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

FORM 10-Q

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

For the quarterly period ended September 29, 2001

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 0-20052

STEIN MART, INC.

(Exact name of registrant as specified in its charter)

Florida	64-0466198
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
1200 Riverplace Blvd., Jacksonville, Florida	32207
(Address of principal executive offices)	(Zip Code)

(Registrant's telephone number, including area code) (904) 346-1500

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes [X] No [ ]

At November 5, 2001, the latest practicable date, there were 41,202,136 shares outstanding of Common Stock, $.01 par value.

Stein Mart, Inc.
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Stein Mart, Inc.
Balance Sheet
(In thousands)

	September 29, 2001	December 30, 2000	September 30, 2000
ASSETS	**(Unaudited)**		**(Unaudited)**
Current assets:			
Cash and cash equivalents	$ 14,274	$ 12,526	$ 13,650
Trade and other receivables	3,267	4,758	2,478
Inventories	354,726	277,453	308,549
Prepaid taxes	96	-	1,821
Prepaid expenses and other current assets	9,381	7,703	3,742
Total current assets	381,744	302,440	330,240
Property and equipment, net	86,990	82,006	79,256
Other assets	5,154	5,543	6,341
Total assets	$473,888	$389,989	$415,837
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	$127,277	$121,578	$110,835
Accrued liabilities	45,838	51,756	42,691
Income taxes payable	-	8,504	-
Notes payable to banks	96,250	-	-
Total current liabilities	269,365	181,838	153,526
Store closing reserve	3,133	3,308	10,515
Notes payable to banks	-	-	60,115
Deferred income taxes	10,670	10,815	4,287
Total liabilities	283,168	195,961	228,443
Stockholders' equity:			
Preferred stock - $.01 par value; 1,000,000 shares authorized; no shares outstanding			
Common stock - $.01 par value; 100,000,000 shares authorized; 40,954,110; 41,454,181 and 42,631,111 shares issued and outstanding at September 29, 2001; December 30, 2000 and September 30, 2000, respectively	410	415	426
Paid-in capital	-	-	11,948
Retained earnings	190,310	193,613	175,020
Total stockholders' equity	190,720	194,028	187,394
Total liabilities and stockholders' equity	$473,888	$389,989	$415,837

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

Stein Mart, Inc.
Statement of Income
(Unaudited)
(In thousands except per share amounts)

	For The Three Months Ended		For The Nine Months Ended	
	September 29, 2001	**September 30, 2000**	**September 29, 2001**	**September 30, 2000**
Net sales	$280,342	$267,561	$871,971	$804,200
Cost of merchandise sold	224,328	204,484	666,470	601,689
Gross profit	56,014	63,077	205,501	202,511
Selling, general and administrative expenses	70,449	61,819	210,165	182,625
Other income, net	2,883	2,927	10,070	9,623
Income (loss) from operations	(11,552)	4,185	5,406	29,509
Interest expense	1,285	827	2,941	2,233
Income (loss) before income taxes	(12,837)	3,358	2,465	27,276
Income tax benefit (provision)	4,878	(1,276)	(937)	(10,365)
Net income (loss)	$ (7,959)	$ 2,082	$ 1,528	$ 16,911
Earnings (loss) per share – Basic	$(0.19)	$0.05	$0.04	$0.39
Earnings (loss) per share – Diluted	$(0.19)	$0.05	$0.04	$0.39
Weighted-average shares outstanding – Basic	40,997	42,991	41,184	43,164
Weighted-average shares outstanding – Diluted	40,997	43,665	41,553	43,596

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

Stein Mart, Inc.
Statement of Cash Flows
(Unaudited)
(In thousands)

	For The Nine Months Ended	
	September 29, 2001	September 30, 2000
Cash flows from operating activities:		
Net income	$ 1,528	$ 16,911
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization	12,226	10,570
Tax benefit from exercise of stock options	116	197
(Increase) decrease in:		
Trade and other receivables	1,491	1,994
Inventories	(77,273)	(63,363)
Prepaid taxes	(96)	(1,821)
Prepaid expenses and other current assets	(1,678)	347
Other assets	389	(1,446)
Increase (decrease) in:		
Accounts payable	5,699	(9,805)
Accrued liabilities	(5,918)	12,605
Income taxes payable	(8,504)	(4,686)
Store closing reserve	(175)	(2,074)
Deferred income taxes	(145)	-
Net cash used in operating activities	(72,340)	(40,571)
Cash flows used in investing activities:		
Net acquisition of property and equipment	(17,210)	(13,323)
Cash flows from financing activities:		
Net borrowings under notes payable to banks	96,250	60,115
Proceeds from exercise of stock options	456	520
Proceeds from employee stock purchase plan	958	957
Purchase of common stock	(6,366)	(11,103)
Net cash provided by financing activities	91,298	50,489
Net increase (decrease) in cash and cash equivalents	1,748	(3,405)
Cash and cash equivalents at beginning of year	12,526	17,055
Cash and cash equivalents at end of period	$ 14,274	$ 13,650
Supplemental disclosures of cash flow information:		
Interest paid	$ 4,020	$ 2,160
Income taxes paid	9,774	16,853

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

Stein Mart, Inc.
Notes to Financial Statements
(Unaudited)

1. Basis of Presentation

The accompanying unaudited financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the three month and nine month periods are not necessarily indicative of the results that may be expected for the entire year. For further information, refer to the financial statements and footnotes thereto included in the Stein Mart, Inc. annual report on Form 10-K for the year ended December 30, 2000.

2. Earnings (Loss) Per Share

Basic earnings (loss) per share are computed by dividing net income (loss) by the weighted-average number of common shares outstanding for the period. Diluted earnings per share is computed by dividing net income (loss) by the weighted-average number of common shares outstanding plus common stock equivalents related to stock options for each period. Common stock equivalents (362 stock options) are not included in the diluted loss per share calculation for the three months ended September 29, 2001 because they are anti-dilutive.

A reconciliation of weighted-average number of common shares to weighted-average number of common shares plus common stock equivalents is as follows (000's):

	Quarter Ended		Nine Months Ended	
	Sept. 29, 2001	Sept. 30, 2000	Sept. 29, 2001	Sept. 30, 2000
Weighted-average number of common shares	40,997	42,991	41,184	43,164
Stock options	-	674	369	432
Weighted-average number of common shares plus common stock equivalents	40,997	43,665	41,553	43,596

3. Store Closing Reserve

The store closing reserve at September 29, 2001 includes primarily the remaining lease obligation for one store closed in December 1999. Payments during the nine months of 2001 include lease termination and ongoing lease costs. Activity in the store closing reserve is as follows:

Balance at December 30, 2000	$6,037
Payments	(2,353)
	3,684
Less current portion (included in Accrued Liabilities)	(551)
Balance at September 29, 2001	$3,133

4. Notes payable to banks

In June 2001 the Company entered into a new revolving credit agreement with a group of banks, which extends through June 2004. The agreement establishes a $135 million senior revolving credit facility, which includes a $10 million letter of credit sub-facility. Interest is payable at rates based on spreads over the London Interbank Offering Rate (LIBOR) or the Prime Rate. A quarterly commitment fee of 0.375% per annum is paid on the unused portion of the commitment.

The agreement requires the Company to maintain certain financial ratios and meet required net worth and indebtedness tests. At September 29, 2001, the Company did not comply with certain financial covenants and has received waivers with respect thereto from the banks. In accordance with Emerging Issues Task Force Issue No. 86-30, "Classification of Obligations When a Violation is Waived by the Creditor," notes payable to banks has been classified as current.

5. Stock Option and Purchase Plans

On May 7, 2001, the shareholders approved a new stock option plan (the "Omnibus Plan") with options available under the plan for 4,500,000 shares of the Company's common stock. The Omnibus Plan, which has a 10-year term, replaced the Company's Employee Stock and Director Stock Option Plans.

The shareholders also approved an amendment to the Stock Purchase Plan, increasing the number of shares eligible for issuance under the Plan by 1,000,000 and extending the Plan until December 31, 2005. During the nine months ended September 29, 2001, the Company repurchased 685,800 shares for $6.4 million and during the nine months ended September 30, 2000, repurchased 1,570,500 shares for $11.1 million.

Stein Mart, Inc.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

This report includes a number of forward-looking statements which reflect the Company's current views with respect to future events and financial performance. Wherever used, the words "plan", "expect", "anticipate", "believe", "estimate" and similar expressions identify forward looking statements.

Any such forward-looking statements contained herein are subject to risks and uncertainties that could cause the Company's actual results of operations to differ materially from historical results or current expectations. These risks include, without limitation, ongoing competition from other retailers many of whom are larger and have greater financial and marketing resources, the availability of suitable new store sites at acceptable lease terms, ability to successfully implement strategies to exit or improve under-performing stores, changing preferences in apparel, changes in the level of consumer spending due to current events and/or general economic conditions, adequate sources of designer and brand-name merchandise at acceptable prices, and the Company's ability to attract and retain qualified employees to support planned growth.

The Company does not undertake to publicly update or revise its forward-looking statements even if experience or future changes make clear that any projected results expressed or implied therein will not be realized.

Results of Operations

The information in the following table is presented as a percentage of net sales for the periods indicated:

	Quarter Ended		Nine Months Ended	
	Sept. 29, 2001	Sept. 30, 2000	Sept. 29, 2001	Sept. 30, 2000
Net sales	100.0%	100.0%	100.0%	100.0%
Cost of merchandise sold	80.0	76.4	76.4	74.8
Gross profit	20.0	23.6	23.6	25.2
Selling, general and administrative expenses	25.1	23.1	24.1	22.7
Other income, net	1.0	1.1	1.1	1.2
Income (loss) from operations	(4.1)	1.6	0.6	3.7
Interest expense	0.5	0.3	0.3	0.3
Income (loss) before income taxes	(4.6)	1.3	0.3	3.4
Income tax benefit (provision)	1.8	(0.5)	(0.1)	(1.3)
Net income (loss)	(2.8)%	0.8%	0.2%	2.1%

Stein Mart, Inc.

For the three months ended September 29, 2001 compared with the three months ended September 30, 2000:

Six stores were opened, one was relocated and one store was closed during the third quarter this year, bringing to 239 the number of stores in operation this year compared to 216 stores in operation at the end of the third quarter of 2000. Fifteen new stores will open and one will close during the fourth quarter this year, bringing the year-end total to 253 stores.

Net sales for the quarter ended September 29, 2001 were $280.3 million, a 4.8 percent increase over net sales of $267.6 million for the third quarter of 2000. Comparable store net sales decreased 3.8 percent from the third quarter of 2000.

Gross profit for the quarter ended September 29, 2001 was $56.0 million or 20.0 percent of net sales compared to $63.1 million or 23.6 percent of net sales for the third quarter of 2000. The 3.6 percent decrease in the gross profit percentage resulted primarily from higher markdowns and decreased leverage of occupancy costs.

Selling, general and administrative expenses were $70.4 million or 25.1 percent of net sales for the quarter ended September 29, 2001, as compared to $61.8 million or 23.1 percent of net sales for the same 2000 quarter. The increase of 2.0 percent of net sales is primarily due to decreased leverage of selling and administrative expenses.

Other income, primarily from in-store leased shoe departments, was $2.9 million for both the third quarter of 2001 and the third quarter of 2000.

Interest expense was $1.3 million for the third quarter of 2001 and $827,000 for the third quarter of 2000. The increase resulted from higher average borrowings offset by lower interest rates during the third quarter this year compared to last year. The increased borrowings were primarily used to fund operating activities and to repurchase common stock.

Net loss for the third quarter of 2001 was $(8.0) million or $(0.19) diluted loss per share compared to net income of $2.1 million or $0.05 diluted earnings per share for the third quarter of 2000.

For the nine months ended September 29, 2001 compared with the nine months ended September 30, 2000:

Fifteen stores were opened and two stores were closed during the first nine months of 2001 and eleven stores were opened during the first nine months of 2000.

Net sales for the first nine months of 2001 were $872.0 million, an 8.4 percent increase over sales of $804.2 million for the first nine months of 2000. Comparable store net sales for the first nine months of 2001 were flat with the first nine months of 2000.

Gross profit for the first nine months of 2001 was $205.5 million or 23.6 percent of net sales compared to $202.5 million or 25.2 percent of net sales for the same nine month period of 2000. The 1.6 percent decrease in the gross profit percent resulted primarily from higher markdowns and decreased leverage of occupancy costs.

Selling, general and administrative expenses were $210.2 million or 24.1 percent of net sales for the first nine months of 2001 and $182.6 million or 22.7 percent for the first nine months of 2000. The increase of 1.4 percent of net sales is primarily due to increased advertising and decreased leverage of selling and administrative expenses.

Other income, primarily from in-store leased shoe departments, increased to $10.1 million for the first nine months of 2001 compared to $9.6 million for the first nine months of 2000. The increase resulted primarily from the additional stores operated during the first nine months this year.

Interest expense was $2.9 million and $2.2 million for the first nine months of 2001 and 2000, respectively. The increase resulted from higher average borrowings offset by lower interest rates during the first nine months of 2001 compared to last year. The increased borrowings were primarily used to fund operating activities and repurchase common stock.

Net income for the first nine months of 2001 was $1.5 million or $0.04 diluted earnings per share compared to net income of $16.9 million or $0.39 diluted earnings per share for the first nine months of 2000.

Liquidity and Capital Resources

Net cash used in operating activities was $72.3 million for the first nine months of 2001 as compared with $40.6 million for the comparable period in 2000. Net income, adjusted for depreciation and amortization, provided $13.8 million and $27.5 million of operating cash flow for the first nine months of 2001 and 2000, respectively. This was decreased during the first nine months of 2001 and 2000 by an increase in inventories net of the change in accounts payable of $71.6 million and $73.2 million, respectively. Other changes in working capital used $14.7 million in the first nine months of 2001 and provided $8.4 million in the comparable period in 2000. Based on historical cash flow results, operating activities are expected to produce positive cash flow for the year ending December 29, 2001.

During the first nine months of 2001 and 2000, cash flows used in investing activities amounted to $17.2 million and $13.3 million, respectively, primarily for acquisition of fixtures, equipment, and leasehold improvements for new and existing stores and information system enhancements. Total capital expenditures for 2001 are anticipated to be $24-26 million.

Cash flows from financing activities were $91.3 million and $50.5 million for the first nine months of 2001 and 2000, respectively, which reflected in both periods net borrowing under the Company’s revolving credit agreement to meet seasonal working capital requirements. During the first nine months of 2001, cash was used to repurchase 685,800 shares of the Company’s common stock for $6.4 million compared with 1,570,500 shares repurchased for $11.1 million in the first nine months of 2000.

The Company's revolving credit agreement requires the Company to maintain certain financial ratios and meet required net worth and indebtedness tests. At September 29, 2001, the Company did not comply with certain financial covenants and has received waivers with respect thereto from the banks. In accordance with Emerging Issues Task Force Issue No. 86-30, "Classification of Obligations When a Violation is Waived by the Creditor," notes payable to banks has been classified as current.

The Company believes that cash flow generated from operating activities, bank borrowings and vendor credit will be sufficient to fund current and long-term capital expenditures and working capital requirements.

Seasonality and Inflation

The Company's business is seasonal in nature with the fourth quarter, which includes the Christmas selling season, historically accounting for the largest percentage of the Company's net sales and operating income. Accordingly, selling, general and administrative expenses are typically higher as a percentage of net sales during the first three quarters of each year.

Inflation affects the costs incurred by the Company in the purchase of merchandise, the leasing of its stores, and in certain components of its selling, general and administrative expenses. The Company has been successful in offsetting the effects of inflation through the control of expenses during the past three years. However, there can be no assurance that inflation will not have a material effect in the future.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The Company is exposed to market risks in the normal course of business due to changes in interest rates on borrowings under its revolving credit agreement. Management believes that its exposure to market risk associated with its borrowings is not material.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings - None

Item 2. Changes in Securities - None

Item 3. Defaults Upon Senior Securities - None

Item 4. Submission of Matters to a Vote of Security Holders - None

Item 5. Other Information - None

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits

10a. First Amendment to Revolving Credit Agreement dated as of November 9, 2001 among Stein Mart, Inc. and SunTrust Bank, as Administrative Agent, is filed herewith.

(b) No reports on Form 8-K were filed during the quarter ended September 29, 2001.

SIGNATURES

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.

Stein Mart, Inc.

Date: November 13, 2001

/s/ Michael D. Fisher

Michael D. Fisher
President, Chief Operating Officer

/s/ James G. Delfs

James G. Delfs
Senior Vice President,
Chief Financial Officer

Exhibit 10a

FIRST AMENDMENT TO REVOLVING CREDIT AGREEMENT

THIS FIRST AMENDMENT TO REVOLVING CREDIT AGREEMENT (this "First Amendment") is made and entered into as of November 9, 2001, by and among STEIN MART, INC., a Florida corporation (the "Borrower"), the several banks and other financial institutions party hereto (the "Lenders"), and SUNTRUST BANK, in its capacity as Administrative Agent for the Lenders (the "Administrative Agent").

W I T N E S S E T H:

WHEREAS, the Borrower, the Lenders and the Administrative Agent are parties to a Revolving Credit Agreement, dated as of June 28, 2001 (the "Existing Agreement;" capitalized terms used and not otherwise defined or amended in this First Amendment shall have the meanings respectively assigned to them in the Existing Agreement);

WHEREAS, pursuant to the Existing Agreement, the Lenders severally, to the extent of their respective Commitments on a ratable basis up to the total of each Lender's Commitment, established for the Borrower a $135,000,000 senior revolving credit facility with a $10,000,000 swingline and a $10,000,000 letter of credit sub-facility thereunder, all upon the terms and conditions, and subject to the limitations, set forth in the Existing Agreement;

WHEREAS, the Borrower, as of the end of the fiscal quarter ended September 29, 2001, is in violation of certain of the financial covenants contained in the Existing Loan Agreement, in particular those covenants contained in Section 6.1 (Consolidated Adjusted Debt to Consolidated EBITDAR Ratio) and Section 6.2 (Fixed Charge Coverage Ratio), and such violations would constitute an Event of Default under the Existing Agreement if not waived as provided herein;

WHEREAS, the Borrower has requested the Lenders and the Administrative Agent to waive the Borrower's non-compliance with the foregoing financial covenants for the fiscal quarter ended September 29, 2001 (but for no future fiscal quarter) and the Event of Default arising from such non-compliance, and the Required Lenders and the Administrative Agent have agreed to do so, but only upon the terms and conditions set forth herein; and

WHEREAS, the parties hereto have consulted with, and obtained the representation and advice of, their respective legal counsel with regard to the terms and conditions of this First Amendment, and each party has had the opportunity to participate fully in the drafting of this First Amendment;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Borrower, the Required Lenders and the Administrative Agent agree as follows:

A G R E E M E N T:

1. Recitals. The recitals set forth above are true and correct and the parties hereto agree to be bound thereby.

2. Purpose of Amendment. The purpose of this First Amendment, as set forth in the Recitals hereof, is to waive, for the fiscal quarter ended September 29, 2001, the Borrower's non-compliance with the financial covenants contained in Section 6.1 and Section 6.2 of the Existing Agreement and the Event of Default arising therefrom and, in connection therewith and in consideration thereof, to make certain modifications and amendments to the Existing Agreement, all as provided herein. The willingness of the Required Lenders and the Administrative Agent to enter into this First Amendment is subject to (i) the acknowledgment by the Borrower and the Guarantor of their respective obligations to the Lenders, the Issuing Bank and the Administrative Agent, (ii) the waiver by the Borrower and the Guarantor of any and all claims and defenses existing as of the date hereof with regard to repayment of the Obligations, and (iii) each and all of the other terms and conditions set forth herein.

3. Waiver of Covenant Defaults. Pursuant to Section 10.2(b) of the Existing Agreement, the Lenders and the Administrative Agent hereby waive compliance by the Borrower with Section 6.1 and Section 6.2 of the Existing Agreement for the fiscal quarter ended September 29, 2001; provided, however, the Borrower acknowledges and agrees that such waiver is only applicable to the fiscal quarter ended September 29, 2001 and no others. The Borrower, the Lenders and the Administrative Agent understand and agree that the foregoing waiver shall be effective upon execution hereof by all parties, shall satisfy all notice and consent provisions contained in the Existing Agreement that may pertain or apply to the actions of the parties as set forth herein, and shall apply only to the specific items and events described herein, for the purposes set forth herein, and shall not apply to any other provisions of the Existing Agreement or any other of the Loan Documents, nor to any future events, defaults, violations or requirements, whether or not the same or of a similar nature. Nothing herein is or shall be deemed to be a waiver of any other Default or Event of Default (including, without limitation, any Event of Default under Section 6.1 or Section 6.2 for any period other than as noted herein) under the terms of the Existing Agreement.

4. Amendments to Existing Agreement. In consideration of the waiver set forth in paragraph 3 of this First Amendment and as a condition of such waiver, the Existing Agreement is amended as of the effective date hereof as follows:

A. From and after the effective date hereof, the terms “Applicable Margin” and “Applicable Percentage” under “ARTICLE I – DEFINITIONS; CONSTRUCTION” of the Existing Agreement shall be redefined as set forth below; provided, however, prior to the effective date hereof, the definitions of said terms as set forth in the Existing Agreement shall continue to be applicable:

“***Applicable Margin***” shall mean, as of any date, (i) with respect to all Eurodollar Borrowings outstanding on such date, 1.75%, and (ii) with respect to all Base Rate Borrowings outstanding on such date, 0.75% and, in each case, shall not be subject to adjustment.

"***Applicable Percentage***" shall mean, as of any date, with respect to the commitment fee, 0.375%.

B. From and after the effective date hereof, the "Pricing Grid" attached to the Existing Agreement as Schedule I is hereby deleted in its entirety and not replaced.

5. Amendment Fee; Legal Fees and Costs. No amendment fee shall be charged by the Administrative Agent or any Lender in connection with this First Amendment. However, the Borrower shall pay all legal fees and costs incurred by the Administrative Agent in connection with the preparation, execution and delivery of this First Amendment, which legal fees and costs shall be due and payable by the Borrower on the effective date hereof.

6. Execution of Required Documents. Concurrently with the execution hereof, the Borrower shall, and shall cause the Guarantor to, execute and deliver to the Lenders and/or to the Administrative Agent, as applicable, any and all documents and instruments as may be required or requested by the Lenders and/or the Administrative Agent in connection herewith, each in form and substance acceptable to the Lenders and/or the Administrative Agent, as applicable.

7. No Waiver by Lenders, Administrative Agent, Etc. Notwithstanding the agreement of the Administrative Agent and the Required Lenders to enter into this First Amendment and to modify and amend the Existing Agreement as set forth herein, the Borrower acknowledges and agrees that, by so agreeing to enter into this First Amendment and to modify and amend the Existing Agreement as set forth herein, the Lenders and the Administrative Agent shall not be deemed to have waived (or to be estopped from asserting) any provisions of the Existing Agreement, including without limitation, any existing or future Default or Event of Default thereunder (except as otherwise set forth in paragraph 3 hereof) and, if the Borrower now or at any time in the future shall be in breach of any of the provisions of the Existing Agreement or if any Default or Event of Default has occurred and is continuing thereunder, the Administrative Agent and/or the Lenders, as applicable, shall be entitled to withhold further funding of Borrowings or issuance of Letters of Credit at any time and to exercise any of its or their other default rights and remedies under the Existing Agreement or any other Loan Document, from time to time, upon

notice to the Borrower and the Guarantor, and that no failure or delay on the part of the Administrative Agent or any Lender in exercising any right or remedy under the Existing Agreement or under any other Loan Document and no course of dealing with the Borrower and/or the Guarantor, on the one hand, and the Administrative Agent and/or such Lender, on the other hand, shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy under the Existing Agreement or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right or remedy hereunder or thereunder.

8. Acknowledgment of Outstanding Obligations. The Borrower and the Guarantor hereby acknowledge, certify and agree that pursuant to the Existing Agreement, (i) Lenders have made Eurodollar Loans to the Borrower that are outstanding as of the date hereof in the aggregate principal amount of $120,000,000 and Base Rate Loans to the Borrower that are outstanding as of the date hereof in the aggregate principal amount of $-0-, (ii) the Administrative Agent has made Swingline Loans to the Borrower that are outstanding as of the date hereof in the aggregate principal amount of $-0- and (iii) the Issuing Bank has issued Letters of Credit on behalf of or for the account of the Borrower in the aggregate face amount of $2,058,980; the Borrower's obligation to pay the outstanding amounts under such Existing Agreement to the Lenders, the Administrative Agent and/or the Issuing Bank is not subject to any defense, claim, counterclaim, setoff, right of recoupment, abatement or other determination whatsoever; including without limitation, any usury or lender liability claim or defense, arising out of the Loans or the issuance of any Letter of Credit or any past relationship between or among the Borrower, the Lenders, the Administrative Agent and/or the Issuing Bank that can be asserted by the Borrower either to reduce or eliminate all or any part of its liability for the Obligations or to seek affirmative relief or damages of any kind or nature from the Lenders, the Administrative Agent and/or the Issuing Bank. The Borrower further acknowledges that to the extent that any such claim should in fact exist, including without limitation, any usury or lender liability claim, it is being fully, finally, and irrevocably released. The Borrower hereby acknowledges and agrees that an Event of Default exists under the Existing Agreement as referenced in paragraph 3 hereof and that the Lenders and the Administrative Agent are under no obligation whatsoever to restructure the Loans or any of the Loan Documents. In consideration of the terms and conditions of this First Amendment, made at the Borrower's request, the Borrower on behalf of itself and its respective successors and assigns hereby fully, finally and irrevocably releases the Lenders, the Administrative Agent and the Issuing Bank, and their respective officers, directors, affiliates, subsidiaries, parents, representatives, agents, shareholders, attorneys, employees, predecessors, successors and assigns (collectively, the "Released Parties") from any and all defenses, counterclaims, offsets, cross-claims, claims and demands of any kind or nature existing as of the date of this First Amendment, including without limitation, any usury or lender liability claims or defenses, whether known or unknown, and whenever and howsoever arising, relating to the Loans or the Letters of Credit, or any past relationship between the Borrower and any of the Released Parties. In addition, the Borrower hereby agrees not to commence, join in, prosecute, or participate in any suit or other proceeding in a position adverse to that of any of the Released Parties arising directly or indirectly from any of the foregoing matters. The Borrower further agrees that, from and after the effective date hereof, the Loans and the Letters of Credit are and shall continue to be governed by the terms and provisions of the Existing Agreement, as modified and amended by this First Amendment.

9. Representations and Warranties. The Borrower represents, warrants and agrees that:

(a) The execution, delivery and performance of this First Amendment has been duly authorized by all requisite action of the Borrower, corporate or otherwise.

(b) The Loan Documents are in full force and effect on and as of the effective date hereof.

(c) Each of the representations, warranties, covenants and agreements of the Borrower set forth in the Existing Agreement and the other Loan Documents are true, correct and remain with the same force and effect as if each were separately stated herein and made as of the effective date hereof.

(d) The Borrower and the Administrative Agent, the Lenders and/or the Issuing Bank, as applicable, are in full compliance with all covenants and agreements established under the Loan Documents as of the effective date hereof after giving effect to the waiver provided herein.

(e) Based on the waiver of certain defaults as set forth in paragraph 3 above, no Default or Event of Default exists under the Existing Agreement as of the effective date hereof.

10. Ratification of Loan Documents. The Borrower and the Guarantor hereby ratify and approve the Existing Agreement and each of the other Loan Documents in their entirety, and acknowledge and agree that the Existing Agreement and such other Loan Documents are legal, valid and binding obligations of the Borrower and the Guarantor and are enforceable by the Administrative Agent, the Lenders and/or the Issuing Bank, as applicable, against the Borrower and the Guarantor in accordance with their respective terms.

11. Counterparts; Facsimile Signatures; Effectiveness of First Amendment. This First Amendment may be executed in one or more counterpart copies, each of which constitutes an original, but all of which, when taken together, shall constitute one agreement binding upon all of the parties hereto. Further, the parties may execute facsimile copies of this First Amendment and the facsimile signature of any such party shall be deemed an original and fully binding on said party; provided, however, any party executing this First Amendment by facsimile signature agrees to promptly provide an original executed copy of this First Amendment to the Administrative Agent. Notwithstanding execution of this First Amendment by the Borrower, the Guarantor and each of the Required Lenders party hereto, this First Amendment shall not be or become effective and binding upon the parties until executed and accepted by the Administrative Agent in its capacity as such on behalf of the Lenders.

12. Governing Law, Etc. This First Amendment shall be governed by and construed in accordance with the applicable terms and provisions of Section 10.5 Governing Law; Jurisdiction; Consent to Service of Process of ARTICLE X - MISCELLANEOUS of the Existing Agreement, which terms and provisions are incorporated herein by reference.

13. No Other Modifications. Except as hereby amended, no other term, condition or provision of the Existing Agreement shall be deemed modified or amended, and this First Amendment shall not be considered a novation.

14. Complete Agreement. This First Amendment constitutes the complete agreement between the parties hereto with regard to the matters set forth herein and incorporates all prior discussions, agreements and representations made in respect of such matters.

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