

02-22-1999



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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☐ MergerEffective Date
Month Day Year☐ Change of Name☐ Other

Conveying Party

☐ Mark if additional names of conveying parties attachedName Execution Date
Month Day Year
02/01/99Formerly ☐ Individual ☐ General Partnership ☐ Limited Partnership ☒ Corporation ☐ Association☐ Other ☒ Citizenship/State of Incorporation/Organization

Receiving Party

☐ Mark if additional names of receiving parties attachedName DBA/AK/A/T/A Composed of Address (line 1) Address (line 2) Address (line 3)

CT

06904

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

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 Assignment.)

02/18/1999 DMSUYEN 00000223 75393556

FOR OFFICE USE ONLY

01 FC:481
02 FC:48240.00 OP
275.00 OP

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. 20231TRADEMARK
REEL: 1857 FRAME: 0162

Domestic Representative Name and Address

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Enter for the first Receiving Party only.

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Name

Address (line 1)

OPR/FINANCE

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number 203-325-5000

Name

EDWARD A. WEISS, ESQ.

Address (line 1)

FINN DIXON & HERLING LLP

Address (line 2)

ONE LANDMARK SQUARE

Address (line 3)

STAMFORD, CT 06901-2689

Address (line 4)

Pages

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

17

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)

see attached

Registration Number(s)

see attached

Number of Properties

Enter the total number of properties involved.

12

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 315.00

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.

EDWARD A. WEISS
Name of Person Signing

Signature

2-12-98
Date Signed

SCHEDULE A

TRADEMARKS

MARK	COUNTRY	Registration/ Application #	Registration/Issue Date Status
HEATHKIT EDUCATIONAL SYSTEM	US	75393556	11/20/97 Pending
HES	US	75393407	11/20/97 Pending
HUG DESIGN	US	1220647	12/21/82 Registered
REMARK	US	1208237	09/14/82 Registered
HES	US	75419191	01/16/98 Pending
HEATHKIT	US	1218177	11/30/82 Registered
HEATHKIT	US	0755883	09/03/63 Registered
HEATHKIT	US	0755990	09/03/63 Registered
HEATHKIT	US	0919802	09/07/71 Registered
HEATHKIT	US	75394387	11/21/97 Pending
HEATHKIT	US	75399828	12/04/97 Pending
HEATHKIT	US	0520346	01/31/50 Registered

NOTICE OF
GRANT OF SECURITY INTEREST IN
TRADEMARKS

United States Patent and Trademark Office

Gentlemen:

Please be advised that pursuant to the Security Agreement dated February 10, 1999 (the "Security Agreement") from HEATHKIT COMPANY, INC. ("Pledgor") to First Union National Bank ("Bank"), the undersigned Pledgor has granted a continuing security interest in and a continuing lien upon, any trademarks and trademark applications set forth in Schedule A attached hereto and made a part hereof.


The Pledgor and the Bank hereby acknowledge and agree that the security interest in the foregoing trademarks and trademark applications (i) may only be terminated in accordance with the terms of the Security Agreement and (ii) is not to be construed as an assignment of any trademark or trademark application. Pursuant to the Security Agreement, the Bank has been irrevocably appointed as Pledgor's attorney in fact, upon occurrence and during the continuance of a Default (as defined in the Security Agreement), to transfer the trademarks and trademark applications on behalf of the Pledgor.

A copy of the Security Agreement is attached hereto as Schedule B and hereby made a part hereof.

Very truly yours,

HEATHKIT COMPANY, INC.

By:
Name:
Title:

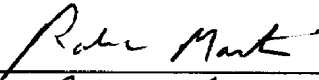


PETER J. DATTISTA
President

Acknowledged and Accepted:

FIRST UNION NATIONAL BANK

By:
Name:
Title:



Robert Martin
Vice President

SCHEDULE B

[Copy of Security Agreement]

SECURITY AGREEMENT

February 10, 1999

Heathkit Company, Inc.
455 Riverview Drive
Benton Harbor, Michigan 49022
(Hereinafter referred to as "Debtor")

First Union National Bank
300 Main Street
Stamford, Connecticut 06904
(Hereinafter referred to as the "Bank")

For value received and to secure the payment and performance of (i) the Term Promissory Note executed by the Debtor dated February 10, 1999, in the original principal amount of \$2,500,000.00, payable to Bank, and any extensions, renewals, modifications or novations thereof (the "\$2,500,000 Term Note"), (ii) the Term Promissory Note executed by the Debtor dated February 10, 1999 in the original principal amount of \$500,000, payable to Bank, and any extensions, renewals, modifications or novations thereof (the "500,000 Term Note" and, collectively with the \$2,500,000 Term Note, the "Term Note") and, (iii) the Line of Credit Promissory Note executed by the Debtor dated February 10, 1999, in the original principal amount of \$500,000.00, payable to Bank, and any extensions, renewals, modifications or novations thereof (the "Line of Credit Note" and, collectively with the Term Note, the "Note"), (iii) this Security Agreement and the other "Loan Documents" (as defined in the Note) and (iv) any other obligations of Debtor to Bank however created, arising or evidenced, whether direct or indirect, absolute or contingent, now existing or hereafter arising or acquired, including swap agreements (as defined in 11 U.S.C. § 101), future advances, and all costs and expenses incurred by Bank to obtain, preserve, perfect and enforce the security interest granted herein and to maintain, preserve and collect the property subject to the security interest (collectively, "Obligations"), Debtor hereby grants to Bank a continuing security interest in and lien upon the following described property, now owned or hereafter acquired, any additions, accessions, or substitutions thereof and thereto (including but not limited to investment property and security entitlements), and all cash and non-cash proceeds and products thereof (collectively, "Collateral"):

All furniture, fixtures, furnishings, machinery, equipment, moveable trade fixtures, accessories, all building improvement and construction materials, supplies and articles of personal property.

All accounts, together with all chattel paper and instruments, and all credit insurance, guaranties, letters of credit, and other security for any of the foregoing.

All instruments, documents, chattel paper, goods, moneys, securities, drafts, and other property of Debtor now in possession of and at any time and from time to time hereafter delivered to Bank, its agents or affiliates, whether for safekeeping, pledge, custody, transmission, collection, or otherwise, and all of Debtor's deposits, balances, sums, proceeds, and credits with, and any of its claims against Bank and affiliates of Bank, at any time existing, together with the increases and profits received therefrom and the proceeds thereof, including insurance payable because of loss or damage thereto.

All of Debtor's demand deposit accounts, checking accounts, time savings accounts, certificates of deposit or other accounts of any nature maintained in or with Bank and affiliates of Bank.

All equipment, all accessories and parts that become a part of the equipment by accession, and all

supplies used or to be used in connection therewith.

All general intangibles (including, without limitation, all contract rights, tax refunds and tax refund claims, choses in action, causes of action, corporate or other business records, inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, copyrights, registrations, licenses, franchises, claims under guaranties, security interests or other security held or granted to secure payment of contracts by account debtors, all goodwill, and all rights to indemnification and all other intangible property of every kind and nature).

Any investment property.

Any documents of title.

All inventory, including all raw materials and work in process to be processed into such inventory, and all accessions, attachments and other additions to, substitutes for, replacements for, improvements to and returns of such inventory, and all accounts arising from the disposition of inventory.

All other personal property of the Debtor.

Notwithstanding anything to the contrary contained herein, the Prairie Life Insurance (as that term is defined in the Loan Agreement (as defined in the Note) shall be excluded from the definition of the term "Collateral" as used herein.

Debtor hereby represents and agrees that:

OWNERSHIP. Debtor owns the Collateral. If Collateral is being acquired with the proceeds of an advance under the Loan Documents, Debtor authorizes Bank to disburse proceeds directly to the seller of the Collateral. The Collateral is free and clear of all liens, security interests, and claims except security interests granted to the Bank and liens permitted under the Loan Agreement and Debtor will keep the Collateral free and clear from all liens, security interests and claims, other than those granted to Bank and such permitted liens.

NAME AND OFFICES. There has been no change in the name of Debtor, or the name under which Debtor conducts business, since the Debtor's formation and Debtor has not moved its executive offices or residence since the Debtor's formation. The taxpayer identification number of Debtor as provided herein is correct.

BORROWER'S QUESTIONNAIRE. All representations and warranties in the Borrower's Questionnaire to the Bank dated of even or substantially even date herewith are true and correct.

COPYRIGHTS, PATENTS AND TRADEMARKS. The Debtor represents and warrants as follows:

(i) The Borrower's Questionnaire referred to above lists all (i) patents (if any), registered copyrights, and registered trademarks of the Debtor as of the date hereof and (ii) all Licenses (as defined below) which exist as of the date hereof. "Licenses" mean all licenses and franchise agreements of the Debtor (whether Debtor is as licensor or licensee or franchisor or franchisee) with respect to copyrights, patents or trademarks.

(ii) To the best of the Debtor's knowledge, each material copyright, patent (if any) and trademark of the Debtor, and any material copyright, patent (if any) and trademark under any License, is valid,

subsisting, unexpired, enforceable and has not been abandoned.

(iii) To the best of Debtor's knowledge, no holding, decision or judgment has been rendered by any court, agency or other governmental authority which would limit, cancel or question the validity or enforceability of any such material copyright, patent, trademark or License.

(iv) To the best of Debtor's knowledge, no action or proceeding is pending or threatened seeking to limit, cancel or question the validity of any such material copyright, patent, trademark or, any material License, or which, if adversely determined, would have a material adverse effect on the value of any such copyright, patent, trademark or License.

(v) To the best of Debtor's knowledge, no copyrights, patents, trademarks or Licenses of the Debtor infringe on the rights of others, or are being infringed, misappropriated or diluted by any third party.

(vi) All applications pertaining to all material United States copyrights, patents (if any) and trademarks of the Debtor have been duly and properly filed, and all registrations or letters or letters pertaining to such United States copyrights, patents and trademarks have been duly and properly filed and issued, and all of such United States copyrights, patents and trademarks are enforceable. The Debtor has obtained proper registration and letters in the United States for all material copyrights, patents (if any) and trademarks of the Debtor. All material United States Licenses are in full force and effect. All applications pertaining to all material foreign copyrights, patents (if any) and trademarks of the Debtor have been duly and properly prepared and submitted for filing, and all registrations or letters or letters pertaining to such foreign copyrights, patents and trademarks have been duly and properly prepared and submitted for filing.

(vii) The Debtor has not made any assignment or agreement in conflict with the Bank's security interest in the copyrights, patents or trademarks of the Debtor or in any Licenses.

TITLE/TAXES. Debtor has good and marketable title to the Collateral and will warrant and defend same against all claims. Debtor will not transfer, sell, or lease Collateral (except for transfers permitted by the Loan Agreement). Debtor agrees to pay promptly all taxes and assessments upon or for the use of Collateral and on this Security Agreement. At its option, if a Default then exists, Bank may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on Collateral. Debtor agrees to reimburse Bank, on demand, for any such payment made by Bank. Any amounts so paid shall be added to the Obligations.

WAIVERS. Debtor waives presentment, demand, protest, notice of dishonor, notice of default (except for notices expressly provided for in any Loan Documents to which the Debtor is a party), demand for payment, notice of intention to accelerate, and notice of acceleration of maturity. Debtor further agrees not to assert against Bank as a defense (legal or equitable), as a set-off, as a counterclaim, or otherwise, any claims Debtor may have against any seller or lessor that provided personal property or services relating to any part of the Collateral. Debtor waives all exemptions and homestead rights with regard to the Collateral. **Debtor waives any and all rights to notice or to hearing prior to Bank's taking immediate possession or control of any Collateral**, and to any bond or security which might be required by applicable law prior to the exercise of any of Bank's remedies against any Collateral.

EXTENSIONS, RELEASES. Debtor agrees that Bank may extend, renew or modify any of the Obligations and grant any releases, compromises or indulgences with respect to any security for the Obligations, or with respect to any party liable for the Obligations, all without notice to or consent of Debtor and without affecting the liability of Debtor or the enforceability of this Security Agreement.

NOTIFICATIONS OF CHANGE. Debtor will notify Bank in writing at least 30 days prior to any change in: (i) Debtor's chief place of business and/or residence; (ii) Debtor's name or identity; or (iii) Debtor's corporate/organizational structure. Debtor will keep the Collateral at the location(s) previously provided to Bank until such time as Bank provides written advance consent to a change of location. Debtor will bear the cost of preparing and filing any documents necessary to protect Bank's liens.

COLLATERAL CONDITION AND LAWFUL USE. Debtor represents that the Collateral is in good repair and condition and that Debtor shall use reasonable care to prevent the Collateral from being damaged or depreciating. Debtor shall immediately notify Bank of any material loss or damage to Collateral. Debtor shall not permit any material item of equipment to become a fixture to real estate or an accession to other personal property. Debtor represents it is in compliance, in all material respects, with all federal, state and local laws, rules and regulations applicable to its properties, Collateral, operations, business, and finances, including, without limitation, any federal or state laws relating to liquor (including 18 U.S.C. § 3617, et seq.) or narcotics (including 21 U.S.C. § 801, et seq.) and all applicable federal, state and local laws, and regulations intended to protect the environment.

RISK OF LOSS AND INSURANCE. Debtor shall bear all risk of loss with respect to the Collateral. The injury to or loss of Collateral, either partial or total, shall not release Debtor from payment or other performance hereof. Debtor agrees to obtain and keep in force casualty and hazard insurance on the Collateral naming Bank as loss payee. Such insurance is to be in form and amounts reasonably satisfactory to Bank. All such policies shall provide to Bank a minimum of 30 days written notice of cancellation. Debtor shall furnish to Bank such policies, or other evidence of such policies satisfactory to Bank. If a Default then exists, Bank is authorized, but not obligated, to purchase any or all insurance or "Single Interest Insurance" protecting such interest as Bank deems appropriate against such risks and for such coverage and for such amounts, including either the loan amount or value of the Collateral, all at its discretion, and at Debtor's expense. In such event, Debtor agrees to reimburse Bank for the cost of such insurance and Bank may add such cost to the Obligations. Debtor shall bear the risk of loss to the extent of any deficiency in the effective insurance coverage with respect to loss or damage to any of the Collateral. Debtor hereby assigns to Bank the proceeds of all such insurance and directs any insurer to make payments directly to Bank (provided, that, the Debtor, if (a) no Default then exists, (b) the Debtor desires to use the proceeds to repair or replace the applicable Collateral and (c) the loss or damage involved is \$100,000 or less, shall have the right to have the proceeds paid directly to it). The Bank, subject to the provisions of the last sentence of this paragraph, shall have the right to apply such proceeds, at its election, to either (i) the payment of the Obligations (whether or not then matured) or (ii) the repair or replacement of the applicable damaged or destroyed Collateral. Debtor hereby appoints Bank its attorney-in-fact, with full power of substitution, which appointment shall be irrevocable and coupled with an interest for so long as the Obligations are unpaid, to file proof of loss and/or any other forms required to collect from any insurer any amount due from any damage or destruction of Collateral, to agree to and bind Debtor as to the amount of said recovery, to designate payee(s) of such recovery, to grant releases to insurer, to grant subrogation rights to any insurer, and to endorse any settlement check or draft. Debtor agrees not to exercise any of the foregoing powers granted to Bank without the Bank's prior written consent. Notwithstanding the foregoing, if no Default shall then exist and the loss or damage involved is less than \$500,000, the Debtor shall have the right to file such claims and agree to the amount of such recovery and determine whether the insurance proceeds are to be applied to (a) the repair or replacement of the applicable damaged or destroyed Collateral or (b) the payment of the Obligations; provided, that, (i) the Bank shall have the right to approve any such recovery, such approval not to be unreasonably withheld or delayed, (ii) the Debtor must apply the proceeds for the uses described in clauses (a) and (b) and no others, (iii) if the loss or damage involved exceeds \$100,000, the Bank shall have the right to directly receive and to hold the insurance proceeds as cash collateral and to disburse same to Debtor (for such uses) upon conditions

reasonably imposed by the Bank, and (iv) if a Default at any time exists, the Debtor shall no longer have the rights granted under this sentence.

FINANCING STATEMENTS. Except as set forth on Schedule 1 attached hereto, no financing statement (other than any filed by Bank or evidencing a lien permitted under the Loan Agreement) covering any of the Collateral or proceeds thereof is on file in any public filing office. The Debtor has obtained valid payoff letters as to all of the obligations secured by each financing statement listed on schedule 1 and each such financing statement shall be terminated as of record no later than five (5) business days after the date hereof. This Security Agreement, or a copy thereof, or any financing statement executed hereunder may be recorded. On request of Bank, Debtor will execute one or more financing statements in form satisfactory to Bank and will pay all costs and expenses of filing the same or of filing this Security Agreement in all public filing offices, where filing is deemed by Bank to be desirable. Bank is authorized to file financing statements relating to Collateral without Debtor's signature where authorized by law. Debtor appoints Bank as its attorney-in-fact to execute such documents necessary to accomplish perfection of Bank's security interest. The appointment is coupled with an interest and shall be irrevocable as long as any Obligations remain outstanding. Debtor further agrees to take such other actions as might be requested for the perfection, continuation and assignment, in whole or in part, of the security interests granted herein. If certificates are issued or outstanding as to any of the Collateral, Debtor will cause the security interests of Bank to be properly protected, including perfection of notation thereon.

CERTAIN COVENANTS RELATING TO COPYRIGHTS. The Debtor shall:

(i) Employ any material copyright of the Debtor for any material work of the Debtor with such notice of copyright as may be required by law to secure copyright protection.

(ii) Not do any act or knowingly omit to do any act whereby any material copyright of the Debtor may become invalidated and (A) not do any act, or knowingly omit to do any act, whereby any such material copyright may become injected into the public domain; (B) notify the Bank immediately if it knows, or has reason to know, that any material copyright may become injected into the public domain or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any court or tribunal in the United States or any other country) regarding the Debtor's ownership of any such material copyright or its validity; (C) take all necessary steps as it shall deem appropriate under the circumstances, to maintain, enforce, prosecute and pursue each application, and to obtain the registration of, and to maintain and enforce each registration of each material copyright of the Debtor including, without limitation, filing of applications for renewal where necessary and diligently monitoring unauthorized use thereof; and (D) promptly notify the Bank of any material infringement of any material copyright of the Debtor, or any claim that a material copyright, owned or licensed by the Debtor infringes, in a material manner, on the rights of a third party of which it becomes aware and take such actions as it shall reasonably deem appropriate under the circumstances to protect such material copyright, including, where appropriate, the bringing of suit for infringement, seeking injunctive relief and seeking to recover any and all damages for such infringement. Without limiting the generality of the foregoing, the Debtor agrees to obtain copyright registration with the United States Copyright Office for any material copyright of the Debtor.

(iii) Not make any assignment or agreement in conflict with the security interest granted to the Bank in the copyrights of the Debtor.

CERTAIN COVENANTS RELATING TO PATENTS AND TRADEMARKS. The Debtor shall:

(i) (A) To the extent applicable to the Debtor's business, continue to use each material trademark on each and every trademark class of goods or service applicable to its current line as reflected in its current catalogs, brochures and price lists in order to maintain such trademark in full force free from any claim of abandonment for non-use, (B) maintain as in the past the quality of goods and services offered under such trademarks, (C) employ such trademarks, with the appropriate notice of registration, (D) not adopt or use any mark which is confusingly similar or a colorable imitation of such trademark unless the Bank shall obtain a perfected security interest in such mark pursuant to this Security Agreement and any necessary filings with the United States Patent and Trademark Office, and (E) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any such trademark may become invalidated.

(ii) Not do any act, or omit to do any act, whereby any material patent (if any) of the Debtor may become abandoned or dedicated.

(iii) Notify the Bank immediately if Debtor knows, or has reason to know, that any application or registration relating to any material patent or trademark of the Debtor may become abandoned or dedicated, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office or any court or tribunal in any country) regarding the Debtor's ownership of any material patent or trademark or its right to register the same or to keep, enforce and maintain the same.

(iv) Take all reasonable and necessary steps, including, without limitation, in any proceeding before the United States Patent and Trademark Office, or any similar office or agency in any other country or any political subdivision thereof, to maintain, enforce, prosecute and pursue each application (and to obtain the relevant registration), to maintain and enforce each registration of the material patents (if any) and trademarks of the Debtor, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability and to make application on unpatented but patentable inventions. Without limiting the generality of the foregoing, the Debtor hereby agrees to register with the United States Patent and Trademark Office all material trademarks of the Debtor.

(v) Promptly notify the Bank after it learns that any material patent or trademark is (i) infringed, misappropriated or diluted by a third party and promptly sue for infringement, misappropriation or dilution, to seek injunctive relief where appropriate and to recover any and all damages for such infringement, misappropriation or dilution, or take such other actions as it shall reasonably deem appropriate under the circumstances to protect such material patent or trademark or (ii) the subject of a claim of infringement, misappropriation or dilution brought by a third party.

(vi) Not make any assignment or agreement in conflict with the security interest of the Bank in the patents or trademarks of the Debtor.

NEW PATENTS, COPYRIGHTS AND TRADEMARKS. Debtor shall promptly provide the Bank with (1) (i) notice and a listing of any (A) new copyrights, patents or trademarks obtained or otherwise held by the Debtor, (B) any new applications, registrations or letters therefor, (C) or any new Licenses to which the Debtor becomes a party, and (D) the issuance of registrations or letters on present applications, which new copyrights, patents and trademarks and applications and issued registrations, letters and Licenses shall be subject to the terms and conditions hereunder, and (ii) (A) with respect to copyrights (except non-material copyrights which the Debtor chooses not to register), a duly executed notice of security interest in copyrights, (B) with respect to patents, a duly executed notice of security interest in patents, (C) with respect to trademarks (except non-material trademarks which the Debtor chooses not to register), a duly executed notice of security interest in trademarks or (D)

such other duly executed documents as the Bank may reasonably request, all in a form reasonably acceptable to counsel for the Bank and suitable for recording to evidence the security interest in any new copyright, patent or trademark.

LANDLORD WAIVERS. Debtor shall, upon the request of the Bank, cause each landlord of real property leased by Debtor to execute and deliver instruments satisfactory in form and substance to Bank by which such landlord waives its rights, if any, in the Collateral.

STOCK, DIVIDENDS. If, with respect to any security pledged hereunder, a stock dividend is declared, any stock split made or right to subscribe is issued, all the certificates for the shares representing such stock dividend, stock split or right to subscribe will be immediately delivered, duly endorsed, to the Bank as additional collateral, and any cash or non-cash proceeds and products thereof, including investment property and security entitlements will be immediately delivered to Bank. If Debtor has granted to Bank a security interest in securities, Debtor acknowledges that such grant includes all investment property and security entitlements, now existing or hereafter arising, relating to such securities. In addition, Debtor agrees to execute such notices and instructions to securities intermediaries as Bank may reasonably request.

CONTRACTS, CHATTEL PAPER, ACCOUNTS, GENERAL INTANGIBLES. Debtor warrants that Collateral consisting of contract rights, chattel paper, accounts, or general intangibles is (i) genuine and enforceable in accordance with its terms except as limited by law; (ii) not subject to any defense, set-off, claim or counterclaim of a material nature against Debtor except as to which Debtor has notified Bank in writing; and (iii) not subject to any other circumstances that would impair the validity, enforceability, value, or amount of such Collateral except as to which Debtor has notified Bank in writing. Debtor shall not amend, modify or supplement any lease, contract or agreement contained in Collateral or waive any provision therein, without prior written consent of Bank.

ACCOUNT INFORMATION. From time to time, at the Bank's request (which request shall, provided no Default then exists, be reasonable), Debtor shall provide Bank with schedules describing all accounts and contracts, including customers' addresses, credited or acquired by Debtor and at the Bank's request shall execute and deliver written assignments of contracts and other documents evidencing such accounts and contracts to Bank. Together with each schedule, Debtor shall, if requested by Bank, furnish Bank with copies of Debtor's sales journals, invoices, customer purchase orders or the equivalent, and original shipping or delivery receipts for all goods sold, and Debtor warrants the genuineness thereof.

ACCOUNT AND CONTRACT DEBTORS. Upon the occurrence and any time during the continuance of any Default, Bank shall have the right to notify the account and contract debtors obligated on any or all of the Collateral to make payment thereof directly to Bank and Bank may take control of all proceeds of any such Collateral, which rights Bank may exercise at any time. The cost of such collection and enforcement, including attorneys' fees and expenses, shall be borne solely by Debtor whether the same is incurred by Bank or Debtor. After a Default occurs and any time during the continuance of such Default, upon demand of Bank, Debtor will, upon receipt of all checks, drafts, cash and other remittances in payment on Collateral, deposit the same in a special bank account maintained with Bank, over which Bank also has the power of withdrawal.

If a Default has occurred and is continuing, no discount, credit, or allowance shall be granted by Debtor to any account or contract debtor and no return of merchandise shall be accepted by Debtor without Bank's consent. Bank may, after and any time during the continuance of a Default, settle or adjust disputes and claims directly with account contract debtors for amounts and upon terms that Bank considers advisable, and in such cases, Bank will credit the Obligations with the net amounts received

by Bank, after deducting all of the reasonable expenses incurred by Bank. Debtor agrees to indemnify and defend Bank and hold it harmless with respect to any claim or proceeding arising out of any matter related to collection of Collateral except that such indemnification shall not apply to any claim to the extent it results from the gross negligence or willful misconduct of the Bank.

GOVERNMENT CONTRACTS. If any Collateral covered hereby arises from obligations due to Debtor from any governmental unit or organization, Debtor shall immediately notify Bank in writing and execute all documents and take all actions demanded by Bank to ensure recognition by such governmental unit or organization of the rights of Bank in the Collateral.

INVENTORY. So long as no Default then exists, Debtor shall have the right in the regular course of business, to process and sell Debtor's inventory. Upon demand of Bank (which may be made upon the occurrence and at any time during the continuance of an Event of Default), Debtor will, upon receipt of all checks, drafts, cash and other remittances, in payment of Collateral sold, deposit the same in a special bank account maintained with Bank, over which Bank also has the power of withdrawal. Debtor shall comply with all federal, state, and local laws, regulations, rulings, and orders applicable to Debtor or its assets or business, in all material respects. Without limiting the generality of the previous sentence, Debtor shall comply with all requirements of the federal Fair Labor Standards Act in the conduct of its business and the production of inventory. Debtor shall notify Bank immediately of any violation by Debtor of the Fair Labor Standards Act, and a failure of Debtor to so notify Bank shall constitute a continuing representation that all inventory then existing has been produced in compliance with the Fair Labor Standards Act.

INSTRUMENTS, CHATTEL PAPER. Any Collateral that is instruments, chattel paper and negotiable documents will be properly assigned to, deposited with and held by Bank, unless Bank shall hereafter otherwise direct or consent in writing. Bank may, without notice, before or after maturity of the Obligations, exercise any or all rights of collection, conversion, or exchange and other similar rights, privileges and options pertaining to Collateral, but shall have no duty to do so.

COLLATERAL DUTIES. Bank shall have no custodial or ministerial duties to perform with respect to Collateral pledged except as set forth herein (provided that, the Bank will use reasonable care to protect Collateral in its actual possession, further provided that in so doing, the Bank shall not be required to use more care than it normally uses in protecting or preserving its own similar property); and by way of explanation and not by way of limitation, Bank shall incur no liability for any of the following: (i) loss or depreciation of Collateral (unless caused by its willful misconduct), (ii) its failure to present any paper for payment or protest, to protest or give notice of nonpayment, or any other notice with respect to any paper or Collateral, or (iii) its failure to present or surrender for redemption, conversion or exchange any bond, stock, paper or other security whether in connection with any merger, consolidation, recapitalization, or reorganization, arising out of the refunding of the original security, or for any other reason, or its failure to notify any party hereto that Collateral should be so presented or surrendered.

TRANSFER OF COLLATERAL. The Bank may assign its rights in the Collateral or any part thereof to any assignee who shall thereupon become vested with all the powers and rights herein given to the Bank with respect to the property so transferred and delivered, and the Bank shall thereafter be forever relieved and fully discharged from any liability with respect to such property so transferred, but with respect to any property not so transferred the Bank shall retain all rights and powers hereby given.

SUBSTITUTE COLLATERAL. With prior written consent of Bank, other Collateral may be substituted for the original Collateral herein in which event all rights, duties, obligations, remedies and security

interests herein provided for, created or granted shall apply fully to such substitute Collateral.

INSPECTION, BOOKS AND RECORDS. Debtor will at all times keep accurate and complete records covering each item of Collateral, including the proceeds therefrom. Bank, or any of its agents, shall have the right, during normal business hours and upon giving the Debtor at least three (3) days prior written notice of its intent to inspect (provided no such notice shall be required if a Default then exists), at intervals to be determined by Bank and without hindrance or delay, to inspect, audit, and examine the Collateral and to make extracts from the books, records, journals, orders, receipts, correspondence and other data relating to Collateral, Debtor's business or any other transaction between the parties hereto. Debtor will at its expense furnish Bank copies thereof as reasonably requested.

POWER OF ATTORNEY. In addition to other powers of attorney contained herein, the Debtor hereby designates and appoints the Bank, as attorney-in-fact of the Debtor, irrevocably and with power of substitution, with authority to take any or all of the following actions upon the occurrence and during the continuance of a Default:

(i) to demand, collect, settle, compromise, adjust, give discharges and releases, all as the Bank may in good faith determine;

(ii) to commence and prosecute any actions at any court for the purposes of collecting any Collateral and enforcing any other right in respect thereof;

(iii) to defend, settle or compromise any action brought and, in connection therewith, give such discharge or release as the Bank may in good faith deem appropriate;

(iv) endorse checks, notes, drafts, acceptances, money orders, bills of lading, warehouse receipts or other instruments or documents evidencing payment, shipment or storage of the goods giving rise to the Collateral of the Debtor on behalf of and in the name of the Debtor, or securing, or relating to such Collateral;

(v) sell, assign, transfer, make any agreement in respect of, or otherwise deal with or exercise rights in respect of, any Collateral or the goods or services which have given rise thereto, as fully and completely as though the Bank were the absolute owner thereof for all purposes, including the right to assign trademarks, patents and copyrights;

(vi) endorse the Debtor's name on all applications, documents, papers and instruments necessary or desirable for the Bank in the use or transfer of the patents, copyrights, trademarks and Licenses;

(vii) grant or issue any exclusive or nonexclusive license under patents, copyrights, and trademarks or, to the extent permitted, under licenses, to anyone on commercially reasonable terms; and

(viii) do and perform all such other acts and things as the Bank may reasonably deem to be necessary, proper or convenient in connection with the Collateral and/or to carry out the Bank's rights and remedies hereunder.

This power of attorney is coupled with an interest and shall be irrevocable for so long as Obligations remain outstanding or any credit facility between the Debtor and the Bank remains in effect. The Bank shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to the Bank in this Security Agreement, and shall not be liable for any failure to do so or any delay in doing so. The Bank shall not be liable for any act or omission

or for any error of judgment or any mistake of fact or law in its individual capacity or its capacity as attorney-in-fact (whether hereunder or under another power of attorney granted hereunder) except acts or omissions resulting from its gross negligence or willful misconduct.

ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION. Debtor shall pay all of Bank's reasonable expenses incurred in enforcing this Agreement and in preserving and liquidating Collateral, including but not limited to, reasonable arbitration, paralegals', attorneys' and experts' fees and expenses, whether incurred with the commencement of a suit, in any trial, arbitration, or administrative proceeding, or in any appellate or bankruptcy proceeding.

DEFAULT. If any of the following occurs, a default ("Default") under this Security Agreement shall exist: (i) A Default shall occur under the Term Note, the Line of Credit Note or any other Loan Document; (ii) Any breach by the Debtor of any agreement contained in this Security Agreement and such breach shall continue (without being cured) for a period of thirty (30) days after the Bank notifies the Debtor of such breach except that (x) a breach under the following provisions shall be an immediate Default and the Debtor shall not have the benefit of such thirty (30) day grace period (or any other grace period): (A) any agreement contained in (aa) the first and third sentences of the paragraph entitled "Ownership" or (bb) the second sentence of the paragraph entitled "Title/Taxes", and (B) any provision requiring the Debtor to maintain insurance under the paragraph entitled "Risk of Loss and Insurance", (y) any failure to give to the Bank any notice required under the paragraphs entitled "Notifications of Change", "Government Contracts" and "Inventory" shall be an immediate Default and the Debtor shall not have the benefit of such thirty (30) day grace period (or any other grace period) and (z) any failure to give any other notice required hereunder which such failure shall continue (without being cured) for a period of thirty (30) days shall be a Default whether or not the Bank shall have given the Debtor any notice thereof; (iii) any representation or warranty of the Debt or hereunder proves to be materially false or, if of a continuing nature, becomes materially false; (iv) Any loss, theft, substantial damage, or destruction of Collateral not fully covered by insurance, or as to which insurance proceeds are not remitted to Bank (except for insurance proceeds which this Agreement expressly states may be sent to and retained by the Debtor) within 30 days of the loss; or the making of any levy, seizure, or attachment on or of Collateral which is not removed within 10 business days; or (v) the death of, appointment of guardian for, dissolution of, termination of existence of or loss of good standing status by Debtor or any guarantor; appointment of a receiver for, assignment for the benefit of creditors of, or commencement of any bankruptcy or insolvency case or proceeding by or against the Debtor or any guarantor, and, in the case of such a case or proceeding which is involuntary, either (x) such case or proceeding is not dismissed within sixty (60) days of the commencement thereof or (y) the Debtor or guarantor, as the case may be, fails to in good faith and diligently contest same.

REMEDIES ON DEFAULT (INCLUDING POWER OF SALE). Upon the occurrence and any time during the continuance of a Default, the Bank may (in addition to any of its other rights and remedies), (i) declare all of the Obligations to be immediately due and payable, whereupon same shall become immediately due and payable and/or (ii) exercise all the rights and remedies of a secured party under the Uniform Commercial Code. Without limitation thereto, Bank shall have the following rights and remedies: (i) to take immediate possession of Collateral, without notice or resort to legal process, and for such purpose, to enter upon any premises on which Collateral or any part thereof may be situated and to remove the same therefrom, or, at its option, to render the Collateral unusable or dispose of said Collateral on Debtor's premises; (ii) to require Debtor to assemble the Collateral and make it available to Bank at a place to be designated by Bank; (iii) to exercise its right of set-off or bank lien as to any monies of Debtor deposited in demand, checking, time, savings, certificate of deposit or other accounts of any nature maintained by Debtor with Bank or Affiliates of Bank, without advance notice, regardless

of whether such accounts are general or special; (iv) to collect any Collateral; and (v) to dispose of Collateral, as a unit or in parcels, separately or with any real property interests also securing the Obligations, in any county or place to be selected by Bank, at either private or public sale (at which public sale bank may be the purchaser) with or without having the Collateral physically present at said sale. Any notice of sale, disposition or other action by Bank required by law and sent to Debtor at Debtor's address shown above, or at such other address of Debtor as may from time to time be shown on the records of Bank, at least 10 days prior to such action, shall constitute reasonable notice to Debtor. Notice shall be deemed given or sent when mailed postage prepaid to Debtor's address as provided herein. Bank shall be entitled to apply the proceeds of any sale or other disposition of the Collateral, and the payments received by Bank with respect to any of the Collateral, to the Obligations in such order and manner as Bank may determine. Collateral that is subject to rapid declines in value and is customarily sold in recognized markets may be disposed of by Bank in a recognized market for such Collateral without providing notice of sale.

REMEDIES ARE CUMULATIVE. No failure on the part of Bank to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Bank of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein provided are cumulative and are not exclusive of any remedies provided by law, in equity, or in other Loan Documents.

MISCELLANEOUS. (i) **Amendments and Waivers.** No waiver, amendment or modification of any provision of this Security Agreement shall be valid unless in writing and signed by an officer of Bank. No waiver by Bank of any Default shall operate as a waiver of any other Default or of the same Default on a future occasion. Neither the failure of, nor any delay by, Bank in exercising any right, power or privilege granted pursuant to this Security Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. (ii) **Assignment.** All rights of Bank hereunder are freely assignable, in whole or in part, and shall inure to the benefit of and be enforceable by Bank, its successors, assigns and affiliates. Debtor shall not assign its rights and interest hereunder without the prior written consent of Bank, and any attempt by Debtor to assign without Bank's prior written consent is null and void. Any assignment shall not release Debtor from the Obligations. This Security Agreement shall be binding upon Debtor, and the heirs, personal representatives, successors, and assigns of Debtor. (iii) **Applicable Law; Conflict Between Documents.** This Security Agreement shall be governed by and construed under the law of the state named in Bank's address shown above without regard to that state's conflict of laws principles. If any terms of this Security Agreement conflict with the terms of any commitment letter or loan proposal, the terms of this Security Agreement shall control. (iv) **Jurisdiction.** Debtor irrevocably agrees to non-exclusive personal jurisdiction in the state named in Bank's address shown above. (v) **Severability.** If any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Security Agreement. (vi) **Notices.** Any notices to Debtor shall be sufficiently given, if in writing and mailed or delivered to the address of Debtor shown above or such other address as provided hereunder; and to Bank, if in writing and mailed or delivered to Bank's office address shown above or such other address as Bank may specify in writing from time to time. In the event that the Debtor changes Debtor's mailing address at any time prior to the date the Obligations are paid in full, Debtor agrees to promptly give written notice of said change of address by registered or certified mail, return receipt requested, all charges prepaid. (vii) **Captions.** The captions contained herein are inserted for convenience only and shall not affect the meaning or interpretation of this Security Agreement or any provision hereof. The use of the plural shall also mean the singular, and vice versa. (viii) **Loan**

Documents. The term "Loan Documents" shall have the meaning given that term in the Note. (ix) **Joint and Several Liability.** If more than one person has signed this Security Agreement, such parties are jointly and severally obligated hereunder. (x) **Binding Contract.** Debtor by execution and Bank by acceptance of this Security Agreement, agree that each party is bound by all terms and provisions of this Security Agreement.

(REST OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, Debtor, on the day and year first written above, has caused this Security Agreement to be executed under seal.

Heathkit Company, Inc.

Taxpayer Identification Number: 38-3393222

By: Peter J. Buttrick

Name: Peter J. Buttrick

Title: President

COMMONWEALTH OF PENNSYLVANIA :

: ss

COUNTY OF PHILADELPHIA :

On this 10th day of February, 1999, before me, a Notary Public, personally appeared Peter J. Buttrick who acknowledged himself/herself to be the President of Heathkit Company, Inc. and that he/~~she~~ as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

S. J. Kadin

Notary Public

My Commission Expires: 11-21-2002

Notarial Seal
Susan J. Kadin, Notary Public
Philadelphia, Philadelphia County
My Commission Expires Nov. 21, 2002
Member, Pennsylvania Association of Notaries

Schedule 1

UCC-1 Financing Statement naming Heathkit Company as Debtor and NBD Bank as secured party filed 6/24/98 with the Michigan Secretary of State, filing no. D390044.

FINN DIXON & HERLING LLP

ATTORNEYS AT LAW

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DIRECT DIAL: (203) 325-5020
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February 12, 1999

VIA FEDERAL EXPRESS

Commissioner of Trademarks & Patents
Box Assignments
Washington, D.C. 20231

Re: Heathkit Company, Inc.

Dear Sir/Madam:

On behalf of the above-referenced company, I enclose herewith for recording a Notice of Grant of Security Interest in Trademarks and Service Marks. Also enclosed is a check in the amount of \$315.00 in accordance with the applicable filing fees.

Kindly acknowledge receipt of this filing by date-stamping the duplicate copy of this letter and returning it to me in the envelope provided herein.

Should you have any questions, please feel free to contact the undersigned at the above number.

Very truly yours,

A handwritten signature in cursive script, reading "Lynn A. Forbes".

Lynn A. Forbes
Legal Assistant

Enclosure