

MO 3.2.01

FORM 1595

03-14-2001

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office



101636620

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

1. Name of conveying party(ies):

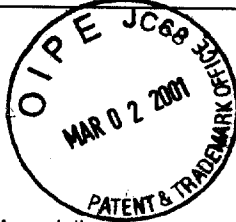
Top Air Manufacturing, Inc.

Parker Industries, Inc.

Parker Acquisition Sub, Inc.

- Individual Association
- General Partnership Limited Partnership
- Corporation-State Iowa
- Other _____

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



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

Name First Star Bank, N. A.

Internal Address: _____

Street Address: 222 Second Avenue SE

City Cedar Rapids

State Iowa ZIP 52401

- Individual (s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporate-State Iowa
- Other _____

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

Yes No

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

Yes No

3. Name of Conveyance:

Assignment / Voluntary Surrender Merger

Security Agreement Change of Name

Execution Date: December 1, 2000

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

PLEASE SEE SCHEDULE (attached)

Additional numbers attached? Yes No

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

Name: G. Franklin Rothwell

Internal Address: 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:

Eight (8)

7. Total fee (37 CFR 3.41): \$ 215.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

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.

Anne M. Sterba
Name of Person Signing

Anne M Sterba
Signature

3-2-01
Date

03/13/2001 6TON11 00000095 1204307

Total number of pages including cover sheet, attachments and documents: 14

01 FC:481 40.00 OP
02 FC:482 175.00 OP

TRADEMARK
REEL: 002251 FRAME: 0001

**The properties affected by the Security Agreement and
Voluntary Surrender Agreement are attached at Schedules 1
and 2.**

SCHEDULE 2 TO ASSIGNMENT**U.S. Trademarks**

<u>Registration No.</u>	Reg. Date	Mark	Serial Number	Filing Date
1,204,307	8/10/82	E-Z BOY	73/324,447	8/20/81
884,028	1/13/70	PARKER & Stylized P	72/306,164	8/28/68
912,500	6/8/71	PARKER	72/306,165	8/28/68
2,200,901	11/3/98	TOP AIR	75/165,860	9/13/96
1,178,865	11/24/81	TOP-AIR	73/296,037	2/6/81
959,765	5/29/73	BETTER-BILT	72/400,329	8/16/71
963,779	7/10/73	BETTER-BILT	72/400,330	8/16/71
1,148,697	3/24/81	TRIGON	73/191,033	10/27/78

1994-234 .ASG

Voluntary Surrender Agreement

This Voluntary Surrender Agreement (the "Agreement") is entered into effective as of December 1, 2000 by and between Firststar Bank, N.A. ("Bank"), Top Air Manufacturing, Inc., an Iowa corporation ("Top Air"), Parker Industries, Inc., an Iowa corporation ("Parker"), and Parker Acquisition Sub, Inc., an Iowa corporation ("Parker Sub"). Hereinafter, Top Air, Parker and Parker Sub may be collectively referred to as the Borrowers.

Recitals

1. Top Air is obligated to the Bank for payment of certain loans, which have been evidenced by various loan agreements, most recently a loan agreement dated January 28, 2000, and by various promissory notes, most recently a Line of Credit Promissory Note dated January 28, 2000 and an Overadvance Line Credit Promissory Note dated January 28, 2000 (collectively the "New Notes"). In addition Top Air is obligated to Bank under a term note identified by Bank as Note No. 211094 and Note No. 300822 (the "Term Notes"). The New Notes and the Term Notes may hereinafter be collectively referred to as the "Notes."

2. The obligations of Borrowers to Bank are secured pursuant to a Security Agreement dated November 2, 1998, which grant Bank a security interest in all of Borrowers' equipment, inventory, accounts receivable and general intangibles, among other things. Hereinafter Borrowers' assets subject to Bank's security interest shall be referred to as the "Collateral."

3. Top Air has not paid the Notes at their maturity and is in default with respect to its payment obligations. Pursuant to an agreement effective as of April 18, 2000 and a subsequent agreement entered into on August 23, 2000 and made effective as of July 18, 2000, Bank agreed to forbear from exercising its remedies, including foreclosing against the collateral

pledged to secure payment of the Notes while Borrowers attempted to find replacement financing or new investors.

4. Borrowers have not been able to find replacement financing or new investors on terms acceptable to Bank, and Bank's obligation to forbear expired on October 31, 2000. Bank has made demand for payment in full the obligations owed to it. The Borrowers are unable to make payment and Bank has demanded the surrender of all the Collateral.

5. In lieu of the Bank's replevin of the Collateral pledged to secure the indebtedness, the Borrowers have reached an agreement for the voluntary surrender of the Collateral to the Bank, the terms of which are set forth in this Agreement.

Agreement

6. In consideration of the foregoing, and in consideration of the following mutual agreements and promises, Bank and the Borrowers agree as follows:

7. Effective immediately upon the execution of this Agreement, Borrowers shall and hereby do voluntarily surrender possession of all the Collateral to Bank and its agents. This surrender shall take place at Borrowers' places of business in Cedar Falls, Iowa and Jefferson, Iowa, but shall also include those portions of the Collateral presently in the possession of third parties wherever located, including but not limited to Collateral in the possession of dealers under various floor plan agreements between Borrowers and those dealers.

8. Borrowers understand and acknowledge that Bank intends to sell the Collateral without providing further notice to Borrowers of the terms and conditions of such sale. Borrowers hereby waive any rights to any further notice of such sales under § 9-504 of the Uniform Commercial Code. Borrowers hereby release Bank from any liability related in any way to the disposition of the Collateral contemplated by this Agreement.

9. Borrowers acknowledge that Bank intends to retain agents to assist Bank in the liquidation of the Collateral and agrees to cooperate in the turnover of all collateral to the Bank's designated agents and to permit the Bank to immediately secure the Borrower's business premises in Cedar Falls, Iowa and Jefferson, Iowa.

10. Borrowers consent to the Bank's use of their facilities in Cedar Falls and Jefferson, Iowa for purposes of the liquidation of the Collateral. Bank shall and hereby does indemnify Borrowers and hold Borrowers harmless from any claims arising from Bank's occupation and use of the premises under the terms of this Agreement. Bank acknowledges that Borrowers do not have the authority to bind Borrowers' lessors to the terms of this Agreement, and Bank shall be responsible for making any necessary agreements with those lessors in connection with Bank's occupation and use of the premises.

11. Bank agrees that it shall permit Borrowers to pay, or if necessary will provide payment, for claims of Borrowers' employees arising under Borrowers' self-insured health plans for claims arising prior to the date of this Agreement, provided, however, that Bank's obligation under this paragraph shall not exceed \$95,000 and shall not extend to any claim not presented to the third party administrator within 90 days of this Agreement. Bank may satisfy its obligations under this paragraph in full by paying any premium or other payment sufficient to cause the third party administrator to assume liability for these runoff claims under the health plan.

12. Bank agrees that it will permit Borrowers to pay, or will allow to be paid, all employee wages, salaries, commissions and expense reimbursement for Borrowers' employees up through close of business on November 30, 2000, including withholding taxes, employee 401(k) contributions, withholdings for wage garnishments, union dues and loan repayments, and independent sales commissions.

13. Bank acknowledges that Borrowers have paid a retainer of \$25,000 to the accounting firm of McGladrey & Pullen, LLP for preparation of the final tax returns for Borrowers that are shown on the attached Exhibit A. Borrowers acknowledge that the Bank has no further obligation to pay any costs related to the preparation of said final tax returns and also acknowledge that any tax refunds due Borrower as the result of the final returns and any amendments to these or prior returns, constitute the Bank's collateral and will be surrendered to the Bank. Borrower further agrees that upon the completion of McGladrey & Pullen's work on behalf of the company, as described herein, that any unearned portion of the retainer referred to in this paragraph shall be surrendered to Bank as proceeds of its collateral.

14. Bank acknowledges that Borrowers have paid a retainer of \$50,000 to the law firm of Gallop, Johnson and Neuman, L.C. for legal services rendered to the Borrowers. Borrowers acknowledge that the Bank has no further obligation to pay any costs related to the Borrower's legal expenses. Borrowers further agree that upon completion of all legal services rendered to the Borrower by Gallop, Johnson and Neuman, L.C., any unearned portion of the retainer referred to in this paragraph shall be surrendered to the Bank as proceeds of its collateral.

15. Bank shall give Borrowers and its accountants access to Borrowers' books and records during reasonable hours at Borrowers' premises for purposes of preparing tax returns, securities filings or other necessary filings. Bank and/or the Bank's agent shall cooperate in making available to Borrower any information and/or documents necessary for Borrower to wind up its corporate affairs.

16. At such time as Bank has completed the disposition of its Collateral, Bank shall return to Borrowers their books and records, including but not limited to those books and records shown on the attached Exhibit B.

17. Borrowers warrant and represent that Borrowers have all requisite corporate authority required to execute this Agreement and to perform all the terms and conditions of the Agreement.

18. Bank shall cause its agents to comply with and honor the terms of this Agreement.

19. Bank agrees for a period of one year following the execution of this Agreement to allow Borrowers to pay, or to cause to be paid, a retainer of \$100 per month, plus an hourly payment of \$25 per hour for an officer of Top Air to perform such services as are necessary to permit Borrowers to maintain their corporate charters, file tax returns and take other necessary corporate action. In no event shall Bank's obligations under this paragraph exceed \$350 in any calendar month or \$750 in a calendar quarter.

20. In the event the Bank deems it necessary to seek the appointment of a receiver pursuant to Iowa Code §680 for the purpose of collecting and liquidating the collateral, Borrowers hereby agree and consent to the appointment of such receiver and waive any and all notice with regard to such request.

21. Borrowers for themselves, their successors and assigns, absolutely, unconditionally and irrevocably waive and release any and all claims, demands, damages, actions and causes of action of any kind whatsoever whether known or unknown or unforeseen against the Bank, its agents, employees, officers, directors, attorneys, successors or assigns (each a "Released Party") arising out of any transaction, agreement, note or contract of any nature prior to the date of execution of this Agreement.

- 22. This Agreement shall be binding upon the parties' successors and assigns.
- 23. This Agreement represents the entire agreement between the parties and supercedes all prior negotiations and agreements between the parties.
- 24. This Agreement may be executed in counterparts, each of which together shall constitute a single document.

FIRSTAR BANK, N.A.

By: *David W. Cothran V.P.*

TOP AIR MANUFACTURING, INC.

By: *A. D. D. Pres.*

PARKER INDUSTRIES, INC.

By: *A. D. D. Pres.*

PARKER ACQUISITIONS SUB, INC.

By: *A. D. D. Pres.*

SECURITY AGREEMENT
As Security for a Loan
From MERCANTILE BANK MIDWEST

1. **DATE AND PARTIES.** The date of this Security Agreement (Agreement) is November 2, 1998, and the parties (along with the correct mailing addresses) are the following:

OWNER:

TOP AIR MANUFACTURING, INC.
an Iowa corporation
317 Savannah Park Rd.
Cedar Falls, Iowa 50613
Tax I.D. # 42-1155462

BANK:

MERCANTILE BANK MIDWEST
an IOWA banking corporation
425 Cedar Street
P.O. Box 88
Waterloo, Iowa 50704
Tax I.D. # 42-0167390

2. **OBLIGATIONS DEFINED.** The term "Obligations" is defined as and includes the following:

- A. A promissory note, No. _____ (First Note) dated November 2, 1998, and executed by TOP AIR MANUFACTURING, INC. (Borrower) payable to the order of Bank, which evidences a loan (First Loan) to Borrower in the amount of \$4,000,000.00, plus interest, and all extensions, renewals, modifications or substitutions thereof; and also, a second promissory note, No. _____ (Second Note) dated November 2, 1998, and executed by Borrower payable to the order of Bank, which evidences a loan (Second Loan) to Borrower in the amount of \$4,500,000.00, plus interest, and all extensions, renewals, modifications, or substitutions thereof. The terms "First Note" and "Second Note" shall be collectively referred to as "Note" herein; and the terms "First Loan" and "Second Loan" shall be collectively referred to as "Loan" herein.
- B. All future advances by Bank to Borrower, to Owner, to any one of them or to any one of them and others (and all other obligations referred to in the subparagraph(s) below, whether or not this Agreement is specifically referred to in the evidence of indebtedness with regard to such future and additional indebtedness).
- C. All additional sums advanced, and expenses incurred, by Bank for the purpose of insuring, preserving or otherwise protecting the Collateral (as herein defined) and its value, and any other sums advanced, and expenses incurred by Bank pursuant to this Agreement, plus interest at the same rate provided for in the First Note computed on a simple interest method.
- D. All other obligations, now existing or hereafter arising, by Borrower owing to Bank to the extent the taking of the Collateral (as herein defined) as security therefor is not prohibited by law, including but not limited to liabilities for overdrafts, all advances made by Bank on Borrower's, and/or Owner's, behalf as authorized by this Agreement and liabilities as guarantor, endorser or surety, of Borrower to Bank, due or to become due, direct or indirect, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several.
- E. Borrower's performance of the terms in the Note or Loan, Owner's performance of any terms in this Agreement, and Borrower's and Owner's performance of any terms in any deed of trust, any trust deed, any trust indenture, any mortgage, any deed to secure debt, any other security agreement, any assignment, any construction loan agreement, any loan agreement, any assignment of beneficial interest, any guaranty agreement or any other agreement which secures, guarantees or otherwise relates to the Note or Loan.

3. **COLLATERAL.** To secure the Obligations and in consideration of the Loan, Owner hereby grants, conveys and transfers to Bank a continuing security interest to secure the Obligations in the following type(s) (or items) of property (Collateral), together with any property of a like type or nature, all whether now owned or hereafter acquired:

Accounts
Equipment
General Intangibles
Chattel Paper
Inventory
Fixtures

The term "Collateral" further includes, but is not limited to, the following property, whether now owned or hereafter acquired, and whether or not held by a bailee for the benefit of the Owner or owners, all: accessions, accessories, additions, fittings, increases, insurance benefits and proceeds, parts, products, profits, renewals, rents, replacements, special tools and substitutions, together with all books and records pertaining to the Collateral and access to the equipment containing such books and records including computer stored information and all software relating thereto, plus all cash and non-cash proceeds and all proceeds of proceeds arising from the type(s) (items) of property listed above.

Pertaining to the accounts (Accounts) portion of the Collateral, the term "Collateral" shall include, but not be limited to, all:

- A. accounts generally, accounts receivable and hedging accounts;
- B. contracts, real estate contracts, futures contracts, contract rights to obtain payment for goods or property sold, leased or exchanged and for services rendered, whether or not performance has been completed;
- C. things in action;
- D. rights to receive any payments in money or in kind;
- E. guaranties of Accounts and the security therefor;
- F. rights of Owner in the goods, services or other property which give rise to, or secure, the Accounts;
- G. rights of Owner as an unpaid seller of goods or services, including but not limited to stoppage in transit, replevin, reclamation and resale;
- H. instruments and chattel paper; and
- I. proceeds thereof and proceeds thereof.

Pertaining to the general intangibles portion of the Collateral, the term "Collateral" shall include, but not be limited to, instruments and chattel paper, all goodwill, tax refunds, trademarks, trade names, patents, copyrights, and all proceeds thereof and proceeds of proceeds thereof.

Pertaining to the equipment portion of the Collateral, the term "Collateral" shall include, but not be limited to, wherever located, all furniture, accessions, non-titled vehicles that are not held for resale, trailers, tools, machinery, equipment, supplies, all proceeds thereof and proceeds of proceeds thereof.

Pertaining to the inventory portion of the Collateral, the term "Collateral" shall include, but not be limited to, wherever located, all of Owner's inventory, raw materials, work in process, finished goods, other tangible property held for sale or lease, and property returned, repossessed or consumed in Owner's business, documents (including but not limited to documents of title, bills of lading and warehouse receipts), all proceeds and all proceeds of proceeds thereof. Pertaining to the portion of the Collateral that is titled under federal or state law, the term "Collateral" shall further include, wherever located, the original evidences of title or ownership, whether evidenced by a certificate of title or ownership, a manufacturer's statement of origin or otherwise. Owner agrees to surrender such evidences of title to Bank and to allow Bank to retain such evidences of title until such inventory is properly disposed of and the proceeds from such disposition are properly remitted to Bank in accordance with the other terms of this Agreement.

4. **NO OTHER LIENS.** Until the Obligations are fully paid, Owner will not grant a security interest in any of the Collateral without the prior written consent of Bank.

5. **COLLATERAL ACCOUNT.** Upon written request of Bank, Owner shall immediately and thereafter deposit all checks, drafts, cash and other remittances (Funds) in payment of the Accounts portion and the Inventory portion and the Chattel Paper portion of the Collateral in a special bank account (Collateral Account) maintained with Bank as such Funds are received by Owner. Owner, however, may withdraw from the Collateral Account only upon the prior written consent of Bank. Such Funds shall be held by Bank as security for the Obligations. The Funds shall be deposited in precisely the form received, excepting for the endorsement of Owner where necessary to permit the collection of the Funds, which

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endorsement Owner agrees to make and which endorsement Owner authorizes Bank to make on Owner's behalf. Pending such deposit, Owner agrees that Owner will not commingle or cause to be commingled the Funds with any of Owner's other funds or property, but will hold the Funds separate and apart from Owner's other funds and property upon an express trust for Bank until deposit of the Funds is made into the Collateral Account.

6. **BANK'S RIGHTS REGARDING COLLATERAL ACCOUNT.** Pertaining to the Accounts portion of the Collateral, Bank shall have the right at any time and from time to time, without notice, to:
- withdraw any of the Funds from the Collateral Account and to apply any of the Funds in the Collateral Account to the Obligations against principal and/or interest in any order or method, at the sole discretion of Bank;
 - release to Owner any of the Funds in the Collateral Account;
 - charge to the Collateral Account or any other deposit account of Owner with Bank any item of payment credited to the Collateral Account which is dishonored by the drawee or maker;
 - endorse all payments on the Accounts which may come into its possession payable to Owner;
 - notify all account debtors that the Accounts have been assigned to Bank, forward invoices to account debtors, directing them to make payments to Bank, collect all Accounts in its or Owner's name, and take control of any cash or non-cash proceeds of Accounts, any proceeds of proceeds and any returned or repossessed goods;
 - compromise, extend, or renew any Account or deal with any Account as it may deem advisable;
 - exchange, substitute or surrender any collateral for the Accounts; and
 - at Bank's option, complete any contract or portion of any contract of Owner's with an account debtor, the reasonable cost of which completion shall be added to the Obligations and repayable with interest, collectable as provided in the Note.
7. **BANK AND ACCOUNT DEBTORS' RELATIONSHIP.** Owner hereby authorizes Bank to notify Owner's account debtors of Bank's security interest and to collect, compromise, endorse, sell or otherwise deal with such Accounts at any time in its own name or that of Owner. Bank may apply proceeds from the Accounts to the payment of the Obligations or the Collateral Account or may release such proceeds to Owner. In furtherance of the foregoing and not as a limitation, Owner hereby constitutes and appoints Bank, its agents, or any other person whom Bank may designate, as attorney-in-fact for Owner, at Owner's cost and expense, to exercise any of the following powers which, being coupled with an interest, shall be irrevocable and shall continue until the Obligations have been paid in full:
- to demand payment and enforce collection of any such Accounts by suit or otherwise;
 - to foreclose any security interest, lien or encumbrance given to secure the payment or performance of such Accounts or any obligation constituting Collateral;
 - to file proofs of claim or similar documents in the event of bankruptcy, insolvency or death of any person obligated on such Accounts;
 - to surrender, release or exchange any such Accounts;
 - to compromise any indebtedness evidenced by any such Accounts;
 - to take control of any proceeds of such Accounts; and
 - to deal in all respects as the holder and owner of such Accounts.
8. **OWNER'S DUTIES TOWARD INVENTORY.** Pertaining to the inventory portion of the Collateral, Owner shall:
- maintain the inventory in such quantities and condition so that at all times the value of the Collateral is at least equal to the same value-to-loan ratio as existed at the time this Loan was made.
 - sell the inventory only in the ordinary course of business.
 - furnish Bank an accounting at such intervals and in a form as Bank may request, showing the aggregate cost and wholesale market value of its inventory.
 - keep accurate and complete records of the inventory.
 - give Bank such statements and reports and other data concerning Owner's accounts, contracts, collections, collateral and other matters in any way pertaining to the inventory as Bank may from time to time specify, and permit Bank or its nominee to examine and make copies of all such records at any time.
 - at Bank's option, deposit the proceeds of all sales of inventory into the Collateral Account.
9. **OWNER'S DUTIES TOWARD ACCOUNTS.** Pertaining to the Accounts portion of the Collateral, Owner shall:
- collect the Accounts only in the ordinary course of business and receive all payments on the Accounts as trustee for Bank and not dispose of the accounts in bulk or by assignment without consent of Bank.
 - furnish Bank an accounting at such intervals and in a form as Bank may request, showing the aggregate face amount of the Accounts.
 - keep accurate and complete records of the Accounts.
 - make no material change in any of the terms of any Account.
 - give Bank such statements, reports, certificates, lists of Account debtors (showing names, addresses and amounts owing), invoices applicable to each account, and other data in any way pertaining to Owner's Accounts as Bank may from time to time specify, and permit Bank or its nominee to examine and copy such records.
 - at Bank's option, deposit all payments received from the Accounts into the Collateral Account.
 - when requested by Bank, notify Account debtors that their Accounts have been assigned to Bank and shall be paid directly to Bank.
10. **LOCATION OF THE COLLATERAL.** The location of the Collateral is given for the purpose of aiding in the identity of the Owner and, only to the extent necessary, aiding in the identification of the Collateral. It does not in any way limit the scope of the security interest granted to Bank. Owner shall notify Bank in writing prior to any change in location of any of the Collateral. Except as otherwise provided in this Agreement, the Collateral will be located at: 317 Savannah Park Rd., Cedar Falls, Iowa 50613. Except as otherwise provided herein, the Collateral shall not be removed without the prior written consent of Bank, except as required in the ordinary course of business.
- So long as Owner is not in default under this Agreement and is in compliance with the provisions of this Agreement regarding the depositing and disposition of proceeds into the Collateral Account, Owner may sell the inventory portion in the ordinary course of business.
- Owner's place of business is located at: 317 Savannah Park Rd., Cedar Falls, Iowa 50613.
- Pertaining to the pledged portion of the Collateral which is in or comes into the possession of Bank, it shall be kept in the possession of Bank.
11. **FIXTURES.** That portion of the Collateral that is or shall become a fixture shall be located on the following described real property (Land) of which Owner is a record owner:
- If this Agreement will be filed as a Financing Statement, it is to be filed in the real estate records.
12. **USE OF THE COLLATERAL.** Owner represents and warrants that the Collateral will be used solely (or primarily) for business purposes.
13. **OTHER CLAIMS.** Except for the security interest granted in this Agreement, Owner represents, warrants and covenants that Owner is the exclusive owner of the Collateral which now is and will continue to be free from any liens, encumbrances, security interests, restrictions, set-offs, adverse claims and assessments, except as disclosed in writing to Bank, prior to any advance on the Loan; and
- Owner has the right and authority to make this Agreement.
 - Owner will defend the Collateral against all claims of all persons claiming any interest in it.
 - the execution and delivery of this Agreement will not violate any agreement governing Owner or to which Owner is a party.
 - this Agreement relating to the Collateral is enforceable in accordance with its terms, is genuine and complies with laws concerning form, content and manner of preparation and execution, and all persons obligated on this Agreement have authority and capacity to contract and are bound as they appear to be.
14. **TRANSFER OF COLLATERAL.** Owner will not sell, offer to sell, lease, or otherwise transfer or encumber the Collateral or any interest in the Collateral without the prior written consent of Bank which Owner agrees may be reasonably withheld without regard to the creditworthiness of any buyer or transferee. Owner agrees further that Owner will not sell, offer to sell, lease, or otherwise encumber the Collateral or any interest in the Collateral, to insiders, principals, competitors, and dealers in the same line of goods or business, without prior written consent of the Bank. Owner will not permit the Collateral to be the subject of any court order affecting Owner's rights to the Collateral in any action by any person other than Bank.
- However, so long as Owner is not in default under this Agreement and Borrower is not in default under the Obligations, Owner may sell the inventory portion of the Collateral in the ordinary course of Owner's business.
15. **TAXES.** Owner will pay when due all taxes and assessments which may be levied or assessed against Owner or against the Collateral, including but not limited to sales taxes, use taxes, personal property taxes, documentary stamp taxes, franchise taxes, income taxes, withholding taxes, FICA taxes

and unemployment taxes. Owner covenants that Owner will provide timely proof of payment of such taxes and assessments, at least quarterly and also upon Bank's request.

16. **INSURANCE.** Owner will keep the insurable portion of the Collateral at all times insured against risk of loss or damage by fire (including so-called extended coverage), theft, flood and all other casualties, all in such amounts, under such forms of policies, upon such terms, for such periods, and written by such companies as Bank may approve. Owner shall arrange for Bank to be named and endorsed as lender loss payee on any such policy. Losses in all cases shall be payable to Bank, as Lender, and Owner as their interests may appear on this policy. Bank may collect the proceeds (or rebates of unearned premiums) on any insurance policy insuring the Collateral. Bank will apply such proceeds toward what is owed on the Obligations. In the event of any loss, Bank may require additional security or assurance of payment of the secured obligation as a condition of permitting any insurance benefits to be used for repair or replacement of the Collateral. Owner shall maintain the insurance required hereunder until the Obligations are paid in full. All such policies of insurance shall provide for at least 30 days prior written notice of amendment or cancellation to Bank and shall contain a standard breach of warranty endorsement in favor of Bank. Owner shall furnish Bank with certificates of such insurance or other evidence satisfactory to Bank as to compliance with the provisions of this section. Owner hereby authorizes Bank to act, at Bank's option, as attorney-in-fact for Owner in acquiring, making, adjusting, or settling claims under or cancelling such insurance and endorsing Owner's name on any drafts, checks or other instruments drawn by insurers of the Collateral.

17. **CONDITION OF THE COLLATERAL.** Owner represents, warrants and covenants that the Collateral is in good condition. Owner agrees that Owner will immediately notify Bank of any loss or damage. Owner will not cause or permit waste or destruction of the Collateral. Owner hereby authorizes Bank to examine the Collateral wherever located at any time during ordinary business hours, upon reasonable notice or at any other reasonable time.

Pertaining to the tangible property portions of the Collateral, Owner, at Owner's expense, will keep it in good condition and replace and repair, in a timely manner, all parts of the Collateral as may be worn out or damaged without allowing any lien to be created upon the Collateral.

18. **BANK'S RIGHTS TO PLEDGED COLLATERAL.** Pertaining to all of the pledged portion of the Collateral which is in or comes into the possession of Bank, in its discretion and without notice to Owner, the Bank may take any one or more of the following actions without liability:

- A. transfer to or register in its name or the name of its nominee any of the Collateral, with or without indication of its security interest, and whether or not so transferred or registered, receive the profits, income, dividends, and other distributions thereon and hold them or apply them to the Obligations in any order of priority;
- B. exercise or cause to be exercised all rights, privileges or options pertaining to the Collateral, as if the absolute owner thereof, except that Bank will exercise voting and corporate or partnership powers with respect to any of the Collateral so registered or transferred, including all rights of conversion, exchange, and subscription only upon default;
- C. insure any of the Collateral;
- D. exchange any of the Collateral for other property upon a reorganization, recapitalization or other readjustment and, in connection therewith, deposit any of the Collateral with any committee or depository upon such terms as Bank may determine;
- E. in its name or in the name of Owner, Bank may demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for any of the Collateral and Bank further shall have the right at any time to sign and endorse the name of Owner upon any note, trust deed, mortgage, stock certificate, stock power, check, draft, money order, or any other documents of title or evidences of payment, shipment, or storage in the name of Owner, it being the intention of Owner to grant to Bank the right to sell any portion or all of the Collateral and the proceeds therefrom;
- F. make any compromise or settlement deemed advisable with respect to any of the Collateral;
- G. renew or extend any account or other indebtedness held as Collateral;
- H. take or release any other collateral as security for any of the Collateral; and
- I. add or release any guarantor, endorser, surety or other party on any account or other indebtedness held as Collateral.

Pledged Collateral is property which the Owner is delivering to the possession of Bank to secure the payment of the Obligations, specifically:

Chattel Paper

Notwithstanding anything to the contrary, Bank is not required to preserve or protect the Collateral or to preserve any rights that Owner may have against any prior party to any proceeding. Owner agrees to pay any additional costs Bank incurs for the custody, preservation and enforcement of any rights in the pledged Collateral. Bank may hold any increase or profits from the pledged Collateral as additional security, although cash must be applied toward the payment of the Obligations. The risk of accident, loss or damage is on Owner to the extent of any deficiency in effective insurance coverage. Bank is not responsible for any decline in value of the property while it remains in Bank's possession.

19. **BANK'S DUTY TO ACT.** Bank's duty, with reference to the Collateral and any books and records pertaining to the Collateral, shall be solely to use reasonable care in the custody and preservation of the Collateral and such books and records in Bank's possession, which shall not include any steps necessary to preserve rights against prior parties nor the duty to send notices, perform services or take any action in connection with the management of the Collateral nor the duty to protect, preserve or maintain any security interest given to others by Owner or other parties. Bank shall be under no duty to exercise or to withhold the exercise of any of the rights, remedies, powers, privileges and options expressly or impliedly granted to Bank in this Agreement, and Bank shall not be responsible or liable for any failure to exercise such rights, nor for its delay in so doing.
20. **POSSESSION.** Until default, Owner may have possession of any Collateral not delivered or to be delivered to Bank and use it in any lawful manner not inconsistent with this Agreement or any policy of insurance. Upon default Bank shall have immediate right to possession of such Collateral.
21. **VIOLATIONS OF LAW.** Owner shall not use the Collateral in violation of any municipal, state or federal law or regulation nor in violation of any order of any governmental regulatory agency.
22. **CORPORATE WARRANTIES AND REPRESENTATIONS.** If Owner is a corporation, Owner makes to Bank the following warranties and representations which shall be continuing so long as the Obligations remain outstanding:
- A. Owner is a corporation which is duly organized and validly existing in Owner's state of incorporation as represented in the DATE AND PARTIES paragraph above; Owner is in good standing under the laws of all states in which Owner transacts business; Owner has the corporate power and authority to own the Collateral and to carry on its business as now being conducted; Owner is qualified to do business in every jurisdiction in which the nature of its business or its property makes such qualification necessary; and Owner is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.
 - B. The execution, delivery and performance of this Agreement by Owner and the borrowing evidenced by the Note: (1) are within the corporate powers of Owner; (2) have been duly authorized by all requisite corporate action; (3) have received all necessary governmental approval; (4) will not violate any provision of law, any order of any court or other agency of government or Owner's Articles of Incorporation or Bylaws; and (5) will not violate any provision of any indenture, agreement or other instrument to which Owner is a party or to which Owner is or any of Owner's property is subject, including but not limited to any provision prohibiting the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Owner's property or assets. The Note and this Agreement when executed and delivered by Owner will constitute the legal, valid and binding obligations of Owner, and of the other obligors named therein, if any, in accordance with their respective terms.
 - C. All other information, reports, papers and data given to Bank with respect to Owner or to others obligated under the terms of this Agreement are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Bank a true and accurate knowledge of the subject matter.
 - D. Owner has not changed its name within the last six years, unless otherwise disclosed in writing; other than the trade names or fictitious names actually disclosed to Bank prior to execution of this Agreement, Owner uses no other names; and until the Obligations shall have been paid in full, Owner hereby covenants and agrees to preserve and keep in full force and effect its existing name, corporate existence, rights, franchises and trade names, and to continue the operation of its business in the ordinary course.
23. **CHANGE OF NAME OR ADDRESS.** Owner shall notify Bank in writing prior to any change in Owner's name or, if an organization, any change in identity or structure. Owner also will notify Bank in writing prior to any change in Owner's address.
24. **EVENTS OF DEFAULT.** Owner shall be in default upon the occurrence of any of the following events, circumstances or conditions (Events of Default):
- A. Failure by any person obligated on the Obligations to make payment when due; or
 - B. A default or breach by Borrower, Owner or any co-signer, endorser, surety, or guarantor under any of the terms of this Agreement, the Note, any construction loan agreement or other loan agreement, any security agreement, mortgage, deed to secure debt, deed of trust, trust deed, or any other document or instrument evidencing, guarantying, securing or otherwise relating to the Obligations; or
 - C. The making or furnishing of any verbal or written representation, statement or warranty to Bank which is or becomes false or incorrect in any material respect by or on behalf of Owner, Borrower, or any co-signer, endorser, surety or guarantor of the Obligations; or
 - D. Failure to obtain or maintain the insurance coverages required by Bank, or insurance as is customary and proper for the Collateral (as herein defined); or
 - E. The death, dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment for the benefit of creditors by or on

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- behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Owner, Borrower, or any co-signer, endorser, surety or guarantor of the Obligations; or
- F. A good faith belief by Bank at any time that Bank is insecure with respect to Borrower, or any co-signer, endorser, surety or guarantor, that the prospect of any payment is impaired or that the Collateral (as herein defined) is impaired; or
- G. Failure to pay or provide proof of payment of any tax, assessment, rent, insurance premium, escrow or escrow deficiency on or before its due date; or
- H. A material adverse change in Owner's business, including ownership, management, and financial conditions, which in Bank's opinion, impairs the Collateral or repayment of the Obligations; or
- I. A transfer of a substantial part of Owner's money or property.
25. **REMEDIES ON DEFAULT.** At the option of Bank, all or any part of the principal and accrued interest on the Note and the Obligations shall become immediately due and payable without notice or demand, upon the occurrence of an Event of Default or at any time thereafter. In addition, upon the occurrence of any Event of Default, Bank shall be entitled to all of the remedies provided by law, the Note and any related loan documents. Bank is entitled to all rights and remedies provided at law or equity whether or not expressly stated in this Agreement. By choosing any remedy, Bank does not waive its right to an immediate use of any other remedy if the event of default continues or occurs again. Bank shall have all the remedies of a secured party under:
- Article 9 of the Iowa Uniform Commercial Code;
 - all other Iowa laws;
 - this Agreement;
 - any instrument evidencing the Obligations;
 - any other applicable security, loan, guaranty or surety agreements pertaining to the Obligations; and
 - the common law, including Bank's right of set-off.

Owner shall be liable for any deficiency resulting from the sale or disposition of the Collateral. Bank may require Owner to assemble all or any portion of the Collateral and make it available to Bank at a place to be designated by Bank which is reasonably convenient to both parties. Bank shall have the right to enter and/or remain upon the premises of Owner, or any other place where any of the Collateral is located and kept, but in doing so Bank may not breach the peace or unlawfully enter onto Owner's premises, without any obligation to pay rent to Owner or others, and

- remove Collateral therefrom to the premises chosen by Bank or any agent of Bank for such time as Bank may desire in order to maintain, sell the Collateral and/or liquidate the Collateral; or
- use such premises together with materials, supplies, books, and records of Owner to maintain possession and/or the condition of the Collateral and to prepare the Collateral for selling, liquidating, or collecting and to conduct the selling, liquidating or collecting.

Except where the law permits the sale or disposition of Collateral without notice, any notice of sale, disposition or other intended action by Bank, sent at least ten days prior to such action to the last known address of Owner as shown on Bank's records, shall constitute reasonable notice. The following reasonable expenses relating to default and collection shall be secured by this Agreement and added to the Obligations:

- expenses for taking, holding, preparing for sale, or selling the Collateral, or similar expenses;
- advances made for the above purposes and advances relating to the Collateral made on Owner's behalf as permitted herein; and
- reasonable attorneys' fees, paralegal fees and other legal expenses to the extent not prohibited by law, including, but not limited to, any such fees, costs, and expenses incurred in or related to the collecting, protecting and enforcing of liabilities, any negotiations or legal proceedings, including, but not limited to, any bankruptcy proceedings, or any actions in or related to any bankruptcy proceedings.

26. **RESTRICTIONS ON SALE OR DISPOSITION.** Owner acknowledges that a state or federal law or regulation may restrict Bank's sale or disposition of certain portions of the Collateral. As a result, such restriction may cause the Collateral to have less value than it otherwise would have had. In all cases, however, any such sale or disposition will be held in accordance with applicable Iowa and federal laws and regulations.

27. **PROTECTION OF COLLATERAL.** Bank is hereby appointed as the attorney-in-fact for Owner to do anything, at Bank's option, Bank deems reasonably necessary to perfect its security interest in the Collateral and to protect the Collateral and to continue Bank's security interest in the Collateral, including, but not limited to, the following:

- pay and discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral;
- pay any rents or other charges under any lease affecting the Collateral;
- place and pay for insurance on the Collateral;
- order and pay for the repair, maintenance and preservation of the Collateral; or
- to sign, when permitted by law, and file any financing statements on behalf of Owner and to pay for filing and recording fees at Owner's expense, pertaining to the Collateral.

Bank is under no duty to preserve or protect any Collateral until Bank is in actual, or constructive, possession of the Collateral. For purposes of this paragraph, Bank shall only be deemed to be in "actual" possession of the Collateral when Bank has physical, immediate and exclusive control over the Collateral and has affirmatively accepted such control. Further, Bank shall only be deemed to be in "constructive" possession of the Collateral when Bank has both the power and the intent to exercise control over the Collateral. Owner shall reimburse Bank on demand, but no later than 10 days after notice from Bank, for any payment made or expense incurred by Bank pursuant to this Agreement. The amounts for such payments and expenses shall be added to the Obligations and shall earn interest at the same rate as the principal balance owed on the Note from the date payment is made (or the expense is incurred) until paid.

28. **FINANCIAL STATEMENTS.** Until the Obligations are paid in full, Owner shall furnish Bank upon Bank's request and in the event of no request, at least annually, a current financial statement of Owner, which is certified by Owner and Owner's accountant to be true and accurate.

29. **DURATION OF SECURITY INTEREST.** This Agreement shall continue in full force and effect and the security interest granted herein and all representations, warranties, covenants and agreements of Owner and all of the terms, conditions and provisions relating thereto shall continue to be fully operative until (a) Owner and/or Borrower shall have paid or caused to be paid, or otherwise discharged, all of the Obligations to Bank and (b) there shall be no remaining obligation of Bank to advance funds to Owner and/or Borrower under any loan agreement or credit agreement or otherwise.

30. **RELEASES BY BANK.** Owner agrees that Bank may, without notice and without releasing any of the obligations of any of the remaining parties:

- release any security interest for the Obligations; or
- release any of the Collateral; or
- release any party to the Obligations, any guaranty or this Agreement.

31. **GENERAL WAIVER BY OWNER.** Owner hereby waives and releases Bank from all claims for loss or damage caused by any act or omission of Bank, its officers, directors, employees or agents, except for willful misconduct.

32. **TERM.** This Agreement shall remain in effect until terminated in writing.

33. **GENERAL PROVISIONS.**

- TIME IS OF THE ESSENCE.** Time is of the essence in Owner's performance of all duties and obligations imposed by this Agreement.
- NO WAIVER BY BANK.** Bank's course of dealing, or Bank's forbearance from, or delay in, the exercise of any of Bank's rights, remedies, privileges or right to insist upon Owner's strict performance of any provisions contained in this Agreement, or other loan documents, shall not be construed as a waiver by Bank, unless any such waiver is in writing and is signed by Bank. The execution of this Agreement shall not impair any other security Bank may have or acquire in the future for the Obligations. The taking of any other security or the releasing of any security for the Obligations shall not impair this Agreement. Bank may resort to any security Bank may have for the Obligations in any order Bank may deem proper.
- AMENDMENT.** The provisions contained in this Agreement may not be amended, except through a written amendment which is signed by Owner and Bank.
- INTEGRATION CLAUSE.** This written Agreement and all documents executed concurrently herewith, represent the entire understanding between the parties as to the Obligations and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.
- FURTHER ASSURANCES.** Owner agrees, upon request of Bank and within the time Bank specifies, to provide any information, and to execute, acknowledge, deliver and record or file such further instruments or documents as may be required by Bank to secure the Note or confirm any lien.
- GOVERNING LAW.** This Agreement shall be governed by the laws of the State of IOWA, provided that such laws are not otherwise preempted by federal laws and regulations.
- FORUM AND VENUE.** In the event of litigation pertaining to this Agreement, the exclusive forum, venue and place of jurisdiction shall be in

the State of IOWA, unless otherwise designated in writing by Bank or otherwise required by law.

- H. SUCCESSORS. This Agreement shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties; provided however, that Owner may not assign, transfer or delegate any of the rights or obligations under this Agreement.
 - I. NUMBER AND GENDER. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
 - J. DEFINITIONS. The terms used in this Agreement, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously, or in conjunction, with this Agreement.
 - K. PARAGRAPH HEADINGS. The headings at the beginning of any paragraph, or any subparagraph, in this Agreement are for convenience only and shall not be dispositive in interpreting or construing this Agreement.
 - L. IF HELD UNENFORCEABLE. If any provision of this Agreement shall be held unenforceable or void, then such provision to the extent not otherwise limited by law shall be severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of this Agreement.
 - M. AUTHORITY TO MAKE AND USE COPIES. Owner authorizes Bank to make copies, photocopies, reproductions and other facsimiles (Copies) of this Agreement and any Financing Statement related to the Collateral for the purpose of filings or any other purpose, as if such Copies were the original.
 - N. FILING AS FINANCING STATEMENT. Owner agrees and acknowledges that this Agreement also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the IOWA Uniform Commercial Code. A carbon, photographic or other reproduction of this Agreement is sufficient as a financing statement.
34. SIGNATURES. By Owner's signature below, Owner agrees and acknowledges that Owner is signing in all represented capacities (whether Owner, Borrower or both) as they appear in the paragraph titled "DATE AND PARTIES" of this Agreement.
35. RECEIPT OF COPY. By signing this Agreement, Owner acknowledges that Owner has read this Agreement and a copy of this Agreement was delivered to and received by Owner.

OWNER:

TOP AIR MANUFACTURING, INC.
an Iowa corporation

By: 

STEVE LIND, PRESIDENT

[Corporate Seal*]

(*Corporate seal may be affixed, but failure to affix shall not affect validity or reliance.)

BANK:

MERCANTILE BANK MIDWEST
an IOWA banking corporation

By: 

CATHY ROTWINGHAUS, VICE PRESIDENT

[Corporate Seal*]

(*Corporate seal may be affixed, but failure to affix shall not affect validity or reliance.)

THIS IS THE LAST PAGE OF A 5 PAGE DOCUMENT. EXHIBITS AND/OR ADDENDA MAY FOLLOW.