

08-25-1999

FORM 1595

MAD
8.19.99

RECORDATION FORM COV
TRADEMARKS ONI



COMMERCE
Trademark Office

101125392

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

1. Name of conveying party(ies):

Othy, Inc.

- Individual
- General Partnership
- Corporation-State - Indiana
- Other
- Association
- Limited Partnership

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

2. Name and address of receiving party(ies):

NAME ALLFIRST BANK

Street Address: 25 S. Charles Street

City Baltimore

State Maryland ZIP 21201

Other a Maryland state-chartered commercial bank

AND

NAME Robert Fleming & Co. Limited

Street Address: 25 Copthall Avenue

London U.K. EC2R 7DR

an English merchant banking company

If assignee is not domiciled in the United States, a domestic representative designation is attached:

Yes No N/A

Additional name(s) & addresses(es) attached?

Yes No

3. Name of Conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other SECOND AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT

Execution Date: August 12, 1999

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,410,348

2,060,855

Additional numbers attached? Yes No

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

Name: Raymond A. Kurz, Esquire

Internal Address: ROTHWELL, FIGG, ERNST & KURZ, P.C.

Columbia Square Suite 701 East

Street Address: 555 13th Street, N.W.

City: Washington

State: D.C. Zip 20004

6. Total number of applications and registrations involved: TWO

7. Total fee (37 CFR 3.41): . . . \$ 65.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

02-2135

08/23/1999 MTHA11 00000101 1410348

DO NOT USE THIS SPACE

01 FC:481
02 FC:482

40.00 OP
25.00 OP

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.

G. Franklin Rothwell, Esquire

Name of Person Signing

G. F. Rothwell

Signature

8.13.99

Date

1419-150
202-783-6040

Total number of pages including cover sheet, attachments and documents: 13

1419-150.CV2

08/23/1999 MTHA11 00000101 1410348
25.00 OP

TRADEMARK
REEL: 001947 FRAME: 0492

EXHIBIT "A"
Schedule Of Trademarks
(Othy, Inc.)

a. Federal Trademark/Service Mark Registrations

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
OTHY	1,410,348	09/23/86
OTHY TOTAL INSTRUMENT SOLUTIONS	2,060,855	05/13/97

b. Federal Trademark Applications Pending

<u>Trademark</u>	<u>Serial No.</u>	<u>Filing Date</u>
NONE		

THE ASSIGNMENTS OF TRADEMARKS AS COLLATERAL SECURITY DATED AUGUST 1, 1996 AND RECORDED ON AUGUST 27, 1996 WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE AT REEL 1496, FRAME 0857 AND AT REEL 1496, FRAME 0921, AS AMENDED, RESTATED AND CONSOLIDATED BY AN AMENDED, RESTATED, AND CONSOLIDATED TRADEMARK SECURITY AGREEMENT DATED NOVEMBER 12, 1998 WHICH WAS RECORDED ON DECEMBER 4, 1998 WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE AT REEL 1825, FRAME 0357, ARE HEREBY AMENDED AND RESTATED IN THEIR ENTIRETIES AS SET FORTH BELOW.

**SECOND AMENDED AND RESTATED
TRADEMARK SECURITY AGREEMENT**
(Othy, Inc.)

THIS SECOND AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT ("AGREEMENT") is made to be effective as of the 12th day of August, 1999, by and between OTHY, INC., an Indiana corporation ("ASSIGNOR"), with its mailing address at 486 W. 350 N., Warsaw, Indiana 46580, and ALLFIRST BANK (formerly known as The First National Bank Of Maryland), a Maryland state-chartered commercial bank, Individually and in the capacity of Agent, having its principal place of business at 25 S. Charles Street, Baltimore, Maryland 21201 ("LENDER").

RECITALS

The ASSIGNOR executed and delivered to the LENDER two Assignments Of Trademarks As Collateral Security dated August 1, 1996, which were recorded with the United States Patent And Trademark Office on August 27, 1996 at Reel 1496, Frame 0857 and at Reel 1496, Frame 0921, which were amended, restated and consolidated by an Amended, Restated And Consolidated Trademark Security Agreement dated November 12, 1998 which was recorded with the United States Patent And Trademark Office on December 4, 1998 at Reel 1825, Frame 0357 (collectively, as amended and restated, "ASSIGNMENT").

The ASSIGNOR, the LENDER, ROBERT FLEMING & CO. LIMITED, an English merchant banking company ("FLEMING"), and various other entities, have entered into two Fifth Modification Agreements of even date herewith pursuant to which the parties have agreed to amend and restate the ASSIGNMENT in its entirety as this AGREEMENT.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, the ASSIGNOR agrees with the LENDER that the ASSIGNMENT shall be amended and restated in its entirety as set forth below:

LENDER that the ASSIGNMENT shall be amended and restated in its entirety as set forth below:

Section 1. Defined Terms. The following terms shall have the following meanings:

"GUARANTY" means the Guaranty And Security Agreement dated August 1, 1996, executed and delivered by the ASSIGNOR for the benefit of the LENDER, FLEMING, and their successors and assigns, as amended and restated in its entirety by a Second Amended And Restated Guaranty And Security Agreement of even date herewith, as such Second Amended And Restated Guaranty And Security Agreement may be subsequently amended and restated from time to time.

"LOAN DOCUMENTS" collectively means, as the same may be amended, modified, restated, extended, renewed, supplemented, or replaced from time to time, the OTHY LOAN AGREEMENT, the POLY-VAC LOAN AGREEMENT, the GUARANTY, and all other agreements, promissory notes, writings, pledges, and other documents relating or pertaining to or evidencing the LOANS, or any of the other OBLIGATIONS.

"LOANS" collectively means, as the same may be amended, modified, restated, extended, renewed, supplemented, or replaced from time to time, the OTHY TERM LOANS, the OTHY EURO TERM LOAN, the OTHY REVOLVING LOAN, the POLY-VAC TERM LOANS, the POLY-VAC EURO TERM LOAN, and the POLY-VAC REVOLVING LOAN.

"OBLIGATIONS" means, as the same may be amended, modified, restated, extended, renewed, supplemented, increased, refinanced, consolidated or replaced from time to time, all duties of payment and performance, whether direct or indirect, currently existing or hereafter arising, owed by the ASSIGNOR to the LENDER, individually or in its capacity as Agent, or to FLEMING, or to any successor or assign of the LENDER or of FLEMING, in connection with or arising from any or all of the LOANS, the GUARANTY, or the LOAN DOCUMENTS, or any other credit facilities or loans extended in the future to the ASSIGNOR or to POLY-VAC by either or both of the LENDER and FLEMING, including without limitation all principal, interest, fees, charges, guaranties, duties of indemnification, as well as all costs and expenses, including attorneys' fees and expenses payable by the ASSIGNOR or by POLY-VAC pursuant to or in connection with this AGREEMENT or any other LOAN DOCUMENTS, or any other agreements or documents evidencing any transaction, loan, guaranty, or agreement of indemnification or reimbursement arising in the future between the ASSIGNOR and/or POLY-VAC and either or both of the LENDER and FLEMING.

"OTHY EURO TERM LOAN" means the term loan in the amount of €1,025,000.00 extended to the ASSIGNOR by FLEMING.

"OTHY LOAN AGREEMENT" means, as the same may be amended, modified, restated, extended, renewed, supplemented, or replaced from time to time, the Loan And Security Agreement dated August 1, 1996 by and between the LENDER, the ASSIGNOR, and FLEMING, as amended and restated in its entirety by a Second Amended And Restated Loan And Security Agreement of even date herewith.

"OTHY REVOLVING LOAN" means the revolving credit facility extended by the LENDER in its individual capacity to the ASSIGNOR pursuant to which the ASSIGNOR may borrow from the LENDER principal sums not to exceed Three Million Dollars (\$3,000,000.00) in aggregate amount outstanding at any one time until August 1, 2001, at which time all unpaid sums are to be repaid in full, as such revolving credit facility may be amended, modified, extended, increased or decreased from time to time.

"OTHY TERM LOANS" collectively means the following two (2) term loans, as such OTHY TERM LOANS may be amended, modified, extended, increased or decreased from time to time: (a) the term loan credit facility in the unpaid principal amount of \$1,459,675.00 extended to the ASSIGNOR by FLEMING; and (b) the term loan credit facility in the unpaid principal amount of \$2,009,075.00 extended to the ASSIGNOR by the LENDER.

"POLY-VAC" means Poly-Vac, Inc., a New Hampshire corporation.

"POLY-VAC EURO TERM LOAN" means the term loan in the amount of €1,025,000.00 extended to POLY-VAC by FLEMING.

"POLY-VAC LOAN AGREEMENT" means, as the same may be amended, modified, restated, extended, renewed, supplemented, or replaced from time to time, the Loan And Security Agreement dated August 1, 1996 by and between the LENDER, POLY-VAC, and FLEMING, as amended and restated in its entirety by a Second Amended And Restated Loan And Security Agreement of even date herewith.

"POLY-VAC REVOLVING LOAN" means the revolving credit facility extended by the LENDER in its individual capacity to POLY-VAC pursuant to which POLY-VAC may borrow from the LENDER principal sums not to exceed Three Million Dollars (\$3,000,000.00) in aggregate amount outstanding at any one time until August 1, 2001, at which time all unpaid sums are to be repaid in full, as such revolving credit facility may be amended, modified, extended, increased or decreased from time to time.

"POLY-VAC TERM LOANS" collectively means the following two (2) term loans, as such POLY-VAC TERM LOANS may be amended, modified, extended,

increased or decreased from time to time: (a) the term loan credit facility in the unpaid principal amount of \$4,379,025.00 extended to POLY-VAC by FLEMING; and (b) the term loan credit facility in the unpaid principal amount of \$6,027,225.00 extended to POLY-VAC by the LENDER.

"TRADEMARKS" shall collectively mean all right, title and interest of the ASSIGNOR, whether now owned or existing or hereafter acquired or arising, in, to, under and by virtue of all trademarks, trade names, corporate names, partnership names, company names, business names, fictitious business names, trade styles, service marks, package or product designs, trade dress, logos, other source of business identifiers, and prints and labels on which any of the foregoing have appeared or appear, now existing or hereafter adopted or acquired, and all registrations and recordings thereof, and all applications for any of the foregoing, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office, together with (a) all renewals thereof, (b) all intellectual property of the ASSIGNOR and goodwill of the business to which any of the foregoing relates, (c) all present and future rights of the ASSIGNOR under all present and future license agreements relating to any of the foregoing, whether the ASSIGNOR is licensee or licensor thereunder, (d) all income, royalties, damages and payments now or hereafter due or payable under any of the foregoing or with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (e) all present and future claims, causes of action and rights to sue for past, present or future infringements thereof, (f) all general intangibles, proceeds and products related thereto, and (g) all rights corresponding thereto throughout the world. "TRADEMARKS," as defined above shall include, without limitation, all of the United States trademarks and trademark applications listed on Exhibit A attached hereto and incorporated herein by reference.

Section 2. Grant of Security Interest. The ASSIGNOR, as security for the complete and timely payment, performance and satisfaction of all of the OBLIGATIONS, hereby mortgages, pledges, hypothecates, and sets over to the LENDER and to FLEMING, and their successors and assigns, upon the following terms and conditions, and hereby grants to the LENDER and to FLEMING, and their successors and assigns, a security interest in and to, all of the ASSIGNOR'S right, title and interest in, under or by virtue of the TRADEMARKS, whether now owned or existing or hereafter acquired. This AGREEMENT is delivered pursuant to and in confirmation of the terms and conditions of the LOAN DOCUMENTS, which terms and conditions are incorporated by reference into this AGREEMENT and made a part hereof as if fully set out herein.

Section 3. Additional Trademarks. If, before the OBLIGATIONS shall have been satisfied in full, the ASSIGNOR shall (a) obtain rights to any TRADEMARKS not listed on EXHIBIT A, or to any licenses relating to any such TRADEMARKS, or (b) become entitled to the benefit of any TRADEMARK not listed on EXHIBIT A hereto or to the benefit of any license renewal, the security interest of the LENDER granted hereunder shall automatically

attach thereto and the other provisions of Section 1 shall automatically apply thereto and the ASSIGNOR shall give prompt written notice thereof to the LENDER. The ASSIGNOR irrevocably and unconditionally authorizes the LENDER to modify this AGREEMENT by amending Exhibit A to include any such additional TRADEMARKS, without any further assent or signature of the ASSIGNOR until the OBLIGATIONS have been satisfied in full. The ASSIGNOR shall, promptly after request by the LENDER, and at the ASSIGNOR'S expense, execute and deliver to the LENDER, in form and content reasonably satisfactory to the LENDER and in proper form for filing in the United States Patent and Trademark Office, such security agreements, assignments or other documents as may be reasonably required by the LENDER in order to reflect of record the LENDER'S interest therein pursuant to this AGREEMENT and the LOAN DOCUMENTS.

Section 4. Representations And Warranties. The ASSIGNOR represents and warrants that:

a. Exhibit A hereto includes all TRADEMARKS owned by the ASSIGNOR as of the date hereof. Each of the TRADEMARKS described on Exhibit A is subsisting, valid, unexpired and enforceable. None of such TRADEMARKS has been adjudged invalid, expired or unenforceable in whole or in part. None of such TRADEMARKS has been abandoned.

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 ASSIGNOR is the sole and exclusive owner of the entire 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, security interests, assignments, licenses, franchise agreements, registered user agreements and covenants by the ASSIGNOR not to sue third persons.

d. The ASSIGNOR has the unqualified right to enter into this AGREEMENT and to perform its terms.

e. The ASSIGNOR has used, and will continue to use for the duration of this AGREEMENT, proper statutory notice and markings in connection with its use of the TRADEMARKS.

Section 5. Quality Standards. The ASSIGNOR has used or required the use of, and will continue to use or require the use of for the duration of this AGREEMENT, consistent standards of quality in the manufacture of products sold and services rendered under the TRADEMARKS. ASSIGNOR agrees to do all things which the LENDER may require to maintain consistent standards of quality of the services rendered and goods sold by the ASSIGNOR in connection with the TRADEMARKS, to permit reasonable inspection

of the ASSIGNOR'S operation and to supply the LENDER with specimens of use of the TRADEMARKS upon request. ASSIGNOR shall comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to the sale, distribution and advertising of goods and services covered by this AGREEMENT.

Section 6. Maintenance of Trademarks; Prosecution Of Applications And Proceedings. The ASSIGNOR shall maintain the registration of the TRADEMARKS, and shall take all actions necessary to maintain, preserve and continue the validity and enforceability of the TRADEMARKS, including but not limited to the filing of applications for renewal, affidavits of use, affidavits of incontestability and institution and maintenance of opposition, concurrent use, interference and cancellation proceedings, and the payment of any and all application, renewal, extension or other fees. The ASSIGNOR shall have the duty, through counsel acceptable to the LENDER, to prosecute diligently any TRADEMARK applications of the TRADEMARKS pending as of the date of this AGREEMENT or thereafter until the OBLIGATIONS shall have been paid in full, to make federal application on registrable but unregistered TRADEMARKS, to file and prosecute opposition, concurrent use and cancellation proceedings and to do any and all acts which are necessary or desirable to preserve and maintain all rights in the TRADEMARKS. The ASSIGNOR shall not, without the express written consent of the LENDER, sell or assign its interest in, or grant any license under, any of the TRADEMARKS. The ASSIGNOR shall not, without the LENDER'S prior written consent, enter into any agreement (for example, a license agreement) which is inconsistent with the ASSIGNOR'S obligations under the LOAN DOCUMENTS, and the ASSIGNOR further agrees that it shall not take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would materially adversely affect the validity or enforcement of the rights transferred to the LENDER under this AGREEMENT. The ASSIGNOR shall not abandon any TRADEMARKS (including applications for TRADEMARKS) without the express written consent of the LENDER. Any expenses incurred in connection with the TRADEMARKS shall be borne by the ASSIGNOR. The ASSIGNOR hereby agrees to reimburse and indemnify the LENDER for all damages, costs and expenses, including attorney's fees, incurred by the LENDER in the fulfillment of the provisions of this Section.

Section 7. Rights Upon Default. Upon the occurrence of any default under any of the LOAN DOCUMENTS, after the expiration of any applicable notice and cure rights, in addition to all other rights and remedies available under the LOAN DOCUMENTS or under applicable law, including but not limited to the rights of a secured party under the Uniform Commercial Code in effect from time to time in Maryland, the LENDER shall have the right, at any time (but shall have no obligation) (a) to take exclusive possession and/or place a custodian in exclusive possession of any or all of the TRADEMARKS from time and to time; (b) to take, in its name or in the name of the ASSIGNOR or otherwise, such actions as the LENDER may, at any time or from time to time, deem necessary to maintain, protect, sell, liquidate, transfer, license, assign or otherwise dispose of or realize upon the

TRADEMARKS, upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. Neither the **LENDER** nor **FLEMING** shall have any liability to the **ASSIGNOR** if any action taken by the **LENDER** in good faith pursuant to the foregoing sentence shall prove to be, in whole or in part, inadequate or invalid. In addition to any other remedy provided here or in any of the **LOAN DOCUMENTS**, upon the occurrence of an **EVENT OF DEFAULT**, the **LENDER**, in a commercially reasonable fashion, may sell at public or private sale or otherwise realize upon, the whole or, from time to time, any part of all of the **TRADEMARKS**, or any interest which the **ASSIGNOR** may have therein. After deducting from the proceeds of sale or other disposition of such **TRADEMARKS** all expenses, including all expenses for legal services, the **LENDER** shall apply such proceeds toward the satisfaction of the **OBLIGATIONS**. Any remainder of the proceeds after satisfaction in full of the **OBLIGATIONS** shall be distributed as required by applicable law. Notice of any sale or other disposition shall be given to the **ASSIGNOR** at least ten (10) days before the time of any intended public sale or of the time after which any intended private sale or other disposition of the **TRADEMARKS** is to be made, which the **ASSIGNOR** hereby agrees shall be commercially reasonable notice of such sale or other disposition. At any such sale or other disposition, the **LENDER** may, to the extent permissible under applicable law, purchase the whole or any part of the **TRADEMARKS**, free from any right of redemption on the part of the **ASSIGNOR**, which right is hereby waived and released to the extent lawfully permitted. The **ASSIGNOR** shall remain liable for any deficiency if the proceeds of any sale or other disposition of the **TRADEMARKS** are insufficient to pay in full the **OBLIGATIONS** and all costs and expenses, including reasonable attorneys' fees and disbursements, paid or incurred by the **LENDER** in collecting any such deficiency. Without limiting the generality of any of the rights and remedies conferred upon the **LENDER** under this Section, the **LENDER** may, to the full extent permitted by applicable law: (a) enter upon the premises of the **ASSIGNOR**, exclude therefrom the **ASSIGNOR** or any person or entity connected therewith, and take immediate possession of the **TRADEMARKS**, either personally or by means of a receiver appointed by a court of competent jurisdiction, using all necessary force to do so; (b) at the **LENDER'S** option, use, operate, manage, and control the **TRADEMARKS** in any lawful manner; and (c) collect and receive all income, revenue, earnings, issues, and profits therefrom. The **ASSIGNOR** hereby irrevocably and unconditionally authorizes and empowers the **LENDER**, upon the occurrence of an default under the **LOAN DOCUMENTS**, after the expiration of any applicable notice and cure rights, to make, constitute and appoint any officer or agent of the **LENDER** as the **LENDER** may select, in its exclusive discretion, as the **ASSIGNOR'S** true and lawful attorney-in-fact, with the power to endorse the **ASSIGNOR'S** name on all applications, documents, papers and instruments necessary for the **LENDER** to own and use the **TRADEMARKS**, or to grant or issue any exclusive or nonexclusive licenses under the **TRADEMARKS** to any other person, or for the **LENDER** to assign, license, pledge, convey or otherwise transfer title in or dispose of the **TRADEMARKS** to any other person on such terms and conditions as the **LENDER** shall in its sole discretion determine, to ask, demand, sue for compromise, settle

and collect and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any of the TRADEMARKS, to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or enforce any right in respect of the TRADEMARKS, to defend any suit, action or proceeding brought against the ASSIGNOR with respect to any of the TRADEMARKS, to settle, compromise or adjust any of the aforesaid suits, actions or proceedings and, in connection therewith, to give such discharges as the LENDER may deem appropriate, and to do, from time to time, all acts and things which the LENDER deems necessary to protect, preserve or realize upon the TRADEMARKS and the LENDER'S liens thereon and to effect the intent of this AGREEMENT. The ASSIGNOR hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this AGREEMENT, and constitutes a power of attorney coupled with an interest. All of the LENDER'S rights and remedies with respect to the TRADEMARKS, whether established by this AGREEMENT or by any of the LOAN DOCUMENTS, or by law shall be cumulative and may be exercised singularly or concurrently.

Section 8. No Duty. The powers conferred upon the LENDER hereunder are solely to protect the interest of the LENDER in the TRADEMARKS and shall not impose any duty upon the LENDER to exercise any such powers.

Section 9. Patent And Trademark Office May Rely Upon This Assignment. If the LENDER shall elect to exercise any of its rights hereunder, the United States Patent and Trademark Office shall have the right to rely upon the LENDER'S written statement of the LENDER'S right to sell, assign, license and transfer the TRADEMARKS and the ASSIGNOR hereby irrevocably and unconditionally authorizes the United States Patent and Trademark Office to recognize such sale by the LENDER either in the ASSIGNOR'S name or in the LENDER'S name without the necessity or obligation of the United States Patent and Trademark Office to ascertain the existence of any default by the ASSIGNOR under the LOAN DOCUMENTS.

Section 10. Costs And Expenses. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by the LENDER in connection with the preparation of this AGREEMENT and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or any other fees incurred in otherwise protecting, maintaining or preserving the TRADEMARKS, or in defending or prosecuting any actions or proceedings arising out of or related to the TRADEMARKS, shall be borne and paid by the ASSIGNOR on demand by the LENDER and until so paid shall be added to the principal amount of the OBLIGATIONS and shall bear interest at the highest rate in effect from time to time under the LOAN DOCUMENTS.

Section 11. Notices. Notices that are required or permitted to be delivered hereunder shall be sufficient if in writing and sent to the addresses set forth in the LOAN DOCUMENTS, in the manner and within the time specified in the LOAN DOCUMENTS.

Section 12. No Further Assignment. The ASSIGNOR shall not further assign, transfer, license or convey its interests in the TRADEMARKS without the prior written consent of the LENDER.

Section 13. Further Assurances. The ASSIGNOR shall promptly do, make, execute and deliver all such further and additional acts, things, deeds, assurances, instruments and documents considered reasonably necessary, appropriate or proper by the LENDER to vest in, effectuate assure to the LENDER its rights under this AGREEMENT or in any of the TRADEMARKS. The ASSIGNOR hereby constitutes the LENDER its attorney-in-fact to execute and file all such additional instruments and documents for the foregoing purposes, all lawful acts of such attorney being hereby ratified and confirmed; such power, being coupled with an interest, is irrevocable until the OBLIGATIONS have been satisfied in full and there exists no contingent or noncontingent commitment which could give rise to any OBLIGATIONS.

Section 14. Amendment. The terms and conditions of this AGREEMENT may be modified, altered, waived, or amended only by a writing executed by the LENDER consenting to the modification, alteration, waiver, or amendment.

Section 15. Choice Of Law. This AGREEMENT shall be construed according to the laws of the State of Maryland. All parties hereto consent to the jurisdiction and venue of the courts of the State of Maryland in any action to enforce, construe or interpret this AGREEMENT.

Section 16. Severability. If any of the provisions of this AGREEMENT are judicially determined to be in conflict with any law of the State of Maryland or otherwise judicially determined to be unenforceable for any reason whatsoever, such provision shall be deemed null and void to the extent of such unenforceability but shall be deemed separable from and shall not invalidate any other provision of this AGREEMENT.

Section 17. Successors And Assigns. The terms, covenants and conditions contained in this AGREEMENT shall inure to the benefit of the LENDER and its successors and assigns, and shall be binding upon the ASSIGNOR and its successors and assigns.

Section 18. Waiver Of Jury Trial. The ASSIGNOR (by its execution hereof) and the LENDER (by its acceptance of this AGREEMENT) agree that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by any party hereto or any successor or assign of any party hereto, with respect to this AGREEMENT, the LOAN

DOCUMENTS, or any other document or agreement which in any way relates, directly or indirectly, to this AGREEMENT, the LOAN DOCUMENTS, the OBLIGATIONS or any event, transaction or occurrence arising out of or in any way connected with this AGREEMENT, the LOAN DOCUMENTS, any of the OBLIGATIONS, or the dealings of the parties with respect thereto, shall be tried only by a court, and not by a jury. **THE ASSIGNOR AND THE LENDER HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING.** The ASSIGNOR acknowledges and agrees that this provision is a specific and material aspect of the agreement between the parties hereto and that the LENDER would not enter into the subject transactions if this provision were not part of this AGREEMENT.

IN WITNESS WHEREOF, the ASSIGNOR has executed this AGREEMENT as of the date first above written with the specific intention of creating an instrument under seal.

WITNESS/ATTEST:

ASSIGNOR:

OTHY, INC.,
An Indiana Corporation

Kimberly Redevick

By: Eileen P. Matthews (SEAL)
Eileen P. Matthews
Assistant Secretary

Date: August 11, 1999

WITNESS/ATTEST:

LENDER:

ALLFIRST BANK (formerly known as The First National Bank Of Maryland), A National Banking Association, Individually And As Agent

Kimberly Redevick

By: Thomas P. McLoughlin, III (SEAL)
Thomas P. McLoughlin, III
Vice President

Date: August 11, 1999

ACKNOWLEDGMENTS

STATE OF MARYLAND, CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 11th day of August, 1999, before me, the undersigned Notary Public, personally appeared Eileen P. Matthews, and acknowledged herself to be the Assistant Secretary of OTHY, INC., an Indiana corporation, and that she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of OTHY, INC., by herself as such officer.

IN WITNESS MY Hand and Notarial Seal.

SARAH YOUNG
NOTARY PUBLIC
BALTIMORE COUNTY
STATE OF MARYLAND

Sarah Young (SEAL)
NOTARY PUBLIC

My Commission Expires:
9/22/99

STATE OF MARYLAND, CITY/COUNTY OF BALTIMORE:

I HEREBY CERTIFY that on this 11th day of August, 1999, before me, the undersigned Notary Public, personally appeared Thomas P. McLoughlin, III, and acknowledged himself to be the Vice President of ALLFIRST BANK, and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of ALLFIRST BANK, by himself as such Vice President.

IN WITNESS MY Hand and Notarial Seal.

SARAH YOUNG
NOTARY PUBLIC
BALTIMORE COUNTY
STATE OF MARYLAND

Sarah Young (SEAL)
NOTARY PUBLIC

My Commission Expires:
9/22/99