

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
AUSTIN GRILL LLC		10/30/2006	LIMITED LIABILITY COMPANY: DELAWARE

**RECEIVING PARTY DATA**

Name:	BANK OF AMERICA, N.A.
Street Address:	231 South LaSalle Street
Internal Address:	IL1-231-08-30
City:	Chicago
State/Country:	ILLINOIS
Postal Code:	60697
Entity Type:	national banking association: UNITED STATES

**PROPERTY NUMBERS Total: 6**

Property Type	Number	Word Mark
Registration Number:	2440853	AUSTIN GRILL
Registration Number:	2317414	AUSTIN GRILL
Registration Number:	2199142	SOUTH AUSTIN GRILL
Registration Number:	2442628	SWIRLIE
Registration Number:	2437035	WEED KILLER
Serial Number:	78810437	AUSTIN GRILL

**CORRESPONDENCE DATA**

Fax Number: (404)962-6836  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 404-885-3697  
 Email: trademarks@troutmansanders.com  
 Correspondent Name: Anne E. Yates  
 Address Line 1: 600 Peachtree Street, N.E.

OP \$165.00 2440853

Address Line 2: Troutman Sanders LLP - Suite 5200  
Address Line 4: Atlanta, GEORGIA 30308-2216

ATTORNEY DOCKET NUMBER:	200225.20
NAME OF SUBMITTER:	Anne E. Yates
Signature:	/aey/
Date:	11/20/2006

**Total Attachments: 9**

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## COLLATERAL ASSIGNMENT OF TRADEMARKS AS SECURITY

THIS COLLATERAL ASSIGNMENT OF TRADEMARKS AS SECURITY (this "Assignment") is made as of this 30th day of October, 2006, by AUSTIN GRILL LLC, a Delaware limited liability company (the "Assignor"), in favor of BANK OF AMERICA, N. A., a national banking association (the "Lender").

### RECITALS

A. The Assignor, together with Thompson Hospitality Corporation, a Delaware corporation (collectively, the "Borrower"), has applied to the Lender for a term loan (the "Credit Facility") to be advanced pursuant to the provisions of a certain Financing and Security Agreement dated the date hereof by and between the Lender and the Borrower (as amended, restated, supplemented or otherwise modified, the "Financing Agreement"). All capitalized terms used, but not specifically defined herein, shall have the same meaning given such terms in the Financing Agreement.

B. The Assignor has acquired, adopted, used and is using certain trademarks as listed on SCHEDULE A attached hereto and made a part hereof and has applied for or has pending the trademarks also as listed on SCHEDULE A (collectively, the "Trademarks").

C. The Financing Agreement and certain other Financing Documents contain security agreements under which the Assignor has granted to the Lender a Lien on, and security interest in, certain assets of the Assignor associated with or relating to products sold under any one or more of the Trademarks and under which the Lender is entitled to foreclose or otherwise deal with the Trademarks under the terms and conditions set forth in the Financing Agreement.

D. The Lender desires to have the interest of the Lender in the Trademarks confirmed by a document identifying the same and in such form that it may be recorded in the United States Patent and Trademark Office.

E. As collateral security for the Obligations, whether arising under the Financing Documents or otherwise, the Assignor has agreed to assign to the Lender the Trademarks and the goodwill of the business associated therewith.

NOW THEREFORE, with the foregoing Recitals being deemed incorporated by reference and made a part hereof, and in consideration of the premises and mutual promises herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

### ARTICLE I ASSIGNMENT

In consideration of and pursuant to the terms of the Financing Agreement and each of the other Financing Documents, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, and to secure all of the Obligations, the Assignor hereby

grants, assigns and conveys to the Lender all of its present and future right, title and interest in and to, and grants to the Lender, a security interest in, Lien on, and collateral assignment of the Trademarks, together with all the goodwill of the Assignor associated with and represented by the Trademarks and any registration therefor, and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits and all rights corresponding thereto throughout the world.

The foregoing grant, security interest and assignment is a present grant of a collateral assignment and, upon the occurrence of an Event of Default and notice to the Assignor from the Lender, and subject to the filing with and notice to the United States Patent and Trademark Office, shall become an absolute assignment in favor of the Lender or in favor of such person as the Lender may designate, and may be the subject of such confirmatory instruments as the Lender may elect, which instruments shall be conclusive evidence of the Event of Default and absolute assignment.

## ARTICLE II REPRESENTATIONS AND WARRANTIES

### Section 2.1 Trademark Existence.

The Assignor represents and warrants to the Lender that based on the records of the United States Patent and Trademark Office and on the Assignor's knowledge:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable in the United States.

(b) Each of the Trademarks is valid and enforceable in the United States.

(c) Except as set forth on SCHEDULE B to this Assignment, the Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the Trademarks, each of the Trademarks is free and clear of any Liens (other than Permitted Liens), licenses, and other encumbrances including, without limitation, covenants by the Assignor not to sue third persons in the United States.

(d) The Assignor has the right to enter into this Assignment and perform its terms.

## ARTICLE III COVENANTS AND AGREEMENTS

### Section 3.1 New Agreements, Trademarks and Consents.

The Assignor covenants that until all the Obligations have been paid and performed in full:

(a) It will not enter into any agreement, including without limitation, license agreements that would have a material adverse effect on the Lender's rights under this Assignment.

(b) It will exercise reasonable supervision over each of its present and future employees, agents and consultants which will enable the Assignor to comply with the covenants herein contained.

(c) If the Assignor obtains rights or becomes entitled to the benefit of any trademark or trademark application (other than the Trademarks), or becomes entitled to the benefit of any trademark or trademark application for any reissue, division, continuation, renewal, extension, the provisions of this Assignment shall automatically apply thereto, and the Assignor shall give the Lender prompt written notice thereof along with an amended SCHEDULE A.

(d) The Assignor shall, at the Lender's request, obtain consents to this Assignment where the Assignor's right to assign any Trademarks requires such consent.

Section 3.2 Maintenance.

(a) Except as permitted by the provisions of the Financing Agreement, the Assignor hereby covenants and agrees to maintain the Trademarks in full force and effect until all of the Obligations are satisfied in full, all Commitments have been terminated or have expired and all Letters of Credit have been cancelled or have expired.

(b) Except as permitted by the provisions of the Financing Agreement, the Assignor shall have the duty to (a) prosecute diligently any trademark application that is part of the Trademarks pending as of the date of this Assignment or thereafter to the extent the value of such application in the Assignor's business justifies such prosecution until the Obligations shall have been satisfied in full, (b) preserve and maintain all rights in such applications and/or Trademarks including but not limited to the payment of registration and renewal fees, if any and (c) upon reasonable written request of the Lender, to make federal application for registration of registerable but unregistered trademarks to the extent the value of such application in the Assignor's business justifies such application for registration. Any expenses incurred in connection with such applications shall be part of the Enforcement Costs. The Assignor shall not abandon any Trademark, or pending application for trademark registration, without the consent of the Lender.

(c) Prior to an Event of Default, the Assignor shall have the right to bring suit in its own name to enforce the Trademarks, in which event the Lender may, if necessary, at its own expense, be joined as a nominal party to such suit if the Lender shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. If suit is brought subsequent to an Event of Default, the Assignor shall promptly, upon demand, reimburse and indemnify the Lender for all damages, costs and reasonable expenses, including attorneys' fees, as they arise incurred by the Lender in the fulfillment of the provisions of this paragraph.

(d) If the Assignor fails to comply with any of its obligations hereunder in any material respect, the Lender may do so in the Assignor's name or in the Lender's name, but at the Assignor's expense, and the Assignor hereby agrees to reimburse and indemnify the Lender in full for all reasonable expenses, including reasonable attorneys' fees, incurred by the Lender in protecting, defending and maintaining the Trademarks.

(e) The Assignor will continue to use, for the duration of this Assignment, proper statutory identification in connection with its use of the Trademarks.

Section 3.3 Fees and Expenses.

The Assignor agrees to pay to the Lender upon demand as part of the Enforcement Costs, any and all reasonable fees, costs and expenses, of whatever kind or nature, including attorney's fees and legal expenses incurred by the Lender in connection with the preparation of this Assignment and of all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or costs otherwise incurred in protecting, maintaining or preserving the Trademarks, or in enforcing the Lender's rights therein or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, shall be borne and paid by the Assignor on demand by the Lender.

ARTICLE IV  
EVENTS OF DEFAULT; RIGHTS AND REMEDIES

Section 4.1 Assignor Use.

Prior to an Event of Default (a) the Assignor shall have an exclusive nontransferable right and license to use the Trademarks and (b) the Lender shall have no right to use the Trademarks or issue any exclusive or non-exclusive license under the Trademarks, or assign, pledge or otherwise transfer title in the Trademarks to any other party. Except as otherwise permitted by the Financing Agreement, the Assignor agrees not to sell or assign its interest in, or grant any sublicense under, except in the ordinary course of the Assignor's business and only if such sublicensee is provided notice that the sublicense is subject to the terms of this Assignment, or allow any Lien (other than Permitted Liens) to attach to, the license granted to the Assignor in this Section, without the prior written consent of the Lender.

Section 4.2 Certain Lender Rights.

The Assignor hereby covenants and agrees that the Lender, as assignee hereunder and as the holder of a security interest under the Uniform Commercial Code, as now or hereafter in effect in the Commonwealth of Virginia, and under any other applicable law, following an Event of Default, upon notice to the Assignor, may terminate the license set forth in Section 4.1 and may take such other action permitted hereunder or under the other Financing Documents or permitted by applicable Laws, in its exclusive discretion, to foreclose upon the Trademarks covered hereby. For such purposes, and in the event of an Event of Default hereunder or in the Obligations, the Assignor upon the occurrence of an Event of Default hereby authorizes and empowers the Lender to make, constitute and appoint any officer of Lender as the Lender may select, in its exclusive discretion, (with full power of substitution and delegation, in its exclusive discretion), as the Assignor's true and lawful attorney-in-fact, with the power, without notice to the Assignor, to endorse the Assignor's name on all applications, documents, papers and instruments in the name of the Lender or in the name of the Assignor or otherwise, for the use and benefit of the Lender to use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to anyone else, or necessary for the Lender to assign,

pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. This power of attorney shall be irrevocable for the life of this Assignment, the Financing Agreement, the Financing Documents and other obligations and until all of the Obligations to the Lender are satisfied in full.

Section 4.3 Rights and Remedies.

All rights and remedies herein granted to the Lender shall be in addition to any rights and remedies granted to the Lender under the Financing Documents.

Section 4.4 Re-Vesting of Assignor's Rights.

Upon the full payment and performance of all of the Obligations, the Lender shall, upon the Assignor's request and at the Assignor's expense, execute and deliver to the Assignor all documents reasonably necessary to terminate this Assignment and re-vest in the Assignor full title to the Trademarks.

Section 4.5 No Waiver.

No course of dealing between the Assignor and the Lender, nor any failure to exercise, nor any delay in exercising, on the part of the Lender, any right, power or privilege hereunder or under the Financing Documents shall operate as a waiver thereof, and all of the Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Financing Documents, or by any other future agreements between the Assignor and the Lender or by law shall be cumulative and may be exercised singularly or concurrently.

ARTICLE V  
MISCELLANEOUS

Section 5.1 Severability.

The provisions of this Assignment are severable and the invalidity or unenforceability of any provision herein shall not affect the remaining provisions which shall continue unimpaired and in full force and effect.

Section 5.2 Successors and Assigns.

This Assignment shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties and shall specifically inure, without limitation, to the benefit of each Person who may from time to time be the "Lender" under the Financing Agreement.

Section 5.3 Modification.

This Assignment is subject to modification only by a writing signed by the parties and shall be subject to the terms, provisions, and conditions set forth in the Financing Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

Section 5.4 Captions and Headings.

The section headings in this Assignment are for convenience only, and shall not limit or otherwise affect any of the terms hereof.

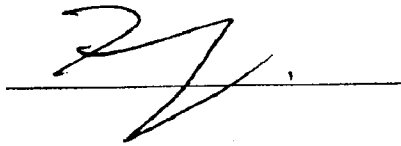
Section 5.5 Governing Law.

This Assignment shall be governed by and construed in conformity with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Assignor has executed this Assignment under seal, the day and year first above written.

WITNESS:

AUSTIN GRILL LLC



By: W. M. Thompson (SEAL)  
Name: Warren M. Thompson  
Title: Chairman + CEO

Approved and Accepted:

Bank of America, N.A.

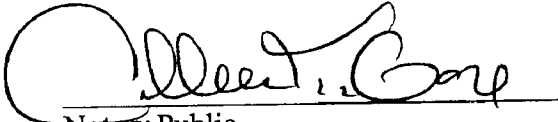
By: Michael D. Brannan  
Name: MICHAEL D. BRANNAN  
Title: SR. VICE PRESIDENT



ACKNOWLEDGMENT

STATE/Commonwealth of VIRGINIA, COUNTY OF LOUDOUN, TO WIT:

On this 27<sup>th</sup> day of October, 2006, before me personally appeared Wheeler M. Thompson to me known and being duly sworn, deposes and says that he is the CHAIRMAN/CEO of Austin Grill LLC, a Delaware limited liability company, the Assignor; that he signed the Assignment as CHAIRMAN/CEO of such limited liability company pursuant to the authority vested in him by law; that the within Assignment is the voluntary act of such limited liability company; and he desires the same to be recorded as such.

  
Notary Public

My Commission Expires: 3/31/2010

SCHEDULE A

LIST OF TRADEMARKS

<u>Mark</u>	<u>Status</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>	<u>Owner</u>	<u>Security Interest</u>
AUSTIN GRILL	Registered	2440853	04/03/2001	Austin Grills, Inc.	None recorded
AUSTIN GRILL & Design	Registered	2317414	02/15/2000	Austin Grills, Inc.	None recorded
SOUTH AUSTIN GRILL	Registered	2199142	10/27/1998	Austin Grills, Inc.	None recorded
SWIRLIE	Registered	2442628	04/10/2001	Austin Grills, Inc.	None recorded
WEED KILLER	Registered	2437035	03/20/2001	Austin Grills, Inc.	None recorded
AUSTIN GRILL & Design	Pending	78/810437	02/08/2006	Austin Grills, Inc.	None recorded
CENTRAL PERK	Abandoned	74/675472	05/17/1995	Austin Grills, Inc.	None recorded
RANCHO DELUXE TEX MEX GRILL	Abandoned	74/524182	05/12/1994	Austin Grills, Inc.	None recorded
RANCHO DELUXE TEX MEX GRILL & Design	Abandoned	74/524180	05/12/1994	Austin Grills, Inc.	None recorded

SCHEDULE B

None.