were based on estimated cost of capital calculations. Due to the nature of the forecast and the risks associated with the projected growth and profitability of the developmental projects, a discount rate of 25 percent was considered appropriate for the in-process research and development.

#### Interest Income

Interest income is generated from the investment of excess cash in short-term and long-term investments and from the license of software pursuant to installment contracts for engineering suite software. Under these installment contracts, we offer customers the option to make annual payments for its term licenses instead of a single license fee payment at the beginning of the license term. Historically, a substantial majority of the engineering suite customers have elected to license our products through installment contracts. Included in the annual payments is an implicit interest charge based upon the interest rate established us at the time of the license. As we sell more perpetual licenses for eSupply Chain and Plantelligence Solutions, these new sales are being paid for in forms that are not installment contracts. If the mix of sales moves away from installment contracts, the interest income in future periods will be reduced. We sell a portion of the installment contracts to unrelated financial institutions. The interest earned by us on the installment contract portfolio in any period is the result of the implicit interest established by us on installment contracts and the size of the contract portfolio. Interest income was \$2.8 million for the three months ended September 30, 2000 and \$2.5 million for the comparable period in fiscal 2000. This increase was attributable to increases in our short-term and long-term investments.

#### Interest Expense

Interest expense is generated from interest charged on our 5 1/4% convertible debentures, bank line of credit, notes payable and capital lease obligations. Interest expense was \$1.3 million and \$1.4 million for the three months ended September 30, 2000 and \$1.4 million for the comparable period in fiscal 2000.

#### Tax Rate

The effective tax rate for the three months ended September 30, 2000 was approximately 30.0% of pretax income (loss), as compared to 31.0% for the comparable period of fiscal year 2000. This percentage decrease was primarily due to the generation and utilization of tax credits, including foreign tax credits.

## LIQUIDITY AND CAPITAL RESOURCES

During the three months ended September 30, 2000, our cash and cash equivalents balance decreased by \$5.1 million. This decrease was attributable to the investments we made in the acquisition of ICARUS and in PetroVantage. Operations provided and used approximately the same amount of cash during this period, primarily a result of the decrease in accounts payable, accrued expenses, deferred revenue and the increase in prepaid expenses offset by the decrease in installments receivable and accounts receivable and the charge for in-process research and development for the current fiscal quarter.

We have arrangements to sell long-term contracts to two financial institutions, General Electric Capital Corporation and Fleet Business Credit Corporation. During the three months ended September 30, 2000, installment contracts increased to \$61.2 million, net of \$11.4 million of installment contracts sold to the two financial institutions. Our arrangements with these two financial institutions provide for the sale of installment contracts up to certain limits and with certain recourse obligations. At September 30, 2000, the balance of the uncollected principal portion of the contracts sold to these two financial institutions was \$104.4 million, for which we have a partial recourse obligation of approximately \$4.8 million. The availability under these arrangements will increase as the financial institutions receive payment on installment contracts previously sold.

We maintain a \$30.0 million unsecured bank line of credit, expiring October 26, 2003, that provides for borrowings of specified percentages of eligible accounts receivable and eligible current installment contracts. Advances under the line of credit bear interest at a rate equal to the bank's prime rate (9.50% at September 30, 2000) or, at our option, a rate equal to a defined LIBOR (6.82% at September 30, 2000) plus a specified margin. The line of credit agreement requires us to provide the bank with certain periodic financial reports and to comply with certain financial tests, including maintenance of minimum levels of consolidated net worth and of the ratio of cash and cash equivalents, accounts receivable and current portion of our long term installments receivable to current liabilities. At September 30, 2000, there were no outstanding borrowings under the line of credit.

In June 1998, we sold \$86.3 million of 5 1/4% convertible subordinated debentures. The debentures are convertible into shares of our common stock at any time prior to June 15, 2005, unless previously redeemed or repurchased, at a conversion price of \$52.97 per share, subject to adjustment in certain events. Interest on the debentures is payable on June 15 and December 15 of each year. The debentures are redeemable in whole or part at our option at any time on or after June 15, 2001 at various redemption prices expressed as a percentage of principal plus accrued interest through the date of redemption.

In the event of a change of control, as defined, each holder of the debentures may require us to repurchase those debentures, in whole or in part, for cash or, at our option, for common stock (valued at 95% of the average last reported sale prices for the 5 trading days immediately preceding the repurchase date) at a price of 100% of principal amount plus accrued interest to the repurchase date. The debentures are unsecured obligations and are subordinated in right of payment to all existing and future senior debt, as defined.

As of September 30, 2000, we had cash and cash-equivalents totalling \$44.2 million, as well as short-term investments totalling \$62.3 million. Our commitments as of September 30, 2000 consisted primarily of leases on our headquarters and other facilities. There were no other material commitments for capital or other expenditures. We believe our current cash balances, availability of sales of our installment contracts, availability under our bank line of credit and cash flows from our operations will be sufficient to meet our working capital and capital expenditure requirements for at least the next twelve months.

## FACTORS THAT MAY AFFECT FUTURE RESULTS AND THE TRADING PRICE OF OUR COMMON STOCK

INVESTING IN OUR COMMON STOCK INVOLVES A HIGH DEGREE OF RISK. YOU SHOULD CAREFULLY CONSIDER THE RISKS AND UNCERTAINTIES DESCRIBED BELOW BEFORE PURCHASING OUR COMMON STOCK. THE RISKS AND UNCERTAINTIES DESCRIBED BELOW ARE NOT THE ONLY ONES FACING OUR COMPANY. ADDITIONAL RISKS AND UNCERTAINTIES MAY ALSO IMPAIR OUR BUSINESS OPERATIONS. IF ANY

OF THE FOLLOWING RISKS ACTUALLY OCCUR, OUR BUSINESS, FINANCIAL CONDITION OR RESULTS OF OPERATIONS WOULD LIKELY SUFFER. IN THAT CASE, THE TRADING PRICE OF OUR COMMON STOCK COULD FALL, AND YOU MAY LOSE ALL OR PART OF THE MONEY YOU PAID TO BUY OUR COMMON STOCK.

Our Lengthy Sales Cycle Makes It Difficult to Predict Quarterly Revenue Levels and Operating Results.

Because license fees for our software products are substantial and the decision to purchase our products typically involves members of our customers' senior management, the sales process for our solutions is lengthy and can exceed one year. Accordingly, the timing of our software revenues is difficult to predict, and the delay of an order could cause our quarterly revenues to fall substantially below expectations. Moreover, to the extent that we succeed in shifting customer purchases away from individual software solutions and toward more costly integrated suites of software and services, our sales cycle may lengthen, which could increase the likelihood of delays and cause the effect of a delay to become more pronounced. We have limited experience in forecasting the timing of sales of our integrated suites of software and services. Delays in sales could cause significant shortfalls in our revenues and operating results for any particular period.

Fluctuations in Our Quarterly Revenues, Operating Results and Cash Flow May Cause the Market Price of Our Common Stock to Fall.

Our revenues, operating results and cash flow have fluctuated in the past and may fluctuate significantly in the future as a result of a variety of factors, many of which are outside of our control, including:

- our customers' purchasing patterns;
- the length of our sales cycle;
- changes in the mix of our license revenues and service revenues;
- the timing of introductions of new solutions and enhancements by us and our competitors;
- seasonal weakness in the first quarter of each fiscal year, primarily caused by a slowdown in business in some of our international markets;
- the timing of our investments in new product development;
- changes in our operating expenses; and
- fluctuating economic conditions, particularly as they affect companies in the chemicals, petrochemicals and petroleum industries.

We ship software products within a short period after receipt of an order and typically do not have a material backlog of unfilled orders for software products. Consequently, revenues from software licenses in any quarter are substantially dependent on orders booked and shipped in that quarter. Historically, a majority of each quarter's revenues from software licenses has come from license agreements that have been entered into in the final weeks of the quarter. Therefore, even a short delay in the consummation of an agreement may cause our revenues to fall below public expectations for that quarter.

Since our expense levels are based in part on anticipated revenues, we may be unable to adjust spending quickly enough to compensate for any revenue shortfall and any revenue shortfall would likely have a disproportionately adverse effect on our operating results. We expect that these factors will continue to affect our operating results for the foreseeable future. Because of the foregoing factors, we believe that period-to-period comparisons of our operating results are not necessarily meaningful and should not be relied upon as indications of future performance.

As a result of lower-than-anticipated license revenues in our fiscal quarters ended September 30, 1998 and March 31, 1999, our operating results for each of those quarters were below the expectations of public market analysts and many investors. In each case, the market price of our common stock declined substantially upon the announcement of our operating results. If, due to one or more of the foregoing factors or



an unanticipated cause, our operating results fail to meet the expectations of public market analysts and investors in a future quarter, the market price of our common stock would likely decline.

Because We Derive a Majority of Our Total Revenues from Customers in the Cyclical Chemicals, Petrochemicals and Petroleum Industries, Our Operating Results May Suffer if These Industries Experience an Economic Downturn.

We derive a majority of our total revenues from companies in the chemicals, petrochemicals and petroleum industries. Accordingly, our future success depends upon the continued demand for manufacturing optimization software and services by companies in these process manufacturing industries. The chemicals, petrochemicals and petroleum industries are highly cyclical. In the past, worldwide economic downturns and pricing pressures experienced by chemical, petrochemical and petroleum companies have led to consolidations and reorganizations. These downturns, pricing pressures and restructurings have caused delays and reductions in capital and operating expenditures by many of these companies. These delays and reductions have reduced demand for products and services like ours. A recurrence of these industry patterns, as well as general domestic and foreign economic conditions and other factors that reduce spending by companies in these industries, could harm our operating results in the future.

If We Do Not Hire and Retain Highly Qualified Employees, We May Be Unable to Execute Our Business Plan Successfully.

Our success depends, in large part, on our ability to attract, hire, train and retain highly qualified employees, particularly project engineers, supply chain and eBusiness experts, sales and marketing personnel and operations research experts. For project engineers and other process manufacturing experts, we primarily hire individuals who have obtained a doctoral or master's degree in chemical engineering or a related discipline or who have significant relevant industry experience. As a result, the pool of qualified potential employees is relatively small, and we face significant competition for these employees, from not only our direct competitors but also our customers, academic institutions and other enterprises. In addition, the pool of individuals with supply chain and eBusiness expertise is very limited, and competition for these individuals is intense. We have limited experience in hiring and retaining employees in this area. Our failure to recruit and retain the highly qualified employees who are integral to our services, product development and sales and marketing efforts may limit the rate at which we generate sales and develop new products and product enhancements, which could hurt our operating results. Moreover, intense competition for these employees may result in significant increases in our labor costs, which would impact our operating results.

We Will Lose Valuable Strategic Leadership and Our Customer Relationships May Be Harmed if We Lose the Services of Our Chief Executive Officer or Other Key Personnel.

Our future success depends to a significant extent on Lawrence B. Evans, our principal founder, Chairman and Chief Executive Officer, our other executive officers and a number of key engineering, technical, managerial and marketing personnel. The loss of the services of any of these individuals or groups of individuals could harm our business. None of our executive officers has entered into an employment agreement with us.

If We Do Not Compete Successfully, We May Lose Market Share.

We face three primary sources of competition:

- commercial vendors of software products targeting one or more process manufacturing functions in the areas of engineering, manufacturing and supply chain, such as Hyprotech, a division of AEA Technology, i2 Technologies, SAP and Simulation Sciences, a division of Invensys;
- vendors of hardware that offer software solutions in order to add value to their proprietary distributed control systems, such as Honeywell and Invensys, and vendors of ERP systems, such as Oracle, PeopleSoft and SAP; and

- large companies in the process industries that have developed their own proprietary software solutions.

Some of our current competitors have significantly greater financial, marketing and other resources than we have. In addition, many of our current competitors have established, and may in the future continue to establish, cooperative relationships with third parties to improve their product offerings and to increase the availability of their products to the marketplace. The entry of new competitors or alliances into our market could reduce our market share, require us to lower our prices, or both. Many of these factors are outside our control, and we may not be able to maintain or enhance our competitive position against current and future competitors.

Our Revenue Growth Will Depend on Our Relationships with Systems Integrators and Other Strategic Partners.

One element of our growth strategy is to increase the number of third-party implementation partners who market and integrate our products. If we do not adequately train a sufficient number of systems integrator partners, or if potential partners focus their efforts on integrating or co-selling competing products to the process industries, our future revenue growth could be limited and our operating results could be harmed. If our partners fail to implement our solutions for our customers properly, the reputations of our solutions and our company could be harmed and we might be subject to claims by our customers. We also intend to continue to establish partnerships with technology companies, such as Extricity Software, and new eBusiness entities, such as e-Chemicals, to accelerate the development and marketing of our eBusiness solutions. To the extent that we are unsuccessful in maintaining our existing relationships and developing new relationships, our revenue growth may be harmed.

If We Fail to Anticipate and Respond to Changes in the Market for eBusiness Solutions for Process Manufacturers, Which is at a Very Early Stage, Our Future Revenue Growth May Be Limited.

The use of eBusiness solutions by process manufacturers is at a very early stage. Because this market is new, it is difficult to predict its potential size or growth rate. Moreover, historically, the process industries have not been early adopters of new business technologies. In addition, the market for eBusiness software and services for process manufacturing optimization is characterized by rapidly changing technology and customer needs. Our future success depends on our ability to enhance our current eBusiness offerings, to anticipate trends in the process industries regarding use of the Internet, and to develop in a timely and cost-effective manner new software and services that respond to evolving customer needs, emerging Internet technologies and standards, and new competitive software and service offerings. We have invested, and intend to continue to invest from time to time, in eBusiness entities, such as e-Chemicals and Extricity Software, to accelerate the development and marketing of our eBusiness solution. If any of these eBusiness entities are not successful, our investment may be lost or substantially reduced in value.

If We Fail to Integrate the Operations of the Companies We Acquire, We May Not Realize the Anticipated Benefits and Our Operating Costs Could Increase.

We intend to continue to pursue strategic acquisitions that will provide us with complementary products, services and technologies and with additional personnel. The identification and pursuit of these acquisition opportunities and the integration of acquired personnel, products, technologies and businesses require a significant amount of management time and skill. There can be no assurance that we will identify suitable acquisition candidates, consummate any acquisition on acceptable terms or successfully integrate any acquired business into our operations. Additionally, in light of the consolidation trend in our industry, we expect to face competition for acquisition opportunities, which may substantially increase the cost of any potential acquisition.

We have experienced in the past, and may experience again in the future, problems integrating the operations of a newly acquired company with our own operations. Acquisitions also expose us to potential risks, including diversion of management's attention, failure to retain key acquired personnel, assumption of legal or other liabilities and contingencies, and the amortization of goodwill and other acquired intangible

assets. Moreover, customer dissatisfaction with, or problems caused by, the performance of any acquired products or technologies could hurt our reputation.

We may issue additional equity securities or incur long-term indebtedness to finance future acquisitions. The issuance of equity securities could result in dilution to existing stockholders, while the use of cash reserves or significant debt financing could reduce our liquidity and weaken our financial condition.

We May Lose All or Part of Our Investment in PetroVantage if PetroVantage Is Unable to Develop an Independent, Self-Sustaining Digital Marketplace.

On September 14, 2000, we announced that we had formed PetroVantage, Inc. to develop and operate a digital, Internet-based marketplace for crude oil, intermediates and refined petroleum products. We have committed to invest \$10 million in PetroVantage and may invest additional amounts in the future. We may lose all or a portion of our investment in PetroVantage if PetroVantage's digital marketplace does not gain market acceptance, is unable to achieve profitability or positive cash flow, or otherwise fails to meet our expectations.

The operation of a digital marketplace differs significantly from the operation of our traditional business, and PetroVantage has no operating history that can be used to evaluate its business and future prospects. The creation and maintenance of a digital marketplace for bulk commodities such as petroleum is a new, rapidly evolving and intensely competitive business. Barriers to entry are relatively low as potential competitors are able to launch new competing sites at relatively low costs using commercially-available software.

PetroVantage faces significant risks and uncertainties relating to its ability to implement its new and unproven business model. These risks include the following:

- PetroVantage may be unable to attract commodity traders, brokers, petroleum companies, logistics providers, and other parties to use PetroVantage as their platform for carrying out activities related to the trading of crude oil and other petroleum products. These individuals and companies may be committed to other digital marketplaces or projects to build digital marketplaces, may be unconvinced of the value of participating in a digital marketplace, or may be concerned that a digital marketplace could reduce their competitiveness or profits.
- We intend that PetroVantage be operated and perceived as an independent entity separate from our core business. We believe that PetroVantage's independence is critical to its success because potential users, some of which may compete with our company, will be less likely to utilize the marketplace if they perceive that we rather than PetroVantage are operating the marketplace. We may be unable to attract outside investors as part of our strategy to make PetroVantage a neutral digital marketplace that is not controlled by a technology or petroleum company.
- PetroVantage's business model relies on its ability to provide users of the PetroVantage digital marketplace with a superior trading experience and to maintain sufficient transaction volume to attract buyers and sellers to the PetroVantage marketplace. The effective promotion and positioning of PetroVantage will depend heavily upon PetroVantage's efforts to provide users with high quality and efficient service to help them carry out transactions. To accomplish this goal, PetroVantage will invest heavily in site development, technology and operating infrastructure development. We cannot be certain that PetroVantage will be able to develop, license or acquire, and then integrate, those technologies, if at all, without delays or inefficiencies.
- PetroVantage's business model relies heavily on the value provided users of the digital marketplace by decision support software applications and collaboration among trading partners. To accomplish this PetroVantage will need to design a compelling workflow for petroleum trading, develop or modify our decision support software to be useable over the internet, and provide data and information from petroleum companies and others. We cannot be certain that the workflow design will meet the needs of traders or be favored by traders, brokers and other companies; that the decision support software will work well over the internet, or that we will be able to establish arrangements for sharing

information or carrying out transactions with brokers, petroleum companies, shipping companies or individuals or companies who participate in the petroleum market.

#### We May Suffer Losses on Fixed-Price Engagements.

We derive a substantial portion of our total revenues from service engagements and a significant percentage of these engagements have been undertaken on a fixed-price basis. We bear the risk of cost overruns and inflation in connection with fixed-price engagements, and as a result, any of these engagements may be unprofitable. In the past, we have had cost overruns on fixed-price service engagements. In addition, to the extent that we are successful in shifting customer purchases to our integrated suites of software and services and we price those engagements on a fixed-price basis, the size of our fixed-price engagements may increase, which could cause the impact of an unprofitable fixed-price engagement to have a more pronounced impact on our operating results.

#### We Have Been, and May in the Future Be, Involved in Securities Class Action Litigation.

In October and November 1998, stockholders commenced three separate legal actions against us and some of our directors and officers. These lawsuits sought substantial monetary damages for alleged violations of securities laws. While our motion to dismiss the claims was granted by the Court on November 1, 2000, the plaintiffs may appeal the District Court's decision. If the plaintiffs are ultimately successful and their recoveries exceed the limits of our insurance coverage, our financial position will be harmed. Litigation is inherently uncertain and an adverse resolution of these actions may have a negative effect on our operating results in the period in which they are resolved. For further discussion of these lawsuits, see "Legal Proceedings."

#### Our Business May Suffer if We Fail to Address the Challenges Associated with International Operations.

We have derived approximately 50% of our total revenues from customers outside the United States in each of the past three fiscal years. We anticipate that revenues from customers outside the United States will continue to account for a significant portion of our total revenues for the foreseeable future. Our operations outside the United States are subject to additional risks, including:

- unexpected changes in regulatory requirements, exchange rates, tariffs and other barriers;
- political and economic instability;
- difficulties in managing distributors and representatives;
- difficulties in staffing and managing foreign subsidiary operations;
- difficulties and delays in translating products and product documentation into foreign languages; and
- potentially adverse tax consequences.

The impact of future exchange rate fluctuations on our operating results cannot be accurately predicted. In recent years, we have increased the extent to which we denominate arrangements with international customers in the currencies of the countries in which the software or services are provided. From time to time we have engaged in, and may continue to engage in, hedges of a significant portion of installment contracts denominated in foreign currencies. Any hedging policies implemented by us may not be successful, and the cost of these hedging techniques may have a significant negative impact on our operating results.

#### We May Not Be Able to Protect Our Intellectual Property Rights, Which Could Make Us Less Competitive and Cause Us to Lose Market Share.

We regard our software as proprietary and rely on a combination of copyright, patent, trademark and trade secret laws, license and confidentiality agreements, and software security measures to protect our proprietary rights. We have United States patents for the expert guidance system in our proprietary graphical user interface, the simulation and optimization methods in our optimization software, a process flow diagram

generator in our planning and scheduling software, and a process simulation apparatus in our polymers software. We have registered or have applied to register certain of our significant trademarks in the United States and in certain other countries. We generally enter into non-disclosure agreements with our employees and customers, and historically have restricted access to our software products' source codes, which we regard as proprietary information. In a few cases, we have provided copies of the source code for certain products to customers solely for the purpose of special product customization and have deposited copies of the source code for some of our products in third-party escrow accounts as security for ongoing service and license obligations. In these cases, we rely on non-disclosure and other contractual provisions to protect our proprietary rights.

The laws of certain countries in which our products are licensed do not protect our products and intellectual property rights to the same extent as the laws of the United States. The laws of many countries in which we license our products protect trademarks solely on the basis of registration. The steps we have taken to protect our proprietary rights may not be adequate to deter misappropriation of our technology or independent development by others of technologies that are substantially equivalent or superior to our technology. Any misappropriation of our technology or development of competitive technologies could harm our business, and could force us to incur substantial costs in protecting and enforcing our intellectual property rights.

**We May Have to Defend Against Intellectual Property Infringement Claims, Which Could Be Expensive and, if We Are Not Successful, Could Disrupt Our Business.**

Third parties may assert patent, trademark, copyright and other intellectual property rights to technologies that are important to us. In such an event, we may be required to incur significant costs in litigating a resolution to the asserted claims. The outcome of any litigation could require us to pay damages or obtain a license to a third party's proprietary rights in order to continue licensing our products as currently offered. If such a license is required, it might not be available on terms acceptable to us, if at all.

**Our Inability to Manage Our Growth May Harm Our Operating Results.**

We have experienced substantial growth in recent years in the number of our employees, the scope of our operating and financial systems, and the geographic area of our operations. Our operations have expanded significantly through both internal growth and acquisitions. Our growth has placed, and is expected to continue to place, a significant strain on our management and our operating and financial systems. To manage our growth effectively, we must continue to expand our management team, attract, motivate and retain employees, and implement and improve our operating and financial systems. Our current management systems may not be adequate and we may not be able to manage any future growth successfully.

**Our Software is Complex and May Contain Undetected Errors.**

Like many other complex software products, our software has on occasion contained undetected errors or "bugs." Because new releases of our software products are initially installed only by a selected group of customers, any errors or "bugs" in those new releases may not be detected for a number of months after the delivery of the software. These errors could result in loss of customers, harm to our reputation, adverse publicity, loss of revenues, delay in market acceptance, diversion of development resources, increased insurance costs or claims against us by customers.

**We May Be Subject to Significant Expenses and Damages Because of Liability Claims.**

The sale and implementation of certain of our software products and services, particularly in the areas of advanced process control and optimization, may entail the risk of product liability claims. Our software products and services are used in the design, operation and management of manufacturing processes at large facilities, and any failure of our software could result in significant claims against us for damages or for violations of environmental, safety and other laws and regulations. Our agreements with our customers generally contain provisions designed to limit our exposure to potential product liability claims. It is possible, however, that the limitation of liability provisions in our agreements may not be effective as a result of federal,

state or local laws or ordinances or unfavorable judicial decisions. A substantial product liability claim against us could harm our operating results and financial condition.

#### Our Common Stock May Experience Substantial Price and Volume Fluctuations.

The equity markets have from time to time experienced extreme price and volume fluctuations, particularly in the high technology sector, and those fluctuations have often been unrelated to the operating performance of particular companies. In addition, factors such as our financial performance, announcements of technological innovations or new products by us or our competitors, as well as market conditions in the computer software or hardware industries, may have a significant impact on the market price of our common stock.

We Have Anti-Takeover Defenses That Could Delay or Prevent an Acquisition of Our Company, Which May Reduce the Market Price of Our Common Stock.

Our charter and bylaws and applicable Delaware laws contain provisions that may discourage acquisition bids for us and that may deprive stockholders of certain opportunities to receive a premium for their stock as part of an acquisition, which may have the effect of reducing the market price of our common stock. In addition, we have adopted a stockholder rights plan, which also may deter or delay attempts to acquire us or accumulate shares of our common stock.

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

Information relating to quantitative and qualitative disclosure about market risk is set forth under the caption "Notes to Consolidated Condensed Financial Statements," (2. (a), (d) and (e)) and below under the captions "Investment Portfolio" and "Foreign Exchange Hedging."

#### Investment Portfolio

We do not use derivative financial instruments in our investment portfolio. We place our investments in instruments that meet high credit quality standards, as specified in our investment policy guidelines; the policy also limits the amount of credit exposure to any one issuer and the types of instruments approved for investment. We do not expect any material loss with respect to our investment portfolio. The following table provides information about our investment portfolio. For investment securities, the table presents principal cash flows and related weighted average interest rates by expected maturity dates.

Principal (Notional) Amounts by Expected Maturity in U.S. Dollars(\$)

	FAIR VALUE AT 9/30/00 -----	FY2001 -----	FY2002 -----	FY2003 -----	FY2004 -----	FY2005 & THEREAFTER -----
Cash Equivalents.....	\$22,894	\$22,894	--	--	--	--
Weighted Average Interest Rate...	4.44%	4.44%	--	--	--	--
Investments.....	\$62,248	\$21,102	\$18,866	\$13,156	\$3,003	\$6,121
Weighted Average Interest Rate...	6.57%	6.53%	6.28%	6.97%	6.35%	6.88%
Total Portfolio.....	\$85,142	\$43,996	\$18,866	\$13,156	\$3,003	\$6,121
Weighted Average Interest Rate...	6.00%	5.44%	6.28%	6.97%	6.35%	6.88%

#### Impact of Foreign Currency Rate Changes

During the first three months of fiscal 2001, the U.S. dollar strengthened against most currencies in Europe and Asia/Pacific. The translation of the parent company's intercompany receivables and foreign entities assets and liabilities did not have a material impact on our consolidated results. Foreign exchange forward contracts are only purchased to hedge certain customer accounts receivable amounts denominated in a foreign currency.

#### Foreign Exchange Hedging

We enter into foreign exchange forward contracts to reduce our exposure to currency fluctuations on customer accounts receivables denominated in foreign currency. The objective of these contracts is to neutralize the impact of foreign currency exchange rate movements on our operating results. We do not use derivative financial instruments for speculative or trading purposes. We had \$8.4 million of foreign exchange forward contracts denominated in British, French, Japanese, Swiss, German and Netherlands currencies which represented underlying customer accounts receivable transactions at the end of the first quarter of fiscal 2001. We adopted SFAS 133 for the first quarter of fiscal 2001. As a result, at each balance sheet date, the foreign exchange forward contracts and the related installments receivable denominated in foreign currency are revalued based on the current market exchange rates. Resulting gains and losses are included in earnings or deferred as a component of other comprehensive income. These deferred gains and losses are recognized in

income in the period in which the underlying anticipated transaction occurs. Gains and loss related to these instruments for the first quarter of fiscal 2001 were not material to our financial position. We do not anticipate any material adverse effect on our consolidated financial position, results of operations, or cash flows resulting from the use of these instruments. However, we can not assure you that these strategies will be effective or that transaction losses can be minimized or forecasted accurately.

The following table provides information about our foreign exchange forward contracts at the end of the first quarter of fiscal 2001. The table presents the value of the contracts in U.S. dollars at the contract exchange rate as of the contract maturity date. The average contract rate approximates the weighted average contractual foreign currency exchange rate and the forward position in U.S. dollars approximates the fair value of the contract at the end of the first quarter of fiscal 2001.

Forward Contracts to Sell Foreign Currencies for U.S. Dollars Related to Customer Installments Receivable:

CURRENCY	AVERAGE CONTRACT RATE	FORWARD AMOUNT IN U.S. DOLLARS (IN THOUSANDS)	CONTRACT ORIGINATION DATE	CONTRACT MATURITY DATE
-----	-----	-----	-----	-----
British Pound			Various: Apr 98-Jan 00	Various: Jul 00-Jul 02
Sterling.....	1.52	\$3,110		
French Franc.....	6.21	574	Various: Jan 99-Jun 00	Various: Jan 01-May 02
German Deutsche Mark..	1.70	644	Various: Jan 98-Apr 99	Various: Jul 00-Jan 01
Japanese Yen.....	107.71	3,578	Various: Mar 98-May 00	Various: Jul 00-Jun 02
Swiss Franc.....	1.52	461	Various: Jan 99-Jul 99	Various: Feb 01-Jul 02
Netherland Guilder....	2.40	28	Various: May 00	Various: Aug 01-Aug 02
		-----		
Total.....		\$8,395		
		=====		



## PART II. OTHER INFORMATION

## ITEM 1. LEGAL PROCEEDINGS

On October 5, 1998, a purported class action lawsuit was filed in the United States District Court for the District of Massachusetts against us and certain of our officers and directors, on behalf of purchasers of our common stock between April 28, 1998 and October 2, 1998. This lawsuit is identified here as the Van Ormer Complaint. The lawsuit seeks an unspecified amount of damages and claims violations of Sections 10(b) and 20(a) of the Securities Exchange Act, alleging that we issued a series of materially false and misleading statements concerning our financial condition, our operations and our integration of several acquisitions. On October 26, 1998, a second purported class action lawsuit was filed in the United States District Court for the District of Massachusetts against us and certain of our officers and directors, on behalf of purchasers of our common stock between April 28, 1998 and October 2, 1998. This second lawsuit was identical to the Van Ormer Complaint except for the named plaintiff. This second lawsuit is identified here as the Clancey Complaint. On November 20, 1998, a third purported class action lawsuit was filed in the same court against the same defendants. This third lawsuit was identical to the Van Ormer and Clancey Complaints except for the named plaintiff, the expansion of the class action period to include purchasers of our common stock from January 27, 1998 to October 2, 1998 and the addition of references to statements made between January 27, 1998 and April 28, 1998. This third lawsuit is identified here as the Marucci Complaint. On January 27, 1999, in response to a motion to dismiss filed by us, the plaintiffs consolidated the three complaints and filed a consolidated amended class action complaint. On November 1, 2000, the Court granted our motion to dismiss the complaint and entered judgment in our favor. The plaintiffs have 30 days after the dismissal in which they can file a motion to appeal the District Court's decision.

We continue to believe that we have meritorious legal defenses to the lawsuits and intend to defend vigorously against any appeal of this consolidated action. We are unable, however, to determine whether the ultimate resolution of these matters will have a material adverse effect on our operating results or financial position, or reasonably estimate the amount of the loss, if any, that may result from resolution of these matters.

In addition to the foregoing lawsuits, we may be a party to lawsuits in the normal course of our business. We note that securities litigation, in particular can be expensive and disruptive to our normal business operations and the outcome of complex legal proceedings can be very difficult to predict.

## ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS

On August 29, 2000, we acquired ICARUS Corporation and ICARUS Services Limited, providers of software used by the process manufacturing industries to estimate plant capital costs and evaluate capital project economies. In this acquisition, we issued 248,411 shares of common stock, valued on the date of acquisition at \$50.0625 per share or \$12,436,075.69, and \$2,095,000 principal amount of one-year promissory notes in a private placement exempt from registration under Section 4(2) of the Securities Act of 1933.

## ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

## (a) EXHIBITS

- 3.1(1) Certificate of Incorporation of Aspen Technology, Inc.
- 3.2(1) By-Laws of Aspen Technology, Inc.
- 10.1(2) Registration Rights Agreement dated August 29, 2000 between Aspen Technology, Inc. and the former stockholders of ICARUS Corporation and ICARUS Services Limited.
- 10.2(2) Second Amendment to Lease Agreement dated as of August 14, 2000 between Aspen Technology, Inc. and Beacon Properties, L.P., successor-in-interest to Teachers Insurance and Annuity Association of America, regarding the extension of the lease for 10 Canal Park, Cambridge, Massachusetts.

10.3 Credit Agreement between Fleet National Bank and Aspen Technology, Inc. dated October 27, 2000.

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- (1) Previously filed as an exhibit to the Current Report on Form 8-K of Aspen Technology, Inc. dated March 12, 1998 (filed on March 27, 1998) and incorporated herein by reference.
  - (2) Previously filed as an exhibit to the Annual Report on Form 10-K of Aspen Technology, Inc. for the fiscal year ended June 30, 2000 (filed on September 28, 2000) and incorporated herein by reference.

(b) REPORTS ON FORM 8-K

On August 29, 2000, we filed a Current Report on Form 8-K with respect to our press release announcing our acquisition of ICARUS Corporation and ICARUS Services Limited.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ASPEN TECHNOLOGY, INC.

Date: November 14, 2000

By: /s/ LISA W. ZAPPALA

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Lisa W. Zappala Senior Vice President and Chief  
Financial Officer

CREDIT AGREEMENT  
BETWEEN  
FLEET NATIONAL BANK  
AND  
ASPEN TECHNOLOGY, INC.

Dated: October 27, 2000

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## CREDIT AGREEMENT

THIS CREDIT AGREEMENT is made as of October 27, 2000, by and between Aspen Technology, Inc., a Delaware corporation, having its chief executive office at Ten Canal Park, Cambridge, MA 02141-2201 (the "BORROWER"), and FLEET NATIONAL BANK, a national bank having its head office at 100 Federal Street, Boston, Massachusetts 02110 ("FLEET" or the "LENDER").

WHEREAS, the Borrower has requested the Lender to extend credit in the form of loans and letters of credit, and the Lender is willing to make loans to the Borrower and the Issuing Bank is willing to issue Letters of Credit, in each case on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

## SECTION I.

## DEFINITIONS

## 1.1. DEFINITIONS.

All capitalized terms used in this Agreement or in the Notes or in any certificate, report or other document made or delivered pursuant to this Agreement (unless otherwise defined therein) shall have the meanings assigned to them below:

ACCOUNTS RECEIVABLE AND ACCOUNTS. All of the accounts, accounts receivable, notes, bills, drafts, acceptances, instruments, documents and chattel paper of the Borrower and all other debts, obligations and liabilities in whatever form owing to the Borrower from any Person for goods sold or for services rendered, or however otherwise established or created, all guarantees and security therefor, all right, title and interest of the Borrower in the goods or services which gave rise thereto, including rights to reclamation and stoppage in transit and all rights of an unpaid seller of goods or services; whether any of the foregoing be now existing or hereafter arising, now or hereafter received by or owing or belonging to the Borrower.

AFFECTED LOANS. See Section 2.10.

AFFILIATE. With reference to any Person, (i) any director, officer or employee of that Person, (ii) any other Person controlling, controlled by or under direct or indirect common control of that Person, (iii) any other Person directly or indirectly holding 5% or more of any class of the capital stock or other equity interests (including options, warrants, convertible securities and similar rights) of that Person and (iv) any other Person 5% or more of any class of whose capital stock or other equity interests (including options, warrants, convertible securities and similar rights) is held directly or indirectly by that Person.

AGREEMENT. This Credit Agreement, including the Exhibits and Schedules hereto, as the same may be supplemented, amended or restated from time to time.

**ALTERNATE PRIME RATE.** The greater of (i) the rate of interest announced from time to time by Fleet at its head office as its "Prime Rate", and (ii) the Federal Funds Effective Rate plus 1/2 of 1% per annum (rounded upwards, if necessary, to the next 1/8 of 1%). The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate being charged to any customer. Any change in the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change without notice or demand of any kind.

**APPLICABLE MARGIN.** As of any date, with respect to Prime Rate Loans, LIBOR Loans, Commitment Fees or Letter of Credit Fees, the applicable percentage set forth below opposite the applicable Leverage Ratio in effect at such date, PROVIDED, HOWEVER that during the period from the Closing Date through and including the date upon which Fleet receives the unaudited financial statements required pursuant to Section 5.1(b) for the fiscal quarter ending September 30, 2000, the Leverage Ratio shall be deemed to be less than 1.25:1.00, but greater than or equal to 0.75:1.00 for purposes of determining the Applicable Margin:

Applicable Margin

Leverage Ratio -----	Prime Rate Loans -----	LIBOR Loans -----	Commitment Fee -----
Greater than or equal to 1.25:1.00	0.50%	2.25%	0.40%
Less than 1.25:1.00, but greater than or equal to 0.75:1.00	0.25%	1.50%	0.30%
Less than 0.75:1.00	0%	1.00%	0.25%

**ASSIGNEE.** See Section 9.1.

**BORROWER.** See Preamble.

**BORROWER'S ACCOUNTANTS.** Arthur Andersen LLP, or such other independent certified public accountants as are selected by the Borrower and reasonably acceptable to the Lender.

**BORROWING BASE.** An amount equal to the sum of (a) 85% of the unpaid face amount of all Eligible Accounts, plus (b) 50% of the unpaid face amount of all Eligible Foreign Accounts, plus (c) 50% of the net present value of Eligible QMLA Amounts due under Qualified Multiyear License Agreements.

**BORROWING BASE REPORT.** A report signed by any Responsible Officer and in substantially the form of EXHIBIT E hereto.

**BUSINESS DAY.** (i) For all purposes other than as covered by clause (ii) below, any day other than a Saturday, Sunday or legal holiday on which banks in Boston, Massachusetts are open for the conduct of a substantial part of their commercial banking business; and (ii) with respect to all notices and determinations in connection with, and payments of principal and interest on, LIBOR Loans, any day that is a Business Day described in clause (i) and that is also

a day on which dealings in U.S. dollar deposits are also carried on in the London interbank market and banks are open for business in London.

**CAPITAL EXPENDITURES.** Without duplication, any expenditure for fixed or capital assets, leasehold improvements, capital leases, installment purchases of machinery and equipment, acquisitions of real estate and other similar expenditures including (i) in the case of a purchase, the entire purchase price, whether or not paid during the fiscal period in question, (ii) in the case of a capital lease, the capitalized amount (as determined under GAAP) of the obligations under such lease to pay rent and other amounts, and (iii) expenditures in any construction in progress account of the Borrower.

**CLOSING DATE.** The first date on which the conditions set forth in Sections 3.1 and 3.2 have been satisfied and any Loans are to be made hereunder.

**CODE.** The Internal Revenue Code of 1986 and the rules and regulations thereunder, collectively, as the same may from time to time be supplemented or amended and remain in effect.

**COMMITMENT.** The Revolving Credit Commitment.

**COMMITMENT FEE.** See Section 2.5(a).

**CONSOLIDATED CURRENT LIABILITIES.** The aggregate amount of Indebtedness of the Borrower and its Subsidiaries that may properly be classified as current liabilities in accordance with GAAP and in any event including, without limitation, (i) the Obligations and (ii) any other direct or indirect Indebtedness and other liabilities of the Borrower and its Subsidiaries that are payable on demand or within one year from the creation thereof.

**CONSOLIDATED NET INCOME.** For any fiscal period, the consolidated net income of the Borrower and its Subsidiaries for such period, as determined in accordance with GAAP, except that in no event shall such consolidated net income include: (i) any gain or loss arising from any write-up of assets, except to the extent inclusion thereof shall be approved in writing by the Lender; (ii) except in acquisitions treated accounted for under the pooling of interests method, earnings of any Subsidiary accrued prior to the date it became a Subsidiary; (iii) any extraordinary or nonrecurring gains or losses; (iv) any deferred or other credit representing any excess of the equity of any Subsidiary at the date of acquisition thereof over the amount invested in such Subsidiary; and (v) the proceeds of any life insurance policy.

**CONSOLIDATED NET WORTH.** At any date as of which the amount thereof shall be determined, the consolidated total assets of the Borrower and its Subsidiaries, MINUS (a) Consolidated Total Liabilities, MINUS (b) the sum of any amounts attributable to (i) all reserves not already deducted from assets or included in Consolidated Total Liabilities, (ii) any write-up in the book value of assets resulting from any revaluation thereof subsequent to the date of the Initial Financial Statement, (iii) the value of any minority interests in Subsidiaries, and (iv) intercompany accounts with Subsidiaries and Affiliates other than a Qualified Affiliate (including receivables due from Subsidiaries and Affiliates).

CONSOLIDATED TOTAL LIABILITIES. At any date as of which the amount thereof shall be determined, all obligations that should, in accordance with GAAP, be classified as liabilities on the consolidated balance sheet of the Borrower and its Subsidiaries, including in any event all Indebtedness.

CONTRA CUSTOMER. Any customer or other Person with whom the Borrower has a contract or agreement of any kind (including an account payable) and in respect of whom there is an Account included in Eligible Accounts.

DEFAULT. An Event of Default or event or condition that, but for the requirement that time elapse or notice be given, or both, would constitute an Event of Default.

DRAWDOWN DATE. The Business Day on which any Loan is made or is to be made.

EBITDA. For any fiscal period, an amount equal to Consolidated Net Income for such period, PLUS the following (without duplication), to the extent excluded or deducted in computing such Consolidated Net Income: (i) Interest Expense, (ii) income taxes, (iii) depreciation and (iv) amortization of good will and other intangibles, MINUS any capitalized software development costs; PROVIDED, HOWEVER, that the calculation of EBITDA shall not include non-recurring non-cash charges relating to Permitted Acquisitions.

ELIGIBLE ACCOUNTS. An Account Receivable which:

(a) is not unpaid more than 120 days after invoice date and is not more than 90 days past due under the original terms of sale;

(b) arose in the ordinary course of business of the Borrower as a result of services which have been performed for the account debtor or the sale of goods which have been shipped to the account debtor (provided that portion of the Borrower's deferred revenue relating to services provided under agreements relating to support, maintenance and consulting services and to services provided under Qualified Multiyear License Agreements shall be deemed to have actually been provided);

(c) is the legal, valid and binding obligation of the account debtor thereunder, is assignable, is owned by the Borrower free and clear of all Encumbrances and is not evidenced by a promissory note or other instrument;

(d) is not subject to material reduction, as against the Borrower, its agents or the Lender, by any offset, counterclaim, adjustment, credit, allowance or other defense, and as to which there is no (and no basis for any) return, rejection, loss or damage of or to the goods giving rise thereto, or any request for credit or adjustments known to the Borrower;

(e) is not uncollectible or reasonably likely to become uncollectible for any reason, including, without limitation, return, rejection, repossession, loss of or damage to the merchandise giving rise thereto, a merchandise or other dispute, any bankruptcy, insolvency, adverse credit rating or other financial difficulty of the account debtor, or any impediment to the assertion of a claim or commencement of an action against the account debtor (including as a consequence of the failure of the Borrower to be qualified or licensed in any jurisdiction where



such qualification or licensing is required), all as reasonably determined by the Lender in its sole discretion;

(f) is not owing from any Affiliate of the Borrower other than a Qualified Affiliate;

(g) is owing from an account debtor located in the United States;

(h) if owing from any Contra Customer, will be eligible only to the extent that the amount of the Borrower's accounts payable to such Contra Customer does not exceed the amount of such Contra Customer's accounts payable to the Borrower by more than One Million Dollars (\$1,000,000); and

(i) has not been designated by the Lender in its sole discretion by notice to the Borrower as unacceptable for any reason.

**ELIGIBLE FOREIGN ACCOUNTS.** An Eligible Account (notwithstanding section (g) of the definition of Eligible Account) owing from an account debtor located outside the United States.

**ELIGIBLE INTEREST RATE CONTRACTS.** Interest rate swap agreements, interest rate collar agreements, options on any of the foregoing and any other agreements or arrangements designed to provide protection against fluctuations in interest rates, in each case purchased by the Borrower from the Lender.

**ELIGIBLE QMLA AMOUNTS.** Amounts due within one year under Qualified Multiyear License Agreements that meet the requirements for Eligible Accounts.

**ENCUMBRANCES.** See Section 7.3.

**ENVIRONMENTAL LAWS.** Any and all applicable federal, state and local environmental, health or safety statutes, laws, regulations, rules and ordinances (whether now existing or hereafter enacted or promulgated), and all applicable judicial, administrative and regulatory decrees, judgments and orders, including common law rulings and determinations, relating to injury to, or the protection of, real or personal property or human health or the environment, including, without limitation, all requirements pertaining to reporting, licensing, permitting, investigation, remediation and removal of emissions, discharges, releases or threatened releases of Hazardous Materials into the environment or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of such Hazardous Materials.

**ERISA.** The Employee Retirement Income Security Act of 1974 and the rules and regulations thereunder, collectively, as the same may from time to time be supplemented or amended and remain in effect.

**ERISA AFFILIATE.** Any trade or business, whether or not incorporated, that is treated as a single employer with the Borrower under Section 414(b), (c), (m) or (o) of the Code and Section 4001(a)(14) of ERISA.

ERISA EVENT. (a) Any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan unless the 30-day notice requirement with respect to such event has been waived by the PBGC; (b) the adoption of any amendment to a Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA; (c) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (d) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Plan or the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; (f) the receipt by the Borrower of any ERISA Affiliate from the PBGC or a plan administrator or any notice relating to the intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (g) the receipt by the Borrower or any ERISA Affiliate of any notice concerning the imposition of Withdrawal Liability (as defined in Part I of Subtitle E of Title IV of ERISA) with respect to any Multiemployer Plan or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; (h) the occurrence of a "prohibited transaction" with respect to which the Borrower or any of the Subsidiaries is a "disqualified person" (within the meaning of Section 4975 of the Code) or with respect to which the Borrower or any such Subsidiary could otherwise be liable; and (i) any other event or condition with respect to a Plan or Multiemployer Plan that could reasonably be expected to result in liability of the Borrower.

EVENT OF DEFAULT. Any event described in Section 8.1.

FEDERAL FUNDS EFFECTIVE RATE. For any day, a fluctuating interest rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for such day on such transactions received by the Lender from three Federal funds brokers of recognized standing selected by the Lender.

FLEET. See Preamble.

GAAP. Generally accepted accounting principles, consistently applied.

GUARANTEES. As applied to the Borrower and its Subsidiaries, all guarantees, endorsements or other contingent or surety obligations with respect to obligations of others whether or not reflected on the consolidated balance sheet of the Borrower and its Subsidiaries, including any obligation to furnish funds, directly or indirectly (whether by virtue of partnership arrangements, by agreement to keep-well or otherwise), through the purchase of goods, supplies or services, or by way of stock purchase, capital contribution, advance or loan, or to enter into a contract for any of the foregoing, for the purpose of payment of obligations of any other Person.

GUARANTORS. Aspentech, Inc., a Texas corporation, Aspentech Securities Corp., a Massachusetts corporation, and Industrial Systems, Inc., a Washington corporation, and any current or future domestic Subsidiary of the Borrower whose revenues exceeded ten percent

(10%) of the aggregate revenues of the Borrower and its Subsidiaries taken on a consolidated basis for any period of four (4) consecutive fiscal quarters.

**HAZARDOUS MATERIAL.** Any substance (i) the presence of which requires or may hereafter require notification, investigation, removal or remediation under any Environmental Law; (ii) which is or becomes defined as a "hazardous waste", "hazardous material" or "hazardous substance" or "pollutant" or "contaminant" under any present or future Environmental Law or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 ET SEQ.) and any applicable local statutes and the regulations promulgated thereunder; (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and which is or becomes regulated pursuant to any Environmental Law by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any applicable state of the United States, or any political subdivision thereof; or (iv) without limitation, which contains gasoline, diesel fuel or other petroleum products, asbestos or polychlorinated biphenyls ("PCBs").

**INDEBTEDNESS.** As applied to the Borrower and its Subsidiaries, without duplication, (i) all obligations for borrowed money or other extensions of credit whether secured or unsecured, absolute or contingent, including, without limitation, unmatured reimbursement obligations with respect to letters of credit or guarantees issued for the account of or on behalf of the Borrower and its Subsidiaries and all obligations representing the deferred purchase price of property, other than accounts payable arising in the ordinary course of business, (ii) all obligations evidenced by bonds, notes, debentures or other similar instruments, (iii) all obligations secured by any mortgage, pledge, security interest or other lien on property owned or acquired by the Borrower or any of its Subsidiaries whether or not the obligations secured thereby shall have been assumed, (iv) that portion of all obligations arising under leases that is required to be capitalized on the consolidated balance sheet of the Borrower and its Subsidiaries, (v) all Guarantees, (vi) all obligations that are immediately due and payable out of the proceeds of or production from property now or hereafter owned or acquired by the Borrower or any of its Subsidiaries, (vii) obligations in respect of Eligible Interest Rate Contracts, and (viii) all other obligations which, in accordance with GAAP, would be included as a liability on the consolidated balance sheet of the Borrower and its Subsidiaries, but excluding anything in the nature of capital stock, capital surplus and retained earnings.

**INITIAL FINANCIAL STATEMENT.** See Section 4.6.

**INTELLECTUAL PROPERTY.** All (i) patents, patent applications, patent disclosures and all related continuation, continuation-in-part, divisional, reissue, reexamination, utility model, certificate of invention and design patents, patent applications, registrations and applications for registrations, (ii) trademarks, service marks, trade dress, logos, trade names and corporate names and registrations and applications for registration thereof, (iii) copyrights and registrations and applications for registration thereof, (iv) computer software (in both source code and object form code), data and documentation, (v) trade secrets and confidential business information, whether patentable or unpatentable and whether or not reduced to practice, know-how, manufacturing and production processes and techniques, research and development information, copyrightable works, financial marketing and business data, pricing and cost information, business and

marketing plans and customer and supplier lists and information, and (vi) other proprietary rights relating to any of the foregoing.

**INTEREST EXPENSE.** For any fiscal period, the consolidated interest expense (including imputed interest on capitalized lease obligations) and amortized debt discount on Indebtedness of the Borrower and its Subsidiaries for such period.

**INTEREST PERIOD.** With respect to each LIBOR Loan, the period commencing on the date of the making or continuation of or conversion to such LIBOR Loan and ending one (1), two (2), three (3) or six (6) months thereafter, as the Borrower may elect in the applicable Notice of Borrowing or Conversion; PROVIDED that:

(i) any Interest Period (other than an Interest Period determined pursuant to clause (iii) below) that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

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

(iii) any Interest Period that would otherwise end after the Maturity Date shall end on the Maturity Date; and

(iv) notwithstanding clause (iii) above, no Interest Period shall have a duration of less than one month, and if any Interest Period applicable to a Loan would be for a shorter period, such Interest Period shall not be available hereunder.

**INVESTMENT.** As applied to the Borrower and its Subsidiaries, the purchase or acquisition of any share of capital stock, partnership interest, evidence of indebtedness or other equity security of any other Person (including any Subsidiary), any loan, advance or extension of credit (excluding Accounts Receivable arising in the ordinary course of business) to, or contribution to the capital of, any other Person (including any Subsidiary), any real estate held for sale or investment, any securities or commodities futures contracts held, any other investment in any other Person (including any Subsidiary), and the making of any commitment or acquisition of any option to make an Investment.

**ISSUING BANK.** Fleet.

**LENDER.** See Preamble.

**LETTER OF CREDIT APPLICATIONS.** Applications for Letters of Credit in such form as may be required by the Issuing Bank from time to time which are executed and delivered by the Borrower to the Issuing Bank pursuant to Section IIA, as the same may be amended or supplemented from time to time.

LETTER OF CREDIT FEE. See Section 2.5(b).

LETTERS OF CREDIT. See Section 2A.1(a).

LEVERAGE RATIO. As of the end of any fiscal quarter, the ratio of (i) Consolidated Total Liabilities as of the end of such fiscal quarter, to (ii) Consolidated Net Worth as of the end of such fiscal quarter.

LIBOR LOAN. Any Loan bearing interest at a rate determined with reference to the LIBOR Rate.

LIBOR RATE. With respect to any LIBOR Loan for any Interest Period, the rate of interest determined by the Lender to be the prevailing rate per annum at which deposits in U.S. Dollars are offered to the Lender by first-class banks in the interbank Eurodollar market in which it regularly participates on or about 10:00 a.m. (Boston time) two Business Days before the first day of such Interest Period in an amount approximately equal to the principal amount of the LIBOR Loan to which such Interest Period is to apply for a period of time approximately equal to such Interest Period.

LOAN DOCUMENTS. This Agreement, the Notes, the Letter of Credit Applications and the Subsidiary Guaranty, together with any agreements, instruments or documents executed and delivered pursuant to or in connection with any of the foregoing.

LOANS. The Loans made or to be made by the Lender to the Borrower pursuant to Section II of this Agreement, including Revolving Credit Loans and unpaid Reimbursement Obligations.

MAXIMUM DRAWING AMOUNT. The maximum aggregate amount from time to time that beneficiaries may draw under outstanding Letters of Credit.

MULTIEMPLOYER PLAN. Any plan which is a Multiemployer Plan as defined in Section 4001(a)(3) of ERISA.

NOTE RECORD. Any internal record, including a computer record, maintained by the Lender with respect to any Loan.

NOTES. The Revolving Credit Note and any other notes issued to Assignees or Participants pursuant to Section IX.

NOTICE OF BORROWING OR CONVERSION. The notice, substantially in the form of EXHIBIT B hereto, to be given by the Borrower to the Lender to request a Loan or to convert an outstanding Loan of one Type into a Loan of another Type, in accordance with Section 2.3.

OBLIGATIONS. Any and all obligations of the Borrower to the Lender and the Issuing Bank of every kind and description pursuant to or in connection with the Loan Documents and Eligible Interest Rate Contracts, direct or indirect, absolute or contingent, primary or secondary, due or to become due, now existing or hereafter arising, regardless of how they arise or by what agreement

or instrument, if any, and including obligations to perform acts and refrain from taking action as well as obligations to pay money.

PARTICIPANT. See Section 9.2.

PENSION PLAN. Any Plan which is an "employee pension benefit plan" (as defined in ERISA).

PBGC. The Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

PERMITTED ACQUISITION. See Section 7.4(a)

PERMITTED ENCUMBRANCES. See Section 7.3.

PERSON. Any individual, corporation, partnership, limited liability company, trust, unincorporated association, business or other legal entity, and any government or governmental agency or political subdivision thereof.

PLAN. Any "employee pension benefit plan" or "employee welfare benefit plan" (each as defined in Section 3 of ERISA) maintained by the Borrower or any Subsidiary.

PRIME RATE LOAN. Any Loan bearing interest at a rate determined with reference to the Alternate Prime Rate.

PROHIBITED TRANSACTION. Any "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code.

QUALIFIED AFFILIATE. A large customer of Borrower whose debt securities are rated investment grade (BBB- or higher) and that is an Affiliate by reason of its having made an investment, and holding a minority equity interest in, a Subsidiary or Affiliate of the Borrower.

QUALIFIED INVESTMENTS. As applied to the Borrower and its Subsidiaries, investments in accordance with the Borrower's "Short Term Investment Portfolio Investment Policy," effective as of June 6, 1997, a true and complete copy of which is attached hereto as EXHIBIT F.

QUALIFIED MULTIYEAR LICENSE AGREEMENTS. All agreements pursuant to which a third party licenses or otherwise obtains the right to use any computer software products and services of Borrower for a period longer than one year and is not required to pay for such license in full within the first year thereof, such licenses to be on terms and conditions customarily negotiated by Borrower in the operation of its business.

QUICK RATIO. As of the end of any fiscal quarter, the ratio of (i) cash and cash equivalents of the Borrower and its Subsidiaries plus Eligible Accounts net of reserves, including the current portion (due within twelve months) of Borrower's long-term Accounts Receivable, to (ii) Consolidated Current Liabilities as of the end of such fiscal quarter.

REIMBURSEMENT OBLIGATION. The Obligation of the Borrower to reimburse the Issuing Bank and the Lender on account of any drawing under any Letter of Credit as provided in Section 2A.2.

RESERVE PERCENTAGE. For any Interest Period, the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Board of Governors of the Federal Reserve System and any other banking authority, domestic or foreign, to which the Lender is subject with respect to "Eurocurrency Liabilities" (as defined in regulations issued from time to time by such Board of Governors). The Reserve Percentage shall be adjusted automatically on and as of the effective date of any change in any such reserve percentage without notice or demand of any kind.

RESPONSIBLE OFFICER. The chief financial officer of the Borrower and any other officer of the Borrower designated by the chief financial officer to sign Borrowing Base Reports and Notices of Borrowing or Conversion.

RESTRICTED PAYMENT. Any dividend, distribution, loan, advance, guaranty, extension of credit or other payment, whether in cash or property to or for the benefit of any Person who holds an equity interest in the Borrower or any of its Subsidiaries, whether or not such interest is evidenced by a security, and any purchase, redemption, retirement or other acquisition for value of any capital stock of the Borrower or any of its Subsidiaries, whether now or hereafter outstanding, or of any options, warrants or similar rights to purchase such capital stock or any security convertible into or exchangeable for such capital stock.

REVOLVING CREDIT COMMITMENT. The maximum dollar amount of credit which the Lender has agreed to loan to the Borrower as Revolving Credit Loans or make available to the Borrower pursuant to Letters of Credit upon the terms and subject to the conditions of this Agreement, initially as set forth on SCHEDULE 1 attached hereto, as the Lender's Revolving Credit Commitment may be modified pursuant hereto and in effect from time to time.

REVOLVING CREDIT LOANS. See Section 2.1(a).

REVOLVING CREDIT MATURITY DATE. October 26, 2003.

REVOLVING CREDIT NOTE. See Section 2.2(a).

SUBSIDIARY. With respect to any Person, any corporation, association, joint stock company, business trust, partnership, limited liability company or other similar organization of which more than 50% of the ordinary voting power for the election of a majority of the members of the board of directors or other governing body of such entity is held or controlled by such Person or a Subsidiary of such Person; or any other such organization the management of which is directly or indirectly controlled by such Person or a Subsidiary of such Person through the exercise of voting power or otherwise; or any joint venture, whether incorporated or not, in which such Person has more than a 50% ownership interest.

SUBSIDIARY GUARANTY. That certain Subsidiary Guaranty, dated as of the Closing Date from the Guarantors in favor of the Lender.

TOTAL REVOLVING CREDIT OUTSTANDINGS. At any time, the sum of (i) the aggregate outstanding principal balance of Revolving Credit Loans at the time, and (ii) the Maximum Drawing Amount at the time.

TYPE. A LIBOR Loan or a Prime Rate Loan.

1.2. RULES OF INTERPRETATION.

(a) all terms of an accounting character used herein but not defined herein shall have the meanings assigned thereto by GAAP applied on a consistent basis. All calculations for the purposes of Section VI hereof shall be made in accordance with GAAP.

(b) A reference to any document or agreement shall include such document or agreement as amended, modified or supplemented and in effect from time to time in accordance with its terms and the terms of this Agreement.

(c) The singular includes the plural and the plural includes the singular. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(d) A reference to any Person includes its permitted successors and permitted assigns.

(e) The words "include", "includes" and "including" are not limiting.

(f) The words "herein", "hereof", "hereunder" and words of like import shall refer to this Agreement as a whole and not to any particular section or subdivision of this Agreement.

(g) All terms not specifically defined herein or by GAAP that are defined in the Uniform Commercial Code as in effect in The Commonwealth of Massachusetts, shall have the meanings assigned to them in such Uniform Commercial Code.

SECTION II.

DESCRIPTION OF CREDIT

2.1. LOANS.

(a) REVOLVING CREDIT LOANS. Upon the terms and subject to the conditions of this Agreement, and in reliance upon the representations, warranties and covenants of the Borrower herein, the Lender agrees to make revolving credit loans (the "REVOLVING CREDIT LOANS") to the Borrower at the Borrower's request from time to time from and after the Closing Date and prior to the Revolving Credit Maturity Date, PROVIDED that the Total Revolving Credit Outstandings (after giving effect to all requested Revolving Credit Loans and Letters of Credit) shall not at any time exceed the lesser of (i) the Borrowing Base and (ii) the Revolving Credit Commitment. Subject to the terms and conditions of this Agreement, the Borrower may borrow,



repay, prepay and reborrow amounts, up to the limits imposed by this Section 2.1(a), from time to time between the Closing Date and the Revolving Credit Maturity Date upon request given to the Lender pursuant to Section 2.3. Each request for a Revolving Credit Loan or Letter of Credit hereunder shall constitute a representation and warranty by the Borrower that the conditions set forth in Sections 3.1 and 3.2 have been satisfied as of the date of such request.

(b) LIBOR LOAN LIMITATIONS. Each LIBOR Loan shall be in a minimum principal amount of \$1,000,000 or in integral multiples of \$100,000 in excess of such minimum amount. No more than three (3) LIBOR Loans may be outstanding at any time.

(c) CONVERSIONS. Upon the terms and subject to the conditions and limitations of this Agreement, the Borrower may convert all or a part of any outstanding Loan into a Loan of another Type on any Business Day (which, in the case of a conversion of an outstanding LIBOR Loan shall be the last day of the Interest Period applicable to such LIBOR Loan). The Borrower shall give the Lender prior notice of each such conversion (which notice shall be effective upon receipt) in accordance with Section 2.3.

(d) TERMINATION OR REDUCTION OF COMMITMENTS.

(i) The Revolving Credit Commitment shall terminate at 5:00 p.m. Boston time on the Revolving Credit Maturity Date.

(ii) Subject to the provisions of Section 2.6 regarding mandatory payments, the Borrower shall have the right at any time and from time to time upon five (5) Business Days' prior written notice to the Lender to reduce by \$1,000,000, and in integral multiples of \$500,000 if in excess thereof, the Revolving Credit Commitment or to terminate entirely the Revolving Credit Commitment, whereupon the Revolving Credit Commitment shall be reduced by the amount specified in such notice or shall, as the case may be, be terminated entirely.

(iii) If, as a result of any reduction of the Revolving Credit Commitment, the Maximum Drawing Amount at the time would exceed the Revolving Credit Commitment or the amount of Letters of Credit permitted to be outstanding under Sections 2.1(a) and 2A.1(a) hereof, the Borrower shall, as a condition precedent to any such reduction, deposit with and pledge to the Lender for the benefit of the Lender and the Issuing Bank cash in an amount equal to 110% of such excess. If any Letters of Credit would remain outstanding after the effective date of termination of the Revolving Credit Commitment, in addition to satisfaction of all other applicable terms and conditions of this Agreement, the Borrower shall deposit with and pledge to the Lender cash in an amount equal to 110% of the Maximum Drawing Amount at the effective date of such termination.

(iv) No reduction or termination of any Commitment may be reinstated.

2.2. THE NOTE.

(a) The Revolving Credit Loans shall be evidenced by a promissory note in substantially the form of EXHIBIT A hereto, dated as of the Closing Date (the "REVOLVING CREDIT NOTE").

(b) The Borrower irrevocably authorizes the Lender to make or cause to be made, at or about the time of the Drawdown Date of any Loan or at the time of receipt of any payment of principal on any Note, an appropriate notation on its Note Record reflecting (as the case may be) the making of such Loan or the receipt of such payment. The outstanding amount of the Loans set forth on the Note Record shall be PRIMA FACIE evidence of the principal amount thereof owing and unpaid to the Lender, but the failure to record, or any error in so recording, any such amount on the Lender's Note Record shall not limit or otherwise affect the obligations of the Borrower hereunder or under any Note to make payments of principal of or interest on any Note when due.

### 2.3. NOTICE AND MANNER OF BORROWING OR CONVERSION OF LOANS.

(a) Except as otherwise provided in this Agreement, whenever the Borrower desires to obtain or continue a Loan hereunder or convert an outstanding Loan into a Loan of another Type, the Borrower shall give the Lender a telephonic notice promptly confirmed by a written Notice of Borrowing or Conversion, which telephonic notice shall be irrevocable and which must be received no later than 2:00 p.m. Boston time on the date (i) one Business Day before the day on which the requested Loan is to be made as or converted to a Prime Rate Loan, and (ii) three Business Days before the day on which the requested Loan is to be made or continued as or converted to a LIBOR Loan. Such Notice of Borrowing or Conversion shall specify (i) the effective date and amount of each Loan or portion thereof requested to be made, continued or converted, subject to the limitations set forth in Section 2.1, (ii) the interest rate option requested to be applicable thereto, and (iii) the duration of the applicable Interest Period, if any (subject to the provisions of the definition of the term "Interest Period"). If such Notice fails to specify the interest rate option to be applicable to the requested Loan, then the Borrower shall be deemed to have requested a Prime Rate Loan. If the written confirmation of any telephonic notification differs in any material respect from the action taken by the Lender, the records of the Lender shall control absent manifest error.

(b) Subject to the provisions of the definition of the term "Interest Period" herein, the duration of each Interest Period for a LIBOR Loan shall be as specified in the applicable Notice of Borrowing or Conversion. If no Interest Period is specified in a Notice of Borrowing or Conversion with respect to a requested LIBOR Loan, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. If the Lender receives a Notice of Borrowing or Conversion after the time specified in subsection (a) above, such Notice shall not be effective. If the Lender does not receive an effective Notice of Borrowing or Conversion with respect to an outstanding LIBOR Loan, or if, when such Notice must be given prior to the end of the Interest Period applicable to such outstanding Loan, the Borrower shall have failed to satisfy any of the conditions hereof, the Borrower shall be deemed to have elected to convert such outstanding Loan in whole into a Prime Rate Loan on the last day of the then current Interest Period with respect thereto.

### 2.4. INTEREST RATES AND PAYMENTS OF INTEREST.

(a) Each Loan which is a Prime Rate Loan shall bear interest on the outstanding principal amount thereof at a rate per annum equal to the Alternate Prime Rate plus the Applicable Margin, which rate shall change contemporaneously with any change in the

Alternate Prime Rate or the Applicable Margin, as provided below. Such interest shall be payable quarterly in arrears on the first Business Day of each quarter.

(b) Each Loan which is a LIBOR Loan shall bear interest on the outstanding principal amount thereof, for each Interest Period applicable thereto, at a rate per annum equal to the LIBOR Rate plus the Applicable Margin, which rate shall change with any change in the Applicable Margin, as provided below. Such interest shall be payable for such Interest Period on the last day thereof and, if such Interest Period is longer than three months, at intervals of three months after the first day thereof.

(c) The Applicable Margin and the Leverage Ratio shall be determined as of the end of each fiscal quarter based upon the quarterly financial statements to be delivered pursuant to Section 5.1(b), and any change in the Applicable Margin shall be effective upon the delivery of such financial statements, PROVIDED, HOWEVER that during any period when the Borrower has failed to deliver such quarterly financial statements as required by Section 5.1(b), the Leverage Ratio shall be deemed to be greater than 1.25 to 1.00 for purposes of determining the Applicable Margin.

(d) If an Event of Default shall occur, then at the option of the Lender (i) Borrower's right to select pricing options shall cease and the unpaid balance of Loans shall bear interest, to the extent permitted by law, compounded daily at an interest rate equal to the Prime Rate plus 2% per annum, until such Event of Default is cured or waived, and (ii) the Borrower shall pay to the Lender a fee (in addition to the Letter of Credit Fee) equal to 1% per annum of the Maximum Drawing Amount of all Letters of Credit outstanding during the period from the occurrence of such Event of Default until such Event of Default is cured or waived.

(e) So long as the Lender shall be required under regulations of the Board of Governors of the Federal Reserve System (or any other banking authority, domestic or foreign, to which the Lender is subject) to maintain reserves with respect to liabilities or assets consisting of or including "Eurocurrency Liabilities" (as defined in regulations issued from time to time by such Board of Governors), the Borrower shall pay to the Lender additional interest on the unpaid principal amount of each LIBOR Loan made by the Lender from the date of such Loan until such principal amount is paid in full, at an interest rate per annum equal at all times to the remainder (rounded upwards, if necessary, to the next higher 1/100 of 1%) obtained by subtracting (i) the LIBOR Rate for the Interest Period for such LIBOR Loan from (ii) the rate obtained by dividing such LIBOR Rate by a percentage equal to 100% minus the Reserve Percentage of the Lender for such Interest Period. Such additional interest shall be determined by the Lender and notified to the Borrower, and shall be payable on each date on which interest is payable on such LIBOR Loan.

(f) All agreements between the Borrower and Guarantors and the Lender are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of maturity of the Loans or otherwise, shall the amount paid or agreed to be paid to the Lender for the use or the forbearance of the Loans exceed the maximum permissible under applicable law. As used in this Section 2.4(f), the term "applicable law" shall mean the law in effect as of the date hereof; PROVIDED, HOWEVER, that in the event there is a change in the law which results in a higher permissible rate of interest, then this Agreement shall be governed by

such new law as of its effective date. In this regard, it is expressly agreed that it is the intent of the Borrower and the Lender in the execution, delivery and acceptance of this Agreement to contract in strict compliance with the laws of the Commonwealth of Massachusetts from time to time in effect. If, under or from any circumstances whatsoever, fulfillment of any provision hereof or of any of the Loan Documents at the time of performance of such provision shall be due, shall involve transcending the limit of such validity prescribed by applicable law, then the obligation to be fulfilled shall automatically be reduced to the limits of such validity, and if under or from any circumstances whatsoever the Lender should ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the principal balance of the Loans and not to the payment of interest. This provision shall control every other provision of all agreements between the Borrower, the Guarantors and the Lender.

## 2.5. FEES.

(a) The Borrower shall pay to the Lender a commitment fee (the "COMMITMENT FEE"), computed on a daily basis and payable quarterly in arrears on the first Business Day of each quarter, equal to (i) the excess of (x) the Revolving Credit Commitment at the time over (y) the Total Revolving Outstandings from time to time, MULTIPLIED BY (ii) the Applicable Margin (as determined in accordance with Section 2.4(c)).

(b) The Borrower shall pay to the Lender for the benefit of the Issuing Bank and the Lender a fee (the "LETTER OF CREDIT FEE") at a rate per annum equal to (i) the Maximum Drawing Amount of each Letter of Credit multiplied by (ii) the Applicable Margin (as determined in accordance with Section 2.4(c)) above the LIBOR Rate. The Letter of Credit Fee shall be paid quarterly in arrears on the first Business Day of each quarter. In addition, the Borrower shall pay to the Lender its standard service and setup fees in respect of Letters of Credit.

(c) Without limiting any of the Lender's other rights hereunder or by law, if any Loan or any portion thereof or any interest thereon or any other amount payable hereunder or under any other Loan Document is not paid within ten days after its due date, the Borrower shall pay to the Lender on demand a late payment charge equal to 5% of the amount of the payment due.

(d) The Borrower shall pay to the Lender, solely for the account of the Lender, such other fees as the Borrower and the Lender shall agree, including, without limitation, the closing fee pursuant to the letter agreement dated September 16, 2000, between the Borrower and the Lender with respect to fees payable to the Lender.

(e) The Borrower authorizes the Issuing Bank and the Lender to charge to its Note Record or to any deposit account which the Borrower may maintain with it the interest, fees, charges, taxes and expenses provided for in this Agreement, the other Loan Documents or any other document executed or delivered in connection herewith or therewith.

## 2.6. PAYMENTS AND PREPAYMENTS OF THE LOANS.

(a) On the Revolving Credit Maturity Date, the Borrower shall pay in full the unpaid principal balance of all outstanding Revolving Credit Loans, together with all unpaid interest thereon and all fees and other amounts due with respect thereto.

(b) If at any time the Total Revolving Credit Outstandings exceed the lesser of (i) the Borrowing Base and (ii) the Revolving Credit Commitment, the Borrower shall immediately pay the amount of any such excess to the Lender for application to the Revolving Credit Loans.

(c) The LIBOR Loans may be prepaid at any time, subject to the provisions of Section 2.8, upon three (3) Business Days' notice. Prime Rate Loans may be prepaid at any time, without premium or penalty, upon one (1) Business Day's notice. Any such notice of prepayment shall be irrevocable. Prepayments of Revolving Credit Loans may be reborrowed to the extent provided in Section 2.1(a).

#### 2.7. METHOD OF PAYMENTS.

(a) All payments by the Borrower hereunder and under any of the other Loan Documents shall be made at the Lender's head office or at such other location that the Lender may from time to time designate, in each case in lawful currency of the United States of America in immediately available funds. All such payments shall be made without set-off or counterclaim and free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any jurisdiction or any political subdivision thereof or taxing or other authority therein unless the Borrower is compelled by law to make such deduction or withholding. If any such obligation is imposed upon the Borrower with respect to any amount payable by it hereunder or under any of the other Loan Documents, the Borrower will pay to the Lender such additional amount in U.S. Dollars as shall be necessary to enable the Lender to receive the same net amount which the Lender would have received on such due date had no such obligation been imposed upon the Borrower. The Borrower will deliver promptly to the Lender certificates or other valid vouchers or other evidence of payment reasonably satisfactory to the Lender for all taxes or other charges deducted from or paid with respect to payments made by the Borrower hereunder or under such other Loan Document. The Lender may, and the Borrower hereby authorizes the Lender to, debit the amount of any payment not made by such time to the demand deposit accounts of the Borrower with the Lender or to its Note Record.

(b) All funds received from or on behalf of the Borrower by the Lender or the Issuing Bank in respect of Obligations, shall be applied by the Lender in the following manner and order: (i) first, to reimburse the Lender and the Issuing Bank for any amounts payable pursuant to Sections 10.2 and 10.3 hereof; (ii) second, to the payment of Commitment Fees, Letter of Credit Fees and any other fees payable hereunder; (iii) third, to the payment of interest due on the Loans and the Reimbursement Obligations; (iv) fourth, to the payment of the outstanding principal balance of the Loans and the Reimbursement Obligations, PRO RATA to the outstanding principal balance of each; (v) fifth, to the payment of any other Obligations payable by the Borrower, PRO RATA to the outstanding principal balance of each; and (vi) any remaining funds shall be paid to whoever shall be entitled thereto or as a court of competent jurisdiction

shall direct, provided, however, if the Commitment shall have been terminated or the Obligations shall have been declared immediately due and payable pursuant to Section 8.2, payments will be applied to the Obligations as the Lender determines in its sole discretion.

2.8. INDEMNITY. If the Borrower for any reason (including, without limitation, pursuant to Sections 2.6(b), 2.10, 2.11 and 8.2 hereof) makes any payment of principal with respect to any LIBOR Loan on any day other than the last day of an Interest Period applicable to such LIBOR Loan, or fails to borrow or continue or convert to a LIBOR Loan after giving a Notice of Borrowing or Conversion thereof pursuant to Section 2.3, or fails to prepay a LIBOR Loan after having given notice thereof, the Borrower shall pay to the Lender any amount required to compensate the Lender for any additional losses, costs or expenses which it may reasonably incur as a result of such payment or failure, including, without limitation, any loss (including loss of anticipated profits), costs or expense incurred by reason of the liquidation or re-employment of deposits or other funds required by the Lender to fund or maintain such Loan. The Borrower shall pay such amount upon presentation by the Lender of a statement setting forth the amount and the Lender's calculation thereof pursuant hereto, which statement shall be deemed true and correct absent manifest error. Without limiting the foregoing, the Borrower shall pay to the Lender a "yield maintenance fee" in an amount computed as follows: The current rate for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent) with a maturity date closest to the term of the then applicable Interest Period as to which the prepayment is made, shall be subtracted from the LIBOR Rate in effect at the time of prepayment. If the result is zero or a negative number, there shall be no yield maintenance fee. If the result is a positive number, then the resulting percentage shall be multiplied by the amount of the principal balance being prepaid. The resulting amount shall be divided by 360 and multiplied by the number of days remaining in the term of the then applicable Interest Period as to which the prepayment is made. Said amount shall be reduced to present value calculated by using the above referenced United States Treasury securities rate and the number of days remaining in the term of the then applicable Interest Period as to which prepayment is made. The resulting amount shall be the yield maintenance fee due to the Lender upon payment of a LIBOR Loan. If by reason of an Event of Default, the Lender elects to declare the Notes to be immediately due and payable, then any yield maintenance fee with respect to a LIBOR Loan shall become due and payable in the same manner as though the Borrower had exercised such right of prepayment.

2.9. COMPUTATION OF INTEREST AND FEES. Interest and all fees payable hereunder shall be computed daily on the basis of a year of 360 days and paid for the actual number of days for which due. If the due date for any payment of principal is extended by operation of law, interest and fees shall be payable for such extended time. If any payment required by this Agreement becomes due on a day that is not a Business Day such payment may be made on the next succeeding Business Day (subject to the definition of the term "Interest Period"), and such extension shall be included in computing interest and fees in connection with such payment.

2.10. CHANGED CIRCUMSTANCES; ILLEGALITY.

(a) Notwithstanding any other provision of this Agreement, in the event that:

(i) on any date on which the LIBOR Rate would otherwise be set the Lender shall have determined in good faith (which determination shall be final and conclusive) that adequate and fair means do not exist for ascertaining the LIBOR Rate, or

(ii) at any time the Lender shall have determined in good faith (which determination shall be final and conclusive) that:

(A) the making or continuation of or conversion of any Loan to a LIBOR Loan has been made impracticable or unlawful by (1) the occurrence of a contingency that materially and adversely affects the interbank LIBOR market or (2) compliance by the Lender in good faith with any applicable law or governmental regulation, guideline or order or interpretation or change thereof by any governmental authority charged with the interpretation or administration thereof or with any request or directive of any such governmental authority (whether or not having the force of law); or

(B) the LIBOR Rate shall no longer represent the effective cost to the Lender for U.S. dollar deposits in the interbank market for deposits in which it regularly participates;

then, and in any such event, the Lender shall forthwith so notify the Borrower thereof. Until the Lender notifies the Borrower that the circumstances giving rise to such notice no longer apply, the obligation of the Lender to allow selection by the Borrower of the Type of Loan affected by the contingencies described in this Section (herein called "AFFECTED LOANS") shall be suspended. If, at the time the Lender so notifies the Borrower, the Borrower has previously given the Lender a Notice of Borrowing or Conversion with respect to one or more Affected Loans but such Loans have not yet gone into effect, such notification shall be deemed to be a request for Prime Rate Loans.

(b) In the event of a determination of illegality pursuant to subsection (a)(ii)(A) above, the Borrower shall, with respect to the outstanding Affected Loans, prepay the same, together with interest thereon and any amounts required to be paid pursuant to Section 2.9, on such date as shall be specified in such notice (which shall not be earlier than the date such notice is given) and may, subject to the conditions of this Agreement, borrow a Loan of another Type in accordance with Section 2.1 hereof by giving a Notice of Borrowing or Conversion pursuant to Section 2.3 hereof.

2.11. INCREASED COSTS. In case any change made after the Closing Date in any law, regulation, treaty or official directive or the interpretation or application thereof by any court or by any governmental authority charged with the administration thereof or the compliance with any guideline or request of any central bank or other governmental authority (whether or not having the force of law):

(i) subjects the Lender to any tax with respect to payments of principal or interest or any other amounts payable hereunder by the Borrower or otherwise with respect to the transactions contemplated hereby (except for taxes on the overall net income of the Lender imposed by the United States of America or any political subdivision thereof), or

(ii) imposes, modifies or deems applicable any deposit insurance, reserve, special deposit or similar requirement against assets held by, or deposits in or for the account of, or loans by, the Lender (other than such requirements as are already included in the determination of the LIBOR Rate), or

(iii) imposes upon the Lender any other condition with respect to its obligations or performance under this Agreement or in respect of any Letter of Credit,

and the result of any of the foregoing is to increase the cost to the Lender, reduce the income receivable by the Lender or impose any expense upon the Lender with respect to any Loans or its obligations under this Agreement or in respect of any Letter of Credit, the Lender shall notify the Borrower thereof. The Borrower agrees to pay to the Lender the amount of such increase in cost, reduction in income or additional expense as and when such cost, reduction or expense is incurred or determined, upon presentation by the Lender of a statement in the amount and setting forth in reasonable detail the Lender's calculation thereof and the assumptions upon which such calculation was based, which statement shall be deemed true and correct absent manifest error.

2.12. CAPITAL REQUIREMENTS. If after the date hereof the Lender determines that (i) the adoption of or change in any law, rule, regulation or guideline regarding capital requirements for banks or bank holding companies, or any change in the interpretation or application thereof by any governmental authority charged with the administration thereof, or (ii) compliance by the Lender or its parent bank holding company with any guideline, request or directive of any such entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on the Lender's or such holding company's capital as a consequence of the Lender's Commitment to make Loans hereunder or its obligations in respect of any Letter of Credit to a level below that which the Lender or such holding company could have achieved but for such adoption, change or compliance (taking into consideration the Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount deemed by the Lender to be material, then the Lender shall notify the Borrower thereof. The Borrower agrees to pay to the Lender the amount of such reduction of return on capital as and when such reduction is determined, payable within 90 days after presentation by the Lender of a statement in the amount and setting forth in reasonable detail the Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error) unless within such 90 day period the Borrower shall have prepaid in full all Obligations to the Lender, in which event no amount shall be payable to the Lender under this Section. In determining such amount, the Lender may use any reasonable averaging and attribution methods.

## SECTION IIA

### LETTERS OF CREDIT

2A.1 ISSUANCE. Upon the terms and subject to the conditions hereof, the Issuing Bank, in reliance upon the representations and warranties of the Borrower contained herein, agrees to issue letters of credit (the "LETTERS OF CREDIT") for the account of the Borrower in such form as may be requested from time to time by the Borrower and agreed to by the Issuing Bank, PROVIDED



that the Maximum Drawing Amount (after giving effect to all requested Revolving Credit Loans and Letters of Credit) shall not at any time exceed the lesser of (x) the Borrowing Base and (y) the Revolving Credit Commitment, and PROVIDED FURTHER that no Letter of Credit shall have an expiration date later than the Revolving Credit Maturity Date. At least three (3) Business Days prior to the proposed issuance date of any Letter of Credit, the Borrower shall deliver to the Issuing Bank a Letter of Credit Application setting forth the Maximum Drawing Amount of all Letters of Credit (including the requested Letter of Credit), the requested language of the requested Letter of Credit and such other information as the Issuing Bank shall require. Each request for the issuance of a Letter of Credit hereunder shall constitute a representation and warranty by the Borrower that the conditions set forth in Sections 3.1 and 3.2 have been satisfied as of the date of such request.

2A.2 REIMBURSEMENT OBLIGATION OF THE BORROWER. In order to induce the Issuing Bank to issue, extend and renew each Letter of Credit, the Borrower hereby agrees to reimburse or pay to the Lender, for the account of the Issuing Bank or, as the case may be, the Lender, with respect to each Letter of Credit issued, extended or renewed by the Issuing Bank hereunder as follows:

(a) on each date that any draft presented under any Letter of Credit is honored by the Issuing Bank or the Issuing Bank otherwise makes payment with respect thereto, (i) the amount paid by the Issuing Bank under or with respect to such Letter of Credit, and (ii) the amount of any taxes, fees, charges or other costs and expenses whatsoever incurred by the Issuing Bank or the Lender in connection with any payment made by the Issuing Bank under, or with respect to, such Letter of Credit; and

(b) upon the Revolving Credit Maturity Date or the acceleration of the Reimbursement Obligations pursuant to Section 8, an amount equal to 110% of the then Maximum Drawing Amount of all Letters of Credit, which amount shall be held by the Issuing Bank as cash collateral for all Reimbursement Obligations.

Each such payment shall be made to the Lender at its head office in immediately available funds. Interest on any and all amounts remaining unpaid by the Borrower under this Section 2A.2 at any time from the date such amounts become due and payable (whether as stated in this Section 2A.2, by acceleration or otherwise) until payment in full (whether before or after judgment) shall be payable to the Lender, for the account of Issuing Bank or (as the case may be) the Lender, on demand at a rate per annum equal to 2% above the Interest Rate applicable to Prime Rate Loans at the time in the absence of an Event of Default.

2A.3 LETTER OF CREDIT PAYMENTS. If any draft shall be presented or other demand for payment shall be made under any Letter of Credit, the Issuing Bank shall notify the Borrower of the date and amount of the draft presented or demand for payment and of the date and time when it expects to pay such draft or honor such demand for payment. The responsibility of the Issuing Bank to the Borrower shall be only to determine that the documents (including each draft) delivered under each Letter of Credit in connection with such presentment shall be in conformity in all material respects with such Letter of Credit. On the date that such draft is paid or other payment is made by the Issuing Bank, the Issuing Bank shall promptly notify the Lender of the

amount of any unpaid Reimbursement Obligation. All such unpaid Reimbursement Obligations with respect to Letters of Credit shall be deemed to be Revolving Credit Loans.

#### 2A.4 OBLIGATIONS ABSOLUTE.

(a) The Borrower's Reimbursement Obligations shall be absolute and unconditional under any and all circumstances and irrespective of the occurrence of any Default or Event of Default or any condition precedent whatsoever or any set off, counterclaim or defense to payment which the Borrower may have or have had against the Issuing Bank, the Lender or any beneficiary of a Letter of Credit. The Borrower further agrees that the Issuing Bank and the Lender shall not be responsible for, and the Borrower's Reimbursement Obligations shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged, or any dispute between or among the Borrower, the beneficiary of any Letter of Credit or any financing institution or other party to which any Letter of Credit may be transferred or any claims or defenses whatsoever of the Borrower, against the beneficiary of any Letter of Credit or any such transferee.

(b) The Issuing Bank and the Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit. The Borrower agrees that any action taken or omitted by the Issuing Bank or the Lender under or in connection with each Letter of Credit and the related drafts and documents, if done in good faith, shall be binding upon the Borrower and shall not result in any liability on the part of the Issuing Bank or the Lender to the Borrower.

2A.5 RELIANCE BY THE ISSUING BANK AND THE LENDER. To the extent not inconsistent with Section 2A.4, the Issuing Bank and the Lender shall be entitled to rely, and shall be fully protected in relying upon, any Letter of Credit, draft writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, telecopy, telex or teletype message, statement, order or other document 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, independent accountants and other experts selected by the Issuing Bank or the Lender.

### SECTION III.

#### CONDITIONS OF LOANS AND LETTERS OF CREDIT

3.1. CONDITIONS PRECEDENT TO INITIAL LOANS. The obligation of the Lender to make the initial Loans and of the Issuing Bank to issue the initial Letter of Credit is subject to the satisfaction of the following conditions precedent on or prior to the Closing Date:

(a) The Lender shall have received the following agreements, documents, certificates and opinions in form and substance satisfactory to the Lender and duly executed and delivered by the parties thereto:

(i) This Agreement;

- (ii) The Revolving Credit Note, substantially in the form of EXHIBIT A hereto;
- (iii) Certificates of insurance or insurance binders evidencing compliance with Section 5.3 hereof and the applicable provisions of the Security Documents;
- (iv) Borrowing Base Report as of the Closing Date;
- (v) Notice of Borrowing or Conversion as of the Closing Date;
- (vi) A certificate of the Secretary or an Assistant Secretary of the Borrower with respect to resolutions of its Board of Directors authorizing the execution and delivery of the Loan Documents and identifying the officer(s) authorized to execute, deliver and take all other actions required under this Agreement, and providing specimen signatures of such officer(s);
- (vii) The Certificate of Incorporation of the Borrower and all amendments and supplements thereto, as filed in the office of the Secretary of State of its jurisdiction of formation, certified by said Secretary of State as being a true and correct copy thereof;
- (viii) The By-laws of the Borrower and all amendments and supplements thereto, certified by the Secretary or an Assistant Secretary of the Borrower as being a true and correct copy thereof;
- (ix) A certificate of the Secretary of State of Delaware as to legal existence and good standing of the Borrower in such state;
- (x) A certificate of the Secretaries of State of each state in which the Borrower is doing business as to the due qualification and good standing of the Borrower as a foreign corporation in such states;
- (xi) An opinion addressed to the Lender from Hale and Dorr LLP, special counsel to the Borrower and the Subsidiaries;
- (xii) A certificate of the chief financial officer of the Borrower as to the solvency of the Borrower, the accuracy of the Borrower's representations and warranties, compliance with financial covenants on a pro forma basis (giving effect to this Agreement) as of June 30, 2000, the value of all stock and cash consideration paid in connection with Permitted Acquisitions for the fiscal quarter ending September 30, 2000, and such other matters as the Lender may request;
- (xiii) Receipt of unaudited consolidated and consolidating financial statements of the Borrower for the twelve months ended June 30, 2000;
- (xiv) Receipt of evidence satisfactory to the Lender of the termination of all UCC-1 financing statements relating to liens granted to a secured party other than the Lender on all or substantially all of the assets of the Borrower or any Guarantor; and

(xv) Such other documents, instruments, opinions and certificates and completion of such other matters, as the Lender may reasonably deem necessary or appropriate.

(b) No litigation, arbitration, proceeding or investigation shall be pending or threatened which questions the validity or legality of the transactions contemplated by any Loan Document or seeks a restraining order, injunction or damages in connection therewith, or which, in the judgment of the Lender, might adversely affect the transactions contemplated hereby or might have a materially adverse affect on the assets, business, financial condition or prospects of the Borrower.

(c) The Borrower shall have paid to the Lender all fees to be paid hereunder (including pursuant to Section 2.5(d) hereof) on or prior to the Closing Date.

3.2. CONDITIONS PRECEDENT TO ALL LOANS AND LETTERS OF CREDIT. The obligation of the Lender to make any Loan, including the initial Loans, or to continue LIBOR Loans or to convert Prime Rate Loans to LIBOR Loans, and of the Issuing Bank to issue any Letter of Credit is further subject to the following conditions:

(a) timely receipt by the Lender of the most recent Borrowing Base Report required by Section 5.1(c), with respect to each Revolving Credit Loan, and the Notice of Borrowing or Conversion with respect to any Loan, or by the Issuing Bank of the Letter of Credit Application with respect to any Letter of Credit;

(b) the outstanding Loans and Letters of Credit do not and, after giving effect to any requested Loan or Letter of Credit, will not exceed the limitations set forth in Sections 2.1 and 2A.1 hereof;

(c) the representations and warranties contained in Section IV shall be true and accurate in all material respects on and as of the date of such Notice of Borrowing or Conversion or Letter of Credit Application and on the effective date of the making, continuation or conversion of each Loan or issuance of each Letter of Credit as though made at and as of each such date (except to the extent that such representations and warranties expressly relate to an earlier date);

(d) no Default or Event of Default shall have occurred and be continuing at the time of and immediately after the making of such requested Loan or the issuance of such requested Letter of Credit;

(e) the resolutions referred to in Section 3.1(a)(vii) shall remain in full force and effect; and

(f) no change shall have occurred in any law or regulation or interpretation thereof that, in the opinion of counsel for the Lender, would make it illegal or against the policy of any governmental agency or authority for the Lender to make Loans hereunder or, in the opinion of counsel for the Issuing Bank, for the Issuing Bank to issue Letters of Credit hereunder (as the case may be).

The making, continuation or conversion of each Loan and the issuance of each Letter of Credit shall be deemed to be a representation and warranty by the Borrower on the date of the making, continuation or conversion of such Loan or the issuance of such Letter of Credit as to the accuracy of the facts referred to in subsection (c) of this Section 3.2 and of the satisfaction of all of the conditions set forth in this Section 3.2.

#### SECTION IV.

##### REPRESENTATIONS AND WARRANTIES

In order to induce the Lender and the Issuing Bank to enter into this Agreement and to make Loans and to issue Letters of Credit hereunder, the Borrower represents and warrants to the Lender and the Issuing Bank that except as set forth on EXHIBIT C attached hereto:

#### 4.1. ORGANIZATION; QUALIFICATION; BUSINESS.

(a) Each of the Borrower and each of the Guarantors (i) is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, (ii) has all requisite power to own its property and conduct its business as now conducted and as presently contemplated and (iii) is duly qualified and in good standing as a foreign corporation and is duly authorized to do business in each jurisdiction (all of which are listed on EXHIBIT C attached hereto) where the nature of its properties or business requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the business, financial condition, assets or properties of the Borrower or of the Borrower and the Guarantors taken as a whole.

(b) Since the date of the Initial Financial Statement, the Borrower has continued to engage in substantially the same business as that in which it was then engaged and is engaged in no unrelated business.

4.2. CORPORATE AUTHORITY. The execution, delivery and performance of the Loan Documents and the transactions contemplated thereby are within the power and authority of the Borrower and have been authorized by all necessary corporate proceedings, and do not and will not (a) contravene any provision of the Certificate of Incorporation or By-laws of the Borrower or any law, rule or regulation applicable to the Borrower, (b) contravene any provision of, or constitute an event of default or event that, but for the requirement that time elapse or notice be given, or both, would constitute an event of default under, any other agreement, instrument, order or undertaking binding on the Borrower, or (c) result in or require the imposition of any Encumbrance on any of the properties, assets or rights of the Borrower, except in favor of the Lender and the Issuing Bank.

4.3. VALID OBLIGATIONS. The Loan Documents and all of their respective terms and provisions are the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally, and except as the remedy of specific performance or of injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

4.4. CONSENTS OR APPROVALS. The execution, delivery and performance of the Loan Documents and the transactions contemplated herein do not require any approval or consent of, or filing or registration with, any governmental or other agency or authority, or any other Person (including without limitation any lessor or lessee of Borrower's properties).

4.5. TITLE TO PROPERTIES; ABSENCE OF ENCUMBRANCES. Each of the Borrower and its Subsidiaries has good and marketable title to all of the properties, assets and rights of every name and nature now purported to be owned by it, and good and valid leasehold title to all of the properties, assets and rights of every name and nature now purported to be leased by it, including, without limitation, such properties, assets and rights as are reflected in the Initial Financial Statement (except such properties, assets or rights as have been disposed of in the ordinary course of business since the date thereof), free from all Encumbrances except Permitted Encumbrances, and, except as so disclosed, free from all defects of title that might materially adversely affect such properties, assets or rights, or Borrower's or its Subsidiaries' operations conducted with respect thereto, taken as a whole. All leases under which Borrower or its Subsidiaries is the lessor or lessee are in full force and effect and there are no existing defaults or events that with the giving of notice or passage of time or both could ripen into defaults by either party thereunder. No third parties possess any rights with respect to any of Borrower's or its Subsidiaries owned or leased properties, the exercise of which would have a material adverse effect on the Borrower or its Subsidiaries or their respective operations, taken as a whole. All real property owned or leased by the Borrower is described in EXHIBIT C hereto.

4.6. FINANCIAL STATEMENTS. The Borrower has furnished to the Lender its consolidated and consolidating balance sheet as of June 30, 2000 and its consolidated and consolidating statements of income, and consolidated changes in stockholders' equity and cash flow for the fiscal year then ended, and related footnotes, which, in the case of the consolidated financial statements so listed, have been audited and certified by the Borrower's Accountants (the "INITIAL FINANCIAL STATEMENT"). All such financial statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods specified and present fairly the financial position of the Borrower and its Subsidiaries as of such dates and the results of the operations of the Borrower and its Subsidiaries for such periods. At the date hereof, the Borrower has no Indebtedness or other material liabilities, debts or obligations, whether accrued, absolute, contingent or otherwise, and whether due or to become due, including, but not limited to, liabilities or obligations on account of taxes or other governmental charges, that are not set forth on the Initial Financial Statement or on EXHIBIT C hereto.

4.7. CHANGES. Since the date of the Initial Financial Statement, there have been no changes in the assets, liabilities, financial condition, business or prospects of the Borrower or any of its Subsidiaries other than changes in the ordinary course of business, the effect of which has not, in the aggregate, been materially adverse to the Borrower and its Subsidiaries taken as a whole.

4.8. SOLVENCY. The Borrower has and, after giving effect to the Loans, will have, assets (both tangible and intangible) having a fair saleable value in excess of the amount required to pay the probable liability on its then-existing debts (whether matured or unmatured, liquidated or unliquidated, fixed or contingent); the Borrower has and will have access to adequate capital for the conduct of its business and the discharge of its debts incurred in connection therewith as

such debts mature; the Borrower was not insolvent immediately prior to the making of the Loans and immediately after giving effect thereto, the Borrower will not be insolvent.

4.9. DEFAULTS. As of the date of this Agreement, no Default exists.

4.10. TAXES. The Borrower and its Subsidiaries have filed all federal, state and other tax returns required to be filed, and all taxes, assessments and other governmental charges due from any of them have been fully paid, except for such taxes, assessments or charges that are being contested in good faith by appropriate proceedings and with respect to which (a) adequate reserves have been established and are being maintained in accordance with GAAP and (b) no lien has been filed to secure such taxes, assessments or charges. All such contests at the date hereof are described on EXHIBIT C hereto. The Borrower and its Subsidiaries have not executed any waiver that would have the effect of extending the applicable statute of limitations in respect of tax liabilities. The federal and state income tax returns of the Borrower and its Subsidiaries have not been audited or otherwise examined by any federal or state taxing authority. The Borrower and its Subsidiaries have established on their books reserves adequate for the payment of all federal, state and other tax liabilities.

4.11. LITIGATION. Except as set forth on EXHIBIT C, there is no litigation, arbitration, proceeding or investigation pending, or, to the knowledge of the Borrower's or any Subsidiary's officers, threatened, against the Borrower or any Subsidiary that, if adversely determined, may reasonably be expected to result in a material judgment not fully covered by insurance, may reasonably be expected to result in a forfeiture of all or any substantial part of the property of the Borrower or its Subsidiaries, or may reasonably be expected to have a material adverse effect on the assets, business or prospects of the Borrower and its Subsidiaries taken as a whole.

4.12. SUBSIDIARIES. All the Subsidiaries of the Borrower are listed on EXHIBIT C hereto. The Borrower or a Subsidiary of the Borrower is the owner, free and clear of all Encumbrances, of all of the issued and outstanding stock or other equity interest of each Subsidiary. All shares of such stock or other equity interest have been validly issued and are fully paid and nonassessable, and no rights to subscribe to any additional shares have been granted, and no options, warrants or similar rights are outstanding.

4.13. INVESTMENT COMPANY ACT. Neither the Borrower nor any of its Subsidiaries is subject to regulation under the Investment Company Act of 1940, as amended.

4.14. COMPLIANCE. The Borrower and each of its Subsidiaries have all necessary permits, approvals, authorizations, consents, variances, licenses, franchises, registrations and other rights and privileges (including patents, trademarks, trade names and copyrights) to allow them to own and operate their respective businesses and properties without any violation of laws, regulations, authorizations and orders of public authorities (including without limitation Environmental Laws) or the rights of others except to the extent that any such violation would not have a material adverse effect on the business, financial condition or operation of the Borrower and its Subsidiaries taken as a whole; and the Borrower and each Subsidiary are duly authorized, qualified and licensed under, and Borrower, its Subsidiaries and all real properties owned or leased by them are in compliance with, all applicable laws, regulations, authorizations and orders of public authorities, including, without limitation, Environmental Laws, except to the

extent that any such failure to be so authorized, qualified, licensed or in compliance would not have a material adverse effect on the business, financial condition or operation of the Borrower and its Subsidiaries taken as a whole. The Borrower and each Subsidiary have performed all obligations required to be performed by it under, and is not in default under or in violation of, its Certificate of Incorporation or By-laws or any other agreement, lease, mortgage, note, bond, indenture, license or other instrument or undertaking to which it is a party or by which any of it or any of its properties are bound, except for violations none of which, either individually or in the aggregate, would have any material adverse effect on the business, condition (financial or otherwise) or assets of the Borrower and its Subsidiaries taken as a whole.

4.15. ERISA. The Borrower and its ERISA Affiliates are in compliance in all material respects with ERISA and the provisions of the Code and the regulations and published interpretations thereunder applicable to the Plans. No ERISA Event has occurred or is reasonably expected to occur, including by reason of the consummation of the transactions contemplated by this Agreement that, when taken together with all other such ERISA Events, could reasonably be expected to result in material liability to the Borrower or any of its ERISA Affiliates. None of the Plans had any "unfunded benefit liabilities" (within the meaning of Section 4001(a)(18) of ERISA) as of the last annual valuation dates applicable thereto.

4.16. ENVIRONMENTAL MATTERS.

(a) The Borrower and each of its Subsidiaries have obtained all permits, licenses and other authorizations which are required under all Environmental Laws, except to the extent failure to have any such permit, license or authorization would not have a material adverse effect on the business, financial condition or operations of the Borrower or any of its Subsidiaries taken as a whole. The Borrower and each of its Subsidiaries are in compliance with the terms and conditions of all such permits, licenses and authorizations, and are also in compliance with all applicable orders, decrees, judgments and injunctions, issued, entered, promulgated or approved under any Environmental Law, except to the extent failure to comply would not have a material adverse effect on the business, financial condition or operations of the Borrower and its Subsidiaries.

(b) No written notice, notification, demand, request for information, citation, summons or order has been issued and is outstanding, no complaint has been filed, no penalty has been assessed and no investigation or review is pending or, to the best of the Borrower's knowledge, threatened by any governmental or other entity (i) with respect to any alleged failure by the Borrower or any of its Subsidiaries to have any permit, license or authorization required in connection with the conduct of its business or to comply with any Environmental Laws, or (ii) regarding the presence of any Hazardous Material at, on or under any property now or previously owned, leased or used by the Borrower or any of its Subsidiaries or any other location to which Hazardous Materials from such property had been transported or which they have been disposed of.

(c) No material oral or written notification of a release of a Hazardous Material has been filed by or on behalf of the Borrower or any of its Subsidiaries and no property now or previously owned, leased or used by the Borrower or any of its Subsidiaries is listed or, to the best of the Borrower's knowledge, proposed for listing on the National Priorities List



under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or on any similar state list of sites requiring investigation or clean-up.

(d) There are no Encumbrances arising under or pursuant to any Environmental Law on any of the real property or properties owned, leased or used by the Borrower or any of its Subsidiaries and no governmental actions have been taken or, to the best of the Borrower's knowledge, are in process which could subject any of such properties to such liens or Encumbrances or, as a result of which the Borrower or any of its Subsidiaries would be required to place any notice or restriction relating to the presence of Hazardous Materials at any property owned by it in any deed to such property.

(e) Neither the Borrower nor any of its Subsidiaries nor, to the best knowledge of the Borrower, any previous owner, tenant, occupant or user of any property owned, leased or used by the Borrower or any of its Subsidiaries has (i) engaged in or permitted any operations or activities upon or any use or occupancy of such property, or any portion thereof, for the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping or disposal of any Hazardous Materials on, under, in or about such property, except to the extent commonly used in day-to-day operations of such property and in such case only in compliance in all material respects with all Environmental Laws, or (ii) transported any Hazardous Materials to, from or across such property except to the extent commonly used in day-to-day operations of such property and, in such case, in compliance in all material respects with, all Environmental Laws; nor to the best knowledge of the Borrower have any Hazardous Materials migrated from other properties upon, about or beneath such property, nor, to the best knowledge of the Borrower, are any Hazardous Materials presently constructed, deposited, stored or otherwise located on, under, in or about such property except to the extent commonly used in day-to-day operations of such property and, in such case, in compliance in all material respects with all Environmental Laws.

4.17. RESTRICTIONS ON THE BORROWER. Neither the Borrower nor any of its Subsidiaries is party to or bound by any contract, agreement or instrument, nor subject to any charter or other corporate restriction which will, under current or foreseeable conditions, materially and adversely affect the business, property, assets, operations or conditions, financial or otherwise of the Borrower or any of its Subsidiaries taken as a whole.

4.18. LABOR RELATIONS. There is (i) no unfair labor practice complaint pending against the Borrower or any of its Subsidiaries or, to the best knowledge of the Borrower, threatened, before the National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Borrower or any of its Subsidiaries or, to the best knowledge of the Borrower, threatened, except for such complaints, grievances and arbitration proceedings which, if adversely decided, would not have a material and adverse effect on the condition (financial or otherwise), properties, business or results of operations of the Borrower or any of its Subsidiaries, (ii) no strike, labor dispute, slowdown or stoppage pending against the Borrower or any of its Subsidiaries or, to the best knowledge of the Borrower, threatened against the Borrower or any of its Subsidiaries, except for any such labor action as would not have a material and adverse effect on the condition (financial or otherwise), properties, business or results of operations of the Borrower or any of its Subsidiaries and (iii) to the best knowledge of the Borrower, no union representation question

exists with respect to the employees of the Borrower or any of its Subsidiaries and, to the best knowledge of the Borrower, no union organizing activities are taking place, except for any such question or activities as would not have a material and adverse effect on the condition (financial or otherwise), properties, business or results of operations of the Borrower or any of its Subsidiaries taken as a whole.

4.19. MARGIN RULES. The Borrower does not own or have any present intention of purchasing or carrying, and no portion of any Loan shall be used for purchasing or carrying, any "margin security" or "margin stock" as such terms are used in Regulations T, U or X of the Board of Governors of the Federal Reserve System.

4.20. DISCLOSURE. No representation or warranty made by the Borrower in any Loan Document and no document or information furnished to the Lender by or on behalf of or at the request of the Borrower in connection with any of the transactions contemplated by the Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein not misleading in light of the circumstances in which they are made.

4.21. INTELLECTUAL PROPERTY.

(a) To the best knowledge of the Borrower, none of the activities or business conducted or proposed to be conducted by the Borrower or any of its Subsidiaries infringes, violate or constitutes a misappropriation of (or in the past infringed, violated or constituted a misappropriation of) any intellectual property rights of any other Person. Except as set forth on EXHIBIT C, the Borrower has not received any complaint, claim or notice alleging any such infringement, violation or misappropriation, and to the knowledge of the Borrower, there is no basis for any such complaint, claim or notice

(b) The Borrower and each of its Subsidiaries own free and clear of all Encumbrances, or has the valid right to use all Intellectual Property used by them in their respective business as currently conducted or as currently proposed to be conducted. Except as set forth on EXHIBIT C, no other person or entity (other than licensors of software that is generally commercially available, licensors of Intellectual Property under the agreement disclosed pursuant to paragraph (d) below and non-exclusive licensees of the Borrower's or any Subsidiary's Intellectual Property in the ordinary course of the Borrower's or such Subsidiary's business) has any right to any of the Intellectual Property owned or used by the Borrower or any of its Subsidiaries, and, to the Borrower's knowledge, no other person or entity is infringing, violating or misappropriating any of the Intellectual Property that the Borrower owns.

(c) EXHIBIT C hereto identifies each (i) patent that has been issued or assigned to the Borrower or any of its Subsidiaries with respect to any of their respective Intellectual Property, (ii) pending patent application that the Borrower or any of its Subsidiaries has made with respect to any of their respective Intellectual Property, (iii) any copyright or trademark registration or application with respect to the Borrower's or any Subsidiary's Intellectual Property, and (iv) any material license or other agreements pursuant to which the Borrower or any Subsidiary has granted any rights to any third party with respect to any of their respective Intellectual Property.

(d) EXHIBIT C hereto identifies each agreement with a third party pursuant to which the Borrower or any Subsidiary has obtained rights to Intellectual Property material to the business of the Borrower or such Subsidiary (other than software that is generally commercially available) that is owned by a Person other than the Borrower or any of its Subsidiaries. Other than license fees for software that is generally commercially available, the Borrower is not obligated to pay any royalties or other compensation to any third party in respect of its ownership, use or license of any of its Intellectual Property.

#### SECTION V.

##### AFFIRMATIVE COVENANTS

The Borrower covenants that so long as any Loan, Letter of Credit or other Obligation remains outstanding or the Lender or the Issuing Bank has any obligation to lend or to issue any Letter of Credit hereunder:

5.1. FINANCIAL STATEMENTS. The Borrower shall furnish to the Lender:

(a) as soon as available to the Borrower, but in any event within 90 days after the end of each fiscal year, the Borrower's consolidated and consolidating balance sheet as of the end of and related consolidated and consolidating statements of income, and consolidated statements of retained earnings and cash flow for such year, prepared in accordance with GAAP and audited and certified by the Borrower's Accountants in the case of such consolidated statements, and certified by the chief financial officer of the Borrower in the case of such consolidating statements; and, concurrently with such financial statements, a written statement by the Borrower's Accountants that, in the making of the audit necessary for their report and opinion upon such financial statements they have obtained no knowledge of any Default or, if in the opinion of such accountants any such Default exists, they shall disclose in such written statement the nature and status thereof;

(b) as soon as available to the Borrower, but in any event within 45 days after the end of each quarter, the Borrower's consolidated and consolidating balance sheet as of the end of, and related consolidated and consolidating statements of income, and consolidated statement of cash flow for, the quarter then ended and the portion of the year then ended, prepared in accordance with GAAP and certified by the chief financial officer of the Borrower, except for lack of footnotes and subject to normal, recurring year-end adjustments that shall not in the aggregate be material in amount;

(c) concurrently with the delivery of each financial statement pursuant to subsections (a) and (b) of this Section 5.1, a report in substantially the form of EXHIBIT D hereto signed on behalf of the Borrower by its chief financial officer;

(d) as soon as available, but in any event within 30 days after (i) the end of each month if there are any Loans outstanding or (ii) the end of each quarter otherwise, a Borrowing Base Report, together with such other information regarding Accounts Receivable as the Lender may require;

(e) within 30 days after the commencement of each fiscal year of the Borrower, a copy of the consolidated operating budget, including, without limitation, projections of the anticipated cash flow of the Borrower and any Subsidiaries for such fiscal year and a statement of the assumptions on which such budget was prepared;

(f) promptly after the receipt thereof by the Borrower, copies of any reports (including any so-called management letters) submitted to the Borrower by independent public accountants in connection with any annual or interim review of the accounts of the Borrower made by such accountants;

(g) promptly after the same are delivered to its stockholders or the Securities and Exchange Commission, copies of all proxy statements, financial statements and reports as the Borrower shall send to its stockholders or as the Borrower may file with the Securities and Exchange Commission or any governmental authority at any time having jurisdiction over the Borrower or its Subsidiaries;

(h) within 30 days after the end of each quarter, an Accounts Receivable aging report in form and substance satisfactory to the Lender; and

(i) from time to time, such other financial data and information about the Borrower or its Subsidiaries as the Lender may reasonably request.

5.2. CONDUCT OF BUSINESS. The Borrower and each of its Subsidiaries shall:

(a) duly observe and comply in all material respects with all laws, regulations, decrees, orders, judgments and valid requirements of any governmental authorities applicable to its corporate existence, rights and franchises, to the conduct of its business and to its property and assets (including without limitation all Environmental Laws and ERISA), and shall maintain and keep in full force and effect and comply in all material respects with all licenses and permits necessary to the proper conduct of its business, except to the extent that non-compliance shall not have a material adverse affect upon the financial condition or business of the Borrower and its Subsidiaries taken as a whole;

(b) maintain its existence and remain or engage substantially in the same business as that in which it is now engaged and in no unrelated business.

5.3. MAINTENANCE AND INSURANCE.

(a) The Borrower and each of its Subsidiaries shall maintain their properties in good repair, working order and condition as required for the normal conduct of their business.

(b) The Borrower and each of its Subsidiaries shall at all times maintain liability and casualty insurance on its properties with financially sound and reputable insurers in such amounts and with such coverages, endorsements, deductibles and expiration dates as the managers of the Borrower in the exercise of their reasonable judgment deem to be adequate, as are customary in the industry for companies of established reputation engaged in the same or similar business and owning or operating similar properties and as shall be reasonably satisfactory to the Lender. The Lender shall be named as loss payee, additional insured and/or

mortgagee under such insurance as the Lender shall require from time to time, and the Borrower shall provide to the Lender loss payable endorsements in form and substance reasonably satisfactory to the Lender. In addition, the Lender shall be given thirty (30) days advance notice of any cancellation of insurance. In the event of failure to provide and maintain insurance as herein provided, the Lender may, at its option, provide such insurance and charge the amount thereof to the Borrower as a Revolving Credit Loan. The Borrower shall furnish to the Lender certificates or other evidence satisfactory to the Lender of compliance with the foregoing insurance provisions. The Lender shall not, by the fact of approving, disapproving or accepting any such insurance, incur any liability for the form or legal sufficiency of insurance contracts, solvency of insurance companies or payment of law suits, and the Borrower hereby expressly assumes full responsibility therefor and liability, if any, thereunder.

5.4. TAXES. The Borrower shall pay or cause to be paid all taxes, assessments or governmental charges on or against it or any of its Subsidiaries or its or their properties on or prior to the time when they become due; except for any tax, assessment or charge that is being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been established and are being maintained in accordance with GAAP if no Encumbrance shall have been filed to secure such tax, assessment or charge.

5.5. INSPECTION. The Borrower shall permit the Lender and its designees, at any reasonable time and on an annual basis, and upon reasonable notice (or if a Default shall have occurred and is continuing, at any time and without prior notice), to (i) visit and inspect the properties of the Borrower and its Subsidiaries, (ii) examine and make copies of and take abstracts from the books and records of the Borrower and its Subsidiaries, and (iii) discuss the affairs, finances and accounts of the Borrower and its Subsidiaries with their appropriate officers, employees and accountants, all at the expense of the Borrower. Without limiting the generality of the foregoing, the Borrower will permit periodic reviews (as determined by the Lender) of the books and records of the Borrower and its Subsidiaries to be carried out by the Lender's commercial finance examiners.

5.6. MAINTENANCE OF BOOKS AND RECORDS. The Borrower and each of its Subsidiaries shall keep adequate books and records of account, in which true and complete entries will be made reflecting all of its business and financial transactions in accordance with GAAP and applicable law.

5.7. USE OF PROCEEDS.

(a) The Borrower will use the proceeds of Loans solely for the working capital needs of the Borrower, including payment of the costs and expenses of the transactions contemplated hereby.

(b) No portion of any Loan shall be used for the "purpose of purchasing or carrying" any "margin stock" or "margin security" as such terms are used in Regulations T, U and X of the Board of Governors of the Federal Reserve System, or otherwise in violation of such regulations.

5.8. FURTHER ASSURANCES. At any time and from time to time the Borrower shall, and shall cause each of its Subsidiaries to, execute and deliver such further documents and take such further action as may reasonably be requested by the Lender to effect the purposes of the Loan Documents.

5.9. NOTIFICATION REQUIREMENTS. The Borrower shall furnish to the Lender:

(a) promptly upon becoming aware of the existence of any condition or event that constitutes a Default, written notice thereof specifying the nature and duration thereof and the action being or proposed to be taken with respect thereto;

(b) promptly upon becoming aware of any litigation or of any investigative proceedings by a governmental agency or authority commenced or threatened against the Borrower or any of its Subsidiaries of which they have notice, the outcome of which would or might have a materially adverse effect on the assets, business or prospects of the Borrower alone or the Borrower and its Subsidiaries on a consolidated basis, written notice thereof and the action being or proposed to be taken with respect thereto; and

(c) promptly after any occurrence or after becoming aware of any condition affecting the Borrower or any Subsidiary which might constitute a material adverse change in or which might have a material adverse effect on the business, properties or condition (financial or otherwise) of the Borrower alone or the Borrower and its Subsidiaries, taken as a whole, written notice thereof.

5.10. ERISA REPORTS; COMPLIANCE.

(a) Each Plan shall comply in all material respects with ERISA and the Code, except to the extent failure to comply in any instance would not have a material adverse effect on the business, financial condition or operations of the Borrower and its Subsidiaries taken as a whole.

(b) With respect to any Plan, the Borrower shall, or shall cause its ERISA Affiliates to, furnish to the Lender promptly (i) as soon as possible and in any event within 10 days after the Borrower or any of its ERISA Affiliates knows that any ERISA Event has occurred or is expected to occur, a statement of the chief financial officer of the Borrower describing such ERISA Event, including copies of any notice concerning such ERISA Event received from the PBGC, a plan administrator, or from a Multiemployer Plan sponsor, and the action, if any, the Borrower or such ERISA Affiliate proposes to take with respect thereto; and (ii) promptly after filing thereof, a copy of the annual report of each Pension Plan (Form 5500 or comparable form) required to be filed with the IRS and/or the Department of Labor. Promptly after the adoption of any Pension Plan, the Borrower shall notify the Lender of such adoption.

5.11. ENVIRONMENTAL COMPLIANCE.

(a) The Borrower and its Subsidiaries will comply in all material respects with all applicable Environmental Laws in all jurisdictions in which any of them operates now or in the future, and the Borrower and its Subsidiaries will comply in all material respects with all

such Environmental Laws that may in the future be applicable to the Borrower's or any Subsidiary's business, properties and assets.

(b) If the Borrower or any Subsidiary shall (i) receive notice that any material violation of any Environmental Law may have been committed or is about to be committed by the Borrower or any Subsidiary, (ii) receive notice that any administrative or judicial complaint or order has been filed or is about to be filed against the Borrower or any Subsidiary alleging a material violation of any Environmental Law requiring the Borrower or any Subsidiary to take any action in connection with the release of Hazardous Materials into the environment, (iii) receive any notice from a federal, state or local government agency or private party alleging that the Borrower or any Subsidiary may be liable or responsible for any material amount of costs associated with a response to or cleanup of a release of Hazardous Materials into the environment or any damages caused thereby, (iv) become aware of any investigative action or proceedings by a governmental agency or authority commenced or threatened against the Borrower or any of its Subsidiaries regarding any potential violation of Environmental Laws or any spill, release, discharge or disposal of any Hazardous Material or (v) notify any governmental agency or authority regarding any potential violation of Environmental Laws or any spill, release, discharge or disposal of any Hazardous Material by the Borrower or any Subsidiary, the Borrower shall promptly notify the Lender thereof (together with a copy of any such notice) and of any action being or proposed to be taken with respect thereto and thereafter shall continue to furnish to the Lender all further notices, demands, reports and other information regarding the foregoing.

(c) Within fifteen (15) days after the Borrower or any Subsidiary has learned of the enactment or promulgation of any Environmental Law which may result in any material adverse change in the condition, financial or otherwise, of the Borrower or any Subsidiary, the Borrower or such Subsidiary shall provide the Lender with notice thereof.

5.12. ADDITIONAL GUARANTORS. In the event that any domestic Subsidiary shall at any time have revenues for any period of four consecutive fiscal quarters exceeding ten percent (10%) of the aggregate revenues of the Borrower and its Subsidiaries taken on a consolidated basis, the Borrower shall immediately so notify the Lender and shall cause such Subsidiary to become a Guarantor hereunder and to execute and deliver to the Lender an Instrument of Adherence to the Subsidiary Guaranty and such further documents and take such further action as may reasonably be requested by the Lender.

5.13. TERMINATION STATEMENTS. The Borrower shall deliver within thirty (30) days after the Closing Date evidence satisfactory to the Lender of the termination of all UCC-1 financing statements relating to liens granted to a secured party other than the Lender on all or substantially all of the assets of Petrolsoft Corporation and/or ICARUS Corporation.

5.14. ADDITIONAL DELIVERIES. The Borrower shall deliver within thirty (30) days after the Closing Date (i) a certificate of the Secretary of State of the State of California as to the due qualification and good standing of the Borrower as a foreign corporation in such state and (ii) the current Articles of Incorporation of Industrial Systems, Inc. and all amendments and supplements thereto, as filed in the office of the Secretary of State of Washington, certified by said Secretary of State as being a true and correct copy thereof.

## SECTION VI.

## FINANCIAL COVENANTS

The Borrower covenants that so long as any Loan, Letter of Credit or other Obligation remains outstanding or the Lender or the Issuing Bank have any obligation to make any Loan or issue any Letter of Credit hereunder:

6.1. CONSOLIDATED NET WORTH. The Borrower shall at all times maintain Consolidated Net Worth of not less than \$150,000,000, PLUS (a) 100% of the net proceeds of any additional paid-in capital or other equity investments or the proceeds of the issuance and sale of any common or preferred stock of the Borrower, in each case received from and after the date hereof, PLUS (b) 80% of Consolidated Net Income for the fiscal quarter ended September 30, 2000, and for each fiscal quarter thereafter (for purposes of this clause (b), only positive Consolidated Net Income shall be included and any net losses shall be disregarded).

6.2. LEVERAGE RATIO. The Borrower shall not permit at any time the Leverage Ratio to exceed 1.75 to 1.00 (as determined at the end of each fiscal quarter)

6.3. INTEREST COVERAGE. The Borrower shall not permit the ratio of EBITDA to Interest Expense for any four consecutive fiscal quarters ending in the following fiscal quarters (as determined at the end of each fiscal quarter for the four quarters then ended, taken as a single fiscal period) to be less than (i) 3.00 to 1.00 for the fiscal quarter ending September 30, 2000 through the fiscal quarter ending June 30, 2001 provided, however, that for the fiscal quarters ending September 30, 2000, December 31, 2000 and March 31, 2001, the above described ratio shall be calculated on an annualized basis based upon the period commencing with the fiscal quarter ending September 30, 2000 and (ii) 4.00 to 1.00 for the fiscal quarter ending September 30, 2001 and all fiscal quarters thereafter,

6.4. QUICK RATIO. The Borrower shall at all times maintain a Quick Ratio of not less than 1.50 to 1.00 (as determined at the end of each fiscal quarter).

6.5. NET LOSS. The Borrower shall not permit its Consolidated Net Income to be less than \$0 for any two consecutive fiscal quarters commencing with the fiscal quarters ending June 30, 2000; PROVIDED, HOWEVER, that for purposes of this Section 6.5, the calculation of Consolidated Net Income shall not include non-recurring non-cash charges relating to Permitted Acquisitions.

## SECTION VII.

## NEGATIVE COVENANTS

The Borrower covenants that so long as any Loan, Letter of Credit or other Obligation remains outstanding or the Lender or the Issuing Bank have any obligation to make any Loan or to issue any Letter of Credit hereunder:



7.1. INDEBTEDNESS. Neither the Borrower nor any of its Subsidiaries shall create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness other than the following:

(a) Obligations;

(b) Indebtedness existing as of the date of this Agreement and disclosed on EXHIBIT C hereto and renewals and refinancings thereof, but not any increase in the principal amounts thereof;

(c) Indebtedness for taxes, assessments or governmental charges to the extent that payment therefor shall at the time not be required to be made in accordance with Section 5.4;

(d) current liabilities on open account for the purchase price of services, materials and supplies incurred by the Borrower in the ordinary course of business (not as a result of borrowing), so long as all of such open account Indebtedness shall be promptly paid and discharged when due or in conformity with customary trade terms and practices, except for any such open account Indebtedness which is being contested in good faith by the Borrower, as to which adequate reserves required by GAAP have been established and are being maintained and as to which no Encumbrance has been placed on any property of the Borrower or any of its Subsidiaries;

(e) Indebtedness directly relating to Capital Expenditures incurred in the ordinary course of business and renewals and refinancings thereof, PROVIDED that the amount of such Indebtedness does not exceed twenty million dollars (\$20,000,000) in the aggregate during any twelve (12) month period; and

(f) Guarantees permitted under Section 7.2 hereof.

7.2. CONTINGENT LIABILITIES. Neither the Borrower nor any of its Subsidiaries shall create, incur, assume, guarantee or be or remain liable with respect to any Guarantees other than (i) Guarantees existing on the date of this Agreement and disclosed on EXHIBIT C hereto, and (ii) Guarantees resulting from the endorsement of negotiable instruments for deposit or collection in the ordinary course of business.

7.3. ENCUMBRANCES. Neither the Borrower nor any of its Subsidiaries shall create, incur, assume or suffer to exist any mortgage, pledge, security interest, lien or other charge or encumbrance of any kind, including the lien or retained security title of a conditional vendor upon or with respect to any of its property or assets ("ENCUMBRANCES"), including without limitation any Accounts Receivable, Intellectual Property or contracts, or assign or otherwise convey any right to receive income, including the sale or discount of Accounts Receivable with or without recourse, except the following ("PERMITTED ENCUMBRANCES"):

(a) Encumbrances in favor of the Lender or the Issuing Bank to secure Obligations;

(b) Encumbrances existing as of the date of this Agreement and disclosed in EXHIBIT C hereto;

(c) Encumbrances securing Indebtedness permitted by Section 7.1(e), PROVIDED that (i) each such Encumbrance is given solely to secure the purchase price of the property acquired, does not extend to any other property and is given at the time of acquisition of the property, and (ii) the Indebtedness secured thereby does not exceed the lesser of the cost of such property or its fair market value at the time of acquisition;

(d) liens for taxes, fees, assessments and other governmental charges to the extent that payment of the same may be postponed or is not required in accordance with the provisions of Section 5.4;

(e) landlords' and lessors' liens in respect of rent not in default or liens in respect of pledges or deposits under workmen's compensation, unemployment insurance, social security laws, or similar legislation (other than ERISA) or in connection with appeal and similar bonds incidental to litigation; mechanics', warehouseman's, laborers' and materialmen's and similar liens, if the obligations secured by such liens are not then delinquent; liens securing the performance of bids, tenders, contracts (other than for the payment of money); and liens securing statutory obligations or surety, indemnity, performance, or other similar bonds incidental to the conduct of the Borrower's or a Subsidiary's business in the ordinary course and that do not in the aggregate materially detract from the value of its property or materially impair the use thereof in the operation of its business;

(f) judgment liens securing judgments that (i) are not fully covered by insurance, and (ii) shall not have been in existence for a period longer than 10 days after the creation thereof or, if a stay of execution shall have been obtained, for a period longer than 10 days after the expiration of such stay;

(g) rights of lessors under capital leases to the extent such capital leases are permitted under Section 7.1(e);

(h) easements, rights of way, restrictions and other similar charges or Encumbrances relating to real property and not interfering in a material way with the ordinary conduct of the Borrower's business;

(i) liens constituting a renewal, extension or replacement of any Permitted Encumbrance; and

(j) Encumbrances in favor of reputable financial institutions in connection with the Borrower's factoring of Accounts Receivable and Qualified Multiyear License Agreements in the ordinary course, but only to the extent that the Borrower at all times maintains a Borrowing Base sufficient in amount to cover the full amount of the Commitment.

#### 7.4. CONSOLIDATION, MERGER OR ACQUISITION.

(a) Neither the Borrower nor any of its Subsidiaries shall merge or consolidate with or into any other Person, or make any acquisition of the business or assets of any other Person except: (i) any Subsidiary of the Borrower which is a Guarantor may merge into the Borrower or any wholly-owned Subsidiary of the Borrower which is a Guarantor; (ii) Investments to the extent permitted by Section 7.7 hereof; and (iii) Permitted Acquisitions. For

purposes hereof a "PERMITTED ACQUISITION" is an acquisition which satisfies the following requirements: (A) if it involves an asset purchase, stock purchase or a merger or consolidation, upon the consummation of which the surviving or acquired party shall be the Borrower or a Subsidiary of the Borrower which is a Guarantor; (B) at the time of such acquisition and after giving effect thereto on a pro forma basis no Event of Default shall have occurred and be continuing and the Borrower shall be in compliance for the four quarters then ended with each of the covenants set forth in Section VI; (C) is not hostile or contested and (D) the conditions set forth in Section 7.4(b) hereof shall have been satisfied with respect to the proposed acquisition.

(b) In addition to the requirements set forth in Section 7.4(a), the following additional conditions must be satisfied with respect to each Permitted Acquisition:

(i) Each business or Person to be acquired shall be engaged in the same or a related line of business to the then current businesses conducted by the Borrower and its Subsidiaries;

(ii) The acquisition shall be financed entirely with cash and/or common stock of the Borrower and the amount of (i) cash consideration in connection with all acquisitions shall not exceed thirty million dollars (\$30,000,000) in the aggregate and (ii) common stock consideration in connection with all acquisitions shall not exceed forty million dollars (\$40,000,000) in the aggregate;

(iii) All necessary consents, approvals, licenses, permissions, registrations or validations of any governmental authority or any other Person required for the consummation of the proposed acquisition shall have been obtained and shall be in full force and effect;

(iv) With respect to any individual proposed acquisition involving an aggregate acquisition price in excess of ten million dollars (\$10,000,000), such acquisition shall be subject to the review (but not the approval) of the Lender which review shall be completed within five (5) Business Days after the Lender shall have received copies of the following: (A) a pro forma report in the form of EXHIBIT D hereto to the Lender which shall demonstrate that on a pro forma basis and after giving effect to the proposed acquisition that the Borrower will be in compliance with the financial covenants set forth in Section VI hereof; (B) the draft acquisition agreement for such proposed acquisition; (C) the financial statements of the target entity (audited or reviewed to the extent available); (D) financial projections for the target entity (if available); and (E) due diligence summaries (if available); PROVIDED, HOWEVER, that the Borrower shall deliver to the Lender such additional information or documents as the Lender shall reasonably request, provided that any such additional request shall not extend or delay the running of the aforementioned five (5) Business Day period;

(v) The Borrower or its Subsidiaries shall report the value of all stock and cash consideration paid in connection with Permitted Acquisitions for the fiscal quarter ending September 30, 2000 and for each fiscal quarter thereafter and cumulatively for the period from the Closing Date through the date of such report as part of the report required by Section 5.1(c); and

(vi) Each new domestic Subsidiary of the Borrower formed to make such acquisition and each Person to be acquired which becomes a domestic Subsidiary of the Borrower that had revenues, giving effect to such acquisition, exceeding ten percent (10%) of the aggregate revenues of the Borrower and its Subsidiaries taken on a consolidated basis for any period of four (4) consecutive fiscal quarters shall agree to become a Guarantor of the Obligations and shall have executed such instruments in connection therewith as the Lender and its counsel shall reasonably request, including without limitation an Instrument of Adherence to the Subsidiary Guaranty.

(c) In the event a proposed acquisition meets the requirements for a Permitted Acquisition except for the requirements set forth in Section 7.4(b)(ii), the Borrower may request the consent thereto of the Lender in the exercise of its sole discretion, which consent shall be granted or denied as soon as reasonably possible (but in no event later than two weeks after the date on which the Lender shall have received copies of the items listed in Section 7.4(b)(iv)).

(d) The Borrower shall not, and shall not permit any Subsidiary to, sell, lease (as lessor) or otherwise dispose of any assets or properties, other than sales of Qualified Investments and obsolete or worn out equipment, in each case in the ordinary course of business and consistent with past practices.

7.5. SUBSIDIARIES. The Borrower shall not permit any of its Subsidiaries to issue any additional shares of its capital stock or other equity securities, any options therefor or any securities convertible thereto, other than to the Borrower. Neither the Borrower nor any of its Subsidiaries shall sell, transfer or otherwise dispose of any of the capital stock or other equity securities of a Subsidiary, except to the Borrower or any of its wholly-owned Subsidiaries. The Borrower shall not, and shall not permit any of its Subsidiaries to, create or otherwise suffer to exist any consensual Encumbrances or restrictions on the ability of any Subsidiary to pay dividends or make any other distributions on its equity interests held by the Borrower or pay any Indebtedness owed to the Borrower or any Subsidiary or to make loans or advances or transfer any of its assets to the Borrower or any other Subsidiary.

7.6. RESTRICTED PAYMENTS. Neither the Borrower nor any of its Subsidiaries shall pay, make, declare or authorize any Restricted Payment other than:

- (i) compensation paid or advances made to employees, officers and directors in the ordinary course of business and consistent with prudent business practices;
- (ii) dividends payable solely in common stock; or
- (iii) dividends paid by any Subsidiary to the Borrower.

7.7. INVESTMENTS; PURCHASES OF ASSETS. Neither the Borrower nor any of its Subsidiaries shall make or maintain any Investments or purchase or otherwise acquire any material amount of assets other than:

- (i) Investments existing on the date hereof in Subsidiaries;
- (ii) Qualified Investments;

(iii) Capital Expenditures, PROVIDED that the amount of such Capital Expenditures does not exceed twenty million dollars (\$20,000,000) in the aggregate during any twelve (12) month period;

(iv) purchases of inventory in the ordinary course of business;

(v) normal trade credit extended in the ordinary course of business and consistent with prudent business practice;

(vi) investments in companies in similar lines of business as the Borrower as long as no Event of Default has occurred and is continuing or could reasonably be expected to arise therefrom, PROVIDED that the aggregate amount of such investments do not exceed the greater of thirty million dollars (\$30,000,000) in cash and forty million dollars (\$40,000,000) in common stock;

(vii) Permitted Acquisitions; and

(viii) advances by the Borrower or any Subsidiary to any Subsidiary; PROVIDED that (i) the amount of such advances to domestic Subsidiaries that are not Guarantors does not exceed five million dollars (\$5,000,000) in the aggregate during any twelve (12) month period and (ii) the amount of such advances to non-U.S. Subsidiaries does not exceed fifteen million dollars (\$15,000,000) in the aggregate during any twelve (12) month period.

7.8. ERISA COMPLIANCE. Neither the Borrower nor any of its ERISA Affiliates nor any Plan shall (i) engage in any Prohibited Transaction which would have a material adverse effect on the business, financial condition or operations of the Borrower and its Subsidiaries taken as a whole, (ii) incur any "accumulated funding deficiency" (within the meaning of Section 412(a) of the Code and Section 302 of ERISA), whether or not waived, (iii) permit to exist any material amount of "unfunded benefit liabilities" (within the meaning of Section 4001(a)(18) of ERISA), (iv) terminate any Pension Plan in a manner which could result in the imposition of a lien on any property of the Borrower or any of its Subsidiaries, (v) fail to make any required contribution to any Multiemployer Plan or (vi) completely or partially withdraw from a Multiemployer Plan if such complete or partial withdrawal will result in any material withdrawal liability under Title IV of ERISA.

7.9. TRANSACTIONS WITH AFFILIATES. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into any purchase, sale, lease, loan or other transaction with any Affiliate except (i) transactions in the ordinary course of business on terms that are no less favorable to the Borrower than those which might be obtained at the time in a comparable arm's-length transaction with any Person who is not an Affiliate, but only to the extent consented to in advance by the Lender and (ii) employment contracts with senior management of the Borrower entered into in the ordinary course of business and consistent with prudent business practices. Notwithstanding the foregoing, the Borrower will not, and will not permit any Subsidiary to, directly or indirectly, pay any management, consulting, overhead, indemnity, guarantee or other similar fee or charge to any Affiliate.

7.10. FISCAL YEAR. The Borrower and its Subsidiaries shall not change their fiscal years without the prior written consent of the Lender.

#### SECTION VIII.

##### DEFAULTS

8.1. EVENTS OF DEFAULT. There shall be an Event of Default hereunder if any of the following events occurs:

(a) the Borrower or any Subsidiary shall fail to pay any principal of any Loan, any Reimbursement Obligation or any interest, fees or other amounts owing by it under any Loan Document or in respect of any Obligation when the same shall become due and payable, whether at maturity or at any accelerated date of maturity or at any other date fixed for payment; or

(b) the Borrower or any Subsidiary shall fail to perform or comply with any term, covenant or agreement applicable to it contained in Sections 5.1, 5.2(b), 5.5, 5.6, 5.7, 5.9, 5.11, 6 and 7 of this Agreement; or

(c) the Borrower or any Subsidiary shall fail to perform or comply with any term, covenant or agreement applicable to it (other than as specified in subsections 8.1(a) or (b) hereof) contained in this Agreement or any other Loan Document and such default shall continue for ten (10) days;

(d) any representation or warranty of the Borrower made in this Agreement or any other Loan Document or in any certificate, notice or other writing delivered hereunder or thereunder shall prove to have been false in any material respect upon the date when made or deemed to have been made; or

(e) the Borrower or any of its Subsidiaries shall fail to pay when due (after any applicable period of grace) any amount payable (i) under any Indebtedness exceeding \$1,000,000 in principal amount or (ii) under any agreement for the use of real or personal property requiring aggregate payments in excess of \$1,000,000 in any twelve month period, or fail to observe or perform any term, covenant or agreement evidencing or securing such Indebtedness or relating to such agreement for the use of real or personal property; or

(f) the Borrower or any of its Subsidiaries shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or similar official of itself or of all or a substantial part of its property, (ii) be generally not paying its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the United States Bankruptcy Code (as now or hereafter in effect), (v) take any action or commence any case or proceeding under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, or any other law providing for the relief of debtors, (vi) fail to contest in a timely or appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the United States Bankruptcy Code or other law, (vii) take any action under the laws of its

jurisdiction of incorporation or organization similar to any of the foregoing, or (viii) take any corporate action for the purpose of effecting any of the foregoing; or

(g) a proceeding or case shall be commenced against the Borrower or any of its Subsidiaries, without the application or consent of such Borrower or such Subsidiary in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding up, or composition or readjustment of its debts, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of it or of all or any substantial part of its assets, or (iii) similar relief in respect of it, under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts or any other law providing for the relief of debtors, and such proceeding or case shall continue undismissed, or unstayed and in effect, for a period of 60 days; or an order for relief shall be entered in an involuntary case under the Federal Bankruptcy Code, against the Borrower or such Subsidiary; or action under the laws of the jurisdiction of incorporation or organization of the Borrower or any of its Subsidiaries similar to any of the foregoing shall be taken with respect to the Borrower or such Subsidiary and shall continue unstayed and in effect for a period of 60 days; or

(h) a judgment or order for the payment of money shall be entered against the Borrower or any of its Subsidiaries by any court, or a warrant of attachment or execution or similar process shall be issued or levied against property of the Borrower or such Subsidiary, that in the aggregate exceeds \$1,000,000 in value, the payment of which is not fully covered by insurance in excess of any deductibles not exceeding \$250,000 in the aggregate, and such judgment, order, warrant or process shall continue undischarged or unstayed for 60 days; or

(i) the Borrower or any ERISA Affiliate shall fail to pay when due any material amount that they shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA, unless such liability is being contested in good faith by appropriate proceedings, the Borrower or the ERISA Affiliate, as the case may be, has established and is maintaining adequate reserves in accordance with GAAP and no lien shall have been filed to secure such liability; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any such Plan or Plans; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan or Plans must be terminated; or

(j) any of the Loan Documents shall be canceled, terminated, revoked or rescinded otherwise than in accordance with the express terms thereof or with the express prior written agreement, consent or approval of the Lender, or any action at law or in equity or other legal proceeding to cancel, revoke or rescind any Loan Document shall be commenced by or on behalf of the Borrower, or any court or other governmental or regulatory authority or agency of competent jurisdiction shall make a determination that, or shall issue a judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is illegal, invalid or unenforceable in accordance with the terms thereof; or

(k) the Borrower shall fail at any time to own more than a majority of the equity interests of each of its Subsidiaries and to have the unrestricted ability to exercise voting and management control of each of its Subsidiaries; or

(1) the occurrence of any material adverse change in the condition or affairs (financial or otherwise) of the Borrower or any of the Guarantors or of any endorser, guarantor or surety for any Obligation which causes the Lender in good faith to believe that the prospect of payment hereunder is impaired.

8.2. REMEDIES. Upon the occurrence of an Event of Default described in subsections 8.1(f) and (g), immediately and automatically, and upon the occurrence of any other Event of Default, at any time thereafter while such Event of Default is continuing, at the option of the Lender and upon the Lender's declaration:

(a) the obligation of the Lender to make any further Loans and of the Issuing Bank to issue any Letters of Credit hereunder shall terminate;

(b) the unpaid principal amount of the Loans together with accrued interest, all Reimbursement Obligations and all other Obligations shall become immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived; and

(c) the Lender and the Issuing Bank may exercise any and all rights they have under this Agreement, the other Loan Documents or at law or in equity, and proceed to protect and enforce their respective rights by any action at law or in equity or by any other appropriate proceeding.

No remedy conferred upon the Lender or the Issuing Bank in the Loan Documents is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or by any other provision of law.

## SECTION IX.

### ASSIGNMENT AND PARTICIPATION

9.1. ASSIGNMENT. Fleet shall have the unrestricted right to assign at any time all or any portion of its Commitment hereunder and its interests in the risk relating to any Loans in an amount equal to or greater than \$1,000,000 to other banks or financial institutions (each an "ASSIGNEE"). Each Assignee shall execute and deliver to Fleet and the Borrower a joinder agreement. Upon the execution and delivery of such joinder agreement, (a) such Assignee shall, on the date and to the extent provided in such joinder agreement, become a "Lender" party to this Agreement and the other Loan Documents for all purposes of this Agreement and the other Loan Documents and shall have all rights and obligations of a "Lender" with a Commitment as set forth in such joinder agreement, and Fleet shall, on the date and to the extent provided in such joinder agreement, be released prospectively from its obligations hereunder and under the other Loan Documents to a corresponding extent (and, in the case of an assignment covering all of the remaining portion of Fleet's rights and obligations under this Agreement, Fleet shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 10.3 and to any fees accrued for its account hereunder and not yet paid); (b) the assigning Lender, if it holds any



Notes, shall promptly surrender such Notes to the Borrower for cancellation, provided that if Fleet has retained any Commitment, the Borrower shall execute and deliver to Fleet new Notes in the amount of its retained Commitment; (c) the Borrower shall issue to such Assignee Notes in the amount of such Assignee's Commitment, dated the Closing Date or such other date as may be specified by such Assignee and otherwise completed in substantially the form of EXHIBIT A; (d) this Agreement shall be deemed appropriately amended to reflect (i) the status of such Assignee as a party hereto and (ii) the status and rights of the Lenders hereunder; and (e) the Borrower shall take such action as Fleet may reasonably request to perfect any security interests or mortgages in favor of the Lenders.

9.2. PARTICIPATIONS. The Lender shall have the unrestricted right to grant participations to one or more banks or other financial institutions (each a "PARTICIPANT") in all or any part of any Loans owing to the Lender and the Note held by the Lender. The Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, modification or waiver of any provision of the Loan Documents, PROVIDED that the documents evidencing any such participation may provide that, except with the consent of such Participant, the Lender will not consent to (a) the reduction in or forgiveness of the stated principal of or rate of interest on or commitment fee with respect to the portion of any Loan subject to such participation, (b) the extension or postponement of any stated date fixed for payment of principal or interest or commitment fee with respect to the portion of any Loan subject to such participation, or (c) the waiver or reduction of any right to indemnification of the Lender hereunder. Notwithstanding the foregoing, no participation shall operate to increase the total Commitments hereunder or otherwise alter the substantive terms of this Agreement. In the event of any such sale by the Lender of participating interests to a Participant, the Lender's obligations under this Agreement shall remain unchanged, the Lender shall remain solely responsible for the performance thereof, the Lender shall remain the holder of such Note for all purposes under this Agreement and the Borrower shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations under this Agreement.

#### SECTION X.

##### GENERAL

10.1. NOTICES. Unless otherwise specified herein, all notices hereunder to any party hereto shall be in writing and shall be deemed to have been given when delivered by hand, or when sent by electronic facsimile transmission, or on the first Business Day after delivery to any overnight delivery service, freight pre-paid, or five (5) days after being sent by certified or registered mail, return receipt requested, postage pre-paid, and addressed to such party at its address indicated below:

If to the Borrower, at

Aspen Technology, Inc.

Ten Canal Park  
Cambridge, Massachusetts 02141-2201  
Attention: Chief Financial Officer

Facsimile: (617) 949-1722

with copies to (which shall not constitute notice) to:

Aspen Technology, Inc.  
Ten Canal Park  
Cambridge, Massachusetts 02141-2201  
Attention: Michael J. Muscatello, General Counsel

Facsimile: (617) 949-1711

and

Attention: Christine Duffy, Assistant Treasurer

Facsimile: (617) 949-1711

Hale and Dorr LLP  
60 State Street  
Boston, MA 02109  
Attention: Mark L. Johnson, Esq.

Facsimile: (617) 526-5000

If to the Lender, at

100 Federal Street  
Mail Stop MA DE 10008H  
Boston, Massachusetts 02110  
Attention: Daniel G. Head, Jr., Director

Facsimile: (617) 434-0819

with a copy (which shall not constitute notice) to:

Sullivan & Worcester LLP  
One Post Office Square  
Boston, MA 02109  
Attention: Dennis J. White, Esq.

Facsimile: (617) 338-2880

or at any other address specified by such party in writing.

10.2. EXPENSES. Whether or not the transactions contemplated herein shall be consummated, the Borrower promises to reimburse the Lender and the Issuing Bank for all out-of-pocket fees and disbursements (including all reasonable attorneys' fees and collateral

evaluation costs) incurred or expended in connection with the preparation, filing or recording, or interpretation of this Agreement and the other Loan Documents, or any amendment, modification, approval, consent or waiver hereof or thereof, or in connection with the enforcement of any Obligations or the satisfaction of any indebtedness of the Borrower hereunder or thereunder, or in connection with any litigation, proceeding or dispute in any way related to the credit hereunder, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any default rate) and be an Obligation. The Borrower will pay any taxes (including any interest and penalties in respect thereof), other than the Lender's federal and state income taxes, payable on or with respect to the transactions contemplated by the Loan Documents (the Borrower hereby agreeing to indemnify the Lender and the Issuing Bank with respect thereto).

10.3. INDEMNIFICATION. The Borrower agrees to indemnify and hold harmless the Lender and the Issuing Bank, as well as their respective shareholders, directors, officers, agents, attorneys, subsidiaries and affiliates, from and against all damages, losses, settlement payments, obligations, liabilities, claims, suits, penalties, assessments, citations, directives, demands, judgments, actions or causes of action, whether statutorily created or under the common law, all reasonable costs and expenses (including, without limitation, reasonable fees and disbursements of attorneys, engineers and consultants) and all other liabilities whatsoever (including, without limitation, liabilities under Environmental Laws) which shall at any time or times be incurred, suffered, sustained or required to be paid by any such indemnified Person (except any of the foregoing which result from the gross negligence or willful misconduct of the indemnified Person) on account of or in relation to or any way in connection with any of the arrangements or transactions contemplated by, associated with or ancillary to this Agreement, the other Loan Documents or any other documents executed or delivered in connection herewith or therewith, all as the same may be amended from time to time, or with respect to any Letters of Credit, whether or not all or part of the transactions contemplated by, associated with or ancillary to this Agreement, any of the other Loan Documents or any such other documents are ultimately consummated. In any investigation, proceeding or litigation, or the preparation therefor, the Lender shall select its own counsel and, in addition to the foregoing indemnity, the Borrower agrees to pay promptly the reasonable fees and expenses of such counsel. In the event of the commencement of any such proceeding or litigation, the Borrower shall be entitled to participate in such proceeding or litigation with counsel of its choice at its own expense, provided that such counsel shall be reasonably satisfactory to the Lender. The Borrower authorizes the Lender and the Issuing Bank to charge any deposit account or Note Record which it may maintain with any of them for any of the foregoing. The covenants of this Section 10.3 shall survive payment or satisfaction of payment of all amounts owing with respect to the Notes, any other Loan Document or any other Obligation.

10.4. SURVIVAL OF COVENANTS, ETC. All covenants, agreements, representations and warranties made herein, in the other Loan Documents or in any documents or other papers delivered by or on behalf of the Borrower pursuant hereto shall be deemed to have been relied upon by the Lender and the Issuing Bank, notwithstanding any investigation heretofore or hereafter made by any of them, and shall survive the making by the Lender of the Loans as herein contemplated, and shall continue in full force and effect so long as any Obligation remains outstanding and unpaid or the Lender has any obligation to make any Loans hereunder or the Issuing Bank has any obligation to issue any Letter of Credit. All statements contained in any

certificate or other writing delivered by or on behalf of the Borrower pursuant hereto or in connection with the transactions contemplated hereby shall constitute representations and warranties by the Borrower hereunder.

10.5. SET-OFF. The Borrower hereby grants to the Lender, a lien, security interest and right of setoff as security for all liabilities and obligations to the Lender, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of FleetBoston Financial Corporation and its successors and assigns, or in transit to any of them. At any time, without demand or notice (any such notice being expressly waived by the Borrower), the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the undersigned even though unmatured and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING THE RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

10.6. NO WAIVERS. No failure or delay by the Lender or the Issuing Bank in exercising any right, power or privilege hereunder, under the Notes or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver shall extend to or affect any Obligation not expressly waived or impair any right consequent thereon. No course of dealing or omission on the part of the Lender or the Issuing Bank in exercising any right shall operate as a waiver thereof or otherwise be prejudicial thereto. No notice to or demand upon the Borrower shall entitle the Borrower to other or further notice or demand in similar or other circumstances. The rights and remedies herein and in the Notes and the other Loan Documents are cumulative and not exclusive of any rights or remedies otherwise provided by agreement or law.

10.7. AMENDMENTS, WAIVERS, ETC. Neither this Agreement nor the Notes nor any other Loan Document nor any provision hereof or thereof may be amended, waived, discharged or terminated except by a written instrument signed by the Lender and, with respect to Letters of Credit, the Issuing Bank, and also, in the case of amendments, by the Borrower.

10.8. BINDING EFFECT OF AGREEMENT. This Agreement shall be binding upon and inure to the benefit of the Borrower, the Lender, the Issuing Bank and their respective successors and assigns; PROVIDED that the Borrower may not assign or transfer its rights or obligations hereunder.

10.9. CAPTIONS; COUNTERPARTS. The captions in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof. This Agreement and any amendment hereof may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument. In proving this Agreement it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

10.10. ENTIRE AGREEMENT, ETC. The Loan Documents and any other documents executed in connection herewith or therewith express the entire understanding of the parties with respect to the transactions contemplated hereby and supersede all prior agreements (including the Commitment Letter dated September 16, 2000 between Lender and the Borrower) with respect to the subject matter hereof, except for the letter agreement dated September 16, 2000, between the Borrower and Lender with respect to fees payable to Lender, which letter agreement shall continue in full force and effect and shall not be superseded by any of the Loan Documents.

10.11. WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE LENDER RELATING TO THE ADMINISTRATION OF THE LOAN OR THE ENFORCEMENT OF THE LOAN DOCUMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, EACH OF THE BORROWER AND THE LENDER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS. THE WAIVERS AND CERTIFICATIONS CONTAINED HEREIN CONSTITUTE A MATERIAL INDUCEMENT FOR THE LENDER TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS TO WHICH EACH IS A PARTY AND TO MAKE THE LOAN.

10.12. GOVERNING LAW. THIS AGREEMENT AND EACH OF THE OTHER LOAN DOCUMENTS ARE CONTRACTS UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS AND SHALL FOR ALL PURPOSES BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF SAID COMMONWEALTH (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW). THE BORROWER CONSENTS TO THE JURISDICTION OF ANY OF THE FEDERAL OR STATE COURTS LOCATED IN SUFFOLK COUNTY IN THE COMMONWEALTH OF MASSACHUSETTS IN CONNECTION WITH ANY SUIT TO ENFORCE THE RIGHTS OF THE LENDER UNDER THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. THE BORROWER IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH ACTION BROUGHT IN THE COURTS REFERRED TO IN THE PRECEDING SENTENCE AND IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH ACTION THAT SUCH ACTION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

10.13. SEVERABILITY. The provisions of this Agreement are severable and if any one clause or provision hereof shall be held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

10.14. REPLACEMENT OF LOST NOTES. Upon receipt of an affidavit of an officer of the Lender as to the loss, theft, destruction or mutilation of the Notes, and in the case of any such loss, theft, destruction or mutilation, upon cancellation of such Notes, the Borrower will issue, in lieu thereof, a replacement note or other security document in the same principal amount thereof or otherwise of like tenor.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have duly executed this Credit Agreement under seal as of the date first above written.

ASPEN TECHNOLOGY, INC.

By: /s/ Lisa W. Zappla

-----  
Name: Lisa W. Zappla  
Title: Senior Vice President and  
Chief Financial Officer

FLEET NATIONAL BANK

By: /s/ Daniel G. Head, Jr.

-----  
Name: Daniel G. Head, Jr.  
Title: Director

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## SCHEDULES

SCHEDULE 1 - Commitments of Lender

## EXHIBITS

EXHIBIT A - Form of Revolving Credit Note  
EXHIBIT B - Form of Notice of Borrowing or Conversion  
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EXHIBIT E - Form of Borrowing Base Report  
EXHIBIT F - Borrower's Short Term Investment Portfolio Investment Policy

## UNLIMITED GUARANTY

UNLIMITED GUARANTY, dated as of October 27, 2000 by Aspentech, Inc., a Texas corporation, Aspentech Securities Corp., a Massachusetts corporation, Industrial Systems, Inc., a Washington corporation, and such other parties as may from time to time become a party hereto pursuant to SECTION 15 hereof (each individually a "GUARANTOR" and collectively, the "GUARANTORS"), in favor of FLEET NATIONAL BANK, as Lender under (and as defined in) that certain Credit Agreement of even date herewith between the Lender and Aspen Technology, Inc., a Delaware corporation (together with its successors, the "COMPANY") (as the same may be amended, modified, supplemented, extended or restated from time to time the "CREDIT AGREEMENT"). In consideration of the Lender making advances to the Company and issuing letters of credit for the account of the Company under the Credit Agreement, the Guarantors agree as follows:

## 1. DEFINITIONS

Terms defined in the Credit Agreement and not otherwise defined herein have, as used herein, the respective meanings provided for therein. The following additional term, as used herein, shall have the following meaning:

"GUARANTIED OBLIGATIONS" means all obligations of the Company to the Lender, whether such obligations are now existing or hereafter incurred or created, joint or several, direct or indirect, absolute or contingent, due or to become due, matured or unmatured, liquidated or unliquidated, arising by contract, operation of law or otherwise, including, without limitation, (a) all Obligations (as defined in the Credit Agreement); (b) all principal of and interest (including, without limitation, any interest which accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of the Company) on any advance to the Company under the Notes or pursuant to the Credit Agreement; (c) all other amounts (including, without limitation, any fees or expenses) payable by the Company under the Loan Documents; (d) all amounts payable to the Issuing Bank in connection with the issuance of any letter of credit by such Issuing Bank for the account of the Company or any drawing thereunder, including, without limitation, any reimbursement obligation and letter of credit fees payable under any letter of credit application or reimbursement agreement executed by the Company in connection with any such letter of credit; (e) all other amounts payable by the Company hereunder; and (f) any renewals, refinancings or extensions of any of the foregoing.

2. GUARANTY OF PAYMENT AND PERFORMANCE. Each of the Guarantors hereby jointly and severally guarantees to the Lender the full and punctual payment when due (whether at maturity, by acceleration or otherwise), and the performance, of the Guaranteed Obligations. This Guaranty is an absolute, unconditional and irrevocable guaranty of the full and punctual payment and performance of the Guaranteed Obligations and not of their collectibility only and is in no way conditioned upon any requirement that the Lender first attempt to collect any of the Guaranteed Obligations from the Company or resort to any security or other means of obtaining their payment. Should an Event of Default occur and be continuing, the Guaranteed Obligations of the Guarantors hereunder shall become immediately due and payable to the Lender, for the

benefit of the Lenders, without demand or notice of any nature, all of which are expressly waived by the Guarantors. Payments by the Guarantors hereunder may be required by the Lender on any number of occasions.

3. GUARANTORS' AGREEMENT TO PAY. The Guarantors further jointly and severally agree, each as the principal obligor and not as a guarantor only, to pay to the Lender, on demand, all costs and expenses (including court costs and legal expenses) incurred or expended by the Lender in connection with the Guaranteed Obligations, this Guaranty and the enforcement thereof, together with interest on amounts recoverable under this Guaranty from the time such amounts become due until payment, at the rate per annum equal to the rate of interest announced by the Lender from time to time at its head office as its Prime Rate plus 2%; provided that if such interest exceeds the maximum amount permitted to be paid under applicable law, then such interest shall be reduced in accordance with Section 2.4(f) of the Credit Agreement.

4. UNLIMITED GUARANTY. The liability of the Guarantors hereunder shall be joint and several and shall be unlimited.

5. WAIVERS BY GUARANTOR; LENDER'S FREEDOM TO ACT. Each Guarantor agrees that the Guaranteed Obligations will be paid and performed strictly in accordance with their respective terms regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Lender with respect thereto. Each Guarantor waives presentment, demand, protest, notice of acceptance, notice of Guaranteed Obligations incurred and all other notices of any kind, all defenses which may be available by virtue of any valuation, stay, moratorium law or other similar law now or hereafter in effect, any right to require the marshalling of assets of the Company, and all suretyship defenses generally. Without limiting the generality of the foregoing, each Guarantor agrees to the provisions of any instrument evidencing, securing or otherwise executed in connection with any Obligation and agrees that the Guaranteed Obligations of the Guarantors hereunder shall not be released or discharged, in whole or in part, or otherwise affected by (i) the failure of the Lender to assert any claim or demand or to enforce any right or remedy against the Company; (ii) any extensions or renewals of any Obligation; (iii) any rescissions, waivers, amendments or modifications of any of the terms or provisions of any agreement evidencing, securing or otherwise executed in connection with any Obligation; (iv) the substitution or release of any entity primarily or secondarily liable for any Obligation; (v) the adequacy of any rights the Lender may have against any collateral or other means of obtaining repayment of the Guaranteed Obligations; (vi) the impairment of any collateral securing the Guaranteed Obligations, if any, including without limitation the failure to perfect or preserve any rights the Lender might have in such collateral or the substitution, exchange, surrender, release, loss or destruction of any such collateral; or (vii) any other act or omission which might in any manner or to any extent vary the risk of the Guarantors or otherwise operate as a release or discharge of the Guarantors, all of which may be done without notice to the Guarantors.

6. UNENFORCEABILITY OF GUARANTIED OBLIGATIONS AGAINST COMPANY. If for any reason the Company has no legal existence or is under no legal obligation to discharge any of the Guaranteed Obligations, or if any of the Guaranteed Obligations have become irrecoverable from the Company by operation of law or for any other reason, this Guaranty shall nevertheless be binding on each of the Guarantors to the same extent as if each Guarantor at all times had been

the principal obligor on all such Guaranteed Obligations. In the event that acceleration of the time for payment of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Company, or for any other reason, all such amounts otherwise subject to acceleration under the terms of any agreement evidencing, securing or otherwise executed in connection with any Obligation shall be immediately due and payable by the Guarantors.

7. WAIVER OF SUBROGATION. Until the payment and performance in full of all Guaranteed Obligations and any and all Guaranteed Obligations of the Company to any affiliate of the Lender, the Guarantors shall not exercise any rights against the Company arising as a result of payment by the Guarantors hereunder, by way of subrogation or otherwise, and will not prove any claim in competition with the Lender or its affiliates in respect of any payment hereunder in bankruptcy or insolvency proceedings of any nature; the Guarantors will not claim any set-off or counterclaim against the Company in respect of any liability of the Guarantors to the Company; the Guarantors waive any benefit of and any right to participate in any collateral which may be held by the Lender or any such affiliate; and notwithstanding any other provision to the contrary contained herein, the Guarantors hereby irrevocably waive any and all rights each may have at any time (whether arising directly or indirectly, by operation of law or by contract) to assert any claim against the Company on account of payments made under this Guaranty, including, without limitation, any and all rights of or claims for subrogation, contribution, reimbursement, exoneration and indemnity unless such rights have been expressly subordinated to any rights of the Lender with respect to the Company.

8. SUBORDINATION. The payment of any amounts due with respect to any indebtedness of the Company now or hereafter held by the Guarantors, including any and all rights of or claims for subrogation, contribution, reimbursement, exoneration and indemnity, is hereby subordinated to the prior payment in full of the Guaranteed Obligations, provided that so long as no default in the payment or performance of the Guaranteed Obligations has occurred and is continuing, or no demand for payment of any of the Guaranteed Obligations has been made that remains unsatisfied, the Company may make, and the Guarantors may demand and accept, any scheduled payments of principal of and interest on such subordinated indebtedness in the amounts, at the rates and on the dates specified in such instruments, securities or other writings as shall evidence such subordinated indebtedness. The Guarantors agree that after the occurrence of any default in the payment or performance of the Guaranteed Obligations, the Guarantors will not demand, sue for or otherwise attempt to collect any such indebtedness of the Company to the Guarantors until the Guaranteed Obligations shall have been paid in full. If, notwithstanding the foregoing sentence, the Guarantors shall collect, enforce or receive any amounts in respect of such indebtedness, such amounts shall be collected, enforced and received by the Guarantors as trustee for the Lender and be paid over to the Lender on account of the Guaranteed Obligations without affecting in any manner the liability of the Guarantors under the other provisions of this Guaranty.

9. SECURITY; SET-OFF. Each Guarantor hereby grants to the Lender, as security for the full and punctual payment and performance of such Guarantor's Guaranteed Obligations hereunder, a lien, security interest and right of setoff, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of FleetBoston Financial Corporation and its successors and assigns, or in transit to any of them. Regardless of

the adequacy of any collateral or other means of obtaining repayment of the Guaranteed Obligations, the Lender is hereby authorized at any time and from time to time, without notice to the Guarantors (any such notice being expressly waived by the Guarantors) and to the fullest extent permitted by law, to set off and apply such deposits and other sums against the Guaranteed Obligations of the Guarantors under this Guaranty, whether or not the Lender shall have made any demand under this Guaranty. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING THE RIGHT OF SET OFF WITH RESPECT TO SUCH DEPOSITS, CREDIT OR OTHER PROPERTY OF THE COMPANY ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

10. FURTHER ASSURANCES. Each Guarantor agrees to do all such things and execute all such documents, including financing statements, as the Lender may reasonably consider necessary or desirable to give full effect to this Guaranty and to perfect and preserve the rights and powers of the Lender hereunder.

11. TERMINATION; REINSTATEMENT. This Guaranty shall remain in full force and effect until the Lender is given written notice of the Guarantors' intention to discontinue this Guaranty, notwithstanding any intermediate or temporary payment or settlement of the whole or any part of the Guaranteed Obligations. No such notice shall be effective unless received and acknowledged by an officer of the Lender at its head office. No such notice shall affect any rights of the Lender or of any affiliate hereunder including, without limitation, the rights set forth in Sections 4 and 6, with respect to Guaranteed Obligations incurred prior to the receipt of such notice or Guaranteed Obligations incurred pursuant to any contract or commitment in existence prior to such receipt, including, without limitation, the Notes and other Loan Documents, and all checks, drafts, notes, instruments (negotiable or otherwise) and writings made by or for the account of the Company and drawn on the Lender or any of its agents purporting to be dated on or before the date of receipt of such notice, although presented to and paid or accepted by the Lender after that date, shall form part of the Guaranteed Obligations. This Guaranty shall continue to be effective or be reinstated, notwithstanding any such notice, if at any time any payment made or value received with respect to an Obligation is rescinded or must otherwise be returned by the Lender upon the insolvency, bankruptcy or reorganization of the Company, or otherwise, all as though such payment had not been made or value received.

12. SUCCESSORS AND ASSIGNS. This Guaranty shall be binding upon the Guarantors, their successors and assigns, and shall inure to the benefit of and be enforceable by the Lender and its successors, transferees and assigns. Without limiting the generality of the foregoing sentence, the Lender may assign or otherwise transfer any agreement or any note held by it evidencing, securing or otherwise executed in connection with the Guaranteed Obligations, or sell participations in any interest therein, to any other person or entity, and such other person or entity shall thereupon become vested, to the extent set forth in the agreement evidencing such assignment, transfer or participation, with all the rights in respect thereof granted to the Lender herein.

13. AMENDMENTS AND WAIVERS. No amendment or waiver of any provision of this Guaranty nor consent to any departure by the Guarantors therefrom shall be effective unless the

same shall be in writing and signed by the Lender. No failure on the part of the Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

14. NOTICES. Unless otherwise specified herein, all notices hereunder to any party hereto shall be in writing and shall be deemed to have been given when delivered by hand, or when sent by electronic facsimile transmission or by telex, answer back received, or on the first Business Day after delivery to any overnight delivery service, freight pre-paid, or three days after being sent by certified or registered mail, return receipt requested, postage pre-paid, and addressed to such party at its address indicated under its signature below; or at any other address specified by such party in writing.

15. JOINDER. The Lender and each Guarantor agree that from time to time in the event that any domestic Subsidiary of the Company shall have revenues for any period of four (4) consecutive fiscal quarters exceeding ten percent (10%) of the aggregate revenues of the Company and its Subsidiaries taken on a consolidated basis, each such Subsidiary shall become a guarantor of the Guaranteed Obligations by executing and delivering an Instrument of Adherence substantially in the form of EXHIBIT A hereto where upon this Unlimited Guaranty shall become the binding obligation of such Person.

16. GOVERNING LAW; CONSENT TO JURISDICTION. THIS GUARANTY IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS AND SHALL FOR ALL PURPOSES BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH SAID LAWS OF THE COMMONWEALTH (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW). EACH GUARANTOR CONSENTS TO THE JURISDICTION OF ANY OF THE FEDERAL OR STATE COURTS LOCATED IN SUFFOLK COUNTY IN THE COMMONWEALTH OF MASSACHUSETTS IN CONNECTION WITH ANY SUIT TO ENFORCE THE RIGHTS OF THE LENDER UNDER THIS AGREEMENT. EACH GUARANTOR IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH ACTION BROUGHT IN THE COURTS REFERRED TO IN THE PRECEDING SENTENCE AND IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH ACTION THAT SUCH ACTION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

17. MISCELLANEOUS. This Guaranty constitutes the entire agreement of the Guarantors with respect to the matters set forth herein. The rights and remedies herein provided are cumulative and not exclusive of any remedies provided by law or any other agreement, and this Guaranty shall be in addition to any other guaranty of the Guaranteed Obligations. The invalidity or unenforceability of any one or more sections of this Guaranty shall not affect the validity or enforceability of its remaining provisions. Captions are for the ease of reference only and shall not affect the meaning of the relevant provisions. The meanings of all defined terms used in this Guaranty shall be equally applicable to the singular and plural forms of the terms defined.

18. JURY WAIVER. THE LENDER (BY ITS ACCEPTANCE HEREOF) AND EACH GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY

WAIVE THE RIGHT TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTY, OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE LENDER RELATING TO THE ADMINISTRATION OF THE LOAN OR THE ENFORCEMENT OF THIS GUARANTY OR THE GUARANTIED OBLIGATIONS, AND AGREE THAT NO PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, EACH OF THE GUARANTORS AND THE LENDER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. EACH GUARANTOR CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS. THE WAIVERS AND CERTIFICATIONS CONTAINED HEREIN CONSTITUTE A MATERIAL INDUCEMENT FOR THE LENDER TO ENTER INTO THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND TO MAKE THE LOAN.

[SIGNATURES APPEAR ON FOLLOWING PAGES]



IN WITNESS WHEREOF, each Guarantor has executed and delivered this Guaranty, or caused this Guaranty to be executed and delivered by its duly authorized officer, as an instrument under seal as of the date appearing on page one.

ASPENTECH, INC.

By: /s/ Lisa W. Zappala

-----  
Name: Lisa W. Zappala  
Title: Senior Vice President and  
Chief Financial Officer

Address: [ ]  
[ ]  
Attention: [ ]  
Telecopy: (\_\_\_) \_\_\_-\_\_\_

ASPENTECH SECURITIES CORP.

By: /s/ Lisa W. Zappala

-----  
Name: Lisa W. Zappala  
Title: Senior Vice President and  
Chief Financial Officer

Address: [ ]  
[ ]  
Attention: [ ]  
Telecopy: (\_\_\_) \_\_\_-\_\_\_

INDUSTRIAL SYSTEMS, INC.

By: /s/ Lisa W. Zappala

-----  
Name: Lisa W. Zappala  
Title: Senior Vice President and  
Chief Financial Officer

Address: [ ]  
[ ]  
Attention: [ ]  
Telecopy: (\_\_\_) \_\_\_-\_\_\_

ACCEPTED IN BOSTON, MASSACHUSETTS  
AS OF THE DATE FIRST ABOVE WRITTEN.

FLEET NATIONAL BANK

By: /s/ Daniel G. Head, Jr.

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Daniel G. Head, Jr.  
Director

Address:           100 Federal Street  
                  Mail Stop MA DE 10008H  
                  Boston, Massachusetts 02110  
                  Attention: Daniel G. Head, Jr., Director  
                  Facsimile: (617) 434-0819

## FORM OF REVOLVING CREDIT NOTE

\$30,000,000

Boston, Massachusetts  
October 27, 2000

FOR VALUE RECEIVED, the undersigned (the "Borrower") absolutely and unconditionally promises to pay to the order of Fleet National Bank ("Payee") at 100 Federal Street, Boston, Massachusetts 02110:

(a) on the Revolving Credit Maturity Date, the principal amount of THIRTY MILLION DOLLARS (\$30,000,000) or, if less, the aggregate unpaid principal amount of Revolving Credit Loans advanced by the Payee to the Borrower pursuant to the Credit Agreement of even date herewith, as amended or supplemented from time to time (the "Credit Agreement"), by and among the Borrower and the Payee; and

(b) interest on the principal balance hereof from time to time outstanding from the date hereof through and including the date on which such principal amount is paid in full, at the times and at the rates provided in the Credit Agreement.

This Note evidences borrowings under, is subject to the terms and conditions of and has been issued by the Borrower in accordance with the terms of the Credit Agreement and is the Note referred to therein. The Payee and any holder hereof is entitled to the benefits and subject to the conditions of the Credit Agreement and may enforce the agreements of the Borrower contained therein, and any holder hereof may exercise the respective remedies provided for thereby or otherwise available in respect thereof, all in accordance with the respective terms thereof.

All capitalized terms used in this Note and not otherwise defined herein shall have the same meanings herein as in the Credit Agreement.

The Borrower has the right in certain circumstances and the obligation under certain other circumstances to repay or prepay the whole or part of the principal of this Note on the terms and conditions specified in the Agreement.

The Borrower hereby grants to the Lender, a lien, security interest and right of setoff as security for all liabilities and obligations to the Lender, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of FleetBoston Financial Corporation and its successors and assigns, or in transit to any of them. At any time, without demand or notice (any such notice being expressly waived by the Borrower), the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the undersigned even though unmatured and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING THE RIGHT OF SETOFF WITH

RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

The Lender may at any time pledge all or any portion of its rights under the Loan Documents including any portion of this Note to any of the twelve (12) Federal Reserve Banks organized under Section 4 of the Federal Reserve Act, 12 U.S.C. Section 341. No such pledge or assignment or enforcement thereof shall release the Lender from its obligations under any of the Loan Documents.

Upon receipt of an affidavit of an officer of the Lender as to the loss, theft, destruction or mutilation of this Note, and, in the case of any such loss, theft, destruction or mutilation, upon cancellation of this Note, the Borrower will issue, in lieu thereof, a replacement note in the same principal amount thereof.

If any Event of Default shall occur, the entire unpaid principal amount of this Note and all of the unpaid interest accrued thereon may become or be declared due and payable in the manner and with the effect provided in the Credit Agreement.

The Borrower and every endorser and guarantor of this Note or the obligation represented hereby waive presentment, demand, notice, protest and all other demands and notice in connection with the delivery, acceptance, performance, default or enforcement of this Note, assent to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of collateral and to the addition or release of any other party or Person primarily or secondarily liable.

This Note shall be deemed to take effect as a sealed instrument under the laws of The Commonwealth of Massachusetts and for all purposes shall be construed in accordance with such laws (without regard to conflicts of laws rules).

IN WITNESS WHEREOF, the Borrower has caused this Note to be signed under seal by its duly authorized officer as of the day and year first above written.

ASPEN TECHNOLOGY, INC.

By: /s/ Lisa W. Zappala

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Name: Lisa W. Zappala  
Title: Senior Vice President and  
Chief Financial Officer

5  
1,000  
U.S. DOLLARS

3-MOS  
JUN-30-2001  
JUL-01-2000  
SEP-30-2000  
1  
44,225  
62,250  
102,635  
(1,650)  
0  
257,201  
98,368  
59,133  
376,832  
87,559  
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0  
2,988  
182,772  
376,832  
32,582  
69,488  
2,565  
24,885  
14,992  
0  
1,256  
(5,265)  
(1,580)  
(6,672)  
0  
0  
0  
(3,685)  
(0.13)  
(0.13)