



**EXHIBIT A  
TO  
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

Canada	AHH...SPA!	TMA646,572
Canada	GET JUIC'D	1301588
Canada	Mmmmm!	1274697
Canada	TAKE ME AWAY!	1313790
United States of America	AHH... SPA! FEET RETREAT	78/317,222
United States of America	AHH...SPA!	3,132,719
United States of America	AHH...SPA!	78/189,251
United States of America	AHH...SPA! TROPICS	78/224,861
United States of America	BODY ROCKS	78/602,131
United States of America	GET JUIC'D	78/883,306
United States of America	Mmmmm!	3,141,759
United States of America	TAKE ME AWAY!	2,193,508
United States of America	TAKE ME AWAY!	78/836,764
Andorra	The Healing Garden	12344
Argentina	*Green Teasensations & Device	*1.806.428
Argentina	*Green Teasensations & Device	*1.820.872
Argentina	*Jasminesensations & Device	*1.806.431
Argentina	*Jasminesensations & Device	*1.837.303
Argentina	*Lavendersensations & Device	*1.806.434
Argentina	*Lavendersensations & Device	*1.806.432
Argentina	Mandarinesensations	
Argentina	The Healing Garden	1.779.603

Argentina	The Healing Garden	1.779.604
Argentina	The Healing Garden	1.779.606
Argentina	The Healing Garden	1.779.605
Argentina	THE HEALING GARDEN IN BLOOM	2.519.188
Aruba	The Healing Garden	19460
Australia	Cold Comforttherapy	782443
Australia	Gingerlily Therapy	790173
Australia	*Green Teasensations & Device	*800084
Australia	*Jasminesensations & Device	*800086
Australia	*Lavendersensations & Device	*800087
Australia	*Mandarinesensations & Device	*800085
Australia	Healing Garden	760249
Australia	The Healing Garden	
Australia	The Healing Garden (Stylized)	781315
Australia	The Healing Garden Green Teatherapy & Device	775085
Australia	The Healing Garden Jasminetherapy & Device	775086
Australia	The Healing Garden Lavendertherapy & Device	775087
Australia	The Healing Garden Mintherapy For Feet & Device	782,442
Australia	The Healing Garden Tangerinetherapy & Device	775088
Bahrain	The Healing Garden	
Benelux	Ginger Lilysensations & Device	656443
Benelux	Green Teasensations & Device	638298
Benelux	Jasminesensations & Device	638297
Benelux	Junipersensations & Device	663249
Benelux	Lavendersensations & Device	638299
Benelux	Mandarinesensations & Device	638296
Benelux	The Healing Garden	629035

Benelux	The Healing Garden (Stylized)	628496
Benelux	THE HEALING GARDEN IN BLOOM	749781
Bermuda	The Healing Garden	29879
Bermuda	The Healing Garden	29878
Bermuda	The Healing Garden	29877
Bolivia	The Healing Garden	C-76910
Bolivia	The Healing Garden	77857-C
Bolivia	The Healing Garden	77830-C
Bolivia	The Healing Garden (Stylized)	C-76901
Bolivia	The Healing Garden (Stylized)	C-76903
Bolivia	The Healing Garden (Stylized)	c-76902
Brazil	The Healing Garden	821325078
Brazil	The Healing Garden (Stylized)	821,325,094
Brazil	The Healing Garden (Stylized)	8321325086
Brazil	THE HEALING GARDEN IN BLOOM	826579922
Canada	Cold Comfortherapy	873,334
Canada	Green Teatherapy	TMA526,770
Canada	Holistic Fragrances For The Mind + Body + Spirit	1,107,959
Canada	Jasminetherapy	TMA526,771
Canada	Lavendertherapy	TMA 526,875
Canada	Mintherapy	873,335
Canada	NOURISH YOUR SKIN AND SOOTHE YOUR SOUL	1396884
Canada	Organics Wild Honey & Device	1231569
Canada	PASSION ROSE	1277894
Canada	Perfect Calm	TMA627,205
Canada	SKIN ORGANICS	1263309
Canada	Tangerinetherapy	TMA526,752
Canada	The Healing Garden	TMA534,486
Canada	THE HEALING GARDEN IN BLOOM	TMA659,935

Canada	The Healing Garden Waters	TMA629,166
Chile	The Healing Garden	605,930
Chile	The Healing Garden (Stylized)	544.569
Chile	The Healing Garden (Stylized)	573.763
Chile	The Healing Garden (Stylized)	573.762
Chile	THE HEALING GARDEN IN BLOOM	710.235
Colombia	The Healing Garden	220419
Colombia	the healing garden (Stylized)	219759
Colombia	the healing garden (Stylized)	219552
Colombia	the healing garden (Stylized)	220418
Colombia	THE HEALING GARDEN IN BLOOM	293967
Estonia	The Healing Garden	31436
Estonia	The Healing Garden (Stylized)	31438
Fiji	The Healing Garden	285/98
Fiji	The Healing Garden	286/98
Fiji	The Healing Garden	287/98
France	Junipersensations & Device	00 3049653
Gaza	The Healing Garden	5634
Gaza	The Healing Garden	5635
Gaza	The Healing Garden	5636
Georgia	The Healing Garden	12512
Georgia	The Healing Garden (Stylized)	M 12780
Greece	The Healing Garden	138964
Greece	The Healing Garden (Stylized)	138963
Guatemala	The Healing Garden	118003
Guatemala	The Healing Garden	118040
Guatemala	The Healing Garden	137742
Hong Kong	The Healing Garden	B15750/2000
Hong Kong	The Healing Garden	4793/1999
Hong Kong	The Healing Garden	4452

India	The Healing Garden	808729
India	The Healing Garden	808731
India	The Healing Garden	808730
Indonesia	The Healing Garden	445261
Indonesia	The Healing Garden	445259
Indonesia	The Healing Garden	445,260
Ireland	Green Tcasensations & Device	214184
Ireland	*Jasminesensations & Device	*214179
Ireland	Lavendersensations & Device	214175
Ireland	Mandarinesensations & Device	214236
Ireland	The Healing Garden	220259
Ireland	The Healing Garden (Stylized)	211139
Israel	The Healing Garden	124600
Israel	The Healing Garden (Stylized)	124601
Israel	The Healing Garden (Stylized)	124603
Israel	The Healing Garden (Stylized)	164602
Jamaica	The Healing Garden	35706
Jamaica	The Healing Garden	32733
Jamaica	The Healing Garden	33780
Japan	The Healing Garden	4291593
Jordan	The Healing Garden	52249
Jordan	The Healing Garden (Stylized)	52246
Jordan	The Healing Garden (Stylized)	52248
Jordan	The Healing Garden (Stylized)	52247
Korea (South)	The Healing Garden	40-459191
Korea (South)	The Healing Garden (Stylized)	40-459360
Korea (South)	The Healing Garden (Stylized)	40-459192
Korea (South)	The Healing Garden (Stylized)	456245
Kuwait	The Healing Garden	38875
Lebanon	The Healing Garden	78219

Lebanon	The Healing Garden	78220
Mexico	*Green Teasensations & Device	*669819
Mexico	*Green Teasensations & Device	*641557
Mexico	*Jasminesensations & Device	*633759
Mexico	*Jasminesensations & Device	*641556
Mexico	*Lavendersensations & Device	*641558
Mexico	*Lavendersensations & Device	*633761
Mexico	*Mandarinesensations & Device	*631996
Mexico	*Mandarinesensations & Device	*633762
Mexico	*Mandarinesensations & Device	*643709
Mexico	The Healing Garden	609,081
Mexico	The Healing Garden (Stylized)	603413
Mexico	The Healing Garden (Stylized)	606690
Mexico	The Healing Garden (Stylized)	603068
Mexico	THE HEALING GARDEN IN BLOOM	849635
Netherlands-Antilles	The Healing Garden	21263
New Zealand	Cold Comforthraphy & Device	303501
New Zealand	Cold Comforthraphy & Device	303503
New Zealand	Gingerlily Theraphy	307394
New Zealand	Gingerlily Theraphy	307395
New Zealand	Healing Garden	290630
New Zealand	The Healing Garden (Stylized)	302825
New Zealand	The Healing Garden (Stylized)	302824
New Zealand	The Healing Garden (Stylized)	302823
New Zealand	The Healing Garden Green Teatheraphy & Device	299376
New Zealand	The Healing Garden Green Teatheraphy & Device	299378
New Zealand	The Healing Garden Green Teatheraphy & Device	299377
New Zealand	The Healing Garden Jasminetheraphy & Device	299372

New Zealand	The Healing Garden Jasminetherapy & Device	299370
New Zealand	The Healing Garden Jasminetherapy & Device	299371
New Zealand	The Healing Garden Lavendertherapy & Device	299368
New Zealand	The Healing Garden Lavendertherapy & Device	299369
New Zealand	The Healing Garden Lavendertherapy & Device	299367
New Zealand	The Healing Garden Mintherapy For Feet & Device	303502
New Zealand	The Healing Garden Tangerinetherapy & Device	299374
New Zealand	The Healing Garden Tangerinetherapy & Device	299375
New Zealand	The Healing Garden Tangerinetherapy & Device	299373
Oman	The Healing Garden	18174
Oman	The Healing Garden	18176
Oman	The Healing Garden	18175
Pakistan	The Healing Garden	149058
Pakistan	The Healing Garden	149060
Pakistan	The Healing Garden	149059
Paraguay	The Healing Garden	222.512
Paraguay	The Healing Garden (Stylized)	222.390
Paraguay	The Healing Garden (Stylized)	222.387
Paraguay	The Healing Garden (Stylized)	222.388
Peru	The Healing Garden	53057
Peru	The Healing Garden	75725
Peru	The Healing Garden (Stylized)	53056
Peru	The Healing Garden (Stylized)	75726
Philippines	Cold Comforthotherapy	4-1999-02262
Philippines	Gingerlilytherapy	4-1999-02261



Philippines	Green Teatheraphy	4-1999-02266
Philippines	Jasminetheraphy	4-1999-02265
Philippines	Lavendertheraphy	4-1999-02264
Philippines	Mintheraphy	4-1999-02263
Philippines	Tangerinetheraphy	4-1999-02260
Philippines	*The Healing Garden	*4-2006-10429
Philippines	The Healing Garden	4709
Qatar	The Healing Garden	19012
Qatar	*The Healing Garden	*19013
Qatar	*The Healing Garden	*19014
Saudi Arabia	The Healing Garden	509/84
Saudi Arabia	The Healing Garden	509/83
Saudi Arabia	The Healing Garden	510/59
Singapore	The Healing Garden	T98/05578D
Singapore	The Healing Garden	T98/05577F
Singapore	The Healing Garden	T98/05576H
Singapore	The Healing Garden (Stylized)	T99/03770D
Singapore	The Healing Garden (Stylized)	T99/03769J
Singapore	The Healing Garden (Stylized)	T99/03768B
South Africa	The Healing Garden	98/18515
South Africa	The Healing Garden	98/18517
South Africa	The Healing Garden & Device	98/18518
South Africa	The Healing Garden & Device	98/18516
Turkey	The Healing Garden	207094
Turkey	The Healing Garden (Stylized)	207038
United Arab Emirates	The Healing Garden	23959
United Arab Emirates	The Healing Garden (Stylized)	22705
United Arab Emirates	The Healing Garden (Stylized)	23958
United Arab Emirates	The Healing Garden (Stylized)	29437

United States of America	Cold Comforthotherapy	75/428,149
United States of America	Gingerlily Theraphy	2,663,543
United States of America	Gingerlily Theraphy	75/550,597
United States of America	Gingerlily Theraphy (Design)	2,649,759
United States of America	Green Teatheraphy	2,234,974
United States of America	Green Teatheraphy	75/550,580
United States of America	Handtheraphy	75/384,364
United States of America	Holistic Fragrances For Mind+Body+Spirit	78/071,166
United States of America	Holistic Fragrances For The Mind+Body+Spirit	78/071,167
United States of America	Jasminetheraphy	2,177,527
United States of America	Jasminetheraphy	75/550,578
United States of America	Junipertheraphy	75/670,235
United States of America	Lavendertheraphy	2,170,266
United States of America	Lavendertheraphy	2,457,847
United States of America	Lovetheraphy	75/591,782
United States of America	Lovetheraphy	75/591,783
United States of America	Mintheraphy	75/369,578
United States of America	Mintheraphy	2,326,672
United States of America	Mintheraphy	2,517,862

United States of America	Minttherapy Revitalizing	75/567,334
United States of America	Minttherapy Vitalizing	75/567,333
United States of America	*Nourish Your Skin and Soothe Your Soul	*77/442,904
United States of America	Organics Wild Honey & Devise	78/488,637
United States of America	PASSION ROSE	3,169,986
United States of America	Perfect Calm	2,846,359
United States of America	SKIN ORGANICS	78/601,972
United States of America	Tangerinetheraphy	2,170,392
United States of America	Tangerinetheraphy	75/550,577
United States of America	The Healing Garden	2,141,560
United States of America	The Healing Garden	2,480,075
United States of America	The Healing Garden	2,490,666
United States of America	The Healing Garden HolisticFragrances for the	75/291,280
United States of America	THE HEALING GARDEN IN BLOOM	3,101,791
United States of America	The Healing Garden Waters	2,783,105
United States of America	The Healing Garden Waters	78/071,160
United States of America	The Kids Garden	2,462,249
United States of America	TravelTheraphy	75/591,784
United States of America	Traveltheraphy	75/752,832

Uruguay	The Healing Garden	309521
Uruguay	The Healing Garden (Stylized)	309522
Venezuela	The Healing Garden	P217916
Venezuela	The Healing Garden (Stylized)	P223163
Venezuela	The Healing Garden (Stylized)	P223162
Venezuela	The Healing Garden (Stylized)	P223164
West Bank	The Healing Garden	7121
West Bank	The Healing Garden	7120
West Bank	The Healing Garden	7119
WIPO	Green Teasensations & Device	718 230
WIPO	Jasminesensations & Device	718 916
WIPO	Lavendersensations & Device	718 229
WIPO	Mandarinesensations & Device	718231
WIPO	The Healing Garden	702138
WIPO	The Healing Garden (Stylized)	702273
Yemen	The Healing Garden	10772
Yemen	The Healing Garden	10771
Yemen	The Healing Garden	10770

**TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

Trademark Collateral Assignment and Security Agreement (this "***Trademark Agreement***"), dated November 26, 2008, is being executed and delivered by ILEX Newco, LLC, a Maryland limited liability company ("***Debtor***") to and for the benefit of Ascendia Brands Co., Inc., a New Jersey corporation, as agent (including any successor to such person as agent, the "***Agent***") for Ascendia Brands, Inc., a Delaware corporation, Ascendia Real Estate LLC, a New York limited liability company, Hermes Acquisition Company J LLC, a Delaware limited liability company, Lander Co., Inc., a Delaware corporation, and Lander Intangibles Corporation, a Delaware corporation (collectively, "***Seller***" and, with any of their respective successors and assigns, including in connection with the assignment of the Note (as hereinafter defined), "***Secured Party***").

**WITNESSETH:**

**WHEREAS**, Debtor has entered into an Asset Purchase Agreement, dated November 20, 2008, with Seller (as amended, restated and modified, from time to time, the "***Asset Purchase Agreement***"), which contemplates the granting of the security interests evidenced by this Trademark Agreement to partially secure the obligations of Debtor to Seller, including the obligation to pay Debtor's promissory note being issued to Seller in the aggregate principal amount of Three Million Seven Hundred and Twenty-Seven Thousand, Two Hundred Thirty Eight Dollars and Thirty Cents (\$3,727,238.30) (as the same now exists or may hereafter be amended, restated and modified, from time to time, the "***Note***") as the deferred portion of the purchase price for the assets being purchased by Debtor pursuant to the Asset Purchase Agreement;

**WHEREAS**, Seller has sold to Debtor and Debtor will be using, and is the owner of the entire right, title, and interest in and to the trademarks, trade names, terms, designs and applications therefor described in the exhibits to the Asset Purchase Agreement annexed hereto as Exhibit A to this Trademark Agreement and made a part hereof; and

**WHEREAS**, in order to induce Seller to enter into the Asset Purchase Agreement and provide the financial accommodations to Debtor pursuant thereto, Debtor has agreed to grant to Secured Party certain collateral security as set forth herein.

**NOW, THEREFORE**, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees as follows:

1. **DEFINITIONS**

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement, and if not so ascribed then as defined in the Security Agreement. In addition to the terms defined in the preamble and recital to this Trademark Agreement, the following terms, as used in this Trademark Agreement, shall have the following meanings:

- (a) "***Collateral***" shall have the meaning set forth in Section 2 of this Trademark Agreement.
- (b) "***Security Agreement***" shall mean the General Security Agreement, dated the date hereof, and executed and delivered by Debtor to and for the benefit of Seller, and which provides additional collateral to Seller as security for the Note.
- (c) "***Trademarks***" shall have the meaning set forth in Section 2 of this Trademark Agreement.

## 2. GRANT OF SECURITY INTEREST

As collateral security for the prompt performance, observance and indefeasible payment in full of all of the Obligations, Debtor grants to Agent (for itself and on behalf of Secured Parties) a continuing security interest in and a general lien upon, and a conditional assignment of, the following (being collectively referred to herein as the "*Collateral*"): (a) all of Debtor's now existing or hereafter acquired right, title, and interest in and to: (i) all of Debtor's trademarks, tradenames, trade styles and service marks and all applications, registrations and recordings relating to the foregoing as may at any time be filed in the United States Patent and Trademark Office or in any similar office or agency of the United States of America, any State thereof, any political subdivision thereof or in any other country, including, without limitation, the trademarks, terms, designs and applications described in Exhibit A hereto, together with all rights and privileges arising under applicable law with respect to Debtor's use of any trademarks, tradenames, trade styles and service marks, and all reissues, extensions, continuation and renewals thereof (all of the foregoing being collectively referred to herein as the "*Trademarks*"); and (ii) all prints and labels on which such trademarks, tradenames, tradestyles and service marks appear, have appeared or will appear, and all designs and general intangibles of a like nature; (b) the goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks; (c) all present and future license and distribution agreements (subject to the rights of the licensors therein) pertaining to the Trademarks, (d) all income, fees, royalties and other payments at any time due or payable with respect thereto, including, without limitation, payments under all licenses at any time entered into in connection therewith; (e) the right to sue for past, present and future infringements thereof; (f) all rights corresponding thereto throughout the world; and (g) any and all other proceeds of any of the foregoing, including, without limitation, all damages and payments or claims by Debtor against third parties for past or future infringement of the Trademarks.

## 3. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Agent, for itself and the benefit of the other Secured Parties, pursuant to this Trademark Agreement shall secure the prompt performance, observance and payment in full of any and all of the Obligations.

## 4. REPRESENTATIONS, WARRANTIES AND COVENANTS

Debtor represents, warrants and covenants with and to Secured Party the following (all of such representations, warranties and covenants being continuing so long as any of the Obligations are outstanding):

(a) Debtor shall pay and perform all of the Obligations according to their terms.

(b) All of the existing Collateral is valid and subsisting in full force and effect as obtained pursuant to the Asset Purchase Agreement, and Debtor owns the sole, full and clear title thereto, and the right and power to grant the security interest and conditional assignment granted hereunder. Debtor shall, at Debtor's expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral consisting of registered Trademarks as registered trademarks and to maintain the existence of all of the Collateral as valid and subsisting, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests or encumbrances of any nature whatsoever, except: (i) the security interests granted hereunder and pursuant to the Security Agreement, and (ii) the licenses permitted under Section 4(e) below.

(c) Debtor shall not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security

interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating to the Collateral, or otherwise dispose of any of the Collateral, in each case without the prior written consent of Agent, except as otherwise permitted herein. Nothing in this Trademark Agreement shall be deemed a consent by Agent or any other Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Debtor shall, at Debtor's expense, promptly perform all acts and execute all documents requested at any time by Agent to evidence, perfect, maintain, record or enforce the security interest in and conditional assignment of the Collateral granted hereunder or to otherwise further the provisions of this Trademark Agreement. Debtor authorizes Agent to file one or more financing statements (or similar documents) with respect to the Collateral. Debtor further authorizes Agent to have this Trademark Agreement or any other similar security agreement filed with the United States Commissioner of Patents and Trademarks or any other appropriate federal, state or government office, or corresponding government offices in countries other than the United States of America.

(e) As of the date hereof, Debtor does not have any Trademarks registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country, other than those described in Exhibit A hereto and has not granted any licenses with respect thereto other than as set forth in Exhibit B hereto.

(f) Debtor shall, concurrently with the execution and delivery of this Trademark Agreement, execute and deliver to Agent five (5) originals of a Special Power of Attorney in the form of Exhibit C annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Agent's exercise of the rights and remedies granted to Agent hereunder.

(g) Agent may, in its discretion, pay any amount or do any act which Debtor fails to pay or do as required hereunder or as requested by Agent to preserve, defend, protect, maintain, record or enforce the Obligations, the Collateral, or the security interest and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, reasonable attorneys' fees and legal expenses. Debtor shall be liable to Agent for any such payment, which payment shall be deemed an advance by Agent to Debtor, shall be payable on demand together with interest at the rate then applicable in the Note and shall be part of the Obligations secured hereby.

(h) Debtor shall not file any application for the registration of a Trademark with the United States Patent and Trademark Office or any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country, unless Debtor has given Agent thirty (30) days prior written notice of such action. If, after the date hereof, Debtor shall (i) obtain any registered trademark or tradename, or apply for any such registration in the United States Patent and Trademark Office or in any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country, or (ii) become the owner of any trademark registrations or applications for trademark registration used in the United States of America or any State thereof, political subdivision thereof or in any other country, the provisions of Section 2 hereof shall automatically apply thereto. Upon the request of Agent, Debtor shall promptly execute and deliver to Agent any and all assignments, agreements, instruments, documents and such other papers as may be requested by Agent to evidence the security interest in and conditional assignment of such Trademark in favor of Agent.

(i) Beginning the date hereof, and subject to the status of the Trademarks as received by Debtor under the Asset Purchase Agreement, Debtor will do no additional act, or omit to do any act, whereby the Trademarks may become abandoned, invalidated, unenforceable, avoided or avoidable. Debtor shall notify Agent immediately if it knows or has reason to know of any reason why any application,

registration, or recording with respect to the Trademarks may become abandoned, cancelled, invalidated, avoided or avoidable.

(j) Debtor shall render any assistance, as Agent shall determine is reasonably necessary, to Agent in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country, to maintain such application and registration of the Trademarks as Debtor's exclusive property and to protect Agent's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

(k) Except as otherwise may be stated or represented in the Asset Purchase Agreement, no material infringement or unauthorized use presently is being made of any of the Trademarks that would adversely affect in any material respect the fair market value of the Collateral or the benefits of this Agreement granted to Agent and any other Secured Party, including, without limitation, the validity, priority or perfection of the security interest granted herein or the remedies of Agent hereunder. There has been no judgment holding any of the Trademarks invalid or unenforceable, in whole or in part, nor is the validity or enforceability of any of the Trademarks presently being questioned in any litigation or proceeding to which Debtor is a party. Debtor shall promptly notify Agent if Debtor (or any affiliate or subsidiary thereof) learns of any use by any person of any term or design which infringes on any Trademark or is likely to cause confusion with any Trademark. If requested by Agent, Debtor, at Debtor's expense, shall join with Agent in such action as Agent, in Agent's reasonable discretion, may deem advisable for the protection of Agent's interest in and to the Trademarks.

(l) Debtor assumes all responsibility and liability arising from the use of the Trademarks after the date hereof and Debtor hereby indemnifies and holds Agent and Secured Party harmless from and against any claim, suit, loss, damage, or expense (including reasonable attorneys' fees and legal expenses) arising out of any alleged defect in any product manufactured, promoted, or sold by Debtor (or any affiliate or subsidiary thereof) after the date hereof in connection with any Trademark or out of the manufacture, promotion, labeling, sale or advertisement of any such product by Debtor (or any affiliate or subsidiary thereof). The foregoing indemnity shall survive the payment of the Obligations and the termination of this Agreement.

(m) Debtor shall promptly pay Agent for any and all expenditures made by Agent pursuant to the provisions of this Agreement or for the defense, protection or enforcement of the Obligations, the Collateral, or the security interests and conditional assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, reasonable travel expenses, and reasonable attorneys' fees and legal expenses. Such expenditures shall be payable on five (5) days notice, together with interest at the rate then applicable to the Note and shall be part of the Obligations secured hereby.

## 5. RIGHTS AND REMEDIES

At any time an Event of Default exists or has occurred and is continuing, in addition to all other rights and remedies of Agent or any other Secured Party, whether provided under this Trademark Agreement or the other Financing Agreements, applicable law or otherwise, Agent shall have the following rights and remedies which may be exercised without notice to, or consent by, Debtor except as such notice or consent is expressly provided for hereunder:

(a) Agent may require that neither Debtor nor any affiliate or subsidiary of Debtor make any use of the Trademarks or any marks similar thereto for any purpose whatsoever. Agent may make use of any Trademarks for the sale of goods, completion of work-in-process or rendering of services or otherwise in



connection with enforcing any other security interest granted to Agent by Debtor or any subsidiary or affiliate of Debtor or for such other reason as Agent may reasonably determine.

(b) Agent may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Agent shall in its discretion deem appropriate. Such license or licenses may be general, special or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

(c) Agent may assign, sell or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations except that if notice to Debtor of intended disposition of Collateral is required by law, the giving of five (5) days prior written notice to Debtor of any proposed disposition shall be deemed reasonable notice thereof and Debtor waives any other notice with respect thereto. Agent shall have the power, on behalf of itself or any other Secured Party, to buy the Collateral or any part thereof, and Agent shall also have the power to execute assurances and perform all other acts which Agent may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Debtor shall be liable for any deficiency.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to the terms hereof, Agent may at any time execute and deliver on behalf of Debtor, pursuant to the authority granted in the Powers of Attorney described in Section 4(f) of this Trademark Agreement, one or more instruments of assignment of the Trademarks (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Debtor agrees to pay Agent on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and reasonable attorneys' fees and legal expenses. Debtor agrees that Agent and Lenders have no obligation to preserve rights to the Trademarks against any other parties.

(e) Agent may first apply the proceeds actually received from any such license, assignment, sale or other disposition of any of the Collateral to the costs and expenses thereof, including, without limitation, reasonable attorneys' fees and all legal, travel and other expenses which may be incurred by Agent. Thereafter, Agent may apply any remaining proceeds to such of the Obligations as Agent may in its discretion determine. Debtor shall remain liable to Agent and any other Secured Party for any of the Obligations remaining unpaid after the application of such proceeds, and Debtor shall pay Agent on demand any such unpaid amount, together with interest at the rate then applicable to the Note.

(f) Debtor shall supply to Agent or to Agent's designee, Debtor's knowledge and expertise relating to the manufacture, sale and distribution of the products and services bearing the Trademarks and Debtor's customer lists and other records relating to the Trademarks and the distribution thereof.

(g) All of Agent's rights and remedies, whether provided under this Trademark Agreement, the other Financing Agreements, applicable law, or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently. No failure or delay on the part of Agent or any other Secured Party in exercising any of its options, power or rights or partial or single exercise thereof, shall constitute a waiver of such option, power or right.

#### 6. JURY TRIAL WAIVER; OTHER WAIVERS AND CONSENTS; GOVERNING LAW

(a) The validity, interpretation and enforcement of this Trademark Agreement and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York.

(b) Debtor irrevocably consents and submits to the non-exclusive jurisdiction of the Supreme Court of the State of New York for the County of New York and the United States District Court for the Southern District of New York, whichever Agent may elect, and waives any objection based on venue or *forum non conveniens* with respect to any action instituted therein arising under this Trademark Agreement or in any way connected with or related or incidental to the dealings of the parties hereto in respect of this Trademark Agreement or the transactions related hereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agrees that any dispute with respect to any such matters shall be heard only in the courts described above (except that Agent shall have the right to bring any action or proceeding against Debtor or its property in the courts of any other jurisdiction which Agent deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against Debtor or its property).

(c) Debtor waives personal service of any and all process upon it and consents that all such service of process may be made by certified mail (return receipt requested) directed to its address set forth in the Asset Purchase Agreement and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the U.S. mails, or, at Agent's option, by service upon Debtor in any other manner provided under the rules of any such courts. Within thirty (30) days after such service, Debtor shall appear in answer to such process, failing which Debtor shall be deemed in default and judgment may be entered by Agent against Debtor for the amount of the claim and other relief requested.

(d) DEBTOR WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS TRADEMARK AGREEMENT, OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF DEBTOR AND AGENT OR ANY OTHER SECURED PARTY IN RESPECT OF THIS TRADEMARK AGREEMENT OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. DEBTOR AND AGENT EACH AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT DEBTOR OR AGENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS TRADEMARK AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF DEBTOR AND AGENT TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

(e) Agent and any other Secured Party shall not have any liability to Debtor (whether in tort, contract, equity or otherwise) for losses suffered by Debtor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Trademark Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Agent or such other Secured Party that the losses were the result of acts or omissions constituting gross negligence or willful misconduct by Agent or any other Secured Party. In any such litigation, Agent and each other Secured Party shall be entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Trademark Agreement and the other Financing Agreements.

## 7. MISCELLANEOUS

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the addresses set forth in the Asset Purchase Agreement (or to such other address as any party may designate by notice in accordance with this

Section).

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural. All references to Debtor, Agent, Seller or any other Secured Party pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns. The words "hereof," "herein," "hereunder," "this Trademark Agreement" and words of similar import when used in this Trademark Agreement shall refer to this Trademark Agreement as a whole and not any particular provision of this Trademark Agreement and as this Trademark Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 7(e) hereof. All references to the term "Person" or "person" herein shall mean any individual, sole proprietorship, partnership, corporation (including, without limitation, any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

(c) This Trademark Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon Debtor and its successors and assigns and inure to the benefit of and be enforceable by Agent and its successors and assigns.

(d) If any provision of this Trademark Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Trademark Agreement as a whole, but this Trademark Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

(e) Neither this Trademark Agreement nor any provision hereof shall be amended, modified, waived or discharged orally or by course of conduct, but only by a written agreement signed by an authorized officer of Agent. Neither Agent nor any other Secured Party shall, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of their respective rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Agent. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Agent of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Agent would otherwise have on any future occasion, whether similar in kind or otherwise.

(f) This Trademark Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Trademark Agreement by telefacsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Trademark Agreement. Any party delivering an executed counterpart of this Trademark Agreement by telefacsimile or other electronic method of transmission shall also deliver an original executed



**EXHIBIT B  
TO  
TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

**LIST OF LICENSES**

Sub-License Agreement dated as of July 1, 1997 by and between Benckiser Marken GmbH & Co. KG and Coty Inc. (as predecessor in interest to Ilex Newco, LLC), as amended

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