

MRD 6-23-98

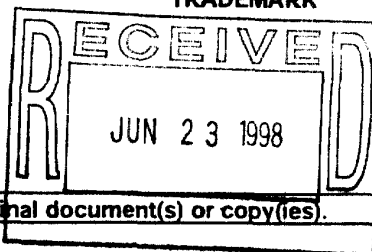
FORM PTO-1618A
Expires 06/30/99
OMB 0651-0027

06-29-1998

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



100749065
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY



TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- ☒ New
- ☐ Resubmission (Non-Recordation)
Document ID #
- ☐ Correction of PTO Error
Reel # Frame #
- ☐ Corrective Document
Reel # Frame #

Conveyance Type

- ☐ Assignment ☐ License
- ☒ Security Agreement ☐ Nunc Pro Tunc Assignment
- ☐ Merger Effective Date
Month Day Year
- ☐ Change of Name
- ☐ Other

Conveying Party

☐ Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

Formerly

- ☐ Individual ☐ General Partnership ☒ Limited Partnership ☐ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization

Receiving Party

☒ Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- ☐ Individual ☐ General Partnership ☐ Limited Partnership
- ☐ Corporation ☐ Association
- ☒ Other

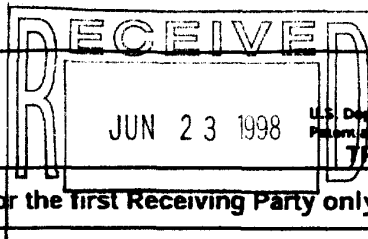
If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of domestic representative should be attached. (Designation must be a separate document from Assignment.)

☒ Citizenship/State of Incorporation/Organization

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231



Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

7139515896

Name

Robert C. Shearer

Address (line 1)

Brown Parker & Leahy LLP

Address (line 2)

Two Allen Center

Address (line 3)

Suite 3600

Address (line 4)

Houston TX 77002

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

20

Trademark Application Number(s) or Registration Number(s)

☐

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

819777	818293	815476

Number of Properties

Enter the total number of properties involved.

#

3

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

90.00

Method of Payment:

Enclosed ☒

Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes ☐

No ☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Robert C. Shearer

Name of Person Signing

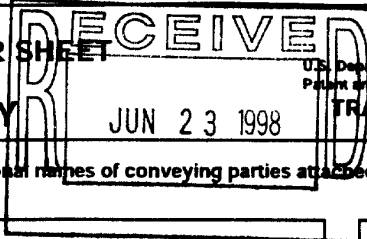
Signature

6/11/98

Date Signed

RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



Conveying Party

Enter Additional Conveying Party

☐

Mark if additional names of conveying parties attached

Execution Date

Month Day Year

Name

Formerly

☐

Individual

☐

General Partnership

☐

Limited Partnership

☐

Corporation

☐

Association

☐

Other

☐

Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

☐

Mark if additional names of receiving parties attached

Name

Wells Fargo Bank (Texas) National Association

DBA/AKA/TA

Composed of

Address (line 1)

1000 Louisiana

Address (line 2)

3rd Floor

Address (line 3)

Houston

City

TX

State/Country

77002

Zip Code

☐

Individual

☐

General Partnership

☐

Limited Partnership

☐

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

☐

Corporation

☐

Association

☒

Other

national banking association

☒

Citizenship/State of Incorporation/Organization

Texas

Trademark Application Number(s) or Registration Number(s)

☐

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

SCHEDULE 6-A

LOCATIONS OF EQUIPMENT AND INVENTORY

Papalote
10410 Papalote, Suite 130
Houston, Texas 77041

Southern
5050 Campbell
Houston, Texas 77018

Southern
3801 Yale St.
Houston, Texas 77018

MCR/Botanicals¹
10808 Fallstone
Houston, Texas 77099

Candle Warehouse²
2320 F.M. 1960 West
Houston, Texas 77068

¹ Manufacturing Location

² Retail Store Location

SCHEDULE 6-B

DEBTOR CHIEF EXECUTIVE OFFICE LOCATIONS

Flintlock, Ltd.	6937 Flintlock, Houston, Texas 77040
R&H Products, LLC	6937 Flintlock, Houston, Texas 77040
Botanical Products, LLC	6937 Flintlock, Houston, Texas 77040
Melissa Rice & Company, LLC	6937 Flintlock, Houston, Texas 77040

SCHEDULE II

TRADEMARKS

FAROY [®]

COUNTRY GLOW [®]

MELISSA RICE & COMPANY [®]

COMMON LAW TRADEMARKS:

AIR CARE [™]

FAIRBANKS [™]

TRADITIONAL ACCENTS [™]

IMAGES [™]

MELISSA RICE AT HOME [™]

HAYES PARKER [™]

WING POINT STUDIO [™]

BOTANICAL PRODUCTS LLC

R&H PRODUCTS LLC

THE CANDLE WAREHOUSE [™]

SECURITY AGREEMENT

This **SECURITY AGREEMENT** (as the same may be amended, amended and restated, modified, or supplemented from time to time, this "Agreement") dated as of April 16, 1997 is executed by **FLINTLOCK LTD.**, a Texas limited partnership, with an office at 6937 Flintlock, Houston, Texas 77040 (the "Company"), and certain Affiliates of the Company signatory hereto (such Affiliates and together with the Company, collectively the "Debtors" and individually, a "Debtor") in favor of Bank One, Texas, N.A., a national banking association with its principal offices in Houston, Harris County, Texas ("Bank One"), as secured party for itself and in its capacity as collateral agent (in such capacities, the "Secured Party").

PRELIMINARY STATEMENT

WHEREAS, the Company, the General Partners and Subsidiaries of the Company signatories thereto, the Secured Party, as Agent for the Banks, and the Banks entered into that certain Credit Agreement dated as of April 16, 1997 whereby the Banks committed to make (i) a revolving credit loan of up to \$23,000,000.00 to the Company for use as working capital, (ii) a construction loan of up to \$8,000,000.00 to provide acquisition funding necessary to acquire and construct a distribution and warehouse facility, (iii) an equipment acquisition line of credit of up to \$2,500,000.00 and (iv) a term loan of up to \$9,000,000.00 to refinance existing debt of approximately \$6,100,000.00 and repay certain other obligations; and

WHEREAS, it is a condition precedent to the obligation of the Banks to make Loans to the Company under the Credit Agreement that the Debtors shall execute and deliver this Agreement to the Secured Party, and the Debtors desire to execute this Agreement in order to satisfy such condition precedent and to secure the Obligations.

NOW THEREFORE, in consideration of the premises and in order to induce the Banks to extend the Loans pursuant to the terms of the Credit Agreement, the Debtors hereby agree as follows:

SECTION 1. Defined Terms.

(a) Each capitalized term used herein (including, without limitation, in the introductory paragraph and recitals hereof) and not defined herein shall have the meaning assigned to such term in the Credit Agreement.

(b) "UCC" means the Uniform Commercial Code as in effect on the date hereof in the State of Texas; *provided* that if by mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted pursuant to Section 2 hereof, as well as all other security interests created or assigned as additional security for the Obligations pursuant

to the provisions of this Agreement, in any Collateral is governed by the UCC as in effect in another jurisdiction, "UCC" means the UCC as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

SECTION 2. Grant of Security. Each Debtor hereby grants to the Secured Party for itself and for the benefit of the Banks, a lien and security interest in, all of such Debtor's right, title and interest in and to all assets of such Debtor, now owned or hereafter acquired, including, without limitation, the following collateral (collectively, the "Collateral"):

(a) All accounts (as defined in the UCC) and whether or not included in such definition, all receivables, accounts receivable, lease receivables, contract rights, chattel paper, drafts, acceptances, documents, instruments, deposit accounts, writings evidencing a monetary obligation or a security interest or a lease of goods, general intangibles and other obligations of any kind, now or hereafter existing, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services (but excluding the WNS License Agreement, which by its terms is not assignable), and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such accounts, lease receivables, chattel paper, drafts, acceptances, instruments, writings evidencing a monetary obligation or a security interest or a lease of goods, general intangibles or obligations (any and all of the foregoing property being collectively called the "Receivables"); and

(b) All inventory (as defined in the UCC) in all of its forms, wherever located, now or hereafter existing and whether acquired by purchase, merger or otherwise, and (whether or not included in such UCC definition) all raw materials, stores, tools, and work in process therefor, all finished goods, spare parts, service parts, and all materials used or consumed in the manufacturing, packing, shipping, advertising, selling, leasing or production thereof, including goods in which such Debtor has an interest in mass or joint or other interest or right of any kind including, without limitation, goods held on consignment, or held for sale, lease, return or to be furnished under contracts of service, in whole or in part, by the Debtors wherever located, and goods which are returned to or repossessed by such Debtor, and all accessions thereto and products thereof and documents therefor (any and all of the foregoing property being collectively called the "Inventory"); and

(c) All general intangibles (as defined in the UCC) and whether or not included in such definition, to the maximum extent assignable pursuant to the terms thereof, all inventions, processes, production methods, proprietary information and know-how; all intellectual property rights; all business records, books, files, ledgers, documents and correspondence, confidential and otherwise, including market information, sales aids, customer and supplier lists, files, records and data; all accounting information and all media in which or on which any of the information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; all computer software

(including all source codes), data rights, documentation and associated license, escrow, support, maintenance and software development agreements now or hereafter held pertaining to the operations of such Debtor's business; all licenses and sublicenses, including any of such which relate to computer software; all consents, permits, variances now or hereafter held by such Debtor pertaining to operations or business now or hereafter conducted; all rights to receive return of deposits and trust payments; all rights to payment under letters of credit and similar agreements; all tax refunds; all proceeds of any insurance, indemnity, warranty or guaranty; and all causes of action, whether arising out of a claim of tort or breach of contract and all rights, claims and warranties (any and all of the foregoing property being collectively called the "General Intangibles"); and

(d) All equipment (as defined in the UCC) and (whether or not included in such definition) all tangible personal property including all retail store, storage, office or facility equipment and other retail, manufacturing and research items, computer hardware, all vehicles, goods, machinery, chattels, tools, dies, jigs, molds, parts, machine tools, furniture, furnishings, fixtures, and supplies, of every nature, wherever located, all additions, accessories and improvements thereto and substitutions therefor and all accessories, parts and equipment which may be attached to or which are necessary for the operation and use of such personal property or fixtures, whether or not the same shall be deemed to be affixed to, arise out of or relate to any real property owned or leased by such Debtor, together with all accessions thereto, and all rights under or arising out of present or future leases or contracts relating to the foregoing (any and all of the foregoing property being collectively called the "Equipment"); and

(e) All rights in and to all permits, licenses, authorizations, approvals, product and establishment registrations and approvals, certificates of convenience or necessity franchises, immunities, easements, consents, grants, ordinances and other rights, in each case now or hereafter granted by any Governmental Authority pertaining to the operation of the business, except for any rights or licenses granted to the Company under the WNS License Agreement, which by its terms is not assignable; and

(f) All sales orders, sales contracts, purchase orders, purchase contracts, operating agreements, management agreements, service agreements, development agreements, consulting agreements, leases and other contract rights and, to the extent they can lawfully be conveyed or assigned under express or implied warranties from providers of goods or services pertaining to the operation of the business (any and all of the foregoing property being collectively called the "Contracts"); and

(g) All letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including all national and multinational statutory invention registrations, patents (including letters patent; patent registrations and patent applications and any other patents which may issue on

such application) including, without limitation, all reissues, continuations or extensions thereof and all rights therein provided by law, multinational treaties or conventions, (any and all of the foregoing property being collectively called the "Patents"); and

(h) All trademarks, trade names, service marks, trade dress, logos, including all good will associated therewith, whether or not registered, all registrations and recordings thereof, and all applications in connection therewith, including registrations and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country throughout the world or any political subdivision thereof, including, without limitation, all those listed in Schedule II hereto and including all reissues, extensions or renewals thereof, and all written agreements granting any right to use any trademark or trademark registration and all rights therein provided by multinational treaties or conventions (any and all of the foregoing property being collectively called the "Trademarks"); and

(i) All instruments, chattel paper and letters of credit (each as defined in the UCC) and any other items including all promissory notes and other instruments held by the Debtors evidencing indebtedness owed to any of them by any Person (any and all of the foregoing property being the "Instruments"); and

(j) All documents (as defined in the UCC) and other receipts covering, evidencing or presenting goods (including, without limitation, any computer software, whether on tape, disk, card, strip, cartridge or any other form); and

(k) All products and proceeds of any and all of the foregoing Collateral and, to the extent not otherwise included, all payments under insurance or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral.

SECTION 3. Security for Obligations. This Agreement secures on a first and prior basis except for the Permitted Liens, the prompt and complete payment and performance of the Obligations owing to Secured Party and, on a *pro rata basis*, owing to the Banks.

SECTION 4. Perfection of Security Interests. Each Debtor agrees, at its own expense to promptly execute and deliver all instruments and documents necessary or desirable, in order to perfect and protect any security interest granted or purported to be granted hereby or enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral by taking such actions including but not limited to: (i) mark conspicuously each chattel paper and any Instrument related thereto and each of its records pertaining to such Collateral with a legend indicating that such document or instrument is subject to the security interest granted hereby; (ii) if any Receivable shall be evidenced by a promissory note or other Instrument, deliver

and pledge to the Secured Party for the benefit of the Banks such note or Instrument duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Secured Party; and (iii) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices as the Secured Party may reasonably request as being necessary in order to perfect and preserve the security interests granted or purported to be granted hereby.

SECTION 5. Debtors Remain Liable. Anything herein to the contrary notwithstanding, (a) the Debtors shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein (and subject to any defenses thereto) to perform all of their duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Secured Party for the benefit of the Banks of any of the rights hereunder shall not release the Debtors from any of their duties or obligations under the contracts and agreements included in the Collateral, and (c) neither the Secured Party nor any of the Banks shall have any obligation or liability under the contracts and agreements included in the Collateral solely by reason of this Agreement, nor shall the Secured Party or any of the Banks be obligated to perform any of the obligations or duties of the Debtors thereunder or to take any action to collect or enforce any claim for payment assigned hereunder in each case, solely by reason of this Agreement.

SECTION 6. Representations and Warranties. The Debtors each represent and warrant as follows:

(a) Those locations specified on Schedule 6-A hereto or such other locations disclosed to the Secured Party after the date hereof constitute all of the locations at which there is located any Equipment and/or Inventory of the Debtors (other than rolling stock or Inventory in transit). The principal place of business and chief executive office of the Debtors and the office where each Debtor keeps its records concerning the Receivables, are located at the addresses specified in Schedule 6-B to this Agreement or at such other locations disclosed to the Secured Party after the date hereof.

(b) Each Debtor owns the Collateral free and clear of any Lien, except for the Permitted Liens. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except for protective filings under true leases, filings made in connection with Permitted Liens, and such as may have been filed in favor of the Secured Party for the benefit of the Banks relating to this Agreement.

(c) This Agreement has been duly executed and delivered by each Debtor. Except for items that are not perfected by filing financing statements, upon the filing of financing statements in the locations requested by the Secured Party, the security interests granted herein shall constitute valid and perfected first priority Liens in the Collateral, subject only to the Permitted Liens.

(d) No consent of, or notice to, any other Persons and no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by the Debtors of the Liens granted hereby or for the execution, delivery or performance of this Agreement by the Debtors or (ii) for the perfection of the rights and remedies hereunder, other than (a) the execution of this Agreement, (b) the filing of financing statements and (c) the possession by Secured Party of all items of collateral which must be in the physical possession of Secured Party in order to perfect Secured Party's security interest.

(e) All information with respect to the Collateral and the obligors under the Receivables set forth in any schedule hereto, certificate or other writing at any time heretofore or hereafter furnished by each Debtor to the Secured Party or any of the Banks, taken as a whole, is, to each Debtor's best knowledge, true, correct and complete in all material respects as of the date specified therein. A true and correct list of the account debtors of each Debtor's Receivables as of date hereof is attached as Schedule 6-C hereto.

SECTION 7. Further Assurances. (a) Each Debtor agrees that from time to time, at the expense of the Debtor, each Debtor will promptly execute and deliver all further instruments and documents, and take all further action (including any filings with the United States Patent and Trademark Office), that the Secured Party may reasonably request as being necessary or desirable, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral.

(b) Each Debtor hereby authorizes the Secured Party for the benefit of itself and the Banks to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of such Debtor, in each case where permitted by law. A carbon, photographic or other reproduction of any financing statement executed by each Debtor covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) Each Debtor will furnish to the Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may reasonably request, all in reasonable detail.

(d) Each Debtor will promptly notify the Secured Party of any change of its name, business structure, federal employer identification number or the address of its principal place of business or chief executive office where its books and records are maintained.

(e) Each Debtor shall keep its principal place of business and chief executive office and the office where it keeps its records concerning the Collateral, at the location or locations

therefor specified in Section 6(a) or, upon 30 days' prior written notice to the Secured Party, at such other locations in a jurisdiction where all action required by this Section 7 shall have been taken with respect to the Collateral. Each Debtor will hold and preserve such records and will upon reasonable notice permit representatives of the Secured Party at any time during normal business hours to inspect and make abstracts from such records.

(f) Except as otherwise provided in this subsection (f), each Debtor shall continue to collect, at its own expense, all amounts due or to become due such Debtor under the Receivables. In connection with such collections, each Debtor may take (and, upon the occurrence and continuance of an Event of Default and so long as it is continuing and has not been waived, at the Secured Party's direction, shall take) such action as such Debtor or the Secured Party may deem necessary or advisable to enforce collection of the Receivables; *provided*, that the Secured Party itself and for the benefit of itself and the Banks shall have the right at any time during the existence of an Event of Default, upon written notice to each Debtor of its intention to do so, to notify the account debtors or obligors under any Receivables of the assignment of such Receivables to the Secured Party for itself and for the benefit of the Banks and to direct such account debtors or obligors to make payment of all amounts due or to become due to such Debtor thereunder directly to the Secured Party and, upon such notification and at the reasonable expense of such Debtor, to enforce collection of any such Receivables, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Debtor might have done. After receipt by the Debtors of the notice from the Secured Party referred to in the *proviso* to the preceding sentence, (i) all amounts and proceeds (including instruments) received by the Debtors in respect of the Receivables shall be received in trust for the Secured Party for itself and for the benefit of the Banks under the Credit Agreement, shall be segregated from other funds of the Debtors and shall be forthwith paid over to the Secured Party for itself and for the benefit of the Banks in the same form as so received (with any necessary endorsement) to be held as cash collateral and either (A) released to the Debtors so long as no Event of Default shall be continuing or (B) if any Event of Default shall be continuing, applied as provided in Section 13 (b) hereof, and (ii) the Debtors shall not adjust, settle or compromise the amount or payment of any Receivable (except for adjustment, settlement or compromise in the ordinary course of Debtors' business), or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon (except for release, credit or discount for payment granted in the ordinary course of Debtors' business), except with the prior written consent of the Secured Party.

(g) The Debtors shall keep the Equipment and Inventory (other than such Inventory sold in the ordinary course of business or Inventory in transit) at the places therefor specified in Section 6(a) or, upon at least 30 days' prior written notice (or such other notice acceptable to the Secured Party) to the Secured Party, at such other places in jurisdictions where all action required by this Section 7 shall have been taken with respect to such Equipment and Inventory.

(h) The Debtors shall promptly upon reasonable request furnish to the Secured Party a statement respecting any material loss or damage to any of the Equipment, Inventory or any other of the Collateral and will permit the Secured Party or any other Credit Party to inspect the Collateral upon reasonable notice during normal business hours.

SECTION 8. Insurance. The Debtors shall, at their own expense, maintain or cause to be maintained insurance as requested by the Loan Documents.

SECTION 9. Transfers and Other Liens. The Debtors shall not: (a) sell, assign (by agreement, operation of law or otherwise) or otherwise dispose of any of the Collateral (other than in the ordinary course of business, dispositions of Collateral no longer used or useful in the Debtors' business, or as otherwise permitted by the Credit Agreement) or (b) create or suffer to exist any Lien upon or with respect to any of the Collateral, except for the Permitted Liens.

SECTION 10. Secured Party Appointed Attorney-in-Fact. Each Debtor hereby irrevocably appoints the Secured Party for itself and for the benefit of the Banks as each of the Debtor's attorney-in-fact, with full authority in the place and stead of each of the Debtors and in the name of each of the Debtors, from time to time in the Secured Party's reasonable discretion after the occurrence of an Event of Default and during the continuance thereof, to take any action and to execute any instrument which the Secured Party may deem reasonably necessary or advisable to accomplish the purposes of this Agreement, including:

- (a) to obtain insurance required to be paid pursuant to Section 8 herein,
- (b) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral,
- (c) to receive, endorse, and collect any drafts or other instruments, documents and chattel paper, in connection with clause (a) above,
- (d) to file any claims or take any action or institute any proceedings which the Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Secured Party for itself and for the benefit of the Banks with respect to any of the Collateral, and
- (e) to sell, transfer, assign, or otherwise deal in or with the Collateral or the proceeds or avails thereof, as provided herein and subject to applicable law, as fully and effectually as if the Secured Party were the absolute owner thereof provided, that the Secured Party shall give the Debtors not less than ten (10) days' prior written notice of the time and place of any sale or other

intended disposition of any of the Collateral, except any Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market. The Debtors agree that such notice constitutes "reasonable notification" within the meaning of § 9.504(c) of the UCC.

SECTION 11. Secured Party May Perform. If any Debtor fails to perform any agreement contained herein, the Secured Party may itself, perform, or cause performance of, such agreement, and the expenses of the Secured Party incurred in connection therewith shall be payable upon demand by such Debtor and if not paid shall bear interest at the Default Rate set forth in the Credit Agreement.

SECTION 12. The Secured Party's Duties. The powers conferred on the Secured Party hereunder are solely to protect its interest and the interests of the Banks in the Collateral and shall not impose any duty upon it or any other Credit Party to exercise any such powers. In regard to any Debtor, except for reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, neither the Secured Party nor any other Credit Party shall have any duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior lenders or any other rights pertaining to any Collateral. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for taking any necessary steps to preserve rights against any party with respect to any Collateral.

SECTION 13. Remedies. If any Event of Default shall have occurred and be continuing:

(a) The Secured Party for itself and the benefit of the Banks may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party under the UCC (whether or not the UCC applies to the affected Collateral) and the Secured Party may also (i) require any Debtor to, and each Debtor hereby agrees that it will at its expense and upon request of the Secured Party forthwith, assemble all or part of the Collateral as directed by the Secured Party and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both the Debtor and the Secured Party and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Secured Party's offices or elsewhere, for cash, on credit, or for future delivery and upon such other terms as the Secured Party may deem commercially reasonable. Each Debtor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' prior notice to the Debtors of the time and place of any public sale or the time after which any private sale is to be made shall constitute

reasonable notification thereof. The Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash received by the Secured Party shall be applied first to repay the costs and expenses of the Secured Party and thereafter to repay the Obligations on a *pro rata* basis. Any surplus of such cash or cash proceeds held by the Secured Party and remaining after payment in full of all the Obligations shall be paid over to the Debtors or at the Secured Party's option, deposited into the registry of a court of competent jurisdiction for payment to whomever such court shall determine to be lawfully entitled to receive such surplus.

SECTION 14. Indemnity and Expenses. (a) The Debtors hereby agree to indemnify the Secured Party from and against any and all claims, losses and liabilities growing out of or resulting from enforcement of this Agreement, except claims, losses or liabilities, if any, resulting from the Secured Party's gross negligence, willful misconduct or violation of law. **SUBJECT TO THE FOREGOING, IT IS THE EXPRESS INTENTION OF THE DEBTORS THAT THE SECURED PARTY SHALL BE INDEMNIFIED AND HELD HARMLESS AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DEFICIENCIES, JUDGMENTS OR REASONABLE EXPENSES ARISING OUT OF OR RESULTING FROM THE ORDINARY CONTRIBUTORY OR ORDINARY CONCURRENT NEGLIGENCE OF ANY SUCH PERSON.**

(b) The Debtors shall, upon demand, pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and expenses of the Secured Party's counsel and of its experts, that the Secured Party may incur in connection with (i) administration of this Agreement, (ii) the evaluation, appraisal, custody or preservation of, or sale of, collection from, or other realization upon any of the Collateral, (iii) the exercise or enforcement after an Event of Default of any of the rights of the Secured Party for itself and for the benefit of Banks hereunder or (iv) the failure by the Debtors to perform or observe any of the provisions of this Agreement. Each Debtor agrees to pay interest on any sums payable to the Secured Party hereunder that are not paid when due at a rate per annum equal to the Default Rate set forth in the Credit Agreement.

SECTION 15. Amendments. No amendment or waiver of any provision of this the Agreement, nor consent to any departure by the Debtors herefrom, shall in any event be effective unless the same shall be in writing and signed by the Secured Party with the requisite consent of the Banks, if applicable, and the Debtors, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 16. Addresses for Notices. All notices and other communications provided for hereunder shall be given in the manner and at the addresses for the Debtors as set forth in the Credit Agreement and shall become effective as specified in the Credit Agreement. Such notices and other communications shall, when mailed or telecopied, or delivered respectively, be effective when mailed by certified mail, return receipt requested to any party at its address specified in the Credit Agreement, or telecopy number set forth in the Credit Agreement as applicable, or delivered personally to any party to its address specified in the Credit Agreement.

SECTION 17. Termination; Reinstatement. (a) Each Debtor agrees that this Agreement and the Liens granted hereunder shall terminate when, but only when, all Obligations have been fully and finally paid and performed and all Banks' commitments under the Loan Documents have expired or been terminated. At any time thereafter upon the Debtor's request, the Secured Party shall promptly reassign and redeliver, including the termination of any financing statements (or cause to be reassigned and redelivered) to the Debtors, or to such Person or Persons as the Debtors shall designate in writing, against receipt, such of the Collateral (if any) as shall not have been sold or otherwise applied by the Secured Party for the benefit of itself or the Banks pursuant to the terms hereof and shall still be held by it hereunder. Any such reassignment shall be without recourse upon, or representation or warranty by, the Secured Party (other than that the Secured Party for the benefit of itself and the Banks has not sold, encumbered or otherwise transferred any interest in the Collateral except as provided in this Agreement) and shall be at the sole reasonable cost and expense of the Debtors.

(b) This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by the Secured Party or any other of the Banks in respect of the Obligations is rescinded or must otherwise be restored or returned by the Secured Party or such other Banks upon the filing of any bankruptcy proceeding by or of the Debtors or upon the appointment of any intervenor or conservator of, or trustee or similar official for, the Debtors or any substantial part of their assets, or otherwise, all as though such payments had not been made.

SECTION 18. Waiver of Marshalling. All rights of marshalling of assets of the Debtors, including any such right with respect to the Collateral, are hereby waived by the Debtors.

SECTION 19. Limitation by Law. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

SECTION 20. Severability. Should any clause, sentence, paragraph, subsection or Section of this Agreement be judicially declared to be invalid, unenforceable or void, such declaration will not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid, unenforceable or void will be deemed to have been stricken herefrom by the parties hereto, and the remainder will have the same force and effectiveness as if such stricken part or parts had never been included herein.

SECTION 21. No Waiver; Remedies. No failure on the part of the Secured Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 22. Continuing Security Interest. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until full and final payment and performance of the Obligations after the Debtors shall have no further obligation under the Loan Documents, (b) be binding upon each Debtor, its successors and assigns and (c) inure to the benefit of the Secured Party for the benefit of itself and the Banks and their respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (c), any of the Banks may assign or otherwise transfer all or a portion of its interests, rights and obligations under the Notes held by it pursuant to the Credit Agreement or pursuant to any Loan Document. Upon termination of the Obligations, the Liens granted hereby in accordance with the foregoing shall revert to the Debtors and the Secured Party will, at the Debtors' sole cost and expense, promptly execute and deliver to the Debtors such documents as the Debtors shall reasonably request to evidence such termination.

SECTION 23. Survival of Representations and Warranties. All representations and warranties contained in this Agreement or made in writing by or on behalf of the Debtors in connection herewith are true and correct when made or deemed made and shall survive the execution and delivery of this Agreement. Any investigation by the Secured Party or any of the Banks shall not diminish in any respect whatsoever its rights to rely on such representations and warranties.

SECTION 24. Governing Law; Terms. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF**

ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF TEXAS.

SECTION 25. Inconsistencies. In the event of any irreconcilable inconsistencies between any provision of this Agreement and any provision of the Credit Agreement and/or the Loan Documents, the provisions of this Agreement shall control.

SECTION 26. Interpretation.

- (a) In this Agreement, unless a clear contrary intention appears:
 - (i) the singular number includes the plural number and *vice versa*;
 - (ii) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision;
 - (iii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually, *provided* that nothing in this clause (iii) is intended to authorize any assignment not otherwise permitted by this Agreement;
 - (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended, supplemented or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, and reference to any Note includes any Note issued pursuant hereto in extension or renewal thereof and in substitution or replacement therefor;
 - (v) unless the context indicates otherwise, reference to any Article, Section, Schedule or Exhibit means such Article or Section hereof or such Schedule or Exhibit hereto;
 - (vi) the words “including” (and with correlative meaning “include”) means including, without limiting the generality of any description preceding such term;
 - (vii) with respect to the determination of any period of time, the word “from” means “from and including” and the word “to” means “to but excluding;” and

(viii) reference to any law means such as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

(b) The Section headings herein are for convenience only and shall not affect the construction hereof.

(c) No provision of this Agreement shall be interpreted or construed against any Person solely because that Person or its legal representative drafted such provision.

SECTION 27. Submission to Jurisdiction. (a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF TEXAS, IN HARRIS COUNTY OR THE UNITED STATES FOR THE SOUTHERN DISTRICT OF TEXAS AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH DEBTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS WITH RESPECT TO ANY SUCH ACTION OR PROCEEDING. EACH DEBTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT AT ITS ADDRESS PROVIDED IN THE LOAN DOCUMENTS, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE SECURED PARTY OR ANY OF THE PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE DEBTORS IN ANY OTHER JURISDICTION.

(b) EACH DEBTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

SECTION 28. Waiver of Jury Trial. THE DEBTORS HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT,

DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ARISING FROM OR RELATING TO ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT AND AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

SECTION 29. Final Agreement of the Banks. THIS AGREEMENT (INCLUDING THE SCHEDULES HERETO) AND THE OTHER LOAN DOCUMENTS CONSTITUTE A "LOAN AGREEMENT" AS DEFINED IN SECTION 26.02(A) OF THE TEXAS BUSINESS AND COMMERCE CODE, AND REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the Debtors have caused this Agreement to be duly executed and delivered by its officer duly authorized as of the date first above written.

THE COMPANY / DEBTOR:

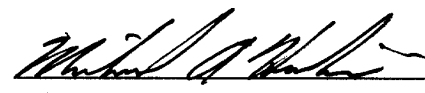
FLINTLOCK, LTD.

By: Flintlock General, Inc.,
General Partner

By: 
John Hoag
President

SECURED PARTY:

BANK ONE, TEXAS, N.A.

By: 
Michael A. Hoskins
Vice President

GUARANTORS:

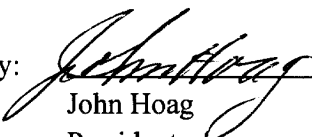
FLINTLOCK GENERAL, INC.

By: 
John Hoag
President

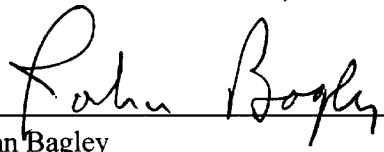
R&H PRODUCTS, LLC

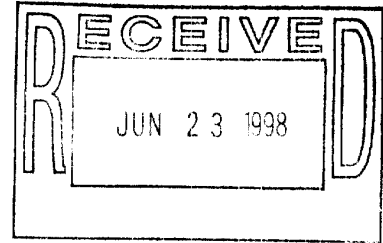
By: _____
John Hoag
President

BOTANICAL PRODUCTS, LLC

By: _____
John Hoag
President

MELISSA RICE & COMPANY, LLC

By: _____
John Bagley
Vice President



SECURITY AGREEMENT

This SECURITY AGREEMENT (as the same may be amended, amended and restated, modified, or supplemented from time to time, this "Agreement") dated as of April 16, 1997 is executed by FLINTLOCK LTD., a Texas limited partnership, with an office at 6937 Flintlock, Houston, Texas 77040 (the "Company"), and certain Affiliates of the Company signatory hereto (such Affiliates and together with the Company, collectively the "Debtors" and individually, a "Debtor") in favor of Bank One, Texas, N.A., a national banking association with its principal offices in Houston, Harris County, Texas ("Bank One"), as secured party for itself and in its capacity as collateral agent (in such capacities, the "Secured Party").

PRELIMINARY STATEMENT

WHEREAS, the Company, the General Partners and Subsidiaries of the Company signatories thereto, the Secured Party, as Agent for the Banks, and the Banks entered into that certain Credit Agreement dated as of April 16, 1997 whereby the Banks committed to make (i) a revolving credit loan of up to \$23,000,000.00 to the Company for use as working capital, (ii) a construction loan of up to \$8,000,000.00 to provide acquisition funding necessary to acquire and construct a distribution and warehouse facility, (iii) an equipment acquisition line of credit of up to \$2,500,000.00 and (iv) a term loan of up to \$9,000,000.00 to refinance existing debt of approximately \$6,100,000.00 and repay certain other obligations; and

WHEREAS, it is a condition precedent to the obligation of the Banks to make Loans to the Company under the Credit Agreement that the Debtors shall execute and deliver this Agreement to the Secured Party, and the Debtors desire to execute this Agreement in order to satisfy such condition precedent and to secure the Obligations.

NOW THEREFORE, in consideration of the premises and in order to induce the Banks to extend the Loans pursuant to the terms of the Credit Agreement, the Debtors hereby agree as follows:

SECTION 1. Defined Terms.

(a) Each capitalized term used herein (including, without limitation, in the introductory paragraph and recitals hereof) and not defined herein shall have the meaning assigned to such term in the Credit Agreement.

(b) "UCC" means the Uniform Commercial Code as in effect on the date hereof in the State of Texas; *provided* that if by mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted pursuant to Section 2 hereof, as well as all other security interests created or assigned as additional security for the Obligations pursuant

to the provisions of this Agreement, in any Collateral is governed by the UCC as in effect in another jurisdiction, "UCC" means the UCC as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

SECTION 2. Grant of Security. Each Debtor hereby grants to the Secured Party for itself and for the benefit of the Banks, a lien and security interest in, all of such Debtor's right, title and interest in and to all assets of such Debtor, now owned or hereafter acquired, including, without limitation, the following collateral (collectively, the "Collateral"):

(a) All accounts (as defined in the UCC) and whether or not included in such definition, all receivables, accounts receivable, lease receivables, contract rights, chattel paper, drafts, acceptances, documents, instruments, deposit accounts, writings evidencing a monetary obligation or a security interest or a lease of goods, general intangibles and other obligations of any kind, now or hereafter existing, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services (but excluding the WNS License Agreement, which by its terms is not assignable), and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such accounts, lease receivables, chattel paper, drafts, acceptances, instruments, writings evidencing a monetary obligation or a security interest or a lease of goods, general intangibles or obligations (any and all of the foregoing property being collectively called the "Receivables"); and

(b) All inventory (as defined in the UCC) in all of its forms, wherever located, now or hereafter existing and whether acquired by purchase, merger or otherwise, and (whether or not included in such UCC definition) all raw materials, stores, tools, and work in process therefor, all finished goods, spare parts, service parts, and all materials used or consumed in the manufacturing, packing, shipping, advertising, selling, leasing or production thereof, including goods in which such Debtor has an interest in mass or joint or other interest or right of any kind including, without limitation, goods held on consignment, or held for sale, lease, return or to be furnished under contracts of service, in whole or in part, by the Debtors wherever located, and goods which are returned to or repossessed by such Debtor, and all accessions thereto and products thereof and documents therefor (any and all of the foregoing property being collectively called the "Inventory"); and

(c) All general intangibles (as defined in the UCC) and whether or not included in such definition, to the maximum extent assignable pursuant to the terms thereof, all inventions, processes, production methods, proprietary information and know-how; all intellectual property rights; all business records, books, files, ledgers, documents and correspondence, confidential and otherwise, including market information, sales aids, customer and supplier lists, files, records and data; all accounting information and all media in which or on which any of the information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; all computer software

(including all source codes), data rights, documentation and associated license, escrow, support, maintenance and software development agreements now or hereafter held pertaining to the operations of such Debtor's business; all licenses and sublicenses, including any of such which relate to computer software; all consents, permits, variances now or hereafter held by such Debtor pertaining to operations or business now or hereafter conducted; all rights to receive return of deposits and trust payments; all rights to payment under letters of credit and similar agreements; all tax refunds; all proceeds of any insurance, indemnity, warranty or guaranty; and all causes of action, whether arising out of a claim of tort or breach of contract and all rights, claims and warranties (any and all of the foregoing property being collectively called the "General Intangibles"); and

(d) All equipment (as defined in the UCC) and (whether or not included in such definition) all tangible personal property including all retail store, storage, office or facility equipment and other retail, manufacturing and research items, computer hardware, all vehicles, goods, machinery, chattels, tools, dies, jigs, molds, parts, machine tools, furniture, furnishings, fixtures, and supplies, of every nature, wherever located, all additions, accessories and improvements thereto and substitutions therefor and all accessories, parts and equipment which may be attached to or which are necessary for the operation and use of such personal property or fixtures, whether or not the same shall be deemed to be affixed to, arise out of or relate to any real property owned or leased by such Debtor, together with all accessions thereto, and all rights under or arising out of present or future leases or contracts relating to the foregoing (any and all of the foregoing property being collectively called the "Equipment"); and

(e) All rights in and to all permits, licenses, authorizations, approvals, product and establishment registrations and approvals, certificates of convenience or necessity franchises, immunities, easements, consents, grants, ordinances and other rights, in each case now or hereafter granted by any Governmental Authority pertaining to the operation of the business, except for any rights or licenses granted to the Company under the WNS License Agreement, which by its terms is not assignable; and

(f) All sales orders, sales contracts, purchase orders, purchase contracts, operating agreements, management agreements, service agreements, development agreements, consulting agreements, leases and other contract rights and, to the extent they can lawfully be conveyed or assigned under express or implied warranties from providers of goods or services pertaining to the operation of the business (any and all of the foregoing property being collectively called the "Contracts"); and

(g) All letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including all national and multinational statutory invention registrations, patents (including letters patent; patent registrations and patent applications and any other patents which may issue on

such application) including, without limitation, all reissues, continuations or extensions thereof and all rights therein provided by law, multinational treaties or conventions, (any and all of the foregoing property being collectively called the "Patents"); and

(h) All trademarks, trade names, service marks, trade dress, logos, including all good will associated therewith, whether or not registered, all registrations and recordings thereof, and all applications in connection therewith, including registrations and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country throughout the world or any political subdivision thereof, including, without limitation, all those listed in Schedule II hereto and including all reissues, extensions or renewals thereof, and all written agreements granting any right to use any trademark or trademark registration and all rights therein provided by multinational treaties or conventions (any and all of the foregoing property being collectively called the "Trademarks"); and

(i) All instruments, chattel paper and letters of credit (each as defined in the UCC) and any other items including all promissory notes and other instruments held by the Debtors evidencing indebtedness owed to any of them by any Person (any and all of the foregoing property being the "Instruments"); and

(j) All documents (as defined in the UCC) and other receipts covering, evidencing or presenting goods (including, without limitation, any computer software, whether on tape, disk, card, strip, cartridge or any other form); and

(k) All products and proceeds of any and all of the foregoing Collateral and, to the extent not otherwise included, all payments under insurance or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral.

SECTION 3. Security for Obligations. This Agreement secures on a first and prior basis except for the Permitted Liens, the prompt and complete payment and performance of the Obligations owing to Secured Party and, on a *pro rata basis*, owing to the Banks.

SECTION 4. Perfection of Security Interests. Each Debtor agrees, at its own expense to promptly execute and deliver all instruments and documents necessary or desirable, in order to perfect and protect any security interest granted or purported to be granted hereby or enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral by taking such actions including but not limited to: (i) mark conspicuously each chattel paper and any Instrument related thereto and each of its records pertaining to such Collateral with a legend indicating that such document or instrument is subject to the security interest granted hereby; (ii) if any Receivable shall be evidenced by a promissory note or other Instrument, deliver

and pledge to the Secured Party for the benefit of the Banks such note or Instrument duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance reasonably satisfactory to the Secured Party; and (iii) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices as the Secured Party may reasonably request as being necessary in order to perfect and preserve the security interests granted or purported to be granted hereby.

SECTION 5. Debtors Remain Liable. Anything herein to the contrary notwithstanding, (a) the Debtors shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein (and subject to any defenses thereto) to perform all of their duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Secured Party for the benefit of the Banks of any of the rights hereunder shall not release the Debtors from any of their duties or obligations under the contracts and agreements included in the Collateral, and (c) neither the Secured Party nor any of the Banks shall have any obligation or liability under the contracts and agreements included in the Collateral solely by reason of this Agreement, nor shall the Secured Party or any of the Banks be obligated to perform any of the obligations or duties of the Debtors thereunder or to take any action to collect or enforce any claim for payment assigned hereunder in each case, solely by reason of this Agreement.

SECTION 6. Representations and Warranties. The Debtors each represent and warrant as follows:

(a) Those locations specified on Schedule 6-A hereto or such other locations disclosed to the Secured Party after the date hereof constitute all of the locations at which there is located any Equipment and/or Inventory of the Debtors (other than rolling stock or Inventory in transit). The principal place of business and chief executive office of the Debtors and the office where each Debtor keeps its records concerning the Receivables, are located at the addresses specified in Schedule 6-B to this Agreement or at such other locations disclosed to the Secured Party after the date hereof.

(b) Each Debtor owns the Collateral free and clear of any Lien, except for the Permitted Liens. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except for protective filings under true leases, filings made in connection with Permitted Liens, and such as may have been filed in favor of the Secured Party for the benefit of the Banks relating to this Agreement.

(c) This Agreement has been duly executed and delivered by each Debtor. Except for items that are not perfected by filing financing statements, upon the filing of financing statements in the locations requested by the Secured Party, the security interests granted herein shall constitute valid and perfected first priority Liens in the Collateral, subject only to the Permitted Liens.

(d) No consent of, or notice to, any other Persons and no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by the Debtors of the Liens granted hereby or for the execution, delivery or performance of this Agreement by the Debtors or (ii) for the perfection of the rights and remedies hereunder, other than (a) the execution of this Agreement, (b) the filing of financing statements and (c) the possession by Secured Party of all items of collateral which must be in the physical possession of Secured Party in order to perfect Secured Party's security interest.

(e) All information with respect to the Collateral and the obligors under the Receivables set forth in any schedule hereto, certificate or other writing at any time heretofore or hereafter furnished by each Debtor to the Secured Party or any of the Banks, taken as a whole, is, to each Debtor's best knowledge, true, correct and complete in all material respects as of the date specified therein. A true and correct list of the account debtors of each Debtor's Receivables as of date hereof is attached as Schedule 6-C hereto.

SECTION 7. Further Assurances. (a) Each Debtor agrees that from time to time, at the expense of the Debtor, each Debtor will promptly execute and deliver all further instruments and documents, and take all further action (including any filings with the United States Patent and Trademark Office), that the Secured Party may reasonably request as being necessary or desirable, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral.

(b) Each Debtor hereby authorizes the Secured Party for the benefit of itself and the Banks to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of such Debtor, in each case where permitted by law. A carbon, photographic or other reproduction of any financing statement executed by each Debtor covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) Each Debtor will furnish to the Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may reasonably request, all in reasonable detail.

(d) Each Debtor will promptly notify the Secured Party of any change of its name, business structure, federal employer identification number or the address of its principal place of business or chief executive office where its books and records are maintained.

(e) Each Debtor shall keep its principal place of business and chief executive office and the office where it keeps its records concerning the Collateral, at the location or locations

therefor specified in Section 6(a) or, upon 30 days' prior written notice to the Secured Party, at such other locations in a jurisdiction where all action required by this Section 7 shall have been taken with respect to the Collateral. Each Debtor will hold and preserve such records and will upon reasonable notice permit representatives of the Secured Party at any time during normal business hours to inspect and make abstracts from such records.

(f) Except as otherwise provided in this subsection (f), each Debtor shall continue to collect, at its own expense, all amounts due or to become due such Debtor under the Receivables. In connection with such collections, each Debtor may take (and, upon the occurrence and continuance of an Event of Default and so long as it is continuing and has not been waived, at the Secured Party's direction, shall take) such action as such Debtor or the Secured Party may deem necessary or advisable to enforce collection of the Receivables; *provided*, that the Secured Party itself and for the benefit of itself and the Banks shall have the right at any time during the existence of an Event of Default, upon written notice to each Debtor of its intention to do so, to notify the account debtors or obligors under any Receivables of the assignment of such Receivables to the Secured Party for itself and for the benefit of the Banks and to direct such account debtors or obligors to make payment of all amounts due or to become due to such Debtor thereunder directly to the Secured Party and, upon such notification and at the reasonable expense of such Debtor, to enforce collection of any such Receivables, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Debtor might have done. After receipt by the Debtors of the notice from the Secured Party referred to in the *proviso* to the preceding sentence, (i) all amounts and proceeds (including instruments) received by the Debtors in respect of the Receivables shall be received in trust for the Secured Party for itself and for the benefit of the Banks under the Credit Agreement, shall be segregated from other funds of the Debtors and shall be forthwith paid over to the Secured Party for itself and for the benefit of the Banks in the same form as so received (with any necessary endorsement) to be held as cash collateral and either (A) released to the Debtors so long as no Event of Default shall be continuing or (B) if any Event of Default shall be continuing, applied as provided in Section 13 (b) hereof, and (ii) the Debtors shall not adjust, settle or compromise the amount or payment of any Receivable (except for adjustment, settlement or compromise in the ordinary course of Debtors' business), or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon (except for release, credit or discount for payment granted in the ordinary course of Debtors' business), except with the prior written consent of the Secured Party.

(g) The Debtors shall keep the Equipment and Inventory (other than such Inventory sold in the ordinary course of business or Inventory in transit) at the places therefor specified in Section 6(a) or, upon at least 30 days' prior written notice (or such other notice acceptable to the Secured Party) to the Secured Party, at such other places in jurisdictions where all action required by this Section 7 shall have been taken with respect to such Equipment and Inventory.

(h) The Debtors shall promptly upon reasonable request furnish to the Secured Party a statement respecting any material loss or damage to any of the Equipment, Inventory or any other of the Collateral and will permit the Secured Party or any other Credit Party to inspect the Collateral upon reasonable notice during normal business hours.

SECTION 8. Insurance. The Debtors shall, at their own expense, maintain or cause to be maintained insurance as requested by the Loan Documents.

SECTION 9. Transfers and Other Liens. The Debtors shall not: (a) sell, assign (by agreement, operation of law or otherwise) or otherwise dispose of any of the Collateral (other than in the ordinary course of business, dispositions of Collateral no longer used or useful in the Debtors' business, or as otherwise permitted by the Credit Agreement) or (b) create or suffer to exist any Lien upon or with respect to any of the Collateral, except for the Permitted Liens.

SECTION 10. Secured Party Appointed Attorney-in-Fact. Each Debtor hereby irrevocably appoints the Secured Party for itself and for the benefit of the Banks as each of the Debtor's attorney-in-fact, with full authority in the place and stead of each of the Debtors and in the name of each of the Debtors, from time to time in the Secured Party's reasonable discretion after the occurrence of an Event of Default and during the continuance thereof, to take any action and to execute any instrument which the Secured Party may deem reasonably necessary or advisable to accomplish the purposes of this Agreement, including:

- (a) to obtain insurance required to be paid pursuant to Section 8 herein,
- (b) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral,
- (c) to receive, endorse, and collect any drafts or other instruments, documents and chattel paper, in connection with clause (a) above,
- (d) to file any claims or take any action or institute any proceedings which the Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Secured Party for itself and for the benefit of the Banks with respect to any of the Collateral, and
- (e) to sell, transfer, assign, or otherwise deal in or with the Collateral or the proceeds or avails thereof, as provided herein and subject to applicable law, as fully and effectually as if the Secured Party were the absolute owner thereof provided, that the Secured Party shall give the Debtors not less than ten (10) days' prior written notice of the time and place of any sale or other

intended disposition of any of the Collateral, except any Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market. The Debtors agree that such notice constitutes "reasonable notification" within the meaning of § 9.504(c) of the UCC.

SECTION 11. Secured Party May Perform. If any Debtor fails to perform any agreement contained herein, the Secured Party may itself, perform, or cause performance of, such agreement, and the expenses of the Secured Party incurred in connection therewith shall be payable upon demand by such Debtor and if not paid shall bear interest at the Default Rate set forth in the Credit Agreement.

SECTION 12. The Secured Party's Duties. The powers conferred on the Secured Party hereunder are solely to protect its interest and the interests of the Banks in the Collateral and shall not impose any duty upon it or any other Credit Party to exercise any such powers. In regard to any Debtor, except for reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, neither the Secured Party nor any other Credit Party shall have any duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior lenders or any other rights pertaining to any Collateral. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for taking any necessary steps to preserve rights against any party with respect to any Collateral.

SECTION 13. Remedies. If any Event of Default shall have occurred and be continuing:

(a) The Secured Party for itself and the benefit of the Banks may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party under the UCC (whether or not the UCC applies to the affected Collateral) and the Secured Party may also (i) require any Debtor to, and each Debtor hereby agrees that it will at its expense and upon request of the Secured Party forthwith, assemble all or part of the Collateral as directed by the Secured Party and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both the Debtor and the Secured Party and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Secured Party's offices or elsewhere, for cash, on credit, or for future delivery and upon such other terms as the Secured Party may deem commercially reasonable. Each Debtor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' prior notice to the Debtors of the time and place of any public sale or the time after which any private sale is to be made shall constitute

reasonable notification thereof. The Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash received by the Secured Party shall be applied first to repay the costs and expenses of the Secured Party and thereafter to repay the Obligations on a *pro rata* basis. Any surplus of such cash or cash proceeds held by the Secured Party and remaining after payment in full of all the Obligations shall be paid over to the Debtors or at the Secured Party's option, deposited into the registry of a court of competent jurisdiction for payment to whomever such court shall determine to be lawfully entitled to receive such surplus.

SECTION 14. Indemnity and Expenses. (a) The Debtors hereby agree to indemnify the Secured Party from and against any and all claims, losses and liabilities growing out of or resulting from enforcement of this Agreement, except claims, losses or liabilities, if any, resulting from the Secured Party's gross negligence, willful misconduct or violation of law. **SUBJECT TO THE FOREGOING, IT IS THE EXPRESS INTENTION OF THE DEBTORS THAT THE SECURED PARTY SHALL BE INDEMNIFIED AND HELD HARMLESS AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DEFICIENCIES, JUDGMENTS OR REASONABLE EXPENSES ARISING OUT OF OR RESULTING FROM THE ORDINARY CONTRIBUTORY OR ORDINARY CONCURRENT NEGLIGENCE OF ANY SUCH PERSON.**

(b) The Debtors shall, upon demand, pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and expenses of the Secured Party's counsel and of its experts, that the Secured Party may incur in connection with (i) administration of this Agreement, (ii) the evaluation, appraisal, custody or preservation of, or sale of, collection from, or other realization upon any of the Collateral, (iii) the exercise or enforcement after an Event of Default of any of the rights of the Secured Party for itself and for the benefit of Banks hereunder or (iv) the failure by the Debtors to perform or observe any of the provisions of this Agreement. Each Debtor agrees to pay interest on any sums payable to the Secured Party hereunder that are not paid when due at a rate per annum equal to the Default Rate set forth in the Credit Agreement.

SECTION 15. Amendments. No amendment or waiver of any provision of this the Agreement, nor consent to any departure by the Debtors herefrom, shall in any event be effective unless the same shall be in writing and signed by the Secured Party with the requisite consent of the Banks, if applicable, and the Debtors, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 16. Addresses for Notices. All notices and other communications provided for hereunder shall be given in the manner and at the addresses for the Debtors as set forth in the Credit Agreement and shall become effective as specified in the Credit Agreement. Such notices and other communications shall, when mailed or telecopied, or delivered respectively, be effective when mailed by certified mail, return receipt requested to any party at its address specified in the Credit Agreement, or telecopy number set forth in the Credit Agreement as applicable, or delivered personally to any party to its address specified in the Credit Agreement.

SECTION 17. Termination; Reinstatement. (a) Each Debtor agrees that this Agreement and the Liens granted hereunder shall terminate when, but only when, all Obligations have been fully and finally paid and performed and all Banks' commitments under the Loan Documents have expired or been terminated. At any time thereafter upon the Debtor's request, the Secured Party shall promptly reassign and redeliver, including the termination of any financing statements (or cause to be reassigned and redelivered) to the Debtors, or to such Person or Persons as the Debtors shall designate in writing, against receipt, such of the Collateral (if any) as shall not have been sold or otherwise applied by the Secured Party for the benefit of itself or the Banks pursuant to the terms hereof and shall still be held by it hereunder. Any such reassignment shall be without recourse upon, or representation or warranty by, the Secured Party (other than that the Secured Party for the benefit of itself and the Banks has not sold, encumbered or otherwise transferred any interest in the Collateral except as provided in this Agreement) and shall be at the sole reasonable cost and expense of the Debtors.

(b) This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by the Secured Party or any other of the Banks in respect of the Obligations is rescinded or must otherwise be restored or returned by the Secured Party or such other Banks upon the filing of any bankruptcy proceeding by or of the Debtors or upon the appointment of any intervenor or conservator of, or trustee or similar official for, the Debtors or any substantial part of their assets, or otherwise, all as though such payments had not been made.

SECTION 18. Waiver of Marshalling. All rights of marshalling of assets of the Debtors, including any such right with respect to the Collateral, are hereby waived by the Debtors.

SECTION 19. Limitation by Law. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

SECTION 20. Severability. Should any clause, sentence, paragraph, subsection or Section of this Agreement be judicially declared to be invalid, unenforceable or void, such declaration will not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid, unenforceable or void will be deemed to have been stricken herefrom by the parties hereto, and the remainder will have the same force and effectiveness as if such stricken part or parts had never been included herein.

SECTION 21. No Waiver: Remedies. No failure on the part of the Secured Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 22. Continuing Security Interest. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until full and final payment and performance of the Obligations after the Debtors shall have no further obligation under the Loan Documents, (b) be binding upon each Debtor, its successors and assigns and (c) inure to the benefit of the Secured Party for the benefit of itself and the Banks and their respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (c), any of the Banks may assign or otherwise transfer all or a portion of its interests, rights and obligations under the Notes held by it pursuant to the Credit Agreement or pursuant to any Loan Document. Upon termination of the Obligations, the Liens granted hereby in accordance with the foregoing shall revert to the Debtors and the Secured Party will, at the Debtors' sole cost and expense, promptly execute and deliver to the Debtors such documents as the Debtors shall reasonably request to evidence such termination.

SECTION 23. Survival of Representations and Warranties. All representations and warranties contained in this Agreement or made in writing by or on behalf of the Debtors in connection herewith are true and correct when made or deemed made and shall survive the execution and delivery of this Agreement. Any investigation by the Secured Party or any of the Banks shall not diminish in any respect whatsoever its rights to rely on such representations and warranties.

SECTION 24. Governing Law: Terms. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, IN RESPECT OF**

ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF TEXAS.

SECTION 25. Inconsistencies. In the event of any irreconcilable inconsistencies between any provision of this Agreement and any provision of the Credit Agreement and/or the Loan Documents, the provisions of this Agreement shall control.

SECTION 26. Interpretation.

(a) In this Agreement, unless a clear contrary intention appears:

- (i) the singular number includes the plural number and *vice versa*;
- (ii) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision;
- (iii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually, *provided* that nothing in this clause (iii) is intended to authorize any assignment not otherwise permitted by this Agreement;
- (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended, supplemented or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, and reference to any Note includes any Note issued pursuant hereto in extension or renewal thereof and in substitution or replacement therefor;
- (v) unless the context indicates otherwise, reference to any Article, Section, Schedule or Exhibit means such Article or Section hereof or such Schedule or Exhibit hereto;
- (vi) the words "including" (and with correlative meaning "include") means including, without limiting the generality of any description preceding such term;
- (vii) with respect to the determination of any period of time, the word "from" means "from and including" and the word "to" means "to but excluding;" and

(viii) reference to any law means such as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

(b) The Section headings herein are for convenience only and shall not affect the construction hereof.

(c) No provision of this Agreement shall be interpreted or construed against any Person solely because that Person or its legal representative drafted such provision.

SECTION 27. Submission to Jurisdiction. (a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF TEXAS, IN HARRIS COUNTY OR THE UNITED STATES FOR THE SOUTHERN DISTRICT OF TEXAS AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH DEBTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS WITH RESPECT TO ANY SUCH ACTION OR PROCEEDING. EACH DEBTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT AT ITS ADDRESS PROVIDED IN THE LOAN DOCUMENTS, SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE SECURED PARTY OR ANY OF THE PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE DEBTORS IN ANY OTHER JURISDICTION.

(b) EACH DEBTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

SECTION 28. Waiver of Jury Trial. THE DEBTORS HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT,

DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ARISING FROM OR RELATING TO ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT AND AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

SECTION 29. Final Agreement of the Banks. THIS AGREEMENT (INCLUDING THE SCHEDULES HERETO) AND THE OTHER LOAN DOCUMENTS CONSTITUTE A "LOAN AGREEMENT" AS DEFINED IN SECTION 26.02(A) OF THE TEXAS BUSINESS AND COMMERCE CODE, AND REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the Debtors have caused this Agreement to be duly executed and delivered by its officer duly authorized as of the date first above written.

THE COMPANY / DEBTOR:

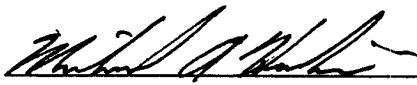
FLINTLOCK, LTD.

By: Flintlock General, Inc.,
General Partner

By: 
John Hoag
President

SECURED PARTY:

BANK ONE, TEXAS, N.A.

By: 
Michael A. Hoskins
Vice President

GUARANTORS:

FLINTLOCK GENERAL, INC.

By: 
John Hoag
President

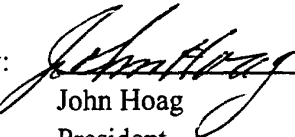
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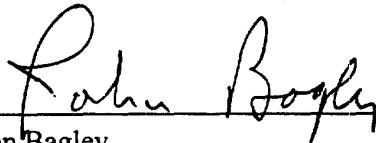
R&H PRODUCTS, LLC

By: 
John Hoag
President

BOTANICAL PRODUCTS, LLC

By: 
John Hoag
President

MELISSA RICE & COMPANY, LLC

By: 
John Bagley
Vice President

SCHEDULE 6-B

DEBTOR CHIEF EXECUTIVE OFFICE LOCATIONS

Flintlock, Ltd.	6937 Flintlock, Houston, Texas 77040
R&H Products, LLC	6937 Flintlock, Houston, Texas 77040
Botanical Products, LLC	6937 Flintlock, Houston, Texas 77040
Melissa Rice & Company, LLC	6937 Flintlock, Houston, Texas 77040

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TRADEMARK
REEL: 1745 FRAME: 0785

SCHEDULE II

TRADEMARKS

FAROY ^R

COUNTRY GLOW ^R

MELISSA RICE & COMPANY ^R

COMMON LAW TRADEMARKS:

AIR CARE TM

FAIRBANKS TM

TRADITIONAL ACCENTS TM

IMAGES TM

MELISSA RICE AT HOME TM

HAYES PARKER TM

WING POINT STUDIO TM

BOTANICAL PRODUCTS LLC

R&H PRODUCTS LLC

THE CANDLE WAREHOUSE TM

SCHEDULE 6-A

LOCATIONS OF EQUIPMENT AND INVENTORY

Papalote
10410 Papalote, Suite 130
Houston, Texas 77041

Southern
5050 Campbell
Houston, Texas 77018

Southern
3801 Yale St.
Houston, Texas 77018

MCR/Botanicals¹
10808 Fallstone
Houston, Texas 77099

Candle Warehouse²
2320 F.M. 1960 West
Houston, Texas 77068

¹ Manufacturing Location

² Retail Store Location

HOU04:56961.3