

11-22-1999



101169742

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

Corr.  
MRD  
9-3-99

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 #  1738 Frame #  0741

Conveyance Type

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

Conveying Party

- ☐ Mark if additional names of conveying parties attached
- Execution Date  
Month Day Year
- Name  Simitar Entertainment, Inc.  06/05/98

Formerly

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

Receiving Party

- ☐ Mark if additional names of receiving parties attached

Name  Congress Financial Corporation (Central)

DBA/AKA/TA

Composed of

Address (line 1)  150 South Wacker Drive, Ste 2200

Address (line 2)

Address (line 3)  Chicago

Illinois

60606-4202

City

State/Country

Zip Code

- ☐ Individual ☐ General Partnership ☐ Limited Partnership

- ☒ Corporation ☐ Association

☐ Other

- ☒ Citizenship/State of Incorporation/Organization  Illinois

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.)

09/07/1999 DNGUYEN 00000213 74300224

FOR OFFICE USE ONLY

01 FC:481  
02 FC:482

40.00 OP  
25.00 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. 20231

TRADEMARK  
REEL: 001962 FRAME: 0608

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Meredith A. Parsons

Address (line 1)

Latham & Watkins

Address (line 2)

233 S. Wacker Drive, Ste 5800

Address (line 3)

Chicago, IL 60606

Address (line 4)

**Pages**

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

#

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

☐

Mark if additional numbers attached

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

**Trademark Application Number(s)**

**Registration Number(s)**

74/380,224

74/517,377

**Number of Properties**

Enter the total number of properties involved.

#

2

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

65.00

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.

Meredith A. Parsons

Name of Person Signing

Signature

09/01/99

Date Signed

RECORD  
TRA

06-11-1998

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings DDD

To the Honorable Commissioner of Patents and 1

100735238

1 document or copy thereof.

1. Name of conveying party(ies):

Simitar Entertainment, Inc.

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

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

3. Nature of conveyance:

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

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

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

Name: Congress Financial Corporation (Central)

Internal Address: Suite 2200

Street Address: 150 S. Wacker Drive

City: Chicago State: IL Zip: 60606

☐ Individual(s) citizenship

☐ Association

☐ General Partnership

☐ Limited Partnership

☐ Corporation State

☐ Other

If assignee is not domiciled in the United States, a domestic 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)

See attached Schedule A

B. Trademark Registration No.(s)

See attached Schedule A

Additional numbers attached? ☐ Yes ☐ No

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

Name: Meredith A. Parsons

Internal Address: c/o Latham & Watkins

Street Address: 5800 Sears Tower

City: Chicago State: IL ZIP: 60606

6. Total number of applications and registrations involved: 37

7. Total fee (37 CFR 3.41) \$ 790

☒ Enclosed

☐ Authorized to be charged to deposit

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.

Meredith A. Parsons

Name of Person Signing

[Signature]

Signature

06/11/98

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: 001962 FRAME: 0610

06/25/1998  
01 FC:481  
02 FC:482  
03 FC:998

**SCHEDULE A TO  
TRADEMARK SECURITY AGREEMENT**

<b><u>Trademark</u></b>	<b><u>Date</u></b>	<b><u>Number</u></b>	
Animagine	04/21/98	75,471,109	✓
Audio Ink	04/19/93	75/380,224	✓ 14/380,224
Beast	05/20/96	75/107,244	✓
Beast and Design	04/21/98	75/471,123	✓
Beast Video and Design	04/21/98	75/471,120	✓
Collectacel	04/21/98	75/471,121	✓
Donna Jane Character Design	05/14/98	75/484,796	✓
DVD-Roms, DVDROT Key and Design	05/14/98	75/485,525	✓
Feel The Buzz	04/21/98	75/471,124	✓
Love Rocks	04/21/98	75/471,122	✓
New Family Moves	06/26/95	75/693,689	✓
Plum and Design	04/21/98	75/471,818	✓
Revival Records	04/21/98	75/471,106	✓ 3
Simitar	01/13/86	75/577,233	✓
Simitar	04/21/98	75/471,105	✓
Simitar	04/21/98	75/471,107	✓ 14/517,377
Simitar and Design	04/26/94	75/517,377	✓
Simitar and Design	04/21/98	75/471,812	✓
Simitar and Design	04/21/98	75/471,108	✓
Simitar Interactive	04/22/98	75/472,072	✓
Simitar Latino and Design	04/21/98	75/471,848	✓
Simitar Softwear and Design	06/07/95	74/687,494	✓

**SCHEDULE A  
TO  
TRADEMARK SECURITY AGREEMENT  
DATED AS OF ~~MAY~~, 1998 June 5, 1998  
TRADEMARKS OWNED BY SIMITAR ENTERTAINMENT, INC.**

<b><u>Trademark</u></b>	<b><u>Registration No.</u></b>	<b><u>Date of Registration or Application</u></b>
Animagine - CAN.	Pending	----
Animagine - U.S.	App. Pending (2/12/98)	----
Audio Ink - U.S.	#1818799	2/1/94
Beast & Design - CAN.	Pending	----
Beast & Design - U.S.	Intend To Use Filed 5/17/98 (#45/107,244) First Use App. - 2/12/98	5/17/96
Beast Video - U.S.	App. Pending (2/12/98)	----
Collectacel - CAN.	Pending	----
Collectacel - U.S.	App. Pending (2/12/98)	----
Donna Jane - CAN.	Pending	----
Donna Jane - U.S.	App. Pending (2/12/98)	----
Feel The Buzz - U.S.	App. Pending (2/12/98)	----
Hot Key - CAN.	Pending	----
Hot Key - U.S.	App. Pending (2/12/98)	----
Love Rocks - U.S.	App. Pending (2/12/98)	----
New Family Movies - U.S.	#2,031,297	1/14/97
Plum - CAN.	Pending	----
Plum - U.S.	App. Pending (2/12/98)	----
Revival - CAN.	Pending	----
Revival - U.S.	App. Pending (2/12/98)	----
Simitar - Australia	#491,406	7/19/88
Simitar - Brazil	Pending	----
Simitar - CAN.	Pending	----
Simitar - New Zealand	#185846	7/17/95
Simitar - UK	#2010963	2/14/95
Simitar - U.S.	(Active-App. Pending for more categories). #1427274	5/17/93
Simitar & Design - CAN.	Pending (2/12/98)	----
Simitar & Design - U.S.	(Active-App. Pending for more categories). #1,923,210	10/3/95
Simitar Interactive - U.S.	App. Pending (2/12/98)	----
Simitar Interactive. - CAN.	Pending	----
Simitar Latino - CAN.	Pending	----
Simitar Latino - Mexico	Pending	----
Simitar Latino - U.S.	App. Pending (2/12/98)	----
Simitar Software - U.S.	App. Pending (2/12/98)	----

## SCHEDULE I

<u>Trademarks</u>	Trademark Registration Number or Application <u>Serial Number</u>	Registration or <u>(Filing Date)</u>
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EXHIBIT A

FORM OF ASSIGNMENT

ASSIGNMENT OF TRADEMARKS

THIS ASSIGNMENT OF TRADEMARKS ("Assignment") is made as of \_\_\_\_\_, 19\_\_ by and between SIMITAR ENTERTAINMENT, INC., a Minnesota corporation, having an office at 5555 Pioneer Creek Drive, Maple Plain, Minnesota 55359-9003 ("Assignor"), in favor of CONGRESS FINANCIAL CORPORATION (CENTRAL), having an office at 150 South Wacker Drive, Suite 2200, Chicago, Illinois 60606-4202 ("Assignee").

Recitals

WHEREAS, Assignor and Assignee are parties to that certain Trademark Security Agreement dated as of May \_\_, 1998 made by Assignor to Assignee (the "Agreement") providing that under certain conditions specified therein Assignor shall execute this Assignment; and

WHEREAS, the aforementioned conditions have been fulfilled;

NOW THEREFORE, Assignor hereby agrees as follows:

1. Assignment of Trademarks. Assignor hereby grants, assigns and conveys to Assignee its entire right, title and interest in and to (a) the trademarks, trade names, trademark registrations and trademark applications listed on Schedule I attached hereto and made a part hereof, and (i) all renewals thereof, (ii) all income, royalties, damages, payments and other proceeds now and hereafter due or payable with respect thereto, including, without limitation, payments to Assignor under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing are sometimes hereinafter referred to, either individually or collectively, as the "Trademarks"), and (b) the goodwill of Assignor's business connected with and symbolized by the Trademarks. The Trademarks and such goodwill are collectively referred to herein as the "Collateral".

2. Representations and Warranties. Assignor represents and warrants that it has the full right and power to make the assignment of the Collateral made hereby and that it has made no previous assignment, transfer, agreement in conflict herewith or constituting a present or future assignment or encumbrance of any or all of the Collateral, except as set forth in the Agreement.

3. Modification. This Assignment cannot be altered, amended or modified in any way, except by a writing signed by the parties hereto.

4. Binding Effect; Governing Law. This Assignment shall be binding upon Assignor and its successors and shall inure to the benefit of Assignee and its successors and assigns. This Assignment shall, except to the extent that federal law or laws of another state apply to the Collateral or any part thereof, be governed by and construed in accordance with the internal (as opposed to the conflict of laws provisions) and decisions laws of the State of Illinois.

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the date first above written.

SIMITAR ENTERTAINMENT, INC., a Minnesota Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (the "Agreement") is made and entered into as of June 5, 1998 by SIMITAR ENTERTAINMENT, INC., a Minnesota corporation having an office at 5555 Pioneer Creek Drive, Maple Plain, Minnesota 55359-9003 ("Debtor"), in favor of CONGRESS FINANCIAL CORPORATION (CENTRAL), an Illinois corporation, having an office at 150 South Wacker Drive, Suite 2200, Chicago, Illinois 60606-4202 ("Lender").

### WITNESSETH:

WHEREAS, Debtor and Lender have entered into that certain Loan and Security Agreement dated as of the date hereof (as amended or otherwise modified from time to time, the "Loan Agreement"), providing for the extension of credit by Lender to Debtor; and

WHEREAS, Lender has required, as a condition to the extension of credit under the Loan Agreement, that Debtor grant to Lender a security interest in certain trademark rights. Capitalized terms used herein and not otherwise defined are used as they are defined in the Loan Agreement.

### AGREEMENT

NOW THEREFORE, in consideration of the premises and in order to induce Lender to extend credit under the Loan Agreement, Debtor hereby agrees with Lender as follows:

1. Creation of Security Interest. Debtor hereby grants to Lender a security interest in all of Debtor's right, title and interest in and to the collateral described in Section 2 herein (the "Collateral") in order to secure the payment of all Obligations.

2. Collateral. The Collateral is:

(a) all of Debtor's trademarks, trademark registrations, trade names and trademark applications, which, in each case, are owned by Debtor and are now or hereafter filed with the United States Patent and Trademark Office, or, to the extent applicable, any similar office or agency of any state, territory or possession of the United States or any similar office or agency of any other countries or used in the United States, any state, territory or possession thereof or any other country, including, without limitation, the trademarks, trade names, trademark registrations and trademark applications listed on Schedule A attached hereto and made a part hereof, and (i) renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, payments under all licenses granted by Debtor entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trademark registrations, tradenames and trademark applications, together with the items described in clauses (i)-(iv) in this subparagraph (a), are sometimes hereinafter referred to, either individually or collectively, as the "Trademarks"); and

(b) the goodwill of Debtor's business connected with and symbolized by the Trademarks.

3. License.

(a) Grant of License to Lender. Debtor hereby grants, after an Event of Default, to Lender a non-exclusive, assignable right and license (i) under the Trademarks to use such Trademarks and (ii) under any license agreements held by the Debtor with respect to trademarks owned by any person or entity other than the Debtor to the extent permitted under such agreements, and to sell Collateral bearing any such Trademarks to the extent that such license is reasonably necessary to permit or to facilitate the collection of any accounts of Debtor or the disposition, after an Event of Default, of any Collateral (the "License"). The License shall be without royalty or any other payments or fees by Lender to Debtor and the permitted use by Lender thereunder (i) shall be worldwide and (ii) shall be limited only by those restrictions to which the Debtor is subject under the Trademarks or under any license.

(b) Term of License. The term of the License (the "License Term") shall continue until the earlier of: (i) the expiration of all of the Trademarks; (ii) full and final payment and performance of all the Obligations and termination of the Loan Agreement and the Financing Agreements; or (iii) disposition of all Collateral and any proceeds thereof in connection with the enforcement of Lender's remedies under the Financing Agreements and application of the proceeds of such disposition to the satisfaction of the Obligations.

4. Restrictions on Future Agreements. Until the Obligations shall have been satisfied in full and the Loan Agreement and the Financing Agreements shall have been terminated, Debtor will not without Lender's prior written consent, which consent shall not be unreasonably withheld, (a) enter into any agreement, including, without limitation, any license agreement that is inconsistent with Debtor's obligations under this Agreement, the Loan Agreement or any other Financing Agreement to which Debtor is a party, (b) take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any reasonable action (including, without limitation, the abandonment of any Trademark except in the ordinary course of Debtor's business), that would materially affect the validity or enforceability of the rights transferred to Lender under this Agreement or (c) enter into any other contractual obligations which may restrict or inhibit Lender's rights to sell or otherwise dispose of the Collateral or any part thereof after the occurrence of an Event of Default.

5. New Trademarks. Debtor represents and warrants that the Trademarks listed on Schedule A constitute all of the registered trademarks, trade names and applications which are as of the date hereof owned by or are pending on behalf of Debtor in the United States or any state of the United States (as set forth on Schedule A). If, before the Obligations shall have been satisfied in full, Debtor shall (i) (a) obtain any registration or apply for any registration after the date hereof in the United States Patent and Trademark Office or in any similar office or agency of a state, territory or possession of the United States or (b) obtain rights to any trademarks or trade names used in the United States or any state, territory or possession thereof, or (ii) (a) become entitled to the benefit of any trademark application, trademark, trade name or trademark registration in the United States or any state, territory or possession thereof or (b)

become entitled to the benefit of any trademark or tradenames used in the United States or any state, territory or possession thereof, the provisions of Section 1 shall automatically apply thereto, unless otherwise prohibited, and Debtor shall give to Lender written notice thereof in the next Intellectual Property Collateral Report. Debtor hereby authorizes Lender to modify this Agreement by amending Schedule A to include any future trademarks, trademark registrations, trademark applications and tradenames that are Trademarks, as applicable, under Section 2 or under this Section 5.

6. Additional Representations and Warranties. Debtor hereby represents, warrants, covenants and agrees that:

(a) Except as otherwise provided herein or in the Loan Agreement, it is and will continue to be the owner of all its right, title and interest in the Collateral so long as the Trademarks shall continue in force, free from any Lien granted by Debtor in favor of any person or entity.

(b) It has the full right and power to grant the security interest in the Collateral made hereby.

(c) Except as provided in the Loan Agreement and the schedules thereto, it has made no previous assignment, transfer or agreements in conflict herewith or constituting a present or future assignment, transfer, or encumbrance on any of the Collateral.

(d) Except as provided in the Loan Agreement and the schedules thereto, so long as any Obligations remain outstanding or any of the Loan Agreement or the Financing Agreements has not terminated, it will not execute any financing statement or other document or instruments evidencing or giving notice of liens affecting the Collateral.

(e) To the best of Debtor's knowledge, no material infringement or unauthorized use presently is being made of any of the Trademarks by third parties which would adversely affect the fair market value of the Collateral or the benefits of this Agreement granted to Lender, including, without limitation, the validity, priority or perfection of the security interest granted herein or the remedies of Lender hereunder and Debtor will continue to maintain monitoring and enforcement practices which fully and adequately protect material Trademarks. Debtor has advised Lender of its trademark monitoring and enforcement practices, and will not materially modify such practices without the prior written consent of Lender.

7. Royalties; Terms. Debtor hereby agrees that the permitted use by Lender of all Trademarks, upon an Event of Default, shall be worldwide, to the same extent permitted to Debtor, without any liability for royalties or other related charges from Lender to Debtor. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Trademarks, or (ii) the time at which the Obligations have been paid in full and the Loan Agreement and the Financing Agreements have been terminated.

8. Lender's Right to Maintain Quality. Debtor agrees that from and after the occurrence of an Event of Default, Lender shall have the right to establish such additional product quality controls as Lender, in its reasonable judgment, may deem necessary to assure

maintenance of the quality of products sold by Debtor under the Trademarks. Debtor agrees (i) except in the ordinary course of Debtor's business, not to sell or assign its interest in, or to grant any license under, any Trademarks without the prior written consent of Lender, which consent shall not be unreasonably withheld; (ii) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with the quality of such products as of the date hereof; and (iii) to provide Lender, upon request, with a certificate of an officer of Debtor certifying Debtor's compliance with the foregoing.

9. Duties of Debtor. Debtor shall (i) prosecute diligently any trademark application that is part of the Trademarks pending as of the date hereof or thereafter until the Obligations shall have been paid in full and the Loan Agreement and the Financing Agreements shall have been terminated, (ii) make application on trademarks, as appropriate, (iii) preserve and maintain all rights in trademark applications, trademarks, trade names, and trademark registrations that are part of the Trademarks, except as may be abandoned by Debtor in the ordinary course of its business; (iv) not abandon any right to file a trademark application nor any pending trademark application if the value thereof could reasonably be expected to justify the cost of obtaining such trademark as determined by Debtor in the ordinary course of its business, and (v) not abandon any given Trademark, except in the ordinary course of Debtor's business. Any expenses incurred in connection with the applications referred to in this Section 9 shall be borne by Debtor. Debtor agrees to utilize an experienced trademark attorney for the filing and prosecution of all such applications and other proceedings.

If Debtor fails to comply with any of the foregoing duties, Lender may so comply in Debtor's name to the extent permitted by law, but at Debtor's expense, and Debtor hereby agrees to reimburse Lender in full for all reasonable expenses, including the reasonable fees and disbursements of attorneys and paralegals incurred by Lender in protecting, defending and maintaining the Collateral.

In the event that Debtor shall fail to pay when due any reasonable fees required to be paid by it hereunder, or shall fail to discharge any Lien prohibited hereby, or shall fail to comply with any other duty hereunder in any material respect, Lender may, but shall not be required to, pay, satisfy, discharge or bond the same for the account of Debtor, and all moneys so paid out shall be Obligations of Debtor repayable on demand, together with interest at a rate equal to the rate set forth in Section 3.1 of the Loan Agreement effective on the last day of the preceding month.

Debtor shall take all action necessary to preserve and maintain the validity, perfection and first priority of Lender's security interest granted herein in the Collateral.

10. Lender's Right to Sue. From and after the occurrence of an Event of Default, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Collateral, and any licenses thereunder, and, if Lender shall commence any such suit, Debtor shall, at the request of Lender, do any and all lawful acts and execute any and all proper documents reasonably required by Lender in aid of such enforcement and Debtor shall indemnify and shall, upon demand, promptly reimburse Lender for all reasonable costs and expenses incurred by Lender in the exercise of its rights under this Section 10. In the event

Lender shall commence any such enforcement action, Lender shall provide Debtor with ten (10) days prior written notice thereof.

11. Waivers. No course of dealing between Debtor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement or any other Financing 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. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction. If any provision hereof shall render an otherwise valid Trademark invalid or ineffective, then such provision shall be void ab initio to the extent that the validity or effectiveness of the Trademark is thereby preserved and Debtor shall use its best efforts to make suitable other valid arrangements to provide Lender with equivalent protections to that intended hereby.

13. Amendments. This Agreement or any provision thereof may be changed, waived, or terminated only in the manner set forth in Section 5 hereof or in accordance with the Loan Agreement.

14. Remedies. If any Event of Default shall have occurred, then Lender shall be entitled to exercise in respect of the Collateral, in addition to other rights and remedies provided for herein, in the Loan Agreement and other Financing Agreements or otherwise available to it, all of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the State of Illinois (the "UCC") whether or not the UCC applies to the affected Collateral, and also may (i) require Debtor, and Debtor hereby agrees that it will upon the request of Lender, forthwith, (A) execute and deliver an assignment, substantially in the form of Exhibit A hereto, of all of Debtor's right, title and interest in and to the Collateral, and (B) take such other action as Lender may reasonably request to effectuate the outright assignment of such Collateral or to exercise, register or further perfect and protect its rights and remedies with respect to such assigned Collateral, and (ii) without notice except as specified below, sell the Trademarks and the goodwill of the businesses related thereto or any part thereof in one or more parcels at public or private sale, at any of Lender's offices or elsewhere, for cash, on credit or for future delivery, and upon such terms as Lender may deem commercially reasonable. Debtor agrees that at least ten (10) days' notice to Debtor of the time and place of any public sale or the time which any private sale is to be made shall constitute reasonable notification. Lender shall not be obligated to make any sale of the Collateral regardless of notice of sale having been given. Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Lender may purchase all or any part of the Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of such purchase price, may setoff the amount of such price against the Obligations. The proceeds realized from the sale of any

Collateral shall be, applied first to the reasonable costs, expenses and attorneys and paralegal fees and expenses incurred by Lender for collection and for acquisition, protection, and sale of the Collateral; second to interest due upon any of the Obligations; and third to the principal of the Obligations. If any deficiency shall arise, Debtor shall remain liable to Lender therefor. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for deficiency shall not affect Lender's security interest in the Collateral until the Obligations are fully paid. Debtor agrees that Lender has no obligation to preserve rights to Collateral against any other parties.

15. Cumulative Remedies; Power of Attorney; Effect on Loan Agreement.

All of Lender's rights and remedies with respect to the Collateral, whether established hereby, by the Loan Agreement, by any other Financing Agreements, or by law shall be cumulative and may be exercised singularly or concurrently. Debtor hereby authorizes Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its sole discretion, as Debtor's true and lawful attorney-in-fact, with power, from and after the occurrence of an Event of Default to (a) endorse Debtor's name on all applications, documents, papers and instruments necessary or desirable for Lender in the use of the Collateral including, without limitation, if Debtor fails to execute and deliver within three (3) Business Days of Lender's request therefor the assignment substantially in the form of Exhibit A hereto, (b) take any other actions with respect to the Collateral as Lender deems in the best interest of Lender, (c) grant or issue any exclusive or non-exclusive license under the Collateral to anyone subject to any existing license restrictions, or (d) assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to anyone subject to any existing license restrictions. This power of attorney, being coupled with an interest, shall be irrevocable until all Obligations shall have been paid in full and the Loan Agreement and the Financing Agreements have been terminated. Debtor acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Lender under the Loan Agreement and the other Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies.

16. Notice. Any notice, approval, consent or other communication to any party hereunder shall be in the form and manner, and to the addresses as set forth in the Loan Agreement.

17. Continuing Security Interest; Transfer of Notes. This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until payment in full of the Obligations and termination of the Loan Agreement and the Financing Agreements, (ii) be binding upon Debtor its successors and assigns, and (iii) inure, together with the rights and remedies of Lender hereunder, to the benefit of Lender, and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii) and subject to the provisions of the Loan Agreement, Lender may, assign or otherwise transfer any of the Obligations to any other person or entity in accordance with the Loan Agreement, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to Lender herein or otherwise.

18. Authority of Lender. Lender shall have and be entitled to exercise all powers hereunder which are specifically delegated to Lender by the terms hereof, together with

such powers as are reasonably incident thereto. Lender may perform any of its duties hereunder or in connection with the Collateral by or through agents or employees and shall be entitled to retain counsel and to act in reliance upon the advice of counsel concerning all such matters. Lender and its directors, officers, employees, attorneys and agents shall be entitled to rely on any communication, instrument or document believed by it or them to be genuine and correct and to have been signed or sent by the proper person or persons. Debtor agrees to indemnify and hold harmless Lender and any other person from and against any and all costs, expenses (including reasonable fees and expenses of attorneys and paralegals), claims or liability incurred by Lender or such person arising under this Agreement, unless such claim or liability shall be due to willful misconduct or gross negligence on the part of Lender or such person.

19. Waiver. To the fullest extent it may lawfully so agree, Debtor agrees that it will not at any time insist upon, claim, plead, or take any benefit or advantage of any appraisalment, valuation, stay, extension, moratorium, redemption or similar law now or hereafter in force in order to prevent, delay, or hinder the enforcement hereof or the absolute sale of any part of the Collateral. Debtor for itself and all who claim through it, so far as it or they now or hereafter lawfully may do so, hereby waives the benefit of all such laws, and all right to have the Collateral marshalled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Agreement may order the sale of the Collateral as an entirety. Without limiting the generality of the foregoing, Debtor hereby: (i) authorizes Lender in its sole discretion and without notice to or demand upon Debtor and without otherwise affecting the obligations of Debtor hereunder from time to time to (a) take and hold other collateral (in addition to the Collateral) for payment of the Obligations, or any part thereof, and to exchange, enforce or release such other collateral or any part thereof, provided, that in any case where Collateral is to be exchanged for other collateral, both Lender and Debtor shall agree as to the collateral to be added and the Collateral to be released, and (b) accept and hold any endorsement or guarantee of payment of the Obligations, or any part thereof and to release or substitute any endorser or guarantor or any other person granting security for or in any other way obligated upon any Obligations or any part thereof, and (ii) waives and releases any and all right to require Lender to collect any of the Obligations from any specific item or items of the Collateral or from any other party liable as guarantor or in any other manner in respect of any of the Obligations or from any collateral (other than the Collateral) for any of the Obligations.

20. Interpretation of Agreement. Time is of the essence of each provision of this Agreement of which time is an element. All terms not defined herein shall have the meaning set forth in the UCC, except where the context otherwise requires. To the extent any term or provision of this Agreement conflicts with the Loan Agreement and is not dealt with more specifically herein, the Loan Agreement shall control with respect to such term or provision.

21. Reinstatement. This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by Lender in respect of the Obligations is rescinded or must otherwise be restored or returned by Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Debtor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, Debtor or any substantial part of its assets, or otherwise, all as though such payments had not been made.

22. Final Expression. This Agreement, together with the Loan Agreement and the other Financing Agreements to which Debtor is a party, is intended by the parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms and conditions thereof. Acceptance of or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

23. Survival of Provisions. All representations, warranties and covenants of Debtor contained herein shall survive the execution and delivery of this Agreement, and shall terminate only upon the full and final payment and performance by Debtor of the Obligations and termination of the Loan Agreement and the Financing Agreements.

24. Termination of Agreement. This Agreement shall terminate upon full and final payment and performance of all the Obligations and termination of the Loan Agreement and the Financing Agreements. At such time, Lender shall, at the request of Debtor, immediately reassign and redeliver to Debtor all of the Collateral hereunder which has not been sold, disposed of, retained or applied by Lender in accordance with the terms hereof. Lender shall also, at the request of Debtor, deliver such further instruments and documents as Debtor may reasonably request including any assignment or release statements. Such reassignment and redelivery shall be without warranty by or recourse to Lender, except as to the absence of any prior assignments by Lender of its interest in the Collateral, and shall be at the expense of Debtor.

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same agreement.

26. GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL; WAIVER OF DAMAGES. (a) THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED UNDER THE INTERNAL LAWS (AS OPPOSED TO CONFLICT OF LAWS PROVISIONS) AND DECISIONS OF THE STATE OF ILLINOIS, AND ANY DISPUTE ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN DEBTOR AND LENDER IN CONNECTION WITH THIS AGREEMENT, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE RESOLVED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICTS OF LAWS PROVISIONS) AND DECISIONS OF THE STATE OF ILLINOIS.

(b) EXCEPT AS PROVIDED IN THE NEXT PARAGRAPH, DEBTOR AND LENDER AGREE THAT ALL DISPUTES BETWEEN THEM ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY, OR OTHERWISE, SHALL BE RESOLVED ONLY BY STATE OR FEDERAL COURTS LOCATED IN CHICAGO, ILLINOIS, BUT DEBTOR AND LENDER ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF



CHICAGO, ILLINOIS. DEBTOR WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT CONSIDERING THE DISPUTE INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS.

(c) DEBTOR AGREES THAT LENDER SHALL HAVE THE RIGHT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO PROCEED AGAINST DEBTOR OR THE COLLATERAL IN A COURT IN ANY LOCATION REASONABLY SELECTED IN GOOD FAITH TO ENABLE LENDER TO REALIZE ON THE COLLATERAL, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF LENDER. DEBTOR AGREES THAT IT WILL NOT ASSERT ANY PERMISSIVE COUNTERCLAIMS IN ANY PROCEEDING BROUGHT BY LENDER TO REALIZE ON THE COLLATERAL, OR TO ENFORCE A JUDGEMENT OR OTHER COURT ORDER IN FAVOR OF LENDER. DEBTOR WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT IN WHICH LENDER HAS COMMENCED A PROCEEDING DESCRIBED IN THIS PARAGRAPH INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS.

(d) DEBTOR AND LENDER EACH WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT. INSTEAD, ANY DISPUTES RESOLVED IN COURT WILL BE RESOLVED IN A BENCH TRIAL WITHOUT A JURY.

(e) DEBTOR HEREBY IRREVOCABLY DESIGNATES CT CORPORATION SERVICE AS THE DESIGNEE, APPOINTEE AND AGENT OF DEBTOR TO RECEIVE, FOR AND ON BEHALF OF DEBTOR, SERVICE OF PROCESS IN SUCH RESPECTIVE JURISDICTIONS IN ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT. IT IS UNDERSTOOD THAT A COPY OF SUCH PROCESS SERVED ON SUCH AGENT WILL BE PROMPTLY FORWARDED BY MAIL TO DEBTOR AT ITS ADDRESS SET FORTH IN THE LOAN AGREEMENT, BUT THE FAILURE OF DEBTOR TO RECEIVE SUCH COPY SHALL NOT AFFECT IN ANY WAY THE SERVICE OF SUCH PROCESS.

(f) NOTHING HEREIN SHALL AFFECT THE RIGHT OF LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST DEBTOR IN ANY OTHER JURISDICTION.

(g) DEBTOR (I) AGREES THAT LENDER SHALL NOT HAVE ANY LIABILITY TO DEBTOR (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) FOR LOSSES SUFFERED BY DEBTOR IN CONNECTION WITH, ARISING OUT OF, OR IN ANY WAY RELATED TO, THE TRANSACTIONS CONTEMPLATED AND THE RELATIONSHIP ESTABLISHED BY THIS AGREEMENT, OR ANY ACT,

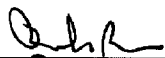
OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH, UNLESS IT IS DETERMINED BY A JUDGMENT OF A COURT THAT IS BINDING ON LENDER (WHICH JUDGMENT SHALL BE FINAL AND NOT SUBJECT TO REVIEW ON APPEAL), THAT SUCH LOSSES WERE THE RESULT OF ACTS OR OMISSIONS ON THE PART OF LENDER, CONSTITUTING GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR KNOWING VIOLATIONS OF LAW AND (II) WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM AGAINST LENDER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE), EXCEPT A CLAIM BASED UPON GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR KNOWING VIOLATIONS OF LAW. WHETHER OR NOT SUCH DAMAGES ARE RELATED TO A CLAIM THAT IS SUBJECT TO THE WAIVER EFFECTED ABOVE AND WHETHER OR NOT SUCH WAIVER IS EFFECTIVE, LENDER SHALL NOT HAVE ANY LIABILITY WITH RESPECT TO ANY CLAIM FOR, ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES SUFFERED BY DEBTOR IN CONNECTION WITH, ARISING OUT OF, OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED OR THE RELATIONSHIP ESTABLISHED BY THIS AGREEMENT, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH, UNLESS IT IS DETERMINED BY A JUDGMENT OF A COURT THAT IS BINDING ON LENDER (WHICH JUDGMENT SHALL BE FINAL AND NOT SUBJECT TO REVIEW ON APPEAL), THAT SUCH DAMAGES WERE THE RESULT OF ACTS OR OMISSIONS ON THE PART OF LENDER, CONSTITUTING GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR KNOWING VIOLATIONS OF LAW.

(h) DEBTOR WAIVES ALL RIGHTS OF NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY LENDER OF ITS RIGHTS FROM AND AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT TO REPOSSESS THE COLLATERAL WITH JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON THE COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS. DEBTOR WAIVES THE POSTING OF ANY BOND OTHERWISE REQUIRED OF LENDER IN CONNECTION WITH ANY JUDICIAL PROCESS OR PROCEEDING TO OBTAIN POSSESSION OF, REPLEVY, ATTACH OR LEVY UPON COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS, TO ENFORCE ANY JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF LENDER, OR TO ENFORCE BY SPECIFIC PERFORMANCE, TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTION THIS AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT BETWEEN DEBTOR AND LENDER.

27. Further Assurances. At any time and from time to time, upon the written request of Lender and at the sole expense of Debtor, Debtor shall promptly and duly execute and deliver any and all such further instruments and documents and take such further actions as Lender may reasonably deem desirable to obtain the full benefits of this Agreement and of the rights and powers herein granted, including (i) using commercially reasonable efforts to secure all consents and approvals necessary or appropriate for the assignment to or for the benefit of Lender of any Collateral held by Debtor or in which Debtor has any rights not heretofore assigned and (ii) filing any financing or continuation statements with the United States Patent and Trademark Office.


IN WITNESS WHEREOF, Debtor has duly executed and delivered this Agreement as of the day and year first above written.

SIMITAR ENTERTAINMENT, INC., a  
Minnesota corporation

By:   
Name: Richard R. Riccio  
Title CEO

By acceptance hereof as of this 5th day of June 1998, Lender agrees to be bound by the provisions hereof.

CONGRESS FINANCIAL CORPORATION  
(CENTRAL)

By:   
Name: RICHARD A. DICKARD  
Title SVP