

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC 13D/A

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities [amend]

Filing Date: **2001-02-02**  
SEC Accession No. **0000950153-01-000106**

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### SUBJECT COMPANY

#### UGLY DUCKLING CORP

CIK: **1012704** | IRS No.: **860721358** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **SC 13D/A** | Act: **34** | File No.: **005-46239** | Film No.: **1523788**  
SIC: **6141** Personal credit institutions

Mailing Address  
2525 E CAMELBACK RD  
STE 1150  
PHOENIX AZ 85016

Business Address  
2525 E CAMELBACK ROAD  
STE 500  
PHOENIX AZ 85016  
6028526600

### FILED BY

#### GARCIA ERNEST C II

CIK: **1017608**  
Type: **SC 13D/A**

Mailing Address  
2525 EAST CAMELBACK RD  
STE 1150  
PHOENIX AZ 85016

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6028526601

OMB APPROVAL

OMB Number: 3235-0145  
Expires: October 31, 2002  
Estimated average burden  
hours per response. . . .14.90

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

SCHEDULE 13D  
UNDER THE SECURITIES EXCHANGE ACT OF 1934  
(AMENDMENT NO. 4)

Ugly Duckling Corporation  
(Name of Issuer)

Common Stock, \$.001 par value  
(Title of Class of Securities)

903512 10 1  
(CUSIP Number)

Christopher D. Johnson, Esq.  
Squire, Sanders & Dempsey, LLP  
40 North Central Avenue, Suite 2700  
Phoenix, AZ 85004  
(602) 528-4000

(Name, Address and Telephone Number of Person Authorized to  
Receive Notices and Communications)

January 11, 2000  
(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because Sections 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. /x/

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes.)

CUSIP No.: 903512 10 1

1. Names of Reporting Persons.  
I.R.S. Identification Nos. of above persons (entities only).  
  
Ernest C. Garcia, II
2. Check the Appropriate Box if a Member of a Group (See Instructions)
  - (a) / /
  - (b) / /
3. SEC Use Only
4. Source of Funds (See Instructions): PF, OO
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) / /
6. Citizenship or Place of Organization: United States of America

Number of Shares  
Beneficially by  
Owned by Each  
Reporting Person  
With

7. Sole Voting Power: 5,042,300
8. Shared Voting Power: -0-
9. Sole Dispositive Power: 5,042,300
10. Shared Dispositive Power: -0-
11. Aggregate Amount Beneficially Owned by Each Reporting Person:  
5,042,300
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) / /
13. Percent of Class Represented by Amount in Row (11): 40.7%
14. Type of Reporting Person (See Instruction): IN

Pursuant to Rule 13d-2 of Regulation 13D of the General Rules and

Regulations under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Schedule 13D statement (this "Schedule 13D"), dated September 14, 2000, as amended by Amendment No. 1 dated October 4, 2000, Amendment No. 2 dated October 27, 2000, and Amendment No. 3 dated November 16, 2000, relating to the shares of common stock, \$.001 par value per share (the "Common Stock"), of Ugly Duckling Corporation (the "Company") is hereby amended to update certain information regarding Ernest C. Garcia, II.

#### ITEM 2. IDENTITY AND BACKGROUND

The first paragraph of Item 2 is hereby amended and restated in its entirety as follows:

This Schedule 13D is being filed by Ernest C. Garcia, II, a citizen of the United States of America. Mr. Garcia's business address is 2575 E. Camelback Road, Suite 700, Phoenix, Arizona 85016. Mr. Garcia's business telephone number is (602) 778-5000. The principal business address of the Company is 2525 E. Camelback Road, Suite 500, Phoenix, Arizona 85016. During the past five years, Mr. Garcia has served as the Chairman of the Board of Directors of the Company. In addition, from 1992 to July 1999, Mr. Garcia served as Chief Executive Officer of the Company. Also, during the past five years, Mr. Garcia has served as the sole director and President of Verde Investments, Inc. ("Verde"), which is wholly owned by Mr. Garcia and his wife. Verde is an Arizona corporation engaged in commercial real estate investments. Since November 1998, Mr. Garcia has served as the Managing Director of Verde Reinsurance Company, Ltd. ("VRC") a Nevis Island corporation and a U.S. taxpayer wholly owned by Mr. Garcia and his wife, which is engaged in property and casualty reinsurance. During the past year, Mr. Garcia has served as the sole director and President of Cygnet Capital Corporation ("Cygnet"), an Arizona corporation wholly owned by Mr. Garcia and his wife, which is engaged in commercial lending. The principal business address of Verde, VRC and Cygnet is 2575 E. Camelback Road, Suite 700, Phoenix, Arizona 85016. Mr. Garcia has not during the last five years been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors). In addition, during the last five years, Mr. Garcia has not been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction which has or would make him subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violations with respect to such laws. Mr. Garcia is a citizen of the United States.

#### ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

The first sentence of Item 3 is hereby amended and restated in its entirety as follows:

All Common Stock of the Company beneficially owned by Mr. Garcia to date, in the aggregate amount of approximately \$2,860,000, has been acquired with personal funds and working capital of Verde or VRC, both of which are beneficially owned by Mr. Garcia.

#### ITEM 4. PURPOSE OF TRANSACTION

The last paragraph of Item 4 is hereby amended and restated in its entirety to read as follows:

Mr. Garcia still believes that the Common Stock of the Company represents an attractive investment opportunity at its recent trading prices, and he remains interested in the possibility of acquiring all of the outstanding shares. Accordingly, to the extent that the Common Stock remains in its current price range, Mr. Garcia may consider a new proposal to the Company or other possible acquisitions of some or all of the outstanding Common Stock owned by other shareholders of the Company (either alone or in combination with

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other interested parties, which could include members of the Company's executive management). Such acquisition might be accomplished through a number of alternative transactions, including without limitation, open market purchases, tender offers, privately negotiated transactions and/or a recapitalization of the Company, in which such shares of Common Stock could be converted into the right to receive some combination of cash and debt, or all debt. Any such recapitalization could be effected through a merger or other reorganization of the Company. If such a recapitalization were to be proposed, it is not expected to occur before, among other things, the Company secures a new credit facility. The Company's current credit facility with General Electric Capital Corporation is not expected to be renewed when it expires June 30, 2001, and the Company has not yet replaced this credit facility. If Mr. Garcia were to acquire all or a substantial majority of the outstanding shares of Common Stock held by other shareholders, the Common Stock could be delisted from trading on The NASDAQ National Market or any other exchange or inter-dealer quotation system, and the Common Stock could become eligible for termination of registration pursuant to Section 12(g)(4) of the Exchange Act.

#### ITEM 5. INTEREST IN SECURITIES OF THE ISSUER

Item 5 is hereby amended and restated in its entirety as follows:

(a) Mr. Garcia beneficially owns an aggregate of 5,042,300 shares, approximately 40.7%, of the Common Stock of the Company consisting of: (i) 4,500,000 shares owned directly by Mr. Garcia, (ii) 522,300 shares owned indirectly by Mr. Garcia through his beneficial ownership of Verde and VRC; and (iii) 20,000 shares which Mr. Garcia has the right to acquire under presently exercisable stock options.

(b) Mr. Garcia has the sole power to vote and to dispose of 5,042,300 shares.

(c) Mr. Garcia, through his beneficial ownership of Verde and VRC, executed the following transactions within the last 60 days:

- On November 13, 2000, Mr. Garcia acquired 360,000 shares of Common Stock at \$5.50 per share in an open market transaction;
- On November 14, 2000, Mr. Garcia acquired 58,000 shares of Common Stock at \$5.50 per share and 85,500 shares of Common Stock at \$5.375 per share, both in open market transactions; and
- On November 15, 2000, Mr. Garcia acquired 18,800 shares of Common Stock at \$5.50 per share in an open market transaction.

(d) Not applicable.

(e) Not applicable.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER

Item 6 is hereby amended and restated in its entirety as follows:

Mr. Garcia has entered into the following transactions which involve the securities of the Company. The following summary is qualified in its entirety by reference to the agreements that are attached as exhibits hereto.

Agreements to Acquire Common Stock of the Company.

Mr. Garcia and Cygnet have entered into agreements with Harris Associates, L.P., a holder of Common Stock of the Company, to acquire the 1,500,000 shares of Common Stock of the Company (the "Shares"). The purchase price for the Shares is \$6,262,045.50, or a per share purchase price of \$4.174697. Under the agreements, Mr. Garcia must satisfy certain conditions prior to the acquisition of

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the Shares, including the filing of all necessary documents with the Securities and Exchange Commission ("SEC").

If, on the closing date of the acquisition of the Shares, Mr. Garcia fails to purchase the Shares, the selling shareholder will be entitled to, among other things, retain a \$1,000,000 deposit.

Future Acquisition of Warrants.

On January 11, 2001, Verde made a \$7 million subordinated loan to the Company. Subject to certain conditions, Verde has the right to acquire warrants ("Warrants") to purchase 1,500,000 shares of Common Stock ("Warrant Shares") of

the Company in connection with a Loan Agreement (the "Loan Agreement") between Verde and the Company. The loan was required as a condition to the \$35 million senior secured loan facility that the Company obtained on January 11, 2001 (the "\$35 million credit facility"). The \$7 million investment by Verde was placed in escrow as additional collateral for the \$35 million credit facility. Among other conditions, if the Company has at least \$7 million in pre-tax income during the first six months of the year, the \$7 million in escrow will be released in July 2001 and at that time, Mr. Garcia will guarantee the payment of 33% of the \$35 million credit facility until it is paid in full. The \$7 million in escrow is subject to pro rata reductions tied to reductions in the outstanding principal under the \$35 million credit facility. The \$7 million loan is non-revolving and interest will accrue on the outstanding principal at a rate per annum equal to LIBOR plus 600 basis points. Interest is payable quarterly in arrears. The maturity date of the note evidencing the loan is December 31, 2003. The payment of principal and interest under the Loan Agreement is subordinated to all secured obligations of the Company that are not specifically subordinated by their terms to the Loan Agreement, except it is pari passu with the \$17,478,680 of 12% Subordinated Debentures due 2003 issued under that certain Indenture, dated October 15, 1998 (the "Indenture"), the \$11,939,565 11% Subordinated Debentures due 2007 issued under the Indenture and the \$15,000,000 12% Senior Subordinated Loan between the Company and Kayne Anderson Investment Management, Inc. dated February 12, 1998, as amended. As security for the loan, Verde received a junior security interest in the shares of the Company's securitization subsidiaries, behind the first priority security interest in the stock of those subsidiaries granted to the lenders under the \$35 million credit facility.

As part of the loan transaction, the Company released all options to purchase real estate that is currently owned by Verde and leased to the Company. The Company also granted Verde the option to purchase, at book value, any or all properties currently owned by the Company, or acquired by the Company prior to the earlier of December 31, 2003 or the date the loan is repaid. Verde agreed to lease the properties back to the Company, on terms similar to the Company's current leases, if it exercises its option to purchase any of the properties.

In addition, as part of such loan transaction, the Company agreed to enter into a Warrant Agreement (the "Warrant Agreement") with Verde and issue Warrants thereunder if the amounts due under the loan are not paid in full by July 25, 2001, or any guarantee by Verde to Sun America Life Insurance Company remains outstanding. Entering into the Warrant Agreement is also conditioned on the satisfaction of certain conditions, including (a) obtaining any necessary shareholder approval, (b) obtaining any necessary approvals and filing any necessary filings required under Section 13 and 16 of the Exchange Act or the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and (c) the Company obtaining a fairness opinion if shareholder approval referenced in (a) above is not obtained. If a fairness opinion cannot be obtained based upon the amount or terms of the Warrant Agreement, Verde and the Company have agreed to modify the terms of the Warrant Agreement such that a fairness opinion can be obtained. The Company has advised Mr. Garcia that it does not believe shareholder approval of the

Warrant transaction is required, and that it has hired an investment banker to render the required fairness opinion.

If the Warrants are not issued on or before July 25, 2001, except as a result of the inability to obtain a fairness opinion, then Verde may, upon notice to the Company, cause the amounts owed under the Loan Agreement to become immediately due and payable in full.

Under the terms of the Loan Agreement, upon an event of default, Verde may, by written notice to the Company, cause the amounts owed under the Loan Agreement to become immediately due and payable. An event of default includes, among other things, the Company's failure to make payments due under the Loan Agreement when they become due, the Company's failure to make any payment when due and certain other defaults with respect to any other obligation of the Company resulting in the acceleration of the maturity of an obligation in an amount in excess of \$10 million, or the Company's failure to perform or observe any covenant or agreement contained in the Loan Agreement that is not remedied within a specified period of time.

Under the terms of the Warrant Agreement which will be entered into upon satisfaction of, among other things, any SEC filing requirements, the Company will issue Warrants to purchase 1,500,000 shares of Common Stock of the Company. The exercise price for the Warrants is \$4.50 per share, which was the last reported sales price of the Common Stock on the date the loan transaction was completed. The exercise price of the Warrants may be paid by cash, check or through a cashless exercise. The Warrant Agreement entitles Verde to exercise Warrants covering 500,000 Warrant Shares on July 25, 2001, and Warrants covering an additional 250,000 Warrant Shares upon the expiration of each successive three month period thereafter up to a total amount of 1,500,000 Warrants. The Warrants may be transferred from time to time, subject to applicable securities laws, at the request of the holder of the Warrant. The Warrants are subject to customary adjustment provisions to protect against dilution and recapitalization.

Under the terms of the Warrant Agreement, the Warrants are exercisable until July 25, 2011, unless they are redeemed prior to such date. Unless the Warrants are fully exercised, the Company has the option to redeem the Warrants at a price of \$.10 per share at any time after July 25, 2006, if the average closing price of the Common Stock of the Company for a period of at least 20 consecutive trading days has equaled or exceeded \$12.00.

#### ITEM 7. MATERIAL TO BE FILED AS EXHIBITS

Item 7 is hereby amended and restated in its entirety as follows:

<TABLE>

<CAPTION>

Exhibit No.

Description

-----

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<S>

<C>

1. Stock Purchase Agreement, dated January 9, 2001, by and among Harris Associates, L.P., Ernest C. Garcia, II and Cygnet Capital Corporation.
2. Stock Purchase Agreement, dated January 9, 2001, by and among Harris Associates, L.P., Ernest C. Garcia, II and Cygnet Capital Corporation.
3. Loan Agreement, dated January 11, 2001, by and between Ugly Duckling Corporation and Verde Investments, Inc.

</TABLE>

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<TABLE>

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<C>

4. Form of Warrant Agreement, dated July 25, 2001, by and between Ugly Duckling Corporation and Verde Investments, Inc.
5. Non-Qualified Stock Option Agreement, dated March 2, 1999, between Ernest C. Garcia, II and Ugly Duckling Corporation.

</TABLE>

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

January 31, 2001

-----  
Date

/s/ Ernest C. Garcia, II

-----  
Ernest C. Garcia, II

## EXHIBIT INDEX

- 1 Stock Purchase Agreement, dated January 9, 2001, by and among Harris Associates, L.P., Ernest C. Garcia, II and Cygnet Capital Corporation.
- 2 Stock Purchase Agreement, dated January 9, 2001, by and among Harris Associates, L.P., Ernest C. Garcia, II and Cygnet Capital Corporation.
- 3 Loan Agreement, dated January 11, 2001, by and between Ugly Duckling Corporation and Verde Investments, Inc.
- 4 Form of Warrant Agreement, dated July 25, 2001, by and between Ugly Duckling Corporation and Verde Investments, Inc.
- 5 Non-Qualified Stock Option Agreement, dated March 2, 1999, between Ernest C. Garcia, II and Ugly Duckling Corporation.

## STOCK PURCHASE AGREEMENT

BY AND AMONG

HARRIS ASSOCIATES, L.P.

("SELLER")

AND

ERNEST C. GARCIA, II

CYGNET CAPITAL CORPORATION

("BUYER")

JANUARY 9, 2001

## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this "Agreement") is made of as of January 9, 2001 (the "Agreement Date"), by and among Harris Associates, L.P. ("Seller") and Ernest C. Garcia II ("Garcia") and Cygnet Capital Corporation ("Cygnet") (collectively and individually, Garcia and Cygnet shall be referred to as "Buyer").

## RECITALS

A. The Seller serves as investment adviser of Harris Associates Investment Trust (the "Trust"). The Trust has multiple series, one of which is

designated The Oakmark Small Cap Fund (the "Fund"). As investment adviser to the Fund, the Seller has discretionary authority to purchase and sell securities on behalf of the Fund.

B. Seller owns 1,380,000 shares of common stock (the "Shares") of Ugly Duckling Corporation (the "Company").

C. Seller seeks to sell, and Buyer seeks to purchase, the Shares of the Company held by Seller, all under the terms and conditions of this Agreement.

## ARTICLE 1 THE TRANSACTION

1.1 Purchase and Sale of Shares. Seller agrees to sell, and Buyer agrees to purchase, the Shares. Except as otherwise set forth herein, neither Seller nor Buyer is allowed or required to sell or purchase less than all of the Shares.

1.2 Purchase Price. On the Closing Date, as defined herein, Buyer will pay to the Fund in immediately available funds Five Million Seven Hundred Sixty One Thousand Eighty One and 68/100 Dollars (\$5,761,081.68) (the "Purchase Price"). The Purchase Price is the product of \$4.174697 and the number of Shares being conveyed. The Purchase Price shall not be adjusted as a result of any increase or decrease in the market price of the Shares after the date hereof and prior to the Closing Date.

1.3 Deposit. Within three (3) business days after the Agreement Date, Buyer shall deliver to the Fund or the Fund's agent Nine Hundred Twenty Thousand Dollars (\$920,000.00) as an earnest money deposit (the "Deposit"). The Deposit shall be held by the Fund or the Fund's agent in a federally insured interest bearing account and all interest on the account shall be added to the Deposit. The Deposit shall be applied to the Purchase Price on the Closing Date. The Deposit shall be nonrefundable except in the event of Buyer's termination pursuant to Section 1.6 or 3.1 of this Agreement. In the event of Buyer's default, the Fund may retain the Deposit pursuant to Section 3.2 of this Agreement.

1.4 Closing Date. The transfer of the Shares and payment of the Purchase Price shall be completed within five (5) business days after Buyer delivers to Seller written notice that Buyer will close the transaction (the "Closing Date"). If Buyer does not close the transaction by March 5, 2001, then Buyer shall be in default under this Agreement.

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1.5 Closing Deliveries. On the Closing Date, Seller, on behalf of the Fund, shall deliver to Buyer all certificates evidencing the Shares, either duly endorsed for transfer to Buyer or with blank stock powers for assignment, as may be designated by Buyer. The parties further agree that they will execute and deliver any further documents and instruments of transfer, and will take any other action reasonably required, consistent with the terms of this Assignment, for the transfer of the Shares to Buyer.

1.6 Contingencies. The parties acknowledge that upon transfer of the Shares to Buyer, Ernest C. Garcia II, the sole shareholder and Director of Buyer ("Garcia") shall beneficially own over 50% of the issued and outstanding shares of common stock of the Company. Buyer's acquisition of the Shares may constitute a plan by Garcia to take the Company private and, therefore, may require disclosure pursuant to Rule 13e-3 of the Securities Exchange Act of 1934, the expiration of certain time periods and other actions to comply with applicable securities laws (the "SEC Filings"). The completion of the SEC Filings is a condition precedent to the obligations of Buyer under this Agreement. Garcia shall use commercially reasonable efforts to complete the SEC Filings prior to the Closing Date. If by March 5, 2001, the SEC Filings are not completed or the transaction is prohibited, enjoined or restrained by any government authority, then either Seller or Buyer may elect to terminate this Agreement and upon such termination, the Deposit shall be returned to Buyer; provided, however, that the Fund shall be entitled to retain the Deposit if Buyer has not used commercially reasonable efforts to complete the SEC Filings prior to the Closing Date.

ARTICLE 2  
REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION

2.1 Seller. Seller represents and warrants to each Buyer that each of the representations and warranties contained in EXHIBIT A are true and correct in all material respects on the date of this Agreement, and will again be true and correct in all material respects on the Closing Date. Seller shall indemnify and hold each Buyer harmless from and against any loss, damage, liability and expense ("Loss") incurred by any Buyer in connection with or alleged to result from a breach by Seller of any representation or warranty made pursuant to this Section 2.1 or otherwise in this Agreement or other document or certificate delivered pursuant to this Agreement or a breach by Seller of any of its other obligations or covenants contained in this Agreement or other document delivered in connection with this Agreement.

2.2 Buyer. Buyer represents and warrants to Seller that each of the representations and warranties contained in EXHIBIT B are true and correct in all material respects on the date of this Agreement, and will again be true and correct in all material respects on the Closing Date. Each Buyer agrees to indemnify and hold Seller harmless from and against any Loss incurred by Seller in connection with or alleged to result from a breach by that Buyer of any representation or warranty made pursuant to this Section 2.2 or otherwise in this Agreement or other document or certificate delivered pursuant to this Agreement or a breach by that Buyer of any of its obligations or covenants contained in this Agreement or other document delivered in connection with this Agreement.

2.3 Nature and Survival of Representations and Warranties. Each statement and agreement made by any of the parties in this Agreement or in any document or other instrument delivered by or on behalf any of the parties pursuant to this Agreement will survive the Closing Date of this Agreement.

### ARTICLE 3

#### DEFAULT AND REMEDIES

3.1 SELLER. In addition to any other actions constituting a default hereunder, Seller shall be in default hereunder if on the Closing Date this Agreement is in full force and effect, Buyer has tendered full performance and Seller fails to convey the Shares to Buyer in accordance with this Agreement; except that Seller's failure to convey the Shares shall not constitute a default hereunder if Seller has sold such Shares, on behalf of the Fund, in order to maintain the Fund's compliance with Subchapter M of the Internal Revenue Code of 1986, as amended. In the event of a default of Seller on or before the Closing Date, Buyer may elect as its exclusive remedy to either (a) terminate this Agreement, in which event the Deposit shall be immediately returned to Buyer; or (b) continue this Agreement and immediately prosecute a claim for specific performance of this Agreement. In the event of a default of Seller after the Closing Date for breach of an obligation under this Agreement that survives and continues after the Closing Date, the Buyer may prosecute its claims for damage suffered against Seller but Buyer may not recover any consequential or exemplary damages.

3.2 BUYER. In addition to any other actions constituting a default hereunder, each Buyer shall be in default hereunder if on the Closing Date this Agreement is in full force and effect, Seller has tendered full performance and any Buyer fails to purchase the Shares in accordance with this Agreement. In the event of a default of any Buyer on or before the Closing Date, Seller shall be entitled to terminate this Agreement, retain the Deposit and prosecute its claims for damages suffered against each Buyer jointly and severally but Seller may not recover any consequential or exemplary damages. In the event of a default of any Buyer after the Closing Date for breach of an obligation under this Agreement that survives and continues after the Closing Date, the Seller may prosecute its claims for damage suffered against all Buyers but Seller may not recover any consequential or exemplary damages.

### ARTICLE 4

#### GENERAL MATTERS

4.1 Notices. All notices, and other communications hereunder will be in writing and deemed to have been given when (i) delivered by hand, (ii) sent by telecopier (with receipt confirmed), provided that a copy is mailed by registered mail, postage pre-paid return receipt requested, or (iii) when actually received by the addressee, in each case to the following:

If to Seller: James P. Benson, CFA  
Investment Analyst  
Harris Associates, L.P.  
2 North LaSalle Street  
Chicago, Illinois 60602-3790  
Phone: (312) 621-0560  
Fax: (312) 621-0368

With a copy to: Anita Nagler

---

Harris Associates, L.P.  
2 North LaSalle Street  
Chicago, Illinois 60602-3790  
Phone: (312) \_\_\_\_\_  
Fax: (312) \_\_\_\_\_

If to Buyer: Cygnet Capital Corporation  
Ernest C. Garcia, II  
2575 E. Camelback Road, Suite 700  
Phoenix, Arizona 85016  
Phone: (602) 778-5001  
FAX: (602) 778-4001

4.2 Governing Law and Attorneys' Fees. The validity, construction, and enforceability of this Agreement shall be governed in all respects by the laws of the State of Arizona, without regard to its conflict of laws rules. If any legal action or any arbitration or other proceeding is brought in connection with this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees, accounting fees, and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

4.3 Arbitration. Any claim or controversy relating to this Agreement that is brought by the Buyer against the Seller or relating to the breach hereof by the Seller shall be settled by arbitration conducted in Phoenix, Arizona in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Any claim or controversy relating to this Agreement that is brought by the Seller against the Buyer or relating to the breach hereof by the Buyer shall be settled by arbitration conducted in Chicago, Illinois in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The award rendered by the arbitrator(s) shall be final and judgment upon the award rendered by the arbitrator(s) may be entered upon it in any court having jurisdiction thereof. The arbitrator(s) shall possess the powers to issue mandatory orders and restraining orders in connection with such arbitration. The expenses of the arbitration shall be borne by the losing party unless otherwise allocated by the arbitrator(s). The agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceedings, the parties shall continue to perform their respective obligations under this Agreement.

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4.4 Assignment. This Agreement will not be assigned by operation of law or otherwise, except that Buyer may assign all or any portion of its rights under this Agreement to any wholly owned subsidiary, but no such assignment will relieve Buyer of its obligations hereunder, and except that this Agreement may be assigned by operation of law to any corporation or entity with or into which Buyer may be merged or consolidated or to which Buyer transfers all or substantially all of its assets, and such corporation or entity assumes this Agreement and all obligations and undertakings of Buyer hereunder.

4.5 Intent to be Binding. The Exhibits referred to herein are incorporated herein by reference as if fully set forth in the text of this Agreement. This Agreement may be executed in any number of counterparts, and each counterpart constitutes an original instrument, but all such separate counterparts constitute one and the same agreement. This Agreement may not be amended except by an instrument in writing approved by Buyer and Seller. If any term, provision, covenant, or restriction of this Agreement is held by a court to be invalid or unenforceable, the remainder of the terms, provisions, covenants, and restrictions of this Agreement will remain in full force and effect and will in no way be affected or invalidated and the court will modify this Agreement or, in the absence thereof, the parties agree to negotiate in good faith to modify this Agreement to preserve each party's anticipated benefits under this Agreement.

4.6 Waiver of Provisions. The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time to require performance of any provisions hereof will, in no manner, affect the right at a later date to enforce the same. No waiver by any party of any condition, or breach of any provision, term, covenant, representation, or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation, or warranty of this Agreement.

Seller and Buyer have executed this Agreement on the date first written above. By signing below, each individual represents that he or she is a duly elected officer of the company and is authorized to sign in that capacity.

SELLER:

HARRIS ASSOCIATES, L.P.

By: /s/ Anita Nagler

Name: \_\_\_\_\_  
Anita Nagler

Its: \_\_\_\_\_  
Chief Operating Officer

BUYER:

/s/ Ernest C. Garcia II

---

Ernest C. Garcia II

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CYGNET CAPITAL CORPORATION,  
an Arizona corporation

By: /s/ Ernest C. Garcia II

---

Name: Ernest C. Garcia II

Its: President/CEO

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EXHIBIT A

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrant to each Buyer as follows:

1. Organization and Qualification. Seller is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware , and has the requisite corporate power and authority to own and operate its properties and to carry on its business as now conducted. Seller is duly qualified to do business and is in good standing in each jurisdiction where the failure to be so qualified would have a material adverse effect on its business, properties, or ability to conduct the business currently conducted by it.

2. Authority Relative to this Agreement. Seller has the requisite power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement by Seller and the consummation by Seller of these transactions has been duly authorized by the general partner of Seller and no other proceedings on the part of Seller are necessary to authorize this Agreement and such transactions. This Agreement has been duly executed and delivered by Seller and constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms, except as the

enforceability thereof may be limited by bankruptcy, insolvency, reorganization, or other similar laws relating to the enforcement of creditors' rights generally and by general principles of equity.

3. No Conflicts. Seller is not subject to, nor obligated under, any provision of (a) its Limited Partnership Agreement or other organizational documents, (b) any material agreement, arrangement, or understanding, (c) any license, franchise, or permit, or (d) any Applicable Law which would be materially breached or materially violated, or in respect of which a right of termination or acceleration would arise, or pursuant to which any encumbrance on any of its assets would be created, by its execution, delivery, and performance of this Agreement and the consummation by it of the transactions contemplated hereby.

4. No Consents. No authorization, consent, or approval of, or filing with, any public body, court, or authority is necessary ----- on the part of Seller for the consummation by Seller of the transactions contemplated by this Agreement.

5. Good Title. The Fund owns the Shares held by it free and clear of all liens, encumbrances and security interests, and may transfer the Shares to Buyer without violation of the rights of any person.

6. Knowledge. Seller acknowledges that it has received and reviewed all public filings of the Company and of Garcia relating to the Company, that it is aware that Garcia may acquire or attempt to acquire substantially all the common stock of the Company and that Garcia is the Chairman of the Board of the Company and largest shareholder of the Company.

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## EXHIBIT B

### REPRESENTATIONS AND WARRANTIES OF BUYER

Each Buyer represents and warrants to Seller as follows:

1. Organization and Qualification. Garcia is a resident of Arizona and Cygnet is a corporation duly organized, validly existing, and in good standing under the laws of the State of Arizona, and has the requisite corporate power and authority to own and operate its properties and to carry on its business as now conducted in every jurisdiction where the failure to do so would have a material adverse effect on its business, properties, or ability to conduct the business currently conducted by it.

2. Authority Relative to this Agreement. Buyer has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement by Buyer and

the consummation by Buyer of the transactions contemplated hereby have been duly authorized by Buyer, and, to the extent required, by its shareholders and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement and such transactions. This Agreement has been duly executed and delivered by Buyer and constitutes a valid and binding obligation of Buyer, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, or other similar laws relating to the enforcement of creditors' rights generally and by general principles of equity.

3. No Conflicts. Buyer is not subject to, or obligated under, any provision of (a) its Certificate of Incorporation or Bylaws, (b) any material agreement, arrangement, or understanding, (c) any material license, franchise, or permit, or (d) any law, regulation, order, judgment, or decree, which would be materially breached or materially violated, or in respect of which a right of termination or acceleration would arise, or pursuant to which any encumbrance on any of its or any of its subsidiaries' material assets would be created, by its execution, delivery, and performance of this Agreement and the consummation by it of the transactions contemplated hereby.

4. No Consents. Except for the SEC Filings and such filings to be made pursuant to state securities laws and regulations, all of which have been made or will be made prior to the Closing Date, no authorization, consent, or approval of, or filing with, any public body, court, or authority is necessary on the part of Buyer for the consummation by Buyer of the transactions contemplated by this Agreement.

5. Buyer's Review of Seller's and Company Information. Buyer acknowledges that Garcia is the largest shareholder of the Company and the Chairman of the Board of the Company and, therefore, has been involved in the day-to-day operations of the Company since the Company's formation. Buyer acknowledges that, except for the representations set forth on Exhibit A, Seller makes no representation regarding the Company upon which Buyer has relied, and Buyer desires no further information pertaining to the Company. Buyer acknowledges that its investment in the Company involves a significant degree of risk, and that it is able to bear the risk of loss of this investment.

## STOCK PURCHASE AGREEMENT

BY AND AMONG

HARRIS ASSOCIATES, L.P.

("SELLER")

AND

ERNEST C. GARCIA, II

CYGNET CAPITAL CORPORATION

("BUYER")

JANUARY 9, 2001

## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this "Agreement") is made of as of January 9, 2001 (the "Agreement Date"), by and among Harris Associates, L.P. ("Seller") and Ernest C. Garcia II ("Garcia") and Cygnet Capital Corporation ("Cygnet") (collectively and individually, Garcia and Cygnet shall be referred to as "Buyer").

## RECITALS

A. The Seller serves as investment sub-adviser of The New England Star Small Cap Fund (the "Fund"). As investment sub-adviser to the Fund, the Seller

has discretionary authority to purchase and sell securities on behalf of the Fund.

B. Seller owns 120,000 shares of common stock (the "Shares") of Ugly Duckling Corporation (the "Company").

C. Seller seeks to sell, and Buyer seeks to purchase, the Shares of the Company held by Seller, all under the terms and conditions of this Agreement.

## ARTICLE 1 THE TRANSACTION

1.1 Purchase and Sale of Shares. Seller agrees to sell, and Buyer agrees to purchase, the Shares. Except as otherwise set forth herein, neither Seller nor Buyer is allowed or required to sell or purchase less than all of the Shares.

1.2 Purchase Price. On the Closing Date, as defined herein, Buyer will pay to the Fund in immediately available funds Five Hundred Thousand Nine Hundred Sixty Three and 64/100 Dollars (\$500,963.64) (the "Purchase Price"). The Purchase Price is the product of \$4.174697 and the number of Shares being conveyed. The Purchase Price shall not be adjusted as a result of any increase or decrease in the market price of the Shares after the date hereof and prior to the Closing Date.

1.3 Deposit. Within three (3) business days after the Agreement Date, Buyer shall deliver to the Fund or the Fund's agent Eighty Thousand Dollars (\$80,000.00) as an earnest money deposit (the "Deposit"). The Deposit shall be held by the Fund or the Fund's agent in a federally insured interest bearing account and all interest on the account shall be added to the Deposit. The Deposit shall be applied to the Purchase Price on the Closing Date. The Deposit shall be nonrefundable except in the event of Buyer's termination pursuant to Section 1.6 or 3.1 of this Agreement. In the event of Buyer's default, the Fund may retain the Deposit pursuant to Section 3.2 of this Agreement.

1.4 Closing Date. The transfer of the Shares and payment of the Purchase Price shall be completed within five (5) business days after Buyer delivers to Seller written notice that Buyer will close the transaction (the "Closing Date"). If Buyer does not close the transaction by March 5, 2001, then Buyer shall be in default under this Agreement.

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1.5 Closing Deliveries. On the Closing Date, Seller, on behalf of the Fund, shall deliver to Buyer all certificates evidencing the Shares, either duly endorsed for transfer to Buyer or with blank stock powers for assignment, as may be designated by Buyer. The parties further agree that they will execute and deliver any further documents and instruments of transfer, and will take any other action reasonably required, consistent with the terms of this Assignment, for the transfer of the Shares to Buyer.

1.6 Contingencies. The parties acknowledge that upon transfer of the

Shares to Buyer, together with the transfer of shares of the Company by Seller's affiliate Oakmark Small Cap Fund, Ernest C. Garcia II, the sole shareholder and Director of Buyer ("Garcia") shall beneficially own over 50% of the issued and outstanding shares of common stock of the Company. Buyer's acquisition of the Shares may constitute a plan by Garcia to take the Company private and, therefore, may require disclosure pursuant to Rule 13e-3 of the Securities Exchange Act of 1934, the expiration of certain time periods and other actions to comply with applicable securities laws (the "SEC Filings"). The completion of the SEC Filings is a condition precedent to the obligations of Buyer under this Agreement. Buyer shall use commercially reasonable efforts to complete the SEC Filings prior to the Closing Date. If by March 5, 2001, the SEC Filings are not completed or the transaction is prohibited, enjoined or restrained by any government authority, then either Seller or Buyer may elect to terminate this Agreement and upon such termination, the Deposit shall be returned to Buyer; provided, however, that the Fund shall be entitled to retain the Deposit if Buyer has not used commercially reasonable efforts to complete the SEC Filings prior to the Closing Date.

ARTICLE 2  
REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION

2.1 Seller. Seller represents and warrants to each Buyer that each of the representations and warranties contained in EXHIBIT A are true and correct in all material respects on the date of this Agreement, and will again be true and correct in all material respects on the Closing Date. Seller shall indemnify and hold each Buyer harmless from and against any loss, damage, liability and expense ("Loss") incurred by any Buyer in connection with or alleged to result from a breach by Seller of any representation or warranty made pursuant to this Section 2.1 or otherwise in this Agreement or other document or certificate delivered pursuant to this Agreement or a breach by Seller of any of its other obligations or covenants contained in this Agreement or other document delivered in connection with this Agreement.

2.2 Buyer. Buyer represents and warrants to Seller that each of the representations and warranties contained in EXHIBIT B are true and correct in all material respects on the date of this Agreement, and will again be true and correct in all material respects on the Closing Date. Each Buyer agrees to indemnify and hold Seller harmless from and against any Loss incurred by Seller in connection with or alleged to result from a breach by that Buyer of any representation or warranty made pursuant to this Section 2.2 or otherwise in this Agreement or other document or certificate delivered pursuant to this Agreement or a breach by that Buyer of any of its obligations or covenants contained in this Agreement or other document delivered in connection with this Agreement.

2.3 Nature and Survival of Representations and Warranties. Each statement and agreement made by any of the parties in this Agreement or in any document or other instrument delivered by or on behalf any of the parties pursuant to this Agreement will survive the Closing Date of this Agreement.

### ARTICLE 3

#### DEFAULT AND REMEDIES

3.1 SELLER. In addition to any other actions constituting a default hereunder, Seller shall be in default hereunder if on the Closing Date this Agreement is in full force and effect, Buyer has tendered full performance and Seller fails to convey the Shares to Buyer in accordance with this Agreement; except that Seller's failure to convey the Shares shall not constitute a default hereunder if Seller has sold such Shares, on behalf of the Fund, in order to maintain the Fund's compliance with Subchapter M of the Internal Revenue Code of 1986, as amended. In the event of a default of Seller on or before the Closing Date, Buyer may elect as its exclusive remedy to either (a) terminate this Agreement, in which event the Deposit shall be immediately returned to Buyer; or (b) continue this Agreement and immediately prosecute a claim for specific performance of this Agreement. In the event of a default of Seller after the Closing Date for breach of an obligation under this Agreement that survives and continues after the Closing Date, the Buyer may prosecute its claims for damage suffered against Seller but Buyer may not recover any consequential or exemplary damages.

3.2 BUYER. In addition to any other actions constituting a default hereunder, each Buyer shall be in default hereunder if on the Closing Date this Agreement is in full force and effect, Seller has tendered full performance and any Buyer fails to purchase the Shares in accordance with this Agreement. In the event of a default of any Buyer on or before the Closing Date, Seller shall be entitled to terminate this Agreement, retain the Deposit and prosecute its claims for damages suffered against each Buyer jointly and severally but Seller may not recover any consequential or exemplary damages. In the event of a default of any Buyer after the Closing Date for breach of an obligation under this Agreement that survives and continues after the Closing Date, the Seller may prosecute its claims for damage suffered against all Buyers but Seller may not recover any consequential or exemplary damages.

### ARTICLE 4

#### GENERAL MATTERS

4.1 Notices. All notices, and other communications hereunder will be in writing and deemed to have been given when (i) delivered by hand, (ii) sent by telecopier (with receipt confirmed), provided that a copy is mailed by registered mail, postage pre-paid return receipt requested, or (iii) when actually received by the addressee, in each case to the following:

If to Seller: James P. Benson, CFA  
Investment Analyst  
Harris Associates, L.P.  
2 North LaSalle Street  
Chicago, Illinois 60602-3790  
Phone: (312) 621-0560  
Fax: (312) 621-0368

With a copy to: Anita Nagler

---

Harris Associates, L.P.  
2 North LaSalle Street  
Chicago, Illinois 60602-3790  
Phone: (312) \_\_\_\_\_  
Fax: (312) \_\_\_\_\_

If to Buyer: Cygnet Capital Corporation  
Ernest C. Garcia, II  
2575 E. Camelback Road, Suite 700  
Phoenix, Arizona 85016  
Phone: (602) 778-5001  
FAX: (602) 778-4001

4.2 Governing Law and Attorneys' Fees. The validity, construction, and enforceability of this Agreement shall be governed in all respects by the laws of the State of Arizona, without regard to its conflict of laws rules. If any legal action or any arbitration or other proceeding is brought in connection with this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees, accounting fees, and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

4.3 Arbitration. Any claim or controversy relating to this Agreement that is brought by the Buyer against the Seller or relating to the breach hereof by the Seller shall be settled by arbitration conducted in Phoenix, Arizona in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Any claim or controversy relating to this Agreement that is brought by the Seller against the Buyer or relating to the breach hereof by the Buyer shall be settled by arbitration conducted in Chicago, Illinois in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The award rendered by the arbitrator(s) shall be final and judgment upon the award rendered by the arbitrator(s) may be entered upon it in any court having jurisdiction thereof. The arbitrator(s) shall possess the powers to issue mandatory orders and restraining orders in connection with such arbitration. The expenses of the arbitration shall be borne by the losing party unless otherwise allocated by the arbitrator(s). The agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceedings, the parties shall continue to perform their respective obligations under this Agreement.

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4.4 Assignment. This Agreement will not be assigned by operation of law or otherwise, except that Buyer may assign all or any portion of its rights under this Agreement to any wholly owned subsidiary, but no such assignment will relieve Buyer of its obligations hereunder, and except that this Agreement may be assigned by operation of law to any corporation or entity with or into which Buyer may be merged or consolidated or to which Buyer transfers all or substantially all of its assets, and such corporation or entity assumes this Agreement and all obligations and undertakings of Buyer hereunder.

4.5 Intent to be Binding. The Exhibits referred to herein are incorporated herein by reference as if fully set forth in the text of this Agreement. This Agreement may be executed in any number of counterparts, and each counterpart constitutes an original instrument, but all such separate counterparts constitute one and the same agreement. This Agreement may not be amended except by an instrument in writing approved by Buyer and Seller. If any term, provision, covenant, or restriction of this Agreement is held by a court to be invalid or unenforceable, the remainder of the terms, provisions, covenants, and restrictions of this Agreement will remain in full force and effect and will in no way be affected or invalidated and the court will modify this Agreement or, in the absence thereof, the parties agree to negotiate in good faith to modify this Agreement to preserve each party's anticipated benefits under this Agreement.

4.6 Waiver of Provisions. The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time to require performance of any provisions hereof will, in no manner, affect the right at a later date to enforce the same. No waiver by any party of any condition, or breach of any provision, term, covenant, representation, or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation, or warranty of this Agreement.

Seller and Buyer have executed this Agreement on the date first written above. By signing below, each individual represents that he or she is a duly elected officer of the company and is authorized to sign in that capacity.

SELLER: HARRIS ASSOCIATES, L.P.

By: /s/ Anita Nagler  
 Name: Anita Nagler  
 Its: Chief Operating Officer

BUYER: /s/ Ernest C. Garcia II  
 Ernest C. Garcia II

CYGNET CAPITAL CORPORATION,  
an Arizona corporation

By: /s/ Ernest C. Garcia II  
-----

Name: Ernest C. Garcia II  
Its: President/CEO

EXHIBIT A

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrant to each Buyer as follows:

1. Organization and Qualification. Seller is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware , and has the requisite corporate power and authority to own and operate its properties and to carry on its business as now conducted. Seller is duly qualified to do business and is in good standing in each jurisdiction where the failure to be so qualified would have a material adverse effect on its business, properties, or ability to conduct the business currently conducted by it.

2. Authority Relative to this Agreement. Seller has the requisite power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement by Seller and the consummation by Seller of these transactions has been duly authorized by the general partner of Seller and no other proceedings on the part of Seller are necessary to authorize this Agreement and such transactions. This Agreement has been duly executed and delivered by Seller and constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, or other similar laws relating to the enforcement of creditors' rights generally and by general principles of equity.

3. No Conflicts. Seller is not subject to, nor obligated under, any provision of (a) its Limited Partnership Agreement or other organizational documents, (b) any material agreement, arrangement, or understanding, (c) any license, franchise, or permit, or (d) any Applicable Law which would be

materially breached or materially violated, or in respect of which a right of termination or acceleration would arise, or pursuant to which any encumbrance on any of its assets would be created, by its execution, delivery, and performance of this Agreement and the consummation by it of the transactions contemplated hereby.

4. No Consents. No authorization, consent, or approval of, or filing with, any public body, court, or authority is necessary on the part of Seller for the consummation by Seller of the transactions contemplated by this Agreement.

5. Good Title. The Fund owns the Shares held by it free and clear of all liens, encumbrances and security interests, and may transfer the Shares to Buyer without violation of the rights of any person.

6. Knowledge. Seller acknowledges that it has received and reviewed all public filings of the Company and of Garcia relating to the Company, that it is aware that Garcia may acquire or attempt to acquire substantially all the common stock of the Company and that Garcia is the Chairman of the Board of the Company and largest shareholder of the Company.

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## EXHIBIT B

### REPRESENTATIONS AND WARRANTIES OF BUYER

Each Buyer represents and warrants to Seller as follows:

1. Organization and Qualification. Garcia is a resident of Arizona, and Cygnet is a corporation duly organized, validly existing, and in good standing under the laws of the State of Arizona, and has the requisite corporate power and authority to own and operate its properties and to carry on its business as now conducted in every jurisdiction where the failure to do so would have a material adverse effect on its business, properties, or ability to conduct the business currently conducted by it.

2. Authority Relative to this Agreement. Buyer has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby have been duly authorized by Buyer, and, to the extent required, by its shareholders and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement and such transactions. This Agreement has been duly executed and delivered by Buyer and constitutes a valid and binding obligation of Buyer, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, or other similar laws relating to the enforcement of creditors' rights generally and by general

principles of equity.

3. No Conflicts. Buyer is not subject to, or obligated under, any provision of (a) its Certificate of Incorporation or Bylaws, (b) any material agreement, arrangement, or understanding, (c) any material license, franchise, or permit, or (d) any law, regulation, order, judgment, or decree, which would be materially breached or materially violated, or in respect of which a right of termination or acceleration would arise, or pursuant to which any encumbrance on any of its or any of its subsidiaries' material assets would be created, by its execution, delivery, and performance of this Agreement and the consummation by it of the transactions contemplated hereby.

4. No Consents. Except for the SEC Filings and such filings to be made pursuant to state securities laws and regulations, all of which have been made or will be made prior to the Closing Date, no authorization, consent, or approval of, or filing with, any public body, court, or authority is necessary on the part of Buyer for the consummation by Buyer of the transactions contemplated by this Agreement.

5. Buyer's Review of Seller's and Company Information. Buyer acknowledges that Garcia is the largest shareholder of the Company and the Chairman of the Board of the Company and, therefore, has been involved in the day-to-day operations of the Company since the Company's formation. Buyer acknowledges that, except for the representations set forth on Exhibit A, Seller makes no representation regarding the Company upon which Buyer has relied, and Buyer desires no further information pertaining to the Company. Buyer acknowledges that its investment in the Company involves a significant degree of risk, and that it is able to bear the risk of loss of this investment.

LOAN AGREEMENT

DATED AS OF JANUARY 11, 2001

BETWEEN

UGLY DUCKLING CORPORATION

AND

VERDE INVESTMENTS, INC.

\$7,000,000 SENIOR SUBORDINATED LOAN

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- Exhibit A      Form of Promissory Note
- Exhibit B      Form of Warrant Agreement

SCHEDULES

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## LOAN AGREEMENT

This LOAN AGREEMENT is dated as of January 11, 2001, between UGLY DUCKLING CORPORATION, a Delaware corporation (the "Company"); and Verde Investments, Inc., an Arizona corporation ("Lender").

WHEREAS, Lender has agreed to make a loan to the Company in the amount of its Commitment (as defined herein) upon the terms and conditions set forth in this Agreement;

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

### ARTICLE I DEFINITIONS

1.1 Defined Terms. In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"Advance" means an advance by Lender to Company hereunder.

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

"Agreement" means this Loan Agreement, as amended, supplemented or modified from time to time in accordance with the terms hereof.

"Assignee" has the meaning specified in Section 9.6(a).

"Attorney Costs" means and includes all fees and disbursements of any other external or in-house counsel.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in Phoenix, Arizona, New York, Chicago or Los Angeles are authorized or required by law to close.

"Capital Lease" has the meaning specified in the definition of "Capital Lease Obligations".

"Capital Lease Obligations" means any rental obligation which, in accordance with GAAP, is or will be required to be capitalized on the books of the Company (a "Capital Lease"), taken at the amount thereof accounted for as indebtedness (net of interest expense) in accordance with GAAP.

"Closing Date" means the date on which all conditions precedent set forth in Section 4.1 are satisfied or waived by all Lenders, which is expected to be on or prior to January 11, 2001.

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

"Commitment" means the amount of Seven Million Dollars (\$7,000,000).

"Debt" means any Obligation for borrowed money, including the indebtedness portion of any Capitalized Lease Obligations.

"Debt to Tangible Net Worth Ratio" means the debt-to-equity ratio of the Company, calculated in accordance with GAAP by comparing total Debt to Tangible Net Worth.

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

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

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

"GAAP" means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of

comparable stature and authority within the accounting profession), or in such other statements by such other entity as may be in general use by significant segments of the U.S. accounting profession, which are applicable to the circumstances as of the date of determination.

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

"Insolvency Proceeding" means, with respect to any Person, (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors.

"Interest Accrual Period" shall mean the three-month period from and including a Payment Date to the close of business on the day preceding the next Payment Date, except that the first Interest Accrual Period shall commence on the Closing Date and end at the close of business on the day preceding the Payment Date.

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

"LIBOR" means the rate per annum equal to the rate appearing on Reuters Screen FRBD as of 11:00 a.m. (London time) two LIBOR Business Days prior to the beginning of such Interest Accrual Period, for the three-month term corresponding to such Interest Accrual Period, or if such rate shall not be so quoted then the applicable rate appearing on Bloomberg on the day two LIBOR Business Days prior to the beginning of such Interest Accrual Period, or if neither such rate shall be so quoted, the "London Interbank Offered Rates (LIBOR)" (three month) published in the "Money Rates" section of the Wall Street Journal two LIBOR Business Days prior to the beginning of such Interest Accrual Period.

"LIBOR Business Day" means any day which is a Business Day and which is also a day on which dealings in U.S. Dollars are carried on in the London interbank market.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or other) or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including those created by, arising under, or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a Capital Lease Obligation, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the UCC or any comparable law) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under an Operating Lease.

"Loan" means an individual term loan made by Lender in the amount of Lender's Commitment pursuant to Article II.

"Loan Documents" means this Agreement, the Note, the Warrant Agreement, the Warrant, and all other documents delivered to the Lender in connection therewith.

"Material Adverse Effect" means a material adverse change in, or a material adverse effect upon, any of (a) the operations, business, properties, condition (financial or otherwise) or prospects of the Company taken as a whole, (b) the ability of the Company to perform under any Loan Document and avoid any Event of Default, or (c) the legality, validity, binding effect or enforceability of any Loan Document.

"Maturity Date" means the earlier to occur of (a) December 31, 2003, or (b) the date the Loan is repaid in full.

"Note" shall mean a promissory note, dated as of the Closing Date, substantially in the form of Exhibit A annexed hereto, issued by the Company to the order of the Lender evidencing the obligation of the Company to repay the Loan.

"Obligations" mean all Loans and other Debt, advances, debts, liabilities, obligations, covenants and duties owing by the Company to any Person, of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, arising under this Agreement or under any other loan document, or out of any other agreement or understanding, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired.

"Operating Lease" means, as applied to any Person, any lease of property which is not a Capital Lease.

"Ordinary Course of Business" means, in respect of any transaction involving the Company, the ordinary course of the Company's business, substantially as conducted by the Company prior to or as of the Closing Date, and undertaken by the Company in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"Payment Date" means March 31, June 30, September 30, and December 31 of each year during the term of this Agreement.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture or governmental authority.

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

"SEC" means the Securities and Exchange Commission, or any successor thereto.

"Subordinated Debt" means any unsecured Obligation which by its express terms is subordinated in right of payment to any other unsecured Obligation of the Company.

"Tangible Net Worth" means the total of the Company's shareholders' equity (including capital stock, additional paid-in capital, and retained earnings), less (i) the total amount of loans and debts due from Affiliates, shareholders, officers, or employees of the Company, and (ii) the total amount of any intangible assets, including without limitation unamortized discounts, deferred charges, and goodwill as determined in accordance with GAAP.

"UCC" means the Uniform Commercial Code as in effect in any jurisdiction.

"Warrant" means the warrant issued to the Lender pursuant to the Warrant Agreement substantially in the form of Exhibit B to this Agreement.

"Warrant Agreement" means the Warrant Agreement dated as of July 25, 2001 among the Company and the Lender providing for the issuance of warrants to the Lender to acquire up to 1,500,000 shares of the Company's Common Stock, exercisable at a price per share equal to

the last sales price of the Company's Common Stock on the date hereof, for a period of ten years.

## 1.2 Other Interpretive Provisions.

Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meaning of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(a) The Agreement. The words "hereof", "herein", "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to

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any particular provision of this Agreement; and section, schedule and exhibit references are to this Agreement unless otherwise specified.

(b) Certain Common Terms.

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

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

(iii) The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or".

(c) Performance; Time. Whenever any performance obligation hereunder (other than a payment obligation) shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding", and the word "through" means "to and including". If any provision of this Agreement refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(d) Contracts. Unless otherwise expressly provided herein, references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent

such amendments and other modifications are not prohibited by the terms of any Loan Document.

(e) Laws. References to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(f) Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(g) Independence of Provisions. The parties acknowledge that this Agreement and other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

(h) Accounting Principles.

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

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

ARTICLE II  
THE LOAN

2.1 Amount and Notes.

The Lender shall make the Loan to the Company in a single or multiple advances of not less than \$1,000,000. The Company has authorized the issuance of the Note or Notes in the aggregate principal amount of Seven Million Dollars (\$7,000,000). On the Closing Date, the Lender shall issue and deliver to Lender a Note in the principal amount of \$7,000,000, payable to the order of Lender. All Notes shall be substantially in the form of Exhibit A to this Agreement. The outstanding Notes together will evidence the outstanding principal amount of the Loan, together with interest accrued but unpaid thereon. The Loan is a non-revolving loan and principal paid prior to the Maturity Date may not be re-borrowed.

2.2 Interest.

(a) Interest shall accrue on the outstanding principal amount of the Loan during each Interest Accrual Period at a rate per annum equal to LIBOR for

such Interest Accrual Period plus six hundred (600) basis points. Upon determining LIBOR for each Interest Accrual Period, the Lender shall notify the Company of such LIBOR determination and the rate thereof.

(b) Accrued interest shall be paid quarterly in arrears on (i) March 31, June 30, September 30 and December 31 of each year; and (ii) on the Maturity Date. Accrued and unpaid interest shall also be paid on the date of any prepayment of the Loan pursuant to Section 2.3 for the portion of the Loan so prepaid and upon prepayment in full thereof.

(c) While any Event of Default exists and is continuing or after acceleration, the Company shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of the Loan then unpaid, at a rate per annum equal to LIBOR plus 1200 basis points.

(d) The Company agrees to pay an effective contracted for rate of interest equal to the rate of interest resulting from all interest payable as provided herein, plus all other fees, charges and costs that may be deemed or determined to be interest. Anything herein to the contrary notwithstanding, the obligations of the Company hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the Lender would be contrary to the provisions of any law applicable to Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Company shall pay Lender interest at the highest rate permitted by applicable law.

2.3 Optional Prepayments. The Company may, at any time or from time to time, upon at least 10 Business Days notice to the Lender, prepay the Loan in whole or in part, without penalty or premium. Such notice of prepayment shall specify the date and amount of such prepayment. If such notice is given by the Company, the payment amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to each such date on the amount prepaid.

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2.4 Computation of Fees and Interest. All computations of fees and interest under this Agreement shall be made on the basis of a 365-day year.

2.5 Payments by the Company.

(a) All payments (including prepayments) to be made by the Company on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, deduction, recoupment or counterclaim and shall, except as otherwise expressly provided herein, be made to Lender at each of the Lender's office as set forth on the signature page hereof, in U.S. dollars and in immediately available funds, no later than 1:30 p.m. Phoenix, Arizona time on

the date specified herein. Any payment which is received by the applicable Lender later than 1:30 p.m. (Phoenix, Arizona time) shall be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

2.6 Priority of Payments; Subordination. The payment of principal and interest under this Agreement on the Loan shall be pari passu with: (i) the \$17,478,680 of 12% Subordinated Debentures due 2003 issued under that certain Indenture dated as of October 15, 1998 (as amended the "Indenture"), (ii) the \$11,939,565 of 11% Subordinated Debentures due 2007 issued under the Indenture, and (iii) the \$15,000,000 12% Senior Subordinated Loan between the Company and Kayne Anderson Investment Management, Inc., dated as of February 12, 1998, as amended. Except for the preceding sentence, and notwithstanding anything else in this Agreement to the contrary, the payment of principal and interest under this Agreement on the Loan is expressly subordinated for all purposes to any secured Obligations now in existence or later incurred by the Company other than Subordinated Debt; and the Lender will, upon request of any institution or Person that is an obligee of any Obligation now in existence or incurred by the Company in the future, execute and deliver an agreement of subordination in form mutually satisfactory to the Lender and such institution or Person, the tenor of which shall be to effectuate the terms of this Section.

### ARTICLE III ADDITIONAL AGREEMENTS

3.1 Junior Lien. The Company will use commercially-reasonable efforts to grant to Lender a lien on the Pledged Shares as referenced in that Stock Pledge Agreement of even date herewith by and among the Company, Ugly Duckling Car Sales and Finance Corporation, and BNY Midwest Trust Company, which lien shall be junior to the lien granted under such agreement.

3.2 Release of Real Estate Purchase Options. The Company, its Affiliates and subsidiaries, hereby release all options to purchase real estate currently owned by Lender and leased to the Company, its Affiliates and subsidiaries, as set forth on Schedule 3.2.

3.3 Option to Purchase Property. The Company, its Affiliates and subsidiaries, hereby grant Lender and its Affiliates the option to purchase, at book value, any or all properties

owned by the Company, its Affiliates and subsidiaries, as set forth on Schedule 3.3, as well as any or all properties acquired by the Company, its affiliates

and subsidiaries prior to the Maturity Date, and Lender agrees that if it exercises any such option, it will lease such properties back to the Company on terms similar to the leases set forth on Schedule 3.2.

3.4 Warrants. The Company agrees to enter into the Warrant Agreement with the Lender and issue Warrants to the Lender in accordance with the terms thereof in the event the Loan is not repaid on or before July 25, 2001 and any guarantee from Lender to SunAmerica Life Insurance Company remains outstanding, provided that: (a) any necessary approval of the Company's shareholders to the issuance or exercise of the Warrants has been obtained; (b) Company and Lender have obtained any necessary approvals and made any necessary filings, including, if required, under Sections 13 and 16 of the Securities Exchange Act of 1934, and under the Hart-Scott Rodino Antitrust Improvements Act of 1976; and (c) if the Company or its board (or a committee of the board) elects to obtain a fairness opinion, the Company has received a fairness opinion in form and substance reasonably satisfactory to it, provided that no such opinion shall be required if shareholder approval is required and has been obtained. In the event a fairness opinion cannot be obtained based upon the amount or terms of the Warrants to be issued hereunder, the parties agree to use commercially reasonable efforts to modify the amount and/or terms of the Warrant Agreement such that a fairness opinion can be rendered. Each of the parties shall use commercially reasonable efforts to satisfy the covenants and agreements set forth above. If despite the commercially reasonable efforts of the parties, the Warrants are for any reason not issued on or before July 25, 2001, except for the inability to obtain a fairness opinion, then at the option of the Lender, upon notice to the Company, the Loan shall become immediately due and payable in full.

#### ARTICLE IV CONDITIONS PRECEDENT

4.1 Conditions of Loans to the Company. The obligation of Lender to fund its Loan to the Company hereunder is subject to the condition that the Lender shall have received on or before January 11, 2001, in form and substance satisfactory to Lender and Lender's counsel and in sufficient copies for Lender, all of the following:

(a) Loan Agreement. This Agreement executed by the Company and Lender;

(b) Resolutions: Incumbency.

(i) Copies of the resolutions of the board of directors of the Company approving and authorizing the execution, delivery and performance by the Company of this Agreement and the other Loan Documents to be delivered hereunder, and authorizing the borrowing of the Loan, certified as of the Closing Date by the Secretary or an Assistant Secretary of the Company; and

(ii) A certificate of the Secretary or Assistant Secretary of the Company certifying the names and true signatures of the officers of the Company authorized to execute, deliver and perform, as applicable, this

Agreement, and all other Loan Documents to be delivered hereunder;

4.2 Articles of Incorporation: Bylaws and Good Standing. [Intentionally omitted.]

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(a) Notes. The Note, executed by the Company.

(b) Warrants. The Warrant Agreement, executed by the Company and the Lender, together with the Warrant.

#### ARTICLE V REPRESENTATIONS AND WARRANTIES

The Company represents and warrants to Lender that, except for such matters as are known to Lender or would not have a Material Adverse Effect:

5.1 Organization. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, the Company has the corporate power to own its property and to carry on its business as now being conducted, and the Company is duly qualified as a foreign corporation to do business and is in good standing in each jurisdiction in which the nature of the business conducted by it makes such qualification necessary.

5.2 Financial Statements. The Company has provided to the Lender copies of the following audited financial statements: a balance sheet of the Company as of September 30, 2000, and statements of income and cash flows for the nine months ended September 30, 2000. Such financial statements (including any related schedules and/or notes) are true and correct in all material respects, have been prepared in accordance with GAAP consistently followed throughout the periods involved and show all liabilities, direct and contingent, of the Company required to be shown in accordance with GAAP. The balance sheet fairly presents the condition of the Company as at the date thereof, and the statements of income and cash flows fairly present the results of the operations of the Company for the periods indicated. There has been no change in the business, condition (financial or otherwise) or operations of the Company since September 30, 2000, which could reasonably be expected to have a Material Adverse Effect.

5.3 Actions Pending. There is no action, suit, investigation or proceeding pending or, to the knowledge of the Company, threatened against the Company or any properties or rights of the Company, by or before any court, arbitrator or administrative or governmental body which could reasonably be expected to result in any Material Adverse Effect.

5.4 Outstanding Obligations. After giving effect to the transactions contemplated hereby, the Company does not have any Obligations outstanding except Obligations disclosed in the financial statements provided pursuant to Section 5.2. There exists no default (or, to the knowledge of the Company, any

event or condition that, with the passage of time, would constitute a default) under the provisions of any instrument evidencing such Obligations or of any agreement relating thereto.

5.5 Taxes. The Company has filed all Federal, State and other income tax returns which, to the best knowledge of the officers of the Company, are required to be filed, and has paid all taxes as shown on such returns and on all assessments received by it to the extent that such taxes have become due, except such taxes as are being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP.

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5.6 Conflicting Agreements and Other Matters. The Company is not a party to any contract or agreement or subject to any charter or other corporate restriction which materially and adversely affects its business, property or assets, or financial condition. Neither the execution nor delivery of this Agreement or the other Loan Documents, nor fulfillment of nor compliance with the terms and provisions hereof and of the other Loan Documents will conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in any violation of, or result in the creation of any Lien upon any of the properties or assets of the Company pursuant to, the Certificate of Incorporation or Bylaws of the Company, any award of any arbitrator or any agreement (including any agreement with stockholders), instrument, order, judgment, decree, statute, law, rule or regulation to which the Company is subject. The Company is not a party to, or otherwise subject to any provision contained in, any instrument evidencing indebtedness of the Company, any agreement relating thereto or any other contract or agreement (including its charter) which limits the amount of, or otherwise imposes restrictions on the incurring of, Debt of the Company of the type to be evidenced by this Agreement or the Notes.

5.7 ERISA. No accumulated funding deficiency (as defined in section 302 of ERISA and section 412 of the Code), whether or not waived, exists with respect to any plan (other than a multiemployer plan). No liability to the Pension Benefit Guaranty Corporation has been or is expected by the Company to be incurred with respect to any plan (other than a multiemployer plan) by the Company which could reasonably be expected to have a Material Adverse Effect. The Company has not incurred or does not presently expect to incur any withdrawal liability under Title IV of ERISA with respect to any multiemployer plan which is or would be materially adverse to the Company. The execution and delivery of this Agreement and the other Loan Documents will not involve any transaction which is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975 of the Code. For the purpose of this Section 5.9, the term "plan" shall mean an "employee pension benefit plan" (as defined in section 3 of ERISA) which is or has been established or maintained, or to which contributions are or have been made, by the Company or by any trade or business, whether or not incorporated, which, together with the Company, is under common control, as described in

section 414(b) or (c) of the Code; and the term "multiemployer plan" shall mean any plan which is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

5.8 Governmental Consent. Neither the nature of the Company's business, nor any of its respective properties, nor any relationship between the Company and any other Person, nor any circumstance in connection with the making of the Loan or delivery of the Note is such as to require any authorization, consent, approval, exemption or other action by or notice to or filing with any Governmental Authority that has not previously been made or taken and to which all applicable waiting periods have expired.

5.9 Disclosure. Neither this Agreement nor any other document, certificate or statement furnished to Lender by or on behalf of the Company in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading. There is no fact peculiar to the Company which has had a Material Adverse Effect or in the future could reasonably be expected to have a Material Adverse Effect that has not been set forth in this Agreement or disclosed in the Company's filings with the SEC, or in the other documents, certificates and statements furnished to Lender by or on behalf of the Company prior to the date hereof in connection with the transactions contemplated hereby.

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5.10 Possession of Franchises, Licenses, etc. The Company possesses all franchises, certificates, licenses, permits and other authorizations from governmental political subdivisions or regulatory authorities and all patents, trademarks, service marks, trade names, copyrights, licenses and other rights, free from burdensome restrictions, that are necessary in any material respect for the ownership, maintenance and operation of its properties and assets, and the Company is not in violation of any thereof in any material respect.

ARTICLE VI  
AFFIRMATIVE COVENANTS

The Company covenants and agrees that, so long as any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, unless the Lender waives compliance in writing:

6.1 Financial Statements. The Company shall deliver to the Lender in form and detail satisfactory to the Lender:

(a) promptly upon transmission thereof, copies of all financial statements, proxy statements, notices and reports as it shall send to its stockholders and copies of all registration statements (without exhibits) and all reports which it files with the SEC (or any governmental body or agency succeeding to the functions of the SEC); and

(b) with reasonable promptness, such other financial data as the Lender may reasonably request, subject to the Company's right to maintain confidentiality of any financial information to the extent necessary to comply with applicable securities laws.

6.2 Certificates; Other Information. Within 60 days after the end of each quarterly period (other than the fourth quarterly period) in each fiscal year and within 105 days after the end of each fiscal year, the Company shall deliver to Lender a certificate of a Responsible Officer setting forth (except to the extent specifically set forth in any financial statements filed within such periods with the SEC):

(a) sufficient information (including detailed calculations reasonably satisfactory to the Lender) to establish whether the Company is in compliance with the requirements of Sections 6.1; and

(b) a statement that there exists no Event of Default or Default, or, if any such Event of Default or Default exists, specifying:

(i) the nature thereof;

(ii) the period of existence thereof; and

(iii) what action the Company proposes to take with respect thereto.

6.3 Default Disclosure. The Company shall forthwith, upon a Responsible Officer of the Company obtaining knowledge of an Event of Default or Default, promptly deliver to Lender a Certificate of a Responsible Officer specifying the nature and period of existence thereof and what action the Company proposes to take with respect thereto.

ARTICLE VII  
NEGATIVE COVENANTS

The Company hereby covenants and agrees that, so long as any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, unless the Lender waives compliance in writing:

7.1 Debt to Tangible Equity Ratio. The Company shall not permit the Company's Debt to Tangible Equity Ratio to exceed 2.1 to 1, calculated as of the end of each quarterly period in each fiscal year.

7.2 Terms of Subordinated Debt. The Company shall not enter into any agreement (oral or written) which could in any way be construed as amending, modifying, altering, changing or terminating any one or more provisions relating

to the Subordinated Debt to the extent that such amendment, modification, alteration, change or termination would subordinate the payment of interest on or principal of the Loan to the payment of principal and interest relating to the Subordinated Debt.

ARTICLE VIII  
EVENTS OF DEFAULT

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

(a) The Company defaults in the payment of any principal of the Loan when the same shall become due, either by the terms thereof or otherwise as herein provided; or

(b) The Company defaults in the payment of any interest on the Loan when the same shall become due and such default continues for a period of five Business Days; or

(c) The Company fails to make any payment when due with respect to any Obligation of the Company (other than an obligation payable hereunder), or any breach, default or event of default shall occur, or any other conditions shall exist under any instrument, agreement or indenture pertaining to such Obligation, if the holder or holders of such Obligation accelerate the maturity of any such Obligation or require a redemption or other repurchase of such Obligation and such failure relates to the acceleration or redemption of an amount in excess of \$10 million and such acceleration continues for a period of five Business Days; or

(d) Any representation or warranty made by the Company herein or by the Company or any of its officers in any writing furnished in connection with or pursuant to this Agreement shall be false in any material respect on the date as of which made; or

(e) The Company fails to perform or observe any covenant or agreement contained in Articles III or VI hereof; or

(f) The Company fails to perform or observe any other agreement, covenant, term or condition contained herein and such failure shall not be remedied within 30 days after receipt of notice thereof from Lender; or

(g) The Company makes an assignment for the benefit of creditors or is generally not paying its debts as such debts become due; or

(h) Any decree or order for relief in respect of the Company is entered under any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law, whether now or

hereafter in effect (herein called the "Bankruptcy Law"), of any jurisdiction; or

(i) The Company petitions or applies to any tribunal for, or consents to, the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official of the Company, or of any substantial part of the assets of the Company, or commences a voluntary case under the Bankruptcy Law of the United States or any proceedings relating to the Company under the Bankruptcy Law of any other jurisdiction; or

(j) Any such petition or application referenced in clause (i) above is filed, or any such proceedings referenced in clause (i) above are commenced against the Company, and the Company by any act indicates its approval thereof, consent thereto or acquiescence therein, or an order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceedings, and such order, judgment or decree remains unstayed and in effect for more than 30 days; or

(k) Any order, judgment or decree is entered in any proceedings against the Company decreeing the dissolution of the Company and such order, judgment or decree remains unstayed and in effect for more than 60 days; or

(l) Any order, judgment or decree is entered in any proceedings against the Company decreeing a split-up of the Company which requires the divestiture of assets representing a substantial part, and such order, judgment or decree remains unstayed and in effect for more than 60 days.

then (a) if such event is an Event of Default specified in any of clauses (g) through (l) of this Section 8.1 with respect to the Company, the Loan shall automatically become immediately due and payable at par together with interest accrued thereon, without presentment, demand, protest or notice of any kind, all of which are hereby waived by the Company, and (b) if such event is any other Event of Default, Lender may, by notice in writing to the Company, declare all of Lender's Loan to be, and all of Lender's Loan shall thereupon be and become, immediately due and payable together with interest accrued thereon without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Company.

8.2 Other Remedies. If any Event of Default or Default shall occur and be continuing, Lender may proceed to protect and enforce its rights under this Agreement by exercising such remedies as are available to Lender in respect thereof under applicable law, either by suit in equity or by action at law, or both, whether for specific performance of any covenant or other agreement contained in this Agreement or in aid of the exercise of any power granted in this Agreement. No remedy conferred in this Agreement upon the Lender is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy conferred herein or now or hereafter existing at law or in equity or by statute or otherwise.

## ARTICLE IX

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9.1 Amendments and Waivers. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by the Company therefrom, shall be effective unless the same shall be in writing and signed by the Lender and the Company, and then such waiver shall be effective only in the specific instance and for the specific purpose for which given.

9.2 Notices.

(a) All notices, requests and other communications provided for hereunder shall be in writing (including, unless the context expressly otherwise provides, by facsimile transmission, provided that, any matter transmitted by the Company by facsimile (i) shall be immediately confirmed by a telephone call to the recipient at the number specified on the applicable signature page hereof, and (ii) shall be followed promptly by a hard copy original thereof) and mailed, faxed, telecopied or delivered, to the address or facsimile number specified for notices on the applicable signature page hereof; or, as to the Company or the Lender, to such other address as shall be designated by such party in a written notice to the other party, at such other address as shall be designated by such party in a written notice to the Company and the Lender.

(b) All such notices, requests and communications shall, when transmitted by overnight delivery or faxed, be effective when delivered for overnight (next day) delivery, transmitted by facsimile machine, respectively, or if delivered, upon delivery.

9.3 No Waiver: Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

9.4 Costs and Expenses. The Company shall, following consummation of the transactions contemplated hereby:

(a) pay or reimburse Lender within 10 Business Days after demand for all reasonable costs and expenses incurred by Lender in connection with any amendment, supplement, waiver or modification to this Agreement, any other Loan Document and any other documents prepared in connection therewith, including the reasonable Attorney Costs incurred by Lender with respect thereto; and

(b) pay or reimburse Lender within 10 Business Days after demand for all reasonable costs and expenses incurred by Lender in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies

(including in connection with any "workout" or restructuring regarding the Loan, and including in any Insolvency Proceeding or appellate proceeding) under this Agreement, any other Loan Document, and any such other documents, including reasonable Attorney Costs incurred by Lender.

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

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9.6 Assignment, Participations, etc.

(a) Lender may, with the written consent of the Company (which consent shall be obtained prior to Lender's delivery of any information (including financial information) to any Assignee (as hereinafter defined) relating to an assignment of Lender's rights and obligations under the Loan Documents, at all times other than during the existence of an Event of Default, which consent shall not be unreasonably withheld, at any time assign and delegate to one or more person or entity (provided, that, no written consent of the Company shall be required in connection with any assignment and delegation by Lender to an Affiliate of Lender) (each an "Assignee") all (but no less than all) of its interest in the Loan and the other rights and obligations of Lender hereunder, provided, however, that, the Company may continue to deal solely and directly with Lender in connection with the interest so assigned to an Assignee until written notice of such assignment, together with payment instructions, addresses and related information with respect to the Assignee shall have been given to the Company by Lender and the Assignee.

(b) From and after the date that Lender notifies the Company of such assignment and the Company consents to such assignment, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it by Lender, shall have the rights and obligations of Lender under the Loan Documents, and (ii) the Lender shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such assignment, relinquish its rights and be released from its obligations under the Loan Documents.

(c) Immediately after compliance with the conditions contained in Sections 9.6(a) and (b) with respect to Lender making an assignment or delegation to an eligible Assignee, this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Loan arising therefrom.

9.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of said counterparts

taken together shall be deemed to constitute but one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Company and the Lender.

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

9.9 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Company and the Lender, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Lender shall not have any obligation to any Person not a party to this Agreement or other Loan Documents.

9.10 Time. Time is of the essence as to each term or provision of this Agreement and each of the other Loan Documents.

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9.11 Governing Law.

THIS AGREEMENT AND THE NOTES SHALL BE DEEMED TO HAVE BEEN MADE IN THE STATE OF ARIZONA AND THE VALIDITY OF THIS AGREEMENT AND THE NOTES, AND THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, ALL CLAIMS MADE IN CONNECTION THEREWITH, AND THE RIGHTS OF THE PARTIES THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA.

9.12 Waiver of Jury Trial.

THE COMPANY AND THE LENDER HEREBY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE COMPANY AND THE LENDER HEREBY AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT IN ANY WAY LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM, OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. A COPY OF THIS SECTION 9.12 MAY BE FILED WITH ANY COURT AS WRITTEN EVIDENCE OF THE WAIVER OF THE RIGHT TO TRIAL BY JURY AND CONSENT TO TRIAL.

9.13 Entire Agreement. This Agreement, together with the other Loan Documents, embodies the entire Agreement and understanding among the Company and the Lender and supersedes all prior or contemporaneous agreements and understandings of such Persons, verbal or written, relating to the subject matter hereof and thereof and any prior arrangements made with respect to the payment by the Company (or any indemnification for) any fees, costs or expenses payable to or incurred (or to be incurred) by or on behalf of the Lender pursuant to the Loan Documents.

9.14 Interpretation. This Agreement is the result of negotiations between and has been reviewed by counsel to the Lender, the Company and other parties, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Company merely because of the Company's involvement in the preparation of such documents and agreements.

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

UGLY DUCKLING CORPORATION

By: /s/ Jon D. Ehlinger

-----

Jon D. Ehlinger  
Vice President, General Counsel, and  
Secretary

Address for notices:

Ugly Duckling Corporation  
2525 East Camelback Road  
Suite 1150  
Phoenix, Arizona 85016  
Attn: Jon D. Ehlinger  
Vice President, General Counsel and  
Secretary  
Telephone: 602-852-6637  
Telecopy: 602-852-6686

VERDE INVESTMENTS, INC.

By: /s/ Ernest C. Garcia, II

-----  
Name: Ernest C. Garcia, II  
Title: President

Address for notices:  
2575 East Camelback, Suite 700  
Phoenix, Arizona 85016

Attn: Steven P. Johnson  
Telephone: (602) 778-5003  
Telecopy : (602) 778-5025

## FORM OF WARRANT AGREEMENT

## UGLY DUCKLING CORPORATION

## WARRANT AGREEMENT

THIS WARRANT AGREEMENT (the "Agreement"), dated as of July 25, 2001, is between UGLY DUCKLING CORPORATION, a Delaware corporation (the "Company"), and VERDE INVESTMENTS, INC. (the "Lender").

WHEREAS, the Company has entered into a Loan Agreement dated as of January 11, 2001 (the "Loan Agreement"), by and among the Company and the Lender, pursuant to which the Lender will make a term loan to the Company, as set forth in, and subject to the terms and conditions of, the Loan Agreement; and

WHEREAS, as a condition precedent to the execution and delivery of the Loan Agreement, the Company has agreed to execute this Agreement pursuant to which the Company shall on July 25, 2001, subject to the terms set forth herein, issue to the Lender warrants (the "Warrants") to purchase shares of common stock, \$.001 par value per share ("Common Stock"), of the Company, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein set forth, the parties agree as follows:

Section 1. ISSUANCE OF WARRANTS AND FORM OF WARRANTS.

(a) Subject to the terms and conditions hereof, the Company shall issue to the Lender on July 25, 2001 and the Lender shall accept from the Company on such date, 1,500,000 Warrants substantially in the form of Exhibit A hereto.

(b) Each Warrant shall entitle the registered holder of the certificate representing such Warrant to purchase upon the exercise thereof one share of Common Stock, subject to the vesting schedule provided for in Section 2 and the adjustments provided for in Section 8 hereof, between July 25, 2001 and 1:30 p.m., Phoenix, Arizona time, on July 25, 2011, unless earlier redeemed pursuant to Section 10 hereof.

(c) The Warrant certificates shall be in registered form only. Each Warrant certificate shall be dated as of the date of issuance thereof (whether upon initial issuance or upon transfer or exchange), and shall be executed on behalf of the Company by the manual signature of its President, Senior Vice

President, or a Vice President, and attested to by the manual signature of its Secretary or an Assistant Secretary. In case any officer of the Company who shall have signed any Warrant certificate shall cease to be such officer of the Company prior to the issuance thereof, such Warrant certificate may nevertheless be issued and delivered with the same force and effect as though the person who signed the same had not ceased to be such officer of the Company.

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Section 2. EXERCISE OF WARRANTS, DURATION AND WARRANT PRICE. Subject to the provisions of this Agreement, each registered holder of one or more Warrant certificates shall have the right, which may be exercised as provided in such Warrant certificates, to purchase from the Company (and the Company shall issue and sell to such registered holder) the number of shares of Common Stock or other securities to which the Warrants represented by such certificates are at the time entitled hereunder.

(a) The registered holder shall be entitled to exercise 500,000 Warrants on July 25, 2001, and an additional 250,000 Warrants upon the expiration of each successive three month period thereafter (i.e., October 25, 2001, January 25, 2002, April 25, 2002, and July 25, 2002) until the registered holder has the right to exercise all 1,500,000 Warrants; provided, however, that this Warrant Agreement and the registered holder's right to exercise any of the Warrants shall terminate immediately if the Note issued pursuant to the Loan Agreement has been paid in full on or prior to July 25, 2001.

(b) Each Warrant not exercised by the expiration date of July 25, 2011 shall become void, and all rights thereunder and all rights in respect thereof under this Agreement shall cease on such date.

(c) A Warrant may be exercised by the surrender of the certificate representing such Warrant to the Company with the subscription form set forth on the reverse thereof duly executed and properly endorsed with the signatures properly guaranteed, and upon payment in full to the Company of the Warrant Price (as hereinafter defined) for the number of shares of Common Stock or other securities as to which the Warrant is exercised. Such Warrant Price shall be paid in full in cash, or by certified check or bank draft payable in United States currency to the order of the Company or by surrender of this Warrant to the Company together with a notice of cashless exercise, in which event the Company shall issue to the registered holder the number of shares of Common Stock determined as follows:

$$X = Y \times (A-B) / A$$

X = the number of shares of Common Stock to be issued to the registered holder.

Y = the number of shares of Common Stock with respect to which the Warrant is being exercised.

A = the Current Market Price determined as of the date of exercise.

B = the Warrant Price.

(d) Subject to adjustment in accordance with Section 8 hereof, the price per share of Common Stock at which each Warrant may be exercised (the "Warrant Price") shall be at a price per share equal to the last sales price of the Common Stock on the Nasdaq National Market on the date of the closing of the Loan Agreement.

(e) Subject to the further provisions of this Section 2 and of Section 5 hereof, upon surrender of Warrant certificates and payment of the Warrant Price, the Company shall issue and

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cause to be delivered, as promptly as practicable to or upon the written order of the registered holder of such Warrants and in such name or names as such registered holder may designate, subject to applicable securities laws, a certificate or certificates for the number of securities so purchased upon the exercise of such Warrants, together with cash, as provided in Section 9 of this Agreement, in respect of any fraction of a share or security otherwise issuable upon such surrender. All shares of Common Stock or other such securities issued upon the exercise of a Warrant shall be duly authorized, validly issued, fully paid and nonassessable and free and clear of all liens and other encumbrances.

(f) Certificates representing such securities shall be deemed to have been issued and any person so designated to be named therein shall be deemed to have become a holder of record of such securities as of the date of the surrender of such Warrants and payment of the Warrant Price. The rights of purchase represented by each Warrant certificate shall be exercisable, at the election of the registered holder thereof, either as an entirety or from time to time for part of the number of securities specified therein and, in the event that any Warrant certificate is exercised in respect of less than all of the securities specified therein at any time prior to the expiration date of the Warrant certificate, a new Warrant certificate or certificates will be issued to such registered holder for the remaining number of securities specified in the Warrant certificate so surrendered.

### Section 3. COUNTERSIGNATURE AND REGISTRATION.

(a) The Company shall maintain books (the "Warrant Register") for the registration and the registration of transfer of the Warrants. Upon the initial issuance of the Warrants, the Company shall issue and register the Warrants in the name of the Lender in accordance with Section 1 hereof.

(b) Prior to due presentment for registration of transfer of any Warrant certificate, the Company may deem and treat the person in whose name such Warrant certificate shall be registered upon the Warrant Register (the "registered holder") as the absolute owner of such Warrant certificate and of each Warrant represented thereby (notwithstanding any notation of ownership or other writing on the Warrant certificate made by anyone other than the Company), for the purpose of any exercise thereof, of any distribution or notice to the

holder thereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

#### Section 4. TRANSFER AND EXCHANGE OF WARRANTS.

(a) The Company shall register the transfer, from time to time, of any outstanding Warrant or portion thereof upon the Warrant Register, upon surrender of the certificate evidencing such Warrant for transfer, properly endorsed with signatures properly guaranteed and accompanied by appropriate instructions for transfer. Upon any such transfer, a new Warrant certificate representing an equal aggregate number of Warrants so transferred shall be issued to the transferee and the surrendered Warrant certificate shall be canceled by the Company. In the event that only a portion of a Warrant is transferred at any time, a new Warrant certificate representing the remaining portion of the Warrant will also be issued to the transferring holder. Notwithstanding anything to the contrary herein, no transfer or exchange may be made except in compliance with applicable securities laws and Section 12 hereof.

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(b) Warrant certificates may be surrendered to the Company, together with a written request for exchange, and thereupon the Company shall issue in exchange therefor one or more new Warrant certificates as requested by the registered holder of the Warrant certificate or certificates so surrendered, representing an equal aggregate number of Warrants.

(c) The Company shall not be required to effect any registration of transfer or exchange which will result in the issuance of a Warrant certificate for a fraction of a Warrant.

(d) No service charge shall be made for any exchange or registration of transfer of Warrant certificates.

Section 5. PAYMENT OF TAXES. The Company will pay any documentary stamp taxes attributable to the initial issuance or delivery of the shares of Common Stock or other securities issuable upon the exercise of Warrants; provided, however, the Company shall not be required to pay any tax or taxes which may be payable in respect of any transfer of the Warrants or involved in the issuance or delivery of any Warrant certificate or certificates for shares of Common Stock in a name other than registered holder of Warrants in respect of which such shares are issued, and in such case the Company shall not be required to issue or deliver any certificate for shares of Common Stock or any Warrant certificate until the person requesting the same has paid to the Company the amount of such tax or has established to the Company's satisfaction that such tax has been paid.

Section 6. MUTILATED OR MISSING WARRANTS. In case any of the Warrant certificates shall be mutilated, lost, stolen or destroyed, the Company may issue and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant certificate, or in lieu of and substitution for the Warrant certificate lost, stolen or destroyed, a new Warrant certificate representing an equal aggregate number of Warrants, but only upon receipt of evidence

satisfactory to the Company of such loss, theft or destruction of such Warrant certificate and reasonable indemnity, if requested, also satisfactory to it. Applicants for such substitute Warrant certificates shall also comply with such other reasonable conditions and pay such reasonable charges as the Company may prescribe.

#### Section 7. RESERVATION OF COMMON STOCK.

(a) There have been reserved, and the Company shall at all times keep reserved, out of its authorized and unissued shares of Common Stock, a number of shares sufficient to provide for the exercise of the rights of purchase represented by the Warrants then outstanding or issuable upon exercise, and the transfer agent for the Common Stock and every subsequent transfer agent for any shares of the Company's capital stock issuable upon the exercise of any of the rights of purchase aforesaid are hereby irrevocably authorized and directed at all times to reserve such number of authorized and unissued shares as shall be requisite for such purpose. The Company will keep a copy of this Agreement on file with the transfer agent for the Common Stock and with every subsequent transfer agent for any shares of the Company's capital stock issuable upon the exercise of the rights of purchase represented by the Warrants.

(b) The Company will supply such transfer agent with duly executed certificates and will provide or otherwise make available any cash as provided in Section 9 of this Agreement.

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All Warrant certificates surrendered in the exercise thereby evidenced shall be canceled by the Company. After the expiration date of the Warrants, no shares of Common Stock shall be subject to reservation in respect of such Warrants.

Section 8. ADJUSTMENT OF WARRANT PRICE AND NUMBER OF SHARES OF COMMON STOCK. The number and kind of securities purchasable upon the exercise of the Warrants and the Warrant Price shall be subject to adjustment from time to time upon the happening of certain events, as follows:

8.1 ADJUSTMENTS. The number of shares of Common Stock or other securities purchasable upon the exercise of each Warrant and the Warrant Price shall be subject to adjustment as follows:

(a) If the Company (i) pays a dividend in Common Stock or makes a distribution in Common Stock or shares convertible in Common Stock, (ii) subdivides its outstanding Common Stock into a greater number of shares, (iii) combines its outstanding Common Stock into a smaller number of shares, or (iv) issues, by reclassification of its Common Stock, other securities of the Company, then the number and kind of shares of Common Stock or other securities purchasable upon exercise of a Warrant immediately prior thereto will be adjusted so that the holder of a Warrant will be entitled to receive the kind and number of shares of Common Stock or other securities of the Company that such holder would have owned and would have been entitled to receive immediately after the happening of any of the events described above, had the Warrant been exercised immediately prior to the happening of such event or any record date

with respect thereto. Any adjustment made pursuant to this subsection 8.1(a) will become effective immediately after the effective date of such event retroactive to the record date, if any, for such event.

(b) If the Company issues or sell any shares of Common Stock or any rights or warrants to purchase shares of Common Stock or securities convertible into Common Stock at a price per share of Common Stock that is less than 90% of the Daily Market Price (as defined in Section 10(e) hereof) of the Common Stock as of the trading day immediately preceding (or the same day if trading has been completed for such day) of such issuance or sale, the Warrant Price shall be reduced by multiplying the Warrant Price in effect on the date of issuance of such shares, warrants, rights or convertible securities by a fraction, the denominator of which shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding on the date of issuance of such shares, rights, warrants or convertible securities plus the number of additional shares of Common Stock offered for subscription or purchase or issuable on conversion, and the numerator of which shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding on the date of issuance of such shares, rights, warrants or convertible securities plus the number of shares which the aggregate offering price of the total number of shares so offered, issued or issuable, or, with respect to convertible securities, the aggregate consideration received or to be received by the Company for the convertible securities, would purchase at such Daily Market Price. Such adjustment shall be made successively whenever such shares, rights, warrants or convertible securities are issued and shall become effective immediately after the date of such issuance. However, upon the expiration of any right or warrant to purchase Common Stock or conversion right, the issuance of which resulted in an adjustment in the Warrant Price, if any such right, warrant or conversion right shall

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expire and shall not have been exercised, the Warrant Price shall immediately upon such expiration be recomputed and effective immediately upon such expiration be increased to the price which it would have been (but reflecting any other adjustments in the Warrant Price made pursuant to the provisions of this Section 8.1(b) after the issuance of such rights, warrants or convertible securities) had the adjustment of the Warrant Price upon the issuance of such rights, warrants or convertible securities been made on the basis of offering for subscription or purchase only that number of shares of Common Stock actually purchased upon the exercise of such rights or warrants actually exercised or the conversion of the convertible securities actually converted.

(c) If the Company distributes to all holders of Common Stock evidences of its indebtedness or assets (excluding cash dividends or cash distributions paid out of earned surplus and made in the ordinary course of business) or rights to subscribe for or purchase any security, then in each such case the Warrant Price shall be determined by multiplying the Warrant Price in effect prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction, the denominator of which shall be the Daily Market Price of Common Stock determined as of the record date mentioned above, and the numerator of which shall be such Daily Market Price of

the Common Stock, less the then fair market value (as determined by the Board of Directors of the Company in good faith, whose determination shall be conclusive if made in good faith; provided, however, that in the event of a distribution or series of related distributions exceeding 10% of the net assets of the Company, then such fair market value shall be determined by a nationally recognized or major regional investment banking firm or firm of independent certified public accountants of recognized standing (which may be the firm that regularly examines the financial statements of the Company) selected in good faith by the Board of Directors of the Company, and in either case shall be described in a statement provided to Warrant holders) of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made successively whenever any such distribution is made and shall become effective immediately after the record date mentioned above. In the event such distribution is not made, the Warrant Price shall again be adjusted to the number that was in effect immediately prior to such record date.

(d) No adjustment in the number of shares or securities purchasable pursuant to the Warrants shall be required unless such adjustment would require an increase or decrease of at least one percent in the number of shares or securities then purchasable upon the exercise of the Warrants, provided, however, that any adjustment which by reason of this subsection 8.1(d) is not required to be made shall be carried forward and taken into account in any subsequent adjustments.

(e) The Company may, at its option, at any time during the term of the Warrant, reduce the then current Warrant Price to any amount, consistent with applicable law, deemed appropriate by the Board of Directors of the Company.

(f) Whenever the number of shares or securities purchasable upon the exercise of the Warrants is adjusted, as herein provided, the Warrant Price for shares payable upon exercise of the Warrants shall be adjusted by multiplying such Warrant Price immediately prior to such adjustment by a fraction, the numerator of which shall be the number of shares purchasable upon the exercise of the Warrant immediately prior to such adjustment, and the

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denominator of which shall be the number of shares so purchasable immediately thereafter.

(g) Whenever the number of shares or securities purchasable upon the exercise of the Warrants and/or the Warrant Price is adjusted as herein provided, the Company shall cause to be promptly mailed to each registered holder of a Warrant by first class mail, postage prepaid, notice of such adjustment and a certificate of the chief financial officer of the Company setting forth the number of shares or securities purchasable upon the exercise of the Warrants after such adjustment, the Warrant Price as adjusted, a brief statement of the facts requiring such adjustment and the computation by which such adjustment was made.

(h) For the purpose of this subsection 8.1, the term "Common Stock" shall mean (i) the class of stock designated as the voting Common Stock of the Company at the date of this Agreement, or (ii) any other class of stock or securities resulting from successive changes or reclassifications of such Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value. In the event that at any time, as a result of an adjustment made pursuant to this Section 8, a registered holder shall become entitled to purchase any securities of the Company other than shares of Common Stock, thereafter the number of such other securities so purchasable upon exercise of the Warrants shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the shares contained in this Section 8.

8.2 NO ADJUSTMENT FOR DIVIDENDS. Except as provided in subsection 8.1, no adjustment in respect of any dividends or distributions shall be made during the term of the Warrants or upon the exercise of the Warrants.

8.3 NO ADJUSTMENT IN CERTAIN CASES. No adjustments are required to be made pursuant to Section 8 hereof in connection with the issuance of shares of Common Stock or the Warrants (or the underlying shares of Common Stock) in the transactions contemplated by this Agreement.

8.4 PRESERVATION OF PURCHASE RIGHTS UPON RECLASSIFICATION, CONSOLIDATION, ETC. In case of any consolidation of the Company with or merger of the Company into another corporation or in case of any sale or conveyance to another corporation of the property, assets or business of the Company as an entirety or substantially as an entirety, the Company or such successor or purchasing corporation, as the case may be, shall execute an agreement with the registered holders of the Warrants providing such holders with the right thereafter, upon payment of the Warrant Price in effect immediately prior to such action, to purchase, upon exercise of each Warrant, the kind and amount of shares and other securities and property which it would have owned or have been entitled to receive after the happening of such consolidation, merger, sale or conveyance had each Warrant been exercised immediately prior to such action. Any such agreements referred to in this subsection 8.4 shall provide for adjustments, which shall be as nearly equivalent as may be practicable to the adjustments provided for in Section 8 hereof. The provisions of this subsection 8.4 shall similarly apply to successive consolidations, mergers, sales, or conveyances.

8.5 PAR VALUE OF SHARES OF COMMON STOCK. Before taking any action that would cause an adjustment reducing the Warrant Price below the then par value of the Common Stock

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issuable upon exercise of the Warrants, the Company will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable Common Stock at such adjusted Warrant Price.

8.6 INDEPENDENT PUBLIC ACCOUNTANTS. The Company may but shall not be

required to retain a firm of independent public accountants of recognized regional or national standing (which may be any such firm regularly employed by the Company) to make any computation required under this Section 8, and a certificate signed by such firm shall be conclusive evidence of the correctness of any computation made under this Section 8 and the Company shall cause to be promptly mailed to each registered holder of a Warrant by first class mail, postage prepaid, a copy of such certificate.

8.7 STATEMENT ON WARRANT CERTIFICATES. Irrespective of any adjustments in the Warrant Price or the number of securities issuable upon exercise of Warrants, Warrant certificates theretofore or thereafter issued may continue to express the same price and number of securities as are stated in the similar Warrant certificates initially issuable pursuant to this Agreement. However, the Company may, at any time in its sole discretion (which shall be conclusive), make any change in the form of Warrant certificate that it may deem appropriate and that does not affect the substance thereof; and any Warrant certificate thereafter issued, whether upon registration of, transfer of, or in exchange or substitution for, an outstanding Warrant certificate, may be in the form so changed.

8.8 NOTICES TO HOLDERS OF WARRANTS. If, at any time prior to the expiration of a Warrant and prior to its exercise, any one or more of the following events shall occur:

(a) any action that would require an adjustment pursuant to subsection 8.1 or 8.4 hereof; or

(b) a dissolution, liquidation or winding up of the Company (other than in connection with a consolidation, merger or sale of its property, assets and business as an entirety or substantially as an entirety) shall be proposed; then the Company must give notice in writing of such event to the registered holders of the Warrants, as provided in Section 14 hereof, at least 20 days, to the extent practicable, prior to the date fixed as a record date or the date of closing the transfer books for the determination of the stockholders entitled to any relevant dividend, distribution, subscription rights or other rights or for the determination of stockholders entitled to vote on such proposed dissolution, liquidation or winding up. Such notice must specify such record date or the date of closing the transfer books, as the case may be. Failure to mail or receive such notice or any defect therein will not affect the validity of any action taken with respect thereto.

Section 9. FRACTIONAL INTERESTS. The Company is not required to issue fractional shares of Common Stock on the exercise of a Warrant. If any fraction of a share of Common Stock would, except for the provisions of this Section 9, be issuable on the exercise of a Warrant (or specified portion thereof), the Company will in lieu thereof pay an amount in cash equal to the then Current Market Price multiplied by such fraction. For purposes of this Agreement, the term "Current Market Price" means (i) if the Common Stock is listed for quotation on the Nasdaq National Market or the Nasdaq SmallCap Market or on a national securities exchange,

the average for the 10 consecutive trading days immediately preceding the date in question of the daily per share closing prices of the Common Stock as quoted by the Nasdaq National Market or the Nasdaq SmallCap Market or on the principal stock exchange on which it is listed, as the case may be, whichever is the higher, or (ii) if the Common Stock is traded in the over-the-counter market and is not listed for quotation on the Nasdaq National Market or the Nasdaq SmallCap Market nor on any national securities exchange, the average of the per share closing bid prices of the Common Stock on the 10 consecutive trading days immediately preceding the date in question, as reported by Nasdaq or an equivalent generally accepted reporting service. The closing price referred to in clause (i) above shall be the last reported sale price or, in case no such reported sale takes place on such day, the average of the reported closing bid and asked prices, in either case as quoted by the Nasdaq National Market or the Nasdaq SmallCap Market or on the national securities exchange on which the Common Stock is then listed. For purposes of clause (ii) above, if trading in the Common Stock is not reported by Nasdaq, the bid price referred to in said clause shall be the lowest bid price as reported on the OTC Bulletin Board or in the "pink sheets" published by National Quotation Bureau, Incorporated.

#### Section 10. REDEMPTION.

(a) The then outstanding Warrants may be redeemed, at the option of the Company, at \$.10 per share of Common Stock purchasable upon exercise of such Warrants, at any time after [July 25, 2006] if the average Daily Market Price per share of the Common Stock for a period of at least 20 consecutive trading days ending not more than fifteen (15) days prior to the date of the notice given pursuant to Section 10(b) hereof has equaled or exceeded [\$12.00], and prior to expiration of the Warrants. The Daily Market Price of the Common Stock will be determined by the Company in the manner set forth in Section 10(e) as of the end of each trading day (or, if no trading in the Common Stock occurred on such day, as of the end of the immediately preceding trading day in which trading occurred). All outstanding Warrants must be redeemed if any are redeemed, and any right to exercise an outstanding Warrant shall terminate at 1:30 p.m. (Phoenix, Arizona time) on the date fixed for redemption. Trading day means a day in which trading of securities occurred on the Nasdaq National Market.

(b) The Company may exercise its right to redeem the Warrants only by giving the notice set forth in the following sentence. If the Company exercises its right to redeem, it shall give notice to the registered holders of the outstanding Warrants by mailing to such registered holders a notice of redemption, first class, postage prepaid, at their addresses as they shall appear on the records of the Company. Any notice mailed in the manner provided herein will be conclusively presumed to have been duly given whether or not the registered holder actually receives such notice.

(c) The notice of redemption must specify the redemption price, the date fixed for redemption (which must be at least 30 days after the date such notice is mailed), the place where the Warrant certificates must be delivered and the redemption price paid, and that the right to exercise the Warrant will

terminate at 1:30 P.M. (Phoenix, Arizona time) on the date fixed for redemption.

(d) Appropriate adjustment shall be made to the redemption price and to the minimum Daily Market Price prerequisite to redemption set forth in Section 10(a) hereof, in each

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case on the same basis as provided in Section 8 hereof with respect to adjustment of the Warrant Price.

(e) For purposes of this Agreement, the term "Daily Market Price" means (i) if the Common Stock is quoted on the Nasdaq National Market or the Nasdaq SmallCap Market or on a national securities exchange, the daily per share closing price of the Common Stock as quoted on the Nasdaq National Market or the Nasdaq SmallCap Market or on the principal stock exchange on which it is listed on the trading day in question, as the case may be, whichever is the higher, or (ii) if the Common Stock is traded in the over-the-counter market and not quoted on the Nasdaq National Market or the Nasdaq SmallCap Market nor on any national securities exchange, the closing bid price of the Common Stock on the trading day in question, as reported by Nasdaq or an equivalent generally accepted reporting service. The closing price referred to in clause (i) above shall be the last reported sale price or, in case no such reported sale takes place on such day, the average of the reported closing bid and asked prices, in either case on the Nasdaq National Market or the Nasdaq SmallCap Market or on the national securities exchange on which the Common Stock is then listed. For purposes of clause (ii) above, if trading in the Common Stock is not reported by Nasdaq, the bid price referred to in said clause shall be the lowest bid price as quoted on the OTC Bulletin Board or reported in the "pink sheets" published by National Quotation Bureau, Incorporated.

(f) On the redemption date, each Warrant will be automatically converted into the right to receive the redemption price and the Company will no longer honor any purported exercise of a Warrant. On or before the redemption date, the Company will deposit sufficient funds for the purpose of redeeming all of the outstanding unexercised Warrants in an interest-bearing, segregated account for payment to holders of Warrants upon surrender of Warrant Certificates in exchange for the redemption price therefor. Funds remaining in such account on the date three years from the redemption date will be returned to the Company.

Section 11. RIGHTS AS WARRANTHOLDERS. Nothing contained in this Agreement or in any of the Warrants shall be construed as conferring upon the holders thereof, as such, any of the rights of stockholders of the Company, including, without limitation, the right to receive dividends or other distributions, to exercise any preemptive rights, to vote or to consent or to receive notice as stockholders in respect of the meetings of stockholders or the election of directors of the Company or any other matter.

Section 12. RESTRICTIONS ON TRANSFER; REGISTRATION RIGHTS.

(a) Each holder of a Warrant agrees that prior to making any

disposition or transfer of the Warrants or shares issuable upon exercise of the Warrants ("Shares"), unless a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), is in effect with regard thereto and the disposition may be effected in accordance therewith and with applicable state securities laws, the holder shall give written notice to the Company describing briefly the manner in which any such proposed disposition or transfer is to be made; and no such disposition shall be made except pursuant to an exemption from the registration requirements of all applicable federal and state securities laws.

(b) Each certificate evidencing the Warrants shall bear a legend in substantially the

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following form, and each certificate evidencing Shares issuable upon exercise of the Warrants shall bear such a legend until such time as such Shares have been sold pursuant to a registration statement contemplated in subsection (c) or (d) below or unless, in the opinion of legal counsel to the Company, such legend is not required in order to establish compliance with any provisions of applicable security laws:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD, EXCHANGED, HYPOTHECATED OR OTHERWISE TRANSFERRED IN ANY MANNER EXCEPT IN COMPLIANCE WITH SECTION 12 OF THE WARRANT AGREEMENT DATED AS OF JULY 25, 2001, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

(c) Subject to the next sentence below, beginning on the date that the Warrants are exercised, if the Company proposes to file with the Commission a registration statement with respect to equity securities of the Company (other than as to securities issued pursuant to an employee benefit plan or as to a transaction subject to Rule 145 promulgated under the Securities Act or for which a Form S-4 Registration Statement could be used), it shall, at least 30 days prior to such filing, give written notice of such proposed filing to the holders of Warrants and Shares which bear a legend as contemplated in Section 12(b) above and which shall not have previously been included in a registration statement filed under this Section 12(c) or Section 12(d), at their respective addresses as they appear on the records of the Company or the Company, and shall offer to include and shall include, subject to the provisions of this Section 12(c), in such filing any proposed disposition of such Shares upon receipt by the Company, not less than 10 days prior to the proposed filing date, of a request therefor setting forth the facts with respect to such proposed disposition and all other information with respect to the holders of such Shares requested to be included in such filing as shall be reasonably necessary to be included in such Registration Statement. Notwithstanding the above, after such time as the holders shall have been given two opportunities to include their Shares in a Registration Statement of the Company pursuant to the immediately preceding sentence, and all securities of holders who shall have requested such inclusion in accordance herewith and who have not withdrawn such request prior to the filing of such Registration Statement have been included in such a

Registration Statement which shall have become effective and such securities shall have been effectively registered under the Securities Act, the Company will have no further obligation to such holders under this Section 12(c) and the Shares of such holders that have not been included previously in a Registration Statement under this Section 12(c) will have no further registration rights under Section 12(c) of this Agreement. In the event that (i) the managing underwriter for any such offering advises the Company in writing that the inclusion of such Shares in the offering would be detrimental to the offering or (ii) in the event that there is no managing underwriter, if, in the good faith judgment of the Board of Directors of the Company, inclusion of the Shares in the registration would be seriously detrimental to the Company, then, such Shares shall not be included in the Registration Statement, provided that no other shares of the Company's Common Stock are included in the registration pursuant to any other piggyback registration rights granted to others. In the event that Shares requested to be included in an offering are not included in accordance with the immediately preceding sentence, any notice given to holders of Warrants

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and Shares hereunder with respect to such offering shall not be counted against the limitation provided for in the second sentence of this Section 12(c).

(d) In addition to any Registration Statement pursuant to Section 12(c) hereof, after written notice upon exercise (the "Request") by the holders of at least 50% of the shares of Common Stock which have been (or may be) issued upon exercise of the Warrants, the Company will, as promptly as practicable (but in any event within 60 days), prepare and file at its own expense a Registration Statement with the Commission and appropriate Blue Sky authorities sufficient to permit the public offering of the shares of Common Stock underlying the Warrants, and will use reasonable efforts at its own expense through its officers, directors, auditors and counsel, in all ways necessary or advisable, to cause such Registration Statement to become effective as quickly as practicable and to maintain such effectiveness so as to permit resale of the shares of Common Stock covered by the Request until the earlier of the time that all such shares of Common Stock has been sold or the expiration of 120 days from the effective date of the Registration Statement; provided, however, that the Company shall only be obligated to file one such Registration Statement under this Section 12(d). The Company shall not be required to effect a registration pursuant to this Section 12(d) if the Company shall furnish to holders requesting a registration statement pursuant to this Section 12(d), a certificate signed by the Chairman of the Board stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its shareholders for such registration statement to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than ninety (90) days after receipt of the request of the initiating holders; provided that such right to delay a request shall be exercised by the Company not more than once in any twelve (12) month period.

(e) All fees, disbursements, and out-of-pocket expenses incurred in

connection with the filing of any Registration Statement under Section 12(c) hereof and in complying with applicable securities and Blue Sky laws shall be borne by the Company, provided, however, that any expenses of the holders of the Warrants or the Shares, including but not limited to attorneys' fees and discounts and commissions, shall be borne by such holders. The Company at its expense will supply the holders of the Shares included in a Registration Statement with copies of such Registration Statement and the prospectus or offering circular included therein in such quantities as may be reasonably requested by such holders.

(f) Each holder of Shares to be included in a Registration Statement pursuant to this Section 12 agrees to reasonably cooperate with the Company and to provide the Company on its request with all information concerning such holder and his Warrants and Shares that may reasonably be requested by the Company in order for the Company to perform its obligations under this Section 12.

(g) The registration rights provided pursuant to Section 12(c) and Section 12(d) above are subject to any other registration rights previously granted by the Company.

### Section 13. INDEMNIFICATION.

(a) In the event of the filing of any Registration Statement with respect to the Shares pursuant to Section 12 above, the Company agrees to indemnify and hold harmless the holders of

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such Shares (for purposes of this Section 13, references to any holder of Shares shall refer only to such holders who have agreed to be bound by this Section 13), and each person who controls such holders within the meaning of the Securities Act and such holders' officers, directors, managers, members, partners, and principle equity holders (collectively, "Indemnitees") against all losses, claims, damages, expenses and liabilities, joint or several (which shall, for all purposes of this Agreement, include, but not be limited to, all costs of defense and investigation and all attorneys' fees and expenses), to which such Indemnitees may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages, expenses or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any such Registration Statement, or any related preliminary prospectus, final prospectus, offering circular, notification or amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage, expenses, or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, preliminary prospectus, final prospectus, offering circular, notification or amendment or supplement thereto in reliance upon, and in conformity with, written information

furnished to the Company by any such holder specifically for use in the preparation thereof and, provided further, that the indemnity agreement provided in this Section 13(a) with respect to any preliminary prospectus shall not inure to the benefit of any holder of Warrants or Shares from whom the person asserting any losses, claims, damages, liabilities or actions based upon any untrue statement or alleged untrue statement of material fact or omission or alleged omission to state therein a material fact purchased Warrants or Shares, if a copy of the prospectus in which such untrue statement or alleged untrue statement or omission or alleged omission was corrected had not been sent or given to such person within the time required by the Securities Act and the rules and regulations thereunder, unless such failure is the result of non-compliance by the Company with the last sentence of Section 12(f) hereof. This indemnity will be in addition to any liability which the Company may otherwise have.

(b) Each holder of a Warrant and each holder of a Share agrees that he will indemnify and hold harmless the Company, each other person referred to in subparts (1), (2) and (3) of Section 11(a) of the Securities Act in respect of the Registration Statement, each officer of the Company, and each person who controls the Company within the meaning of the Securities Act, against any losses, claims, damages or liabilities (which shall, for all purposes of this Agreement, include, but not be limited to, all costs of defense and investigation and all attorneys' fees) to which the Company or any such director, officer or controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any such Registration Statement, or any related preliminary prospectus, final prospectus, offering circular, notification or amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but in each case only to the extent that such untrue statement or alleged untrue statement or omission or alleged omission was made in such Registration Statement, preliminary prospectus, final prospectus, offering circular, notification or amendment or supplement thereto

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in reliance upon, and in conformity with, written information furnished to the Company by such holder specifically for use in the preparation thereof. This indemnity will be in addition to any liability which the holder may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section 13 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 13, notify the indemnifying party of the commencement thereof. No indemnification provided for in this Section 13 shall be available to any party who shall fail to give the notice to the extent the party to whom such notice was not given was materially prejudiced by the failure to give the notice, but the omission so to notify the indemnifying party will not relieve the indemnifying party or parties from any liability which it may have to any

indemnified party for contribution otherwise than as to the particular item as to which indemnification is then being sought solely pursuant to this Section 13. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, reasonably assume the defense thereof, subject to the provisions herein stated and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section 13 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation unless the indemnifying party shall not pursue the action to its final conclusion. The indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party. No settlement of any action against an indemnified party shall be made without the consent of the indemnifying party, which shall not be unreasonably withheld in light of all factors of importance to such indemnified party.

Section 14. NOTICES. Notices or demands authorized by this Agreement to be given or made by the holder of any Warrant certificate to or on the Company shall be sufficiently given or made if sent by registered or certified mail, addressed as follows (and shall be deemed given upon receipt):

Ugly Duckling Corporation  
2525 East Camelback Road  
Suite 1150  
Phoenix, Arizona 85016  
Attention: Jon D. Ehlinger  
Vice President, General Counsel and Secretary

With a copy to:

Steven D. Pidgeon  
Snell & Wilmer L.L.P.  
One Arizona Center  
Phoenix, Arizona 85004-0001

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Notices or demands authorized by this Agreement to be given or made by the Company to the holder of any Warrant certificate shall be sufficiently given or made if sent by first class mail, postage prepaid, addressed to such holder at the address of such holder as shown in the Warrant Register.

Section 15. SUPPLEMENTS AND AMENDMENTS. This Agreement may be amended by the Company and the holder or holders of a majority of the outstanding Warrants representing a majority of the shares of Common Stock underlying such Warrants; provided, however, that without the consent of each holder of a Warrant, there can be no increase of the Warrant Price or reduction of the exercise period for such holder's Warrants.

Section 16. SUCCESSORS. All the covenants and provisions of this Agreement by or for the benefit of the Company or the registered holders of the Warrants will bind and inure to the benefit of their respective successors and assigns hereunder.

Section 17. GOVERNING LAW. This Agreement will be deemed to be a contract made under the laws of the State of Arizona and for all purposes will be construed in accordance with the laws of said State.

Section 18. BENEFITS OF THIS AGREEMENT. Nothing in this Agreement will be construed to give to any person or corporation other than the Company and the registered holders of the Warrants any legal or equitable right, remedy or claim under this Agreement. This Agreement is for the sole and exclusive benefit of the Company and the registered holders of the Warrants.

Section 19. COUNTERPARTS. This Agreement may be executed in counterparts and each of such counterparts will for all purposes be deemed to be an original, and all such counterparts will together constitute but one and the same instrument.

Section 20. DESCRIPTIVE HEADINGS. The descriptive headings of the several Sections of this Agreement are inserted for convenience only and do not control or affect the meaning or construction of any of the provisions hereof.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the day and year first above written.

UGLY DUCKLING CORPORATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

VERDE INVESTMENTS, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Address for notices:

2575 East Camelback Road, Suite 700  
Phoenix, Arizona 85016  
Attn: Steven P. Johnson  
FAX: (602) 778-5025

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EXHIBIT A

Warrant No. \_\_\_\_\_

WARRANT TO PURCHASE 1,500,000 SHARES OF COMMON STOCK

VOID AFTER 1:30 P.M.

PHOENIX, ARIZONA TIME, ON JULY 25, 2011

OR SUCH EARLIER DATE SET FORTH HEREIN

UGLY DUCKLING CORPORATION

This certifies that, for value received, VERDE INVESTMENTS, INC., an Arizona corporation, the registered holder hereof or its assigns (the "Holder"), is entitled, pursuant to the vesting schedule detailed below, to purchase from UGLY DUCKLING CORPORATION, a Delaware corporation (the "Company"), until 1:30 p.m., Phoenix, Arizona time, on July 25, 2011 unless earlier redeemed by the Company, at the purchase price per share of \$ \_\_\_\_\_ (the "Warrant Price"), the aggregate number of shares of Common Stock, par value \$0.001 per share, of the Company set forth above (the "Shares"). The Holder shall have the right to purchase 500,000 Shares as of the date hereof, and an additional 250,000 Shares for each successive three month period thereafter, until the Holder has the right to purchase all of the Shares. The number of Shares purchasable upon exercise of the Warrant evidenced hereby and the Warrant Price is subject to adjustment from time to time as set forth in the Warrant Agreement referred to below.

This Warrant may be redeemed, at the option of the Company and as more specifically provided in the Warrant Agreement, at \$.10 per share of Common Stock purchasable upon exercise hereof, at any time after July 25, 2006 if the average Daily Market Price (as defined in Section 10 of the Warrant Agreement) per share of the Common Stock for a period of at least twenty (20) consecutive trading days ending not more than fifteen days prior to the date of the notice given pursuant to Section 10(b) thereof has equaled or exceeded \$12.00, and prior to expiration of this Warrant. The Holder's right to exercise this Warrant terminates at 1:30 p.m. (Phoenix, Arizona time) on the date fixed for redemption in the notice of redemption delivered by the Company in accordance with the Warrant Agreement.

The Warrants evidenced hereby may be exercised during the period referred to above, in whole or in part, by presentation of this Warrant certificate with the Purchase Form attached hereto duly executed and guaranteed and simultaneous payment of the Warrant Price (as defined in the Warrant Agreement and subject to adjustment as provided therein) at the principal office of the Company. Payment of such price may be made at the option of the Holder in cash or by certified check or bank draft, all as provided in the Warrant Agreement.

The Warrants evidenced hereby are part of a duly authorized issue of Warrants and are issued under and in accordance with the Warrant Agreement dated as of July 25, 2001, between

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the Company and the Lender, and are subject to the terms and provisions contained in such Warrant Agreement, which Warrant Agreement is hereby incorporated by reference herein and made a part hereof and is hereby referred to for a description of the rights, limitations, duties and indemnities thereunder of the Company and the Holder of the Warrants, and to all of which the Holder of this Warrant certificate by acceptance hereof consents. A copy of the Warrant Agreement may be obtained for inspection by the Holder hereof upon written request to the Company.

Upon any partial exercise of the Warrants evidenced hereby, there will be issued to the Holder a new Warrant certificate in respect of the Shares evidenced hereby that have not been exercised. This Warrant certificate may be exchanged at the office of the Company by surrender of this Warrant certificate properly endorsed either separately or in combination with one or more other Warrants for one or more new Warrants to purchase the same aggregate number of Shares as evidenced by the Warrant or Warrants exchanged. No fractional Shares will be issued upon the exercise of rights to purchase hereunder, but the Company will pay the cash value of any fraction upon the exercise of one or more Warrants, as provided in the Warrant Agreement.

The Warrant Price and the number of shares of Common Stock issuable upon exercise of this Warrant is subject to adjustment as provided in Section 8 of the Warrant Agreement. The Warrant Agreement may be amended by the Company and the holder or holders of a majority of the outstanding Warrants representing a majority of the shares of Common Stock underlying such Warrants; provided that without the consent of each holder of a Warrant certain specified changes cannot be made to such holder's Warrants.

Neither the Warrants nor the shares of Common Stock underlying the Warrants may be sold, assigned, or otherwise transferred except in accordance with the provisions of the Warrant Agreement.

The Holder hereof may be treated by the Company and all other persons dealing with this Warrant certificate as the absolute owner hereof for all purposes and as the person entitled to exercise the rights represented hereby, any notice to the contrary notwithstanding, and until any transfer is entered on such books, the Company may treat the Holder hereof as the owner for all purposes. Notices and demands to be given to the Company must be given by certified or registered mail at the addresses provided in the Warrant Agreement.

All terms used in the Warrant Certificate that are defined in the Warrant Agreement shall have the respective meanings ascribed to such terms in the Warrant Agreement.

Dated: July 25, 2001

UGLY DUCKLING CORPORATION

By: \_\_\_\_\_  
Jon D. Ehlinger  
Vice President, General Counsel and Secretary

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UGLY DUCKLING CORPORATION  
PURCHASE FORM

Mailing Address:  
UGLY DUCKLING CORPORATION  
2525 East Camelback Road  
Suite 1150  
Phoenix, Arizona 85016

The undersigned hereby irrevocably elects to exercise the right of purchase represented by the within Warrant certificate for, and to purchase thereunder, \_\_\_\_\_ Shares of Common Stock provided for therein, and requests that certificates for such Shares be issued in the name of:

(Please Print or Type Name, Address and Social Security Number)

and that such certificates be delivered to \_\_\_\_\_  
whose address is \_\_\_\_\_  
and, if said number of Shares shall not be all the Shares purchasable hereunder, that a new Warrant certificate for the balance of the Shares purchasable under the within Warrant certificate be registered in the name of the undersigned Holder or his or her Assignee as below indicated and delivered to the address stated below.

Dated: \_\_\_\_\_

Name of Holder or Assignee:

(Please Print)

Address: \_\_\_\_\_

Signature:

\_\_\_\_\_  
NOTE: The above signature must correspond with the name as it appears upon the face of the within Warrant certificate in every particular, without alteration or enlargement or any change whatever, unless these Warrants have been assigned.

Signature Guaranteed:

\_\_\_\_\_  
THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stock Brokers, Savings and Loan Association, and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM PURSUANT TO S.E.C. RULE 17Ad-15.

## ASSIGNMENT

(To be signed only upon assignment of Warrants)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Name and Address of Assignee Must Be Printed or Typewritten)

\_\_\_\_\_ Warrants, hereby irrevocably constituting and appointing \_\_\_\_\_  
Attorney to transfer said Warrants on the books of the Company, with full power  
of substitution in the premises.

Dated: \_\_\_\_\_

Signature of Registered Holder

Note: The signature on this assignment must correspond with the name as it appears upon the face of the within Warrant certificate in every particular manner, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_  
THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION  
(Banks, Stock Brokers, Savings and Loan Association, and Credit Unions) WITH  
MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM PURSUANT TO  
S.E.C. RULE 17Ad-15.

NON-QUALIFIED STOCK OPTION AGREEMENT  
(1998 EXECUTIVE INCENTIVE PLAN)

COMPANY: UGLY DUCKLING CORPORATION  
A DELAWARE CORPORATION  
2525 EAST CAMELBACK ROAD, SUITE 500  
PHOENIX, ARIZONA 85016

EMPLOYEE: ERNEST C. GARCIA II

DATE OF GRANT: MARCH 2, 1999

NO. OF SHARES: 100,000

SHARE PRICE: \$5.56/SHARE

This Non-Qualified Stock Option Agreement ("Agreement") is made, subject to the terms and conditions found herein or within the Plan (as defined below), as of the Date of Grant by and among Company and Employee. If Employee is presently or subsequently becomes employed by a subsidiary of the Company, the term "Company" shall be deemed to refer collectively to Ugly Duckling Corporation and the subsidiary or subsidiaries which employ the Employee.

RECITALS.

A. The Company has adopted, subject to stockholder approval of such Plan at the 1998 Annual Meeting of Stockholders ("1998 Annual Meeting") the Ugly Duckling Corporation 1998 Executive Incentive Plan ("Plan") as an employee incentive to encourage executives and key employees of the Company to remain in its employment and to enhance the ability of the Company to attract new employees whose services are considered valuable by providing an opportunity to have a proprietary interest in the success of the Company; and

B. The Company's Board of Directors or the Compensation Committee thereof ("Board") believes that the granting of the Option (as defined below) to Employee is consistent with the stated purposes for which the Plan was adopted.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Employee agree as follows:

1. Grant of Option. Subject to the terms and conditions of the Plan and Agreement, the Company hereby grants to Employee the right and option (hereinafter referred to as the "Option") to purchase the aggregate number of shares set forth on page 1 of this Agreement (such number being subject to adjustment as provided in Article 14 of the Plan) of the common stock of the Company ("Stock"). This Option may be exercised in whole or in part and from time to time only to the extent the Option is vested and as hereinafter provided, and the Employee is an employee of the Company at the time of exercise, subject to paragraph 9 of this Agreement.

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2. Vesting. The Option shall vest and may be exercised as to the following number of shares of Stock on and after the following dates:

- a) 20% shall vest and may be exercised 12 months after the Date of Grant.
- b) 20% shall vest and may be exercised 24 months after the Date of Grant.
- c) 20% shall vest and may be exercised 36 months after the Date of Grant.
- d) 20% shall vest and may be exercised 48 months after the Date of Grant.
- e) 20% shall vest and may be exercised 60 months after the Date of Grant.

3. Purchase Price. The price at which the Employee shall be entitled to purchase the Stock covered by the Option shall be the Share Price stated on page 1 hereof, which Share Price the Board has determined is the Fair Market Value on the Date of Grant.

4. Term of Option. The Option hereby granted shall be and remain in force and effect for a period of 10 years from the Date of Grant, through and including the normal close of business of the Company on the tenth anniversary of the Date of Grant ("Expiration Date"), subject to earlier termination as provided in paragraphs 9 and 10 hereof.

5. Exercise of Option. The Option may not be exercised by Employee as to all or any part of the shares of the Stock then vested until 12 months and 1 day after the Date of Grant ("Exercise Commencement Date"). On or after the Exercise Commencement Date and in accordance with paragraph 2 hereof, the Option may be exercised from time to time by delivery to the Company of written notice of exercise and payment of the purchase price as provided in paragraphs 7 and 8 hereof.

6. Change of Control. The Option granted by this Agreement shall be subject to the Change of Control provisions set forth in Section 13.8 of the Plan.

7. Method of Exercising Option. Subject to the terms and conditions of this Agreement, the Option may be exercised by timely delivery to the Company of written notice, which notice shall be effective on the date received by the

Company ("Effective Date"). The notice shall state Employee's election to exercise the Option, the number of shares in respect of which an election to exercise has been made, the method of payment elected (see paragraph 8 hereof), the exact name or names in which the shares will be registered and the Social Security number of Employee. Such notice shall be signed by the Employee and shall be accompanied by payment of the purchase price of such shares. In the event the Option shall be exercised by a person or persons other than Employee pursuant to paragraph 10 hereof, such notice shall be signed by such other person or persons and shall be accompanied by proof acceptable to the Company of the legal right of such person or persons to exercise the Option. All shares delivered by the Company upon exercise of the Option as provided herein shall be fully paid and nonassessable upon delivery.

8. Method of Payment for Options. Payment for shares purchased upon the exercise of the Option shall be made by the Employee in cash or such other method permitted by the Board in its sole discretion, including (i) tendering shares, (ii) surrendering a stock award valued at Fair Market Value on the date of surrender, (iii) authorizing a third party to sell the shares (or a sufficient portion thereof) acquired upon exercise of a stock option and assigning the delivery to

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the Company of a sufficient amount of the sale proceeds to pay for all the shares acquired through such exercise, or (iv) any combination of the above.

9. Termination of Employment. In the event that Employee is terminated as an employee of the Company for any reason other than for Cause, as defined in the Plan, after the date of this Agreement, then Employee may at any time within 3 months next succeeding the effective date of such termination exercise the Option to the extent that Employee was entitled to exercise the Option at the date of termination, provided that in no event shall the Option, or any part thereof, be exercisable after the Expiration Date. If Employee's employment is terminated for Cause, the Option shall lapse at the time of such termination.

10. Death of Employee. In the event of the death of Employee within a period during which the Option, or any part thereof, could have been exercised by Employee, including 3 months after the date of Employee's death ("Option Period"), the Option shall lapse unless it is exercised within the Option Period and in no event later than 15 months after the date of Employee's death by the Employee's legal representative or representatives or by the person or persons entitled to do so under Employee's last will and testament or if the Employee fails to make a testamentary disposition of such Option or shall die intestate, by the person or persons entitled to receive such Option under the applicable laws of descent and distribution. An Option may be exercised following the death of the Employee only if the Option was exercisable by the Employee immediately prior to his or her death. In no event shall the Option,

or any part thereof, be exercisable after the Expiration Date. The Board shall have the right to require evidence satisfactory to it of the rights of any person or persons seeking to exercise the Option under this paragraph 10 to exercise the Option.

11. Nontransferability. The Option granted by this Agreement shall be exercisable only during the term of the Option provided in paragraph 4 hereof and, except as provided in paragraphs 9 and 10 above, only by Employee during his lifetime and while an employee of or consultant to the Company. The Option granted by this Agreement shall be subject to the restrictions on transfer as set forth in Section 13.5 of the Plan.

12. Delivery of Shares. No shares of Stock shall be delivered upon exercise of the Option until (i) the purchase price shall have been paid in full in the manner herein provided, (ii) applicable taxes required to be withheld have been paid or withheld in full; (iii) approval of any governmental authority required in connection with the Option, or the issuance of shares thereunder, has been received by the Company; and (iv) if required by the Board, Employee has delivered to the Board an Investment Letter in form and content satisfactory to the Company as provided in paragraph 13 hereof.

13. Securities Act. The Company shall have the right, but not the obligation, to cause the shares of Stock issuable upon exercise of the Option to be registered under the appropriate rules and regulations of the Securities and Exchange Commission. The Company shall not be required to deliver any shares of Stock pursuant to the exercise of all or any part of the Option if, in the opinion of counsel for the Company, such issuance would violate the Securities Act of 1933 or any other applicable federal or state securities laws or regulations. The Company may require that Employee, prior to the issuance of any such shares pursuant to exercise of the Option, sign and deliver to the Company a written statement ("Investment Letter") stating (i) that Employee is purchasing the shares for investment and not with a view to the sale or distribution thereof, (ii) that Employee will not sell any shares received upon exercise of the Option or any other shares of the

Company that Employee may then own or thereafter acquire except either (a) through a broker on a national securities exchange or (b) with the prior written approval of the Company; and (iii) containing such other terms and conditions as counsel for the Company may reasonably require to assure compliance with the Securities Act of 1933 or other applicable federal or state securities laws and regulations. Such Investment Letter shall be in form and content acceptable to the Company in its sole discretion. If shares of Stock or other securities issuable pursuant to the exercise of the Option have not been registered under the Securities Act of 1933 or other applicable federal or state securities laws or regulations, such shares shall bear a legend restricting the transferability thereof, such legend to be substantially in the form that follows:

"The shares represented by this certificate have not been registered or qualified under federal or state securities laws. The shares may not be offered for sale, sold, pledged or otherwise disposed of unless so registered or qualified, unless an exemption exists or unless such disposition is not subject to the federal or state securities laws, and the availability of any exemption or the inapplicability of such securities laws must be established by an opinion of counsel, which opinion and counsel shall both be reasonably satisfactory to the Company."

14. FEDERAL AND STATE TAXES. Upon exercise of the Option, or any part thereof, the Employee may incur certain liabilities for federal, state or local taxes and the Company may be required by law to withhold such taxes for payment to taxing authorities. Pursuant to Section 16.3 of the Plan, the Company shall have the right to deduct or withhold, or require the Employee to remit to the Company an amount sufficient to satisfy all taxes required by law to be withheld with respect to any taxable event with respect to the Plan and/or the Option. Upon determination by the Company of the amount of taxes required to be withheld, if any, with respect to the shares to be issued pursuant to the exercise of the Option, Employee may elect to pay all Federal, state and local tax withholding requirements by having the Company withhold Stock (to the extent that Stock is issued pursuant to the Award) having a Fair Market Value on the date that the tax is to be determined equal to the tax otherwise required to be withheld.

15. DEFINITIONS: COPY OF PLAN. To the extent not specifically provided herein, all capitalized terms used in this Agreement shall have the same meanings given to them in the Plan. By the execution of this Agreement, Employee acknowledges receipt of a copy of the Plan.

16. ADMINISTRATION. This Agreement shall at all times be subject to the terms and conditions of the Plan and the Plan shall in all respects be administered by the Board in accordance with the terms of and as provided in the Plan. The Board shall have the sole and complete discretion with respect to all matters reserved to it by the Plan and decisions of the majority of the Board with respect thereto and to this Agreement shall be final and binding upon Employee and the Company. In the event of any conflict between the terms and conditions of this Agreement and the Plan, the provisions of the Plan shall control.

17. OBLIGATION TO EXERCISE. Employee shall have no obligation to exercise any option granted by this Agreement.

18. GOVERNING LAW. This Agreement shall be interpreted and administered under the laws of the State of Arizona without regard to conflict of law principles.

19. Amendments. This Agreement may be amended only by a written agreement

executed by the Company and Employee. The Company and Employee acknowledge that changes in federal tax laws enacted subsequent to the Date of Grant, and applicable to stock options, may provide for tax benefits to the Company or Employee. In any such event, the Company and Employee agree that this Agreement may be amended as necessary to secure for the Company and Employee any benefits that may result from such legislation. Any such amendment shall be made only upon the mutual consent of the parties, which consent (of either party) may be withheld for any reason.

20. Disclaimer. Company disclaims any and all representations, warranties and covenants regarding the value of the Option at any time and the income tax consequences of the Option or the exercise thereof. Employee acknowledges that no expressed and implied representations, warranties or covenants have been made by Company or its directors, officers, employees or agents to Employee regarding the value of the Option at any time or the income tax consequences of the Option or the exercise thereof; and that Employee is solely responsible for, and shall pay when due, all taxes assessed at any time on any income recognized by Employee in connection with the Option or the exercise thereof or the transfer of any Stock acquired by Employee. Employee further acknowledges that all terms and conditions of the Option are stated entirely and exclusively in the Plan and this Agreement and that there are no expressed and implied statements, agreements, understandings or covenants of any kind regarding the Option, other than those stated in the Plan and this Agreement.

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IN WITNESS WHEREOF, the Company has caused this Agreement to be duly executed and Employee has hereunto set his hand as of the date first written above.

COMPANY:

UGLY DUCKING CORPORATION,  
a Delaware Corporation

By: /s/ Gregory B. Sullivan

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Name: Gregory B. Sullivan

Its: President

EMPLOYEE:

By: /s/ Ernest C. Garcia II

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Print Name: ERNEST C. GARCIA II

Social Security No.: ###-##-####

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