

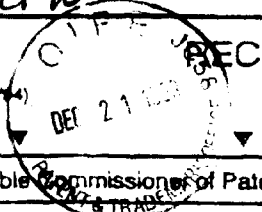
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FORM PT-1594  
Rev. 6-93

OMB No. 1651-0011 (exp. 4-94)

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HEET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Tru-Kay Manufacturing Co.

- Individual(s)
- General Partnership
- Corporation-State Rhode Island
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: \_\_\_\_\_

2. Name and address of receiving party(ies)

Name: BankBoston, N.A.

Internal Address: Precious Metals Dept.

Street Address: 100 Federal Street

City: Boston State: MA ZIP: 02106

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other National Banking Association

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

693,500

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Amy L. Mower, Esq.

Internal Address: Cameron & Mittleman LLP

56 Exchange Terrace

Providence, RI 02903

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

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41)..... \$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. 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.

Amy L. Mower  
Name of Person Signing

Amy L. Mower  
Signature

December 18, 1998  
Date

Total number of pages including cover sheet, attachments, and document: 11

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

TRADEMARK  
REEL: 1835 FRAME: 0935

## **SECURITY AGREEMENT - TRADEMARKS - BARROWS**

This SECURITY AGREEMENT - TRADEMARKS - BARROWS (the "Agreement") is entered into on November 25, 1998 between **TRU-KAY MANUFACTURING CO**, a Rhode Island corporation, with its principal place of business at 2 Carol Drive, Lincoln, Rhode Island 02865 (the "Debtor"), and **BANKBOSTON, N.A.**, a national banking association, with its principal place of business at 100 Federal Street, Boston Massachusetts 02106 (the "Bank").

### **RECITALS**

Prior to the date hereof, the Debtor and the Bank have executed various loan agreements including without limitation, the Revolving Credit Agreement as amended from time to time; all of said Loan Agreements are collectively referred to herein as the "Loan Agreement". In order to induce the Bank to make loans pursuant to, the Loan Agreement, and as collateral security for the Debtor's performance of its obligations under the Loan Agreement, the Debtor previously executed a security agreement (the "Security Agreement") granting the Bank a security interest in, inter alia, its general intangibles (which include without limitation letters patent and trademarks) and in certain of the Debtor's other property including but not limited to inventory, machinery, equipment formulations, manufacturing procedures, quality control procedures and product specifications (the "Collateral") relating to inventory sold under its trademarks and service marks. The Debtor has also agreed to grant to the Bank a security interest in the Debtor's trademarks, pursuant to this Agreement.

NOW THEREFORE, in consideration of the provisions herein contained, the parties, each intending to be legally bound hereby, agree as follows:

### **SECTION 1. SECURITY INTEREST.**

For valuable consideration, receipt of which is hereby acknowledged, and as security for the payment and performance of the Obligations (as defined in the Security Agreement), the Debtor, for itself and for its successors and assigns, grants to the Bank, its successors and assigns, a lien and, a security interest in all its right, title and interest in and to its now owned or hereafter-acquired registered trademarks and trademarks for which applications to register have been filed and are pending or are hereafter filed with the U.S. Patent and Trademark Office or any other governmental authority (collectively, the "Trademarks"), including but not limited to those trademarks and trade applications listed on Schedule A attached hereto (as the same may be amended pursuant hereto from time to time) and including the sole right to sue for past, present, future and threatened infringements of the Trademarks and any royalties, licenses, fees, proceeds, improvements and subsequent trademarks obtained in connection therewith, together with a security interest in all of its right, title and interest in and to its goodwill, franchises and business

specifically connected with each of the Trademarks, to have and to hold until the Liabilities have been paid and performed in full.

## **SECTION 2. DEBTOR'S REPRESENTATIVES AND WARRANTIES.**

The Debtor represents and warrants that to the best of Debtor's knowledge:

- (a) each of the Trademarks is valid and enforceable;
- (b) no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person;
- (c) the Debtor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, registered user agreements and covenants by the Debtor not to sue third persons;
- (d) the Debtor has the unqualified right to enter into this Agreement and perform its terms;
- (e) the Debtor has filed, and will file whenever required by law for the duration of this Agreement, all statutory notices required in connection with its use of the Trademarks to ensure the continued registration of the Trademarks with the U.S. Patent and Trademark Office or any other governmental authority;
- (f) that should the Bank exercise its rights of foreclosure on the Trademarks as provided herein or in the Security Agreement, upon the Bank's exercise of its rights with regard to the Trademarks and the Collateral, the Bank or its assignee may manufacture, sell or otherwise transfer products under the Trademarks with substantially the same product specifications and quality as presently maintained by Debtor in the manufacture of such inventory and
- (g) the Debtor has required and observed consistent standards of quality in the manufacture of the Debtor's inventory to be sold under the Trademarks.

## **SECTION 3. RELEASE OF TRADEMARKS TO THE ASSIGNOR.**

When the Debtor shall have paid and performed the Liabilities in full, and shall have also paid to the Bank all such further sums as may become due under the terms of this Agreement as hereinafter provided, the Bank shall automatically release to Debtor all right, title and interest in and to the Trademarks. The Bank at any time thereafter, at the request and expense of the Debtor, shall execute such releases of the security interest in the

Trademarks to the Debtor in a form suitable for recording by Debtor in the United States Patent and Trademark Office, or as the Debtor shall otherwise direct.

#### **SECTION 4. THE DEBTOR'S COVENANTS.**

The Debtor does hereby covenant and agree with the Bank that so long as any Liabilities remain unsatisfied or the terms and conditions hereunder remain unsatisfied, it will

(a) defend the Trademarks against all claims and demands of all persons at any time claiming the same or any interest therein;

(b) comply with all the terms and provisions of this Agreement, the Loan Agreement and of all Collateral Documents and other documents entered into in connection therewith and herewith;

(c) not sell or offer to sell, assign, license, or otherwise transfer, or permit third parties to use, the Trademarks or any interest therein without the prior written consent of the Bank, including any assignment or mortgage thereof or grant of security interest therein;

(d) will immediately inform the Bank of any infringement of the Trademarks and immediately after delivery of such notice to the Bank, will consult with the Bank as to the advisability and prudence of pursuing infringement litigation against any infringing third party; the Bank's direction with respect to any such infringement suit shall be made in the ordinary course of business and based upon prudent lending standards exercised in good faith;

(e) keep the Trademarks free from any infringement, adverse liens, security interest or encumbrance;

(f) upon its discovery, making, or becoming entitled to the benefit of any after-acquired Trademarks, or of any improvement upon the subject of the Trademarks for which trademark applications would be filed by Debtor in the ordinary course of Debtor's business, it will give written notice to the Bank of the same and said after-acquired Trademarks, and improvements shall forthwith be subject to the assignment herein and Schedule A shall be amended by the Bank to reflect such after-acquired Trademarks and improvements. The Debtor agrees to execute such documents as the Bank may reasonably require to obtain a recorded collateral assignment in such after acquired Trademarks and improvements;

(g) permit the Bank to visit Debtor's plants and facilities where products sold under any of the Trademarks are manufactured, inspected or stored, and to

inspect the products and quality control records relating thereto at reasonable times during regular business hours; and

(h) prosecute diligently any trade application either pending as of the date of this Agreement or filed after even date, and do any and all acts which are necessary or desirable to preserve, enforce, protect and maintain all rights in the Trademarks;

(i) not abandon any Trademarks without the consent of the Bank, which consent shall not be unreasonably withheld; and

(j) require and observe, for the duration of this Agreement, consistent standards of quality in the manufacture of the Debtor's inventory to be sold under the Trademarks.

Any expenses incurred by the Debtor in connection with the Debtor's compliance with its covenants under this Agreement shall be borne by Debtor.

## **SECTION 5. USE OF TRADEMARKS PRIOR TO DEFAULT.**

Prior to the occurrence of an Event of Default (as defined herein) and the Bank's exercise of its remedies hereunder, the Bank agrees that the Debtor shall be entitled to make, use and sell any and all inventions under the Trademarks and shall have any and all rights to sue for any past, present, future and threatened infringements of the Trademarks, all solely for the Debtor's account, subject to the terms of this Agreement.

## **SECTION 6. INDEMNIFICATION.**

**6.1 In General.** The Debtor hereby agrees to indemnify and hold the Bank harmless against and from (a) any and all liability, loss, damage and expense, including reasonable attorney's fees, which it may or shall incur or which may be asserted under or in connection with any of the Trademarks, or by reason of any action taken by the Bank under any of the Liabilities (including without limitation any action which the Bank in its discretion may take to protect its interest in the Trademarks), and (b) any and all claims and demands whatsoever which may be incurred by or asserted against the Debtor by reason of any alleged obligations or undertakings on its part to perform or discharge the terms, covenants and conditions contained in any of the Trademarks.

**6.2 Interest.** Should the Bank incur any such liability as described in Section 6.1, the amount thereof, together with interest thereon at the interest rate on the Liabilities provided in the Loan Agreement, shall be payable by the Debtor to the Bank immediately upon demand, or at the option of the Bank, the Bank may reimburse itself therefor out of any profits or royalties or license fees of the Trademarks collected by the Bank.

**6.3 Bank's Obligation to Perform.** Nothing contained herein shall obligate or be construed to obligate the Bank to perform any of the terms, covenants or conditions contained in the Trademarks or to take any measures, legal or otherwise, to enforce collection of any of said profits, royalties or license fees, or otherwise to impose any obligation upon the Bank with respect to the Trademarks.

**6.4 Debtor's Obligation to Perform.** Unless and until there shall have occurred an Event of Default, this Agreement shall not operate to place upon the Bank any responsibility for the use, control, care or protection of the Trademarks, and the execution of this Agreement by the Debtor shall constitute conclusive evidence that all responsibility for the use, control, care and protection of the Trademarks is and shall be that of the Debtor prior to such actual entry and taking of possession.

## **SECTION 7. DEFAULT.**

If an Event of Default shall occur as defined in the Loan Agreement, in the Security Documents described in the Loan Agreement, or in any other agreement entered into by the Debtor in connection therewith or in connection herewith by the Debtor, or there shall occur any breach of any agreement, covenant, term or provision hereof and such breach shall continue for ten (10) days after the earlier of:

- (i) notice thereof from the Bank; or
- (ii) the Bank is notified thereof by the Debtor;

(individually, an "Event of Default"), then immediately upon the occurrence of an Event of Default and the expiration of any applicable grace period, all Liabilities shall immediately become due and payable without further action of any kind and the Bank may exercise such rights and remedies with respect to payment and performance as are provided herein, in the Loan Agreement, in the Security Documents, and in any other agreement entered into by the Debtor in connection therewith or in connection herewith.

## **SECTION 8. LICENSES AFTER AN EVENT OF DEFAULT.**

Upon the occurrence of an Event of Default, the Bank, from time to time thereafter, upon fifteen (15) days written notice to the Debtor, may grant, upon such terms and provisions as the Bank shall see fit, licenses to third parties to make, use and vend the inventions under the Trademarks, or to exercise any of such rights at royalty or other periodic payments; and the Bank may receive and retain the monies arising therefrom and apply the same in reduction or payment of the sum payable hereunder, with the balance thereof, if any, to be paid to the Debtor, subject to the provisions of Section 9 hereof.

## **SECTION 9. POWER OF SALE AFTER AN EVENT OF DEFAULT.**

Upon the occurrence of an Event of Default, in addition to:

- (a) all other rights and remedies given to it hereunder.
- (b) those rights and remedies provided by law including the rights and remedies of a secured party under the State of Rhode Island Uniform Commercial Code as in effect from time to time,

the Bank may, from time to time thereafter, either before or after its grant of rights under the terms of Section 8 hereof, upon five (5) business days' written notice to the Debtor, sell the Trademarks, including any licenses or benefits accruing thereunder if any have been granted, at public or private sale, at which the Debtor may become the purchaser, and assign and transfer all right, title and interest in the Trademarks to the purchaser thereof. In furtherance of its right to sell the Trademarks, the Bank may execute all deeds and other instruments as may be necessary or proper. The Bank shall apply the proceeds of any sale hereunder of the Trademarks in reduction or payment of the Liabilities, with the balance thereof, if any, to be paid to the Debtor. The Debtor agrees that upon any such sale it will execute such documents and do all further action as may be necessary or proper for the Bank to grant absolute title to the purchaser of any of the Trademarks.

## **SECTION 10. POWER OF ATTORNEY.**

Upon the occurrence of an Event of Default, the Debtor hereby authorizes and empowers the Bank to make, constitute and appoint any officer or agent of the Bank as the Bank may select, in its exclusive discretion, as Debtor's true and lawful attorney-in-fact, with the power, as fully to all intents and purposes for it and in its name, place and stead, to do all acts necessary in the name and stead of the Debtor or in the Bank's name for the purpose of carrying out the terms and conditions of this Agreement, including but not limited to the following:

- (a) to endorse Debtor's name on all applications, documents, papers and instruments necessary for the Bank to use the Trademarks;
- (b) to grant or issue any exclusive or non-exclusive license under the Trademarks; and
- (c) to assign, pledge, convey or otherwise transfer title in the Trademarks.

Debtor hereby ratifies and confirms all that such attorney shall lawfully do or cause to be done by virtue of the power of attorney granted above and releases the Bank from any liability arising from any good faith act or acts hereunder or in furtherance of this

Agreement. Any action or failure or refusal to act by the Bank under this power of attorney shall be at its election and without liability on its part. This power of attorney shall be coupled with an interest and shall be irrevocable until all Liabilities have been paid in full.

## **SECTION 11. THE BANK'S RIGHT TO PERFORM THE ASSIGNOR'S DUTIES.**

If the Debtor fails to comply with any of its obligations hereunder, the Bank may do so in Debtor's name or in the Bank's name and the Debtor hereby ratifies all that the Bank may do by virtue of this authorization.

## **SECTION 12. MISCELLANEOUS.**

**12.1 Notices.** Any notices or consents required or permitted by this Agreement shall be in writing and shall be deemed delivered if delivered in person or sent by Certified Mail, Postage Prepaid, Return Receipt Requested to the party at the addresses set forth above, unless such addresses are changed by written notice hereunder.

**12.2 Applicable Law.** The law of the Commonwealth of Massachusetts shall govern the construction and enforcement of this Agreement and the rights and remedies of the parties hereto.

**12.3 Binding Effect, Assignment, and Entire Agreement.** This Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and permitted assigns of the parties hereto. The Debtor shall not assign any of its rights or obligations hereunder without the prior written consent of the Bank. This Agreement, and the documents executed and delivered pursuant hereto, constitute the entire Agreement between the parties.

**12.4 Expenses of the Bank.** The Debtor will pay all expenses, including the reasonable fees and expenses of legal counsel to the Bank, in connection with the preparation and enforcement of this Agreement; until paid, such fees and expenses shall constitute Liabilities secured hereby.

**12.5 Definitions.** Incorporated herein by reference are the representations, warranties and agreements of the Debtor and the definitions, terms and conditions as set forth in the Loan Agreement and the Collateral Documents defined therein.

**12.6 Further Acts.** The Debtor shall do, make, execute and deliver all such additional and further acts, deeds, assurances and instruments as which may be reasonably necessary for the purpose of more completely vesting in and assuring to the Bank its rights hereunder in or to the Trademarks.



**12.7 Waiver.** Neither any course of dealing between Debtor and the Bank nor any failure to exercise, or any delay in exercising, on the part of the Bank, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**12.8 Exercise of Rights and Remedies.** The Bank's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

**12.9 Amendments.** No change, amendment, modification, assignment of rights or obligations, cancellation or discharge hereof, or of any part hereof, shall be valid unless the Bank shall have consented thereto in writing.

**12.10 Captions.** The captions and section headings of this Agreement are for convenience and reference only and shall not in any way define, limit, or describe the construction, terms or provisions of this Agreement.

**12.11 Waiver of Trial By Jury.**

THE DEBTOR, TO THE EXTENT THAT DEBTOR MAY LAWFULLY DO SO WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THIS ASSIGNMENT, THE NOTE, THE LOAN AGREEMENT OR ANY OTHER AGREEMENTS EXECUTED IN CONNECTION THEREWITH.

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

WITNESS:

Michael E. Smith

**BANKBOSTON, N.A.**

By: 

Its: 

**SIGNATURES CONTINUED ON NEXT PAGE**

**SIGNATURES CONTINUED FROM PREVIOUS PAGE**

WITNESS:

**TRU-KAY MANUFACTURING CO.**

*Dana H. Gaebel*

By: *Alan M. Kaufman*  
Alan M. Kaufman  
Its President

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF SUFFOLK

In Boston, on the 4 day of November, 1998 before me personally appeared *Albert L. Brown, Director* of **BANKBOSTON, N.A.**, to me known and known by me to be the person executing the within instrument on behalf of said national banking association and who acknowledged said instrument so executed by \_\_\_ to be \_\_\_ free act and deed and the free act and deed of said national banking association.

*Mary Jean P. ...*  
Notary Public  
My commission expires: *11-13-2000*

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

In Providence, on the *25<sup>th</sup>* day of November, 1998, before me personally appeared Alan M. Kaufman, President, of **TRU-KAY MANUFACTURING CO.** to me known and known by me to be the person executing the within instrument on behalf of said corporation, and who acknowledged said instrument so executed by him to be his free act and deed and the free act and deed of said corporation.

*Dana H. Gaebel*  
Notary Public  
My commission expires:

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**DANA H. GAEBE**  
Notary Public of Rhode Island  
My Commission Expires June 22, 2001

**SCHEDULE A**

<u>Marks</u>	<u>Trademark Serial No.</u>	<u>Status</u>
BARROWS	693,500	Registered February 23, 1960

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