

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Dial-A-Mattress Operating Corp.		11/24/2008	CORPORATION: NEW YORK
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Rex Bedding Corp.		
<b>Street Address:</b>	300 West 4th Street		
<b>City:</b>	Plainfield		
<b>State/Country:</b>	NEW JERSEY		
<b>Postal Code:</b>	07060		
<b>Entity Type:</b>	CORPORATION: NEW YORK		
<b>PROPERTY NUMBERS Total: 6</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Serial Number:	78511054	MATTRESS.COM	
Serial Number:	77191658	1800MATTRESS.COM	
Serial Number:	77069615	1-800-MATTRESS.COM	
Serial Number:	76290744	1-800-MATTRESS	
Serial Number:	74156218	DIAL-A-MATTRESS	
Serial Number:	74108279	1-800-MATTRES, AND LEAVE OFF THE LAST THAT'S THE S FOR SAVINGS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(212)983-8490		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	212-983-8490		
<b>Email:</b>	snachman@nachmanlawyer.com		
<b>Correspondent Name:</b>	Steven M. Nachman, Esq.		
<b>Address Line 1:</b>	675 Third Avenue		
<b>Address Line 2:</b>	29th Floor		
<b>Address Line 4:</b>	New York, NEW YORK 10017		

OP \$165.00 78511054

NAME OF SUBMITTER:	Steven M. Nachman
Signature:	/s/ steven m. nachman
Date:	12/18/2008

**Total Attachments: 18**

source=Security Agreement SIGNED#page1.tif  
source=Security Agreement SIGNED#page2.tif  
source=Security Agreement SIGNED#page3.tif  
source=Security Agreement SIGNED#page4.tif  
source=Security Agreement SIGNED#page5.tif  
source=Security Agreement SIGNED#page6.tif  
source=Security Agreement SIGNED#page7.tif  
source=Security Agreement SIGNED#page8.tif  
source=Security Agreement SIGNED#page9.tif  
source=Security Agreement SIGNED#page10.tif  
source=Security Agreement SIGNED#page11.tif  
source=Security Agreement SIGNED#page12.tif  
source=Security Agreement SIGNED#page13.tif  
source=Security Agreement SIGNED#page14.tif  
source=Security Agreement SIGNED#page15.tif  
source=Security Agreement SIGNED#page16.tif  
source=Security Agreement SIGNED#page17.tif  
source=Security Agreement SIGNED#page18.tif

## **SECURITY AGREEMENT**

SECURITY AGREEMENT (the "Agreement"), dated as of November 24, 2008, given by Dial A Mattress Operating Corp. (the "Company")

### **W I T N E S S E T H**

#### **WHEREAS:**

A. Rex Bedding Corp. ("Rex" or the "Lender"), holds a certain note (the "Note") dated as of the date hereof under which the Company may be come obligated to the Lender in the aggregate principal amount of \$700,000.00, and the Company and the Lender are party to a certain Loan Agreement (the "Loan Agreement") dated as of the date hereof; and

B. The Loan Agreement provides for the purchase by the Company of no less than \$2,500,000.00 of mattresses from Rex on an annual basis for a period of two (2) years on the terms and conditions stated therein; and

C. As an inducement to the Lender to accept delivery of the Note, and to Rex to make the sales described above, and to induce it to consummate the transactions described in the Loan Agreement, the Company has agreed to execute this Agreement and grant the security interest hereinafter described,

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company hereby agrees with the Lender as follows:

1. Defined Terms. When used herein, the following terms shall have the following meanings:

"Account Debtor" shall mean the party who is obligated on or under an Account.

"Accounts" shall mean all present and future rights of the Company to payment for goods sold or leased or for services rendered by any person, including, without limitation, all receivables, which are not evidenced by Instruments or Chattel Paper, whether or not they have been earned by performance.

"Chattel Paper" means any "chattel paper," as such term is

defined in Section 9-105(1)(b) of the UCC, now owned or hereafter acquired by the Company.

"Contracts" means all contracts, undertakings, or other agreements (other than rights evidenced by Chattel Paper, Documents or Instruments) in or under which the Company may now or hereafter have any right, title or interest, including, without limitation, with respect to an Account, any agreement relating to the terms of payment or the terms or performance thereof.

"Documents" means any "document," as such term is defined in Section 9-105(1)(f) of the UCC, now owned or hereafter acquired by the Company.

"Equipment" shall mean all of the Company's now owned or hereafter acquired machinery, equipment (including, without limitation, motor vehicles), furniture, furnishings, fixtures and all tangible personal property similar to any of the foregoing (other than Inventory), together with tools and machine parts of every kind and description, and all improvements, accessions and appurtenances thereto, and any Proceeds thereof, including insurance proceeds and condemnation awards.

"Franchisee Payments" means amounts due and owing by any franchisee to the Company or to any of its affiliates or related parties.

"General Intangibles" shall mean all choses in action, causes of action and all other intangible personal property of the Company of every kind and nature (other than Accounts) now owned or hereafter acquired by the Company, including, without limitation, corporate, partnership, limited liability company or other business records, proprietary rights, inventions, designs, trademarks, trade names, copyrights, trade secrets, goodwill, registrations, contract rights (including, without limitation, the right to any rents, issues, or profits from any source), customer lists, tax refund claims, rights and claims against carriers and shippers, rights to indemnification, and any letter of credit, guaranty, security interest or other security held by or granted to the Company to secure payment by an Account Debtor.

"Instruments" means any "instrument," as such term is defined in Section 9-105(1)(i) of the UCC, now owned or hereafter acquired by the Company, other than instruments

that constitute, or are a part of a group of writings that constitute, Chattel Paper.

"Inventory" shall mean any and all inventory and goods, including, without limitation, goods in transit, wheresoever located, whether now owned or hereafter acquired by the Company, which are held for sale or lease, furnished under any contract of service or held as raw materials, work in process or supplies, and all materials used or consumed in the Company's business, including, without limitation, all food and beverage inventory.

"Liens" shall mean any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible, securing an obligation owed to, or a claim by, a person other than the owner of such property or asset, whether such interest is based on the common law, statute or contract, and including but not limited to, the security interest, charge, claim, or lien arising from a mortgage, deed of trust, encumbrance, pledge, hypothecation, assignment, deposit arrangement, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting property.

"Proceeds" means "proceeds," as such term is defined in Section 9-306(1) of the UCC.

"UCC" shall mean the Uniform Commercial Code (or any successor statute) of the State of New York or of any other state the laws of which are required by Section 9-103 thereof to be applied in connection with the issue of perfection of security interests.

All other defined terms shall have the meanings ascribed to such terms in the Loan Agreement.

2. Security Interest. As collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Note and its performance of all obligations under the Loan Agreement, the Company hereby assigns, conveys, mortgages, pledges, hypothecates and transfers to Lender, and hereby grants to Lender a security interest in, all of the Company's right, title and interest in, to and under the following (all of which being hereinafter collectively called the "Collateral"):

the Company shall use reasonable efforts to obtain, at the request of Lender, written waivers, in form and substance satisfactory to Lender, of all present and future Liens to which the owner or lessor or any mortgagee of such premises may be entitled to assert against the Collateral.

(c) The Company (i) shall use, store, and maintain the Collateral with all reasonable care and will use the Collateral for lawful purposes only, and (ii) shall not, without Lender's prior written approval, sell or dispose of or permit the sale or disposition of any Collateral, except in the regular course of business and for fair consideration. The inclusion of Proceeds in the Collateral shall not be deemed to constitute Lender's consent to any sale or other disposition of the Collateral except as expressly permitted herein.

(d) The Company shall fully perform in all material respects all of its obligations under the Loan Agreement, and shall enforce all of its rights and remedies thereunder as it deems appropriate in its business judgment; provided, however, that the Company shall not take any action or fail to take any action with respect to the Contracts which, in the Company's business judgment, exercised in good faith, would result in a waiver or other loss of any material right or remedy of the Company thereunder. Without limiting the generality of the foregoing, the Company shall take all action necessary to permit, and shall not take any action which would have any adverse effect upon, the full enforcement of all indemnification rights under the Contracts. Following the occurrence of an Event of Default, Lender may directly enforce such right in its own or the Company's name and may enter into such settlements or other agreements with respect thereto as Lender determines. In any suit, proceeding or other action brought by Lender under any Contract for any sum owing thereunder or to enforce any provision thereof, the Company shall indemnify and hold Lender harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment, or reduction of liability whatsoever of the obligor thereunder arising out of a breach by the Company of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing from the Company to or in favor of such obligor or its successors, except for the willful misconduct or the gross negligence of Lender. All such obligations of the Company shall be and remain enforceable only against the Company and shall not be enforceable against Lender. Notwithstanding any provision hereof to the contrary, the Company shall at all times remain liable to observe and perform all of its duties and obligations under the Contracts, and Lender's exercise of any of their rights with

respect to the Collateral shall not release the Company from any of such duties and obligations. Lender shall not be obligated to perform or fulfill any of the Company's duties or obligations under the Contracts or to make any payment thereunder, or to make any inquiry as to the nature or sufficiency of any payment or property received by it thereunder or the sufficiency of performance by any party thereunder, or to present or file any claim, or to take any action to collect or enforce any performance, any payment of any amounts, or any delivery of any property with respect to the Contracts.

(e) Pursuant to the Loan Agreement, a default by the Company on any of its payment obligations to Rex, including by failing to pay invoices within forty-five (45) days or by exceeding its high credit limit with Rex of \$150,000.00, constitutes a Default under the Loan Agreement and under this Agreement. Lender shall have the right and authority to realize from the collateral any amounts due and owing to Rex after such Default, provided that it remits them to Rex forthwith and without charge or offset, and may thereby cure such Default hereunder.

4. Representations and Warranties. The Company hereby represents and warrants that:

(a) The Company is the sole owner of each item of the Collateral in which it purports to grant a security interest hereunder, having good and valid title thereto, free and clear of any and all Liens, other than the Liens identified in the lien search attached as Exhibit C to the Loan Agreement.

(b) No effective security agreement, financing statement, equivalent security or lien instrument or continuation statement covering all or any part of the Collateral is on file or of record in any public office, except such as may have been filed by the Company in favor of Lender pursuant to this Agreement and except such as may have been filed by lessors (or their factors) under Equipment Leases in respect only of the property covered by such Equipment Leases, and except as identified in the lien search attached as Exhibit C to the Loan Agreement.

(c) The Company's principal place of business and the place where its records are kept concerning the Collateral is 31-10 48<sup>th</sup> Avenue, Long Island City, New York 11101.

(d) All Equipment and Inventory are located at the Company's principal place of business as set forth above and/or

at the Company's warehouses located in the United States.

(e) The amounts owed on the loans secured by the liens identified in the lien search attached as Exhibit C to the Loan Agreement do not exceed \$550,000.00 and shall not exceed \$550,000.00 while this agreement is in effect, provided, however, that the following are excluded from the aforementioned limitation: any current or future liens on equipment including, but not limited to, telephone systems, computers and automobiles.

5. Covenants. The Company covenants and agrees with Lender that from and after the date of this Agreement and until the Note is paid in full:

(a) Further Documentation; Pledge of Instruments. The Company shall, at its expense, perform and take all steps reasonably requested by Lender at any time to perfect, maintain, protect, and enforce Lender's Liens in the Collateral including, without limitation: (a) executing and filing financing or continuation statements and amendments thereof, in form and substance reasonably satisfactory to Lender; (b) delivering to Lender the originals of all Instruments, Documents, and Chattel Paper, and all other Collateral of which Lender determines they should have physical possession of in order to perfect and protect Lender's security interest therein, duly endorsed or assigned to Lender without restriction; (c) delivering to Lender all letters of credit with respect to the Property on which the Company is named beneficiary; and (d) taking such other steps as are deemed necessary by Lender to perfect and keep perfected (i) the interest of the Company in the Accounts or to otherwise protect and preserve the Company's interest in the Accounts or to enforce the Company's interest therein, and (ii) the security interest in the Collateral granted by the Company to Lender or to otherwise protect and preserve the Collateral and Lender's security interest therein or to enforce Lender's security interest in the Collateral. To the extent permitted by applicable law, Lender may file, without the signature of the Company, one or more UCC-1 financing or similar statements disclosing Lender's Liens and its interests in the Collateral. The Company agrees that, to the extent permitted by law, a photographic or other reproduction of this Agreement or of a financing statement is sufficient as a financing statement.

(b) Maintenance of Records. The Company will keep and maintain at its own cost and expense satisfactory and complete records of the Collateral, including, without limitation, a record of all payments received and all credits granted with



respect to the Collateral and all other dealings with the Collateral. The Company will mark its books and records pertaining to the Collateral to evidence this Agreement and the security interests granted hereby. For Lender's further security, the Company agrees that Lender shall have a special property interest in all of the Company's books and records pertaining to the Collateral and, upon the occurrence and during the continuation of any Event of Default, the Company shall deliver and turn over certified copies of any such books and records to Lender or to its representatives at any time on demand of Lender.

(c) Compliance with Laws, Etc. The Company will comply, in all material respects, with all acts, rules, regulations, orders, decrees and directions of any governmental authority applicable to the Collateral or any part thereof or to the operation of the Company's business and will give any required notices and use its best efforts to obtain any required consents from parties to Contracts.

(d) Payment of Obligations. The Company will pay or cause to be paid promptly when due all taxes, assessments and governmental charges or levies imposed upon the Collateral or in respect of its income or profits therefrom and all claims of any kind (including, without limitation, claims for labor, materials and supplies).

(e) Compliance with Terms of Accounts, Etc. The Company will perform and comply with all obligations in respect of Accounts, Contracts and all other agreements to which it is a party or by which it is bound in accordance with prudent business practices.

(f) Limitation on Liens on Collateral. The Company (i) will not create or permit to exist any further Lien on the Collateral except Liens in effect on the date hereof, (ii) will defend the Collateral against and take such other action as is necessary to remove any Lien on the Collateral, and (iii) will defend the right, title and interest of Lender in and to any of the Company's rights in the Collateral against the claims and demands of all persons whomsoever, except if this Agreement ceases to create a valid Lien on any of the Collateral solely as a result of action or inaction by Lender and such claims or demands relate to, arise out of or in connection with any non-consensual Lien imposed by such other person on the Collateral.

(g) Limitations on Modifications of Accounts. Upon the occurrence and during the continuation of any Event of

Default, the Company will not, without Lender's prior written consent not to be unreasonably withheld or delayed: (i) grant any extension of the time of payment of any of the Accounts, Contracts or Instruments; (ii) compromise, compound or settle the same for less than the full amount thereof; (iii) release, wholly or partly, any person liable for the payment thereof; or (iv) allow any credit or discount whatsoever thereon other than guest sales programs or trade discounts granted in the ordinary course of business of the Company.

(h) Limitations on Disposition. Other than in the normal course of business, the Company will not sell, lease, transfer or otherwise dispose of any of the Collateral, or attempt or contract to do so except for (A) Inventory and (B) Equipment that is obsolete, and in either event only in the regular course of business and for fair consideration.

(i) Further Identification of Collateral. The Company will, at the written request of Lender, furnish to Lender, from time to time but not more often than three (3) times in any twelve (12) month period, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Lender may request, all in reasonable detail.

(j) Notices. The Company will advise Lender, in reasonable detail, promptly upon becoming aware of, (i) any Lien or claim made or asserted against any of the Collateral, (ii) any material change in the composition of the Collateral and (iii) the occurrence of any other event which would have a material adverse effect on the aggregate value of the Collateral or in the security interests created hereunder.

(k) Right of Inspection. Upon reasonable notice to the Company, Lender shall at all times have full and free access during normal business hours to all the books and records and correspondence of the Company with respect to the Property and Lender or its representatives may examine the same, take extracts therefrom and make photocopies thereof.

(l) Continuous Perfection. The Company will not change its name, identity, taxpayer identification number or organizational structure in any manner which might make any financing statement or continuation statement filed in connection herewith misleading within the meaning of Section 9-402(7) of the UCC (or any other then applicable provision of the UCC) unless the Company shall have given Lender at least thirty (30) days' prior written notice thereof and shall have taken all action

necessary or reasonably requested by Lender to amend such financing statement or continuation statement so that it is not misleading. The Company will not change its principal place of business or remove its records from such place unless the Company shall have given Lender at least thirty (30) days' prior written notice thereof and shall have taken such action as is necessary to cause the security interest of Lender in the Collateral to continue to be perfected.

6. Lender's Appointment as Attorney-in-Fact.

(a) The Company hereby irrevocably constitutes and appoints Lender and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Company and in the name of the Company or in its own name, from time to time in Lender's discretion, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute and deliver any and all documents and instruments which may be reasonably necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives Lender the power and right, on behalf of the Company, with prior notice in all instances, to do the following:

(i) to ask, demand, collect, receive and give acquittance and receipts for any and all monies due and to become due under any Collateral and, in the name of the Company or its own name or otherwise, to take possession of and endorse and collect any checks, drafts, note, acceptances or other Instruments for the payment of monies due under any Collateral and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Lender for the purpose of collecting any and all such monies due under any Collateral whenever payable and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Lender for the purpose of collecting any and all such monies due under any Collateral whenever payable;

(ii) to pay or discharge taxes and Liens levied or placed on the Collateral, at the Company's expense; and

(iii) (a) to direct any party liable for any payment under any of the Collateral to make payment of any and all monies due, and to become due thereunder, directly to Lender or as Lender shall direct; (B) to receive payment of and receipt for any and all monies, claims and other amounts

due, and to become due at any time, in respect of or arising out of any Collateral; (C) to sign and endorse any invoices, drafts against debtors, assignments, verifications and notices in connection with Accounts and Documents constituting or relating to the Collateral; (D) to commence and prosecute any suits, actions or other proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of any Collateral; (E) to defend any suit, action or other proceeding brought against the Company with respect to any Collateral; (F) to settle, compromise or adjust any suit, action or other proceeding described above and, in connection therewith, to give such discharges or releases as Lender may deem appropriate; and (G) generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Lender was the absolute owner thereof for all purposes, and to do, at Lender's option and the Company's expense, at any time, or from time to time, all acts and things which Lender reasonably deems necessary to protect, preserve or realize upon the Collateral and Lender's interests therein, in order to effect the intent of this Agreement, all as fully and effectively as the Company might do.

(b) Lender agrees that, except upon the occurrence and during the continuation of an Event of Default, it will forbear from exercising the power of attorney or any rights granted to Lender pursuant to this Section 6. The Company hereby ratifies, to the extent permitted by law, all that said attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted pursuant to this Section 6 is a power coupled with an interest and shall be irrevocable until the Note is paid in full.

(c) The powers conferred on Lender hereunder are solely to protect Lender's interests in the Collateral and shall not impose any duty upon it to exercise any such powers. Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to the Company for any act or failure to act, except for their own gross negligence or willful misconduct.

(d) The Company authorizes Lender, at any time and from time to time upon the occurrence and during the continuation of any Event of Default, (i) to communicate in its own name with any Account Debtor, any party to any Contract or obligor of any

Instrument with regard to the assignment of the right, title and interest of the Company in and under the Accounts, Contracts and Instruments hereunder and other matters relating thereto and (ii) to execute, in connection with the sale provided for in Section 8 hereof, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral.

7. Performance by Lender of the Company's Obligations. If the Company fails to perform or comply with any of its agreements contained herein, Lender, upon notice to the Company, as provided for by the terms of this Agreement, may itself perform or comply, or otherwise cause performance or compliance, with such agreement. The reasonable expenses of Lender incurred in connection with such performance or compliance, together with interest thereon at the rate of interest from time to time applicable to the Note, shall be payable by the Company to Lender on demand and shall be secured by the provisions of this Agreement.

8. Remedies, Rights Upon Default.

(a) Upon the occurrence and during the continuance of any Event of Default, Lender may exercise, in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Note, all rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, the Company expressly agrees that in any such event Lender, without demand of performance or other demand, advertisement or notice of any kind (except the notice specified below of time and place of public or private sale) to or upon the Company or any other person (all and each of which demands, advertisements and/or notices are hereby expressly waived to the maximum extent permitted by the UCC and other applicable law), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give an option or options to purchase, or sell or otherwise dispose of and deliver the Collateral (or contract to do so) or any part thereof, in a commercially reasonable manner and otherwise in compliance with the UCC and other applicable law, in one or more parcels at public or private sale or sales, at any exchange or broker's board or any of Lender's offices or elsewhere at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. Lender shall have the right, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption, which right or equity of redemption the Company hereby releases.

Lender shall apply the net proceeds of any such collection, receipt, appropriation, realization or sale, as provided for in Section 8(d) hereof. To the maximum extent permitted by applicable law, the Company waives all claims, damages and demands against Lender arising out of the repossession, retention or sale of the Collateral except such as arise out of the gross negligence or willful misconduct of Lender. The Company agrees that Lender need not give more than ten (10) days' notice of the time and place of any public sale or of the time after which a private sale may take place and that such notice is reasonable notification of such matters.

(b) The Company also agrees to pay all reasonable costs of Lender, including, without limitation, reasonable attorneys' fees and disbursements, incurred in connection with the enforcement of any of their rights and remedies hereunder.

(c) The Company hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Agreement or any Collateral, except as may be otherwise provided in this Agreement, the Note or the Loan Agreement.

(d) The net proceeds of any sale, disposition or other realization upon all or any part of the Collateral shall be distributed by Lender in the following order of priorities:

First, to any outstanding fees and expenses that may be due to Lender (and its agents or counsel);

Next, to the payment of the costs and expenses of such sale, disposition or other realization, including, without limitation, expenses of Lender and its agents and counsel, and all expenses, liabilities and advances made or incurred by Lender in connection therewith or pursuant to Section 7 hereof;

Next, to the Lender for payment of the Note;

Next, to Rex, for payment of any amount owed to it;

and

Finally, after payment in full of the Note and of any amounts to Rex, to the Company, or its successors or assigns, or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

9. Lender's Rights. All rights, powers and remedies herein given to Lender are cumulative and not alternative, and are in addition to all statutes or rules of law; any forbearance or delay by Lender in exercising the same shall not be deemed to be a waiver thereof and the exercise of any right or partial exercise thereof shall not preclude the further exercise thereof, and the same shall continue in full force and effect until specifically waived by an instrument in writing executed by Lender. Rex's rights hereunder shall continue so long as any amount is owed to Rex by the Company, notwithstanding the Company's full repayment of the Note and the termination of the Loan Agreement.

10. Limitation on Lender's Duty in Respect of Collateral. Lender shall not have any duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto, except that Lender shall use all reasonable care with respect to the Collateral in its possession or under its control. Lender shall account for any monies received by it in respect of any foreclosure on or disposition of the Collateral.

11. Miscellaneous.

(a) Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the agreements in this Agreement contained by or on behalf of the Company or by or on behalf of Lender shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

(b) Survival of Representations and Warranties. All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement.

(c) Release. Lender shall release this Agreement and the lien hereof with respect to the relevant Collateral by proper instrument or instruments at such time as (i) the Collateral to be released is sold in compliance with the provisions of hereof; or (ii) with respect to the Lender's rights hereunder, the Note has been fully and indefeasibly paid or satisfied; and (iii) with respect to Rex's rights hereunder, it has been fully and indefeasibly paid all amounts due to it on its sales to the Company.

(d) No Assignment. The Company may not, without the prior written consent of Lender, assign, transfer or set over to another, in whole or in part, all or any part of its benefits, rights, duties and obligations hereunder.

(e) Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally or four days after being mailed by registered mail, return receipt requested, to a party at the following address (or to such other address as such party may have specified by notice given to the other party pursuant to this provision):

If to Company, to:

Dial A Mattress Operating Corp.  
Attn: Napoleon Barragan  
Chief Executive Officer  
31-10 48<sup>th</sup> Avenue  
Long Island City, NY 11101  
Telephone: 718-472-1200  
Fax: 718-472-1404

With a copy to:

William A. Johnson  
Chief Operating Officer  
Dial A Mattress Operating Corp.  
31-10 48<sup>th</sup> Avenue  
Long Island City, NY 11101  
Telephone: 718-472-1200  
Fax: 718-472-1401

If to the Lender, to:

Rex Bedding Corp.  
Attn: Jeno Kahan  
300 West 4<sup>th</sup> Street  
Plainfield, NJ 07060  
Telephone:  
Fax: 908-668-4870

With a copy to:

Steven M. Nachman, Esq.  
Law Offices of Steven M. Nachman



675 Third Avenue  
29<sup>th</sup> Floor  
New York, NY 10017  
Telephone: 212-983-8490  
Fax: 212-949-1923

(f) Modifications in Writing. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, or consent to any departure by the Company therefrom, shall be effective unless in writing and signed by Lender and the Company. Any amendment, modification or supplement of or to any provision of this Agreement, any waiver of any provision of this Agreement and any consent to any departure by the Company from the terms of any provision of this Agreement shall be effective only in the specific instance and for the specific purpose for which made or given.

(g) Severability and Enforceability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement, or the application of any such provision to any person or circumstance, shall, to any extent, be held to be invalid, illegal or unenforceable under applicable law, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid, illegal or unenforceable shall not be affected thereby.

(h) Entire Agreement. This Agreement and the documents and agreements referred to herein embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof and thereof.

(i) Governing Law. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New York (without giving effect to New York's principles of conflicts of law).

(j) Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute but a single instrument.

(k) Jurisdiction. To the extent permitted by law, the Company hereby irrevocably:

(i) consents to any suit, action or other

proceeding with respect to this Agreement being, at the option of Lender, brought in any court of competent jurisdiction located in the State and County of New York, as Lender may elect; and

(ii) waives any objection that it may have now or hereafter to the venue of any such suit, action or other proceeding in any such court and any claim that any of the foregoing have been brought in an inconvenient forum; and

(iii) acknowledges the competence of any such court; and agrees that the final judgment in any such suit, action or other proceeding brought in any such court shall be conclusive and binding upon it and may be enforced in any court to the jurisdiction of which it is or may be subject by a suit upon such judgment, a certified copy of which shall be conclusive evidence of its liability; and

(iv) submits to the non-exclusive jurisdiction of the State and Federal Courts in New York County and agrees that service of process in any suit, action or other proceeding brought in any such court may be made upon the Company by notice sent by certified mail to the address set forth herein, or to such other address of which Company shall have given written notice to Lender; and

(v) waives all claims of error by reason of any service effected in accordance with the provisions of subparagraph (iv) above and agrees that such service shall be deemed in every respect effective service upon it in any suit, action or other proceeding and shall be taken and held to be valid personal service upon or personal delivery to it, to the fullest extent permitted by law.

(l) Captions. The captions in this Agreement are for convenience only, and in no way limit or amplify the provisions hereof.

(m) No Joint Venture. The Company is not and shall not be deemed a joint venturer with, nor an agent of, Lender for any purpose.

(n) Construction. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular and references to the singular include the plural, and "or" has the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a

whole and not to any particular provision of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this document as of the date first above written.

Dial A Mattress Operating Corp.

By:   
Name: Napoleon Barragan  
Title: Chief Executive Officer

Rex Bedding Corp.

By: \_\_\_\_\_  
Name: Jeno Kahan  
Title:

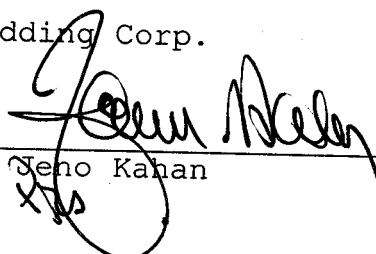
whole and not to any particular provision of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this document as of the date first above written.

Dial A Mattress Operating Corp.

By: \_\_\_\_\_  
Name: Napoleon Barragan  
Title: Chief Executive Officer

Rex Bedding Corp.

By:  \_\_\_\_\_  
Name: Geno Kahan  
Title: ~~X~~