

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	AMENDED AND RESTATED TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
FIVE BELOW, INC.		05/16/2012	CORPORATION: PENNSYLVANIA
RECEIVING PARTY DATA			
Name:	WELLS FARGO BANK, N.A., successor by merger to Wachovia Bank, National Association, a national banking association		
Street Address:	One Boston Place, 18th Floor		
City:	Boston		
State/Country:	MASSACHUSETTS		
Postal Code:	02108		
Entity Type:	National Banking Association: MASSACHUSETTS		
PROPERTY NUMBERS Total: 9			
Property Type	Number	Word Mark	
Registration Number:	3817923	5B ESSENTIALS	
Registration Number:	4048994	FIVE BELOW	
Registration Number:	2813080	FIVE BELOW	
Registration Number:	3650837	FIVE BELOW HOT STUFF. COOL PRICES.	
Registration Number:	3959025	PARTIKI	
Registration Number:	4091585	ROOM 2 ROOM	
Serial Number:	77515581	FIVE & TEN BELOW	
Serial Number:	77964598	ROOM 2 ROOM	
Serial Number:	77515567	TEN BELOW	
CORRESPONDENCE DATA			
Fax Number:	2159791020		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			

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Correspondent Name: Allison Z. Gifford - Duane Morris LLP
Address Line 1: 30 South 17th Street
Address Line 4: Philadelphia, PENNSYLVANIA 19103

ATTORNEY DOCKET NUMBER:	E0360-00104
NAME OF SUBMITTER:	Allison Z. Gifford
Signature:	/Allison Z. Gifford/
Date:	05/24/2012

Total Attachments: 18

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AMENDED AND RESTATED TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT

THIS AMENDED AND RESTATED TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT ("Agreement"), dated May 16, 2012, is by and between FIVE BELOW, INC., a Pennsylvania corporation ("Borrower") and WELLS FARGO BANK, N.A., successor by merger to Wachovia Bank, National Association, a national banking association ("Lender").

WITNESSETH:

WHEREAS, Borrower and Lender are parties to that certain Trademark Collateral Assignment and Security Agreement dated August 18, 2006 (the "Original Security Agreement") which the parties executed in connection with that certain Loan and Security Agreement of even date therewith (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the "Original Loan Agreement");

WHEREAS, Borrower and Lender have entered into or are about to enter into financing arrangements pursuant to which Lender may make loans and advances and provide other financial accommodations to Borrower as set forth in the Second Amended and Restated Loan and Security Agreement, dated of even date herewith, by and between Borrower and Lender (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement") and other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto, including, but not limited to, this Agreement (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "Financing Agreements");

WHEREAS, Borrower has adopted, used and is 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 Exhibit A hereto and made a part hereof; and

WHEREAS, in order to induce Lender to enter into the Loan Agreement and the other Financing Agreements and to make loans and advances and provide other financial accommodations to Borrower pursuant thereto, Borrower has agreed to grant to Lender certain collateral security as set forth herein. Unless otherwise defined herein, capitalized terms used herein and not defined herein shall have the meaning given to such terms in the Loan Agreement.

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

1. GRANT OF SECURITY INTEREST

As collateral security for the prompt performance, observance and payment in full of all of the Obligations, Borrower hereby grants to Lender a continuing security interest in and a general lien upon, and a collateral assignment of, the following (being collectively referred to herein as the "Collateral"): (a) all of Borrower's now existing or hereafter acquired right, title,

and interest in and to: (i) all of Borrower's trademarks, trade names, 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, any State, Province or Territory 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 Borrower's use of any trademarks, trade names, trade styles, logos 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, recordings and labels on which such trademarks, trade names, trade styles, logos 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 or bring other rights of action 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, damages and payments or claims by Borrower against third parties for past or future infringement of the Trademarks.

2. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Lender pursuant to this Agreement shall secure the prompt performance, observance and payment in full of any and all Obligations.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

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

(a) Borrower 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, and Borrower owns the sole, full and clear title thereto, and the right and power to grant the security interest and collateral assignment granted hereunder. Borrower shall, at Borrower'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, unless, in the reasonable good faith judgment of the Borrower, such Trademarks are no longer economically practicable to maintain or useful in the conduct of the business of the Borrower and its subsidiaries taken as a whole; provided, that Borrower shall promptly notify Lender of any such determination not to maintain the Collateral as valid and subsisting. 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 Loan Agreement, (ii) the security interests permitted under the Loan Agreement, (iii) the security interests granted under the Original Loan Agreement and Original Security Agreement and (iv) the licenses permitted under Section 3(f) below.

(c) Borrower 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 Lender, except as otherwise permitted herein or in the Loan Agreement. Nothing in this Agreement shall be deemed a consent by Lender to any such action, except as such action is expressly permitted hereunder.

(d) Borrower acknowledges that value has been given and acknowledges and agrees that the security interests granted attached upon the execution of the Original Agreement and the Borrower obtaining any rights in the Collateral.

(e) Borrower shall, at Borrower's expense, promptly perform all acts and execute all documents reasonably requested at any time by Lender to evidence, perfect, maintain, record or enforce the security interest in and collateral assignment of the Collateral granted hereunder or to otherwise further the provisions of this Agreement. Borrower hereby authorizes Lender to execute and file one or more financing statements (or similar documents) with respect to the Collateral. Borrower further authorizes Lender to have this Agreement or any other similar security agreement filed with the Commissioner of Patents and Trademarks or any other appropriate federal, state, provincial, territorial or government office.

(f) As of the date hereof, Borrower 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, any State, Province or Territory 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 permitted in the Loan Agreement or otherwise set forth in Exhibit B hereto.

(g) Borrower shall, concurrently with the execution and delivery of this Agreement, execute and deliver to Lender 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 Lender's exercise of the rights and remedies granted to it in accordance with the terms hereof.

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

the rate then applicable to the indebtedness of Borrower to Lender set forth in the Loan Agreement and shall be part of the Obligations secured hereby.

(i) Borrower shall notify Lender within twenty (20) days of filing any application for the registration of a Trademark with the United States Patent and Trademark Office, any similar office or agency in the United States, any State, Province or Territory thereof, any political subdivision thereof or in any other country. If, after the date hereof, Borrower shall (i) obtain any registered trademark or trade name, or apply for any registration in the United States Patent and Trademark Office or in any similar office or agency in the United States, any State, Province or Territory 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, any State, Province or Territory thereof, political subdivision thereof or in any other country, the provisions of Section 1 hereof shall automatically apply thereto. Upon the request of Lender, Borrower shall promptly execute and deliver to Lender any and all assignments, agreements, instruments, documents and such other papers as may be reasonably requested by Lender to evidence the security interest in and collateral assignment of such Trademark in favor of Lender.

(j) Borrower has not abandoned any of the Trademarks and Borrower will not do any act, nor omit to do any act, whereby the Trademarks may become abandoned, invalidated, illegal, unenforceable, avoided, or avoidable, unless, in the reasonable good faith judgment of the Borrower, such Trademarks are no longer economically practicable to maintain or useful in the conduct of the business of the Borrower and its subsidiaries taken as a whole. Borrower shall notify Lender immediately if it knows or has reason to know of any reason why any application, registration, or recording with respect to any Trademarks necessary to the conduct of Borrower's business may become abandoned, canceled, invalidated, illegal, avoided, or avoidable.

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

(l) To the best of Borrower's knowledge, 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 Lender, including, without limitation, the creation, validity, priority or perfection of the security interest granted herein or the remedies of Lender hereunder. There has been no judgment holding any of the Trademarks invalid or unenforceable, in whole or part, nor is the legality, validity or enforceability of any of the Trademarks presently being questioned in any litigation or proceeding to which Borrower is a party. Borrower shall promptly notify Lender if Borrower (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, and such person does not respond or otherwise comply with Borrower's request to cease use of the infringing term or design in a reasonable period of time. If requested by Lender, Borrower,

at Borrower's sole expense, shall join with Lender in such action as Lender, in Lender's reasonable discretion, may deem advisable for the protection of Lender's interest in and to the Trademarks.

(m) Borrower assumes all responsibility and liability arising from the use of the Trademarks and Borrower hereby indemnifies and holds Lender harmless from and against any claim, suit, loss, damage, or expense (including professionals and attorneys' fees and legal expenses) arising out of any alleged defect in any product manufactured, promoted, or sold by Borrower (or any affiliate or subsidiary thereof) in connection with any Trademark or out of the manufacture, promotion, labeling, sale or advertisement of any such product by Borrower (or any affiliate or subsidiary thereof). The foregoing indemnity shall survive the payment of the Obligations, the termination of this Agreement and the termination or non-renewal of the Loan Agreement.

(n) Borrower shall promptly pay Lender for any and all expenditures made by Lender pursuant to the provisions of this Agreement or for the defense, protection or enforcement of the Obligations, the Collateral, or the security interests and collateral assignment granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, travel expenses, and reasonable attorneys' and professionals' fees and legal expenses. Such expenditures shall be payable on demand, together with interest at the rate then applicable to the indebtedness of Borrower to Lender set forth in the Loan Agreement and shall be part of the Obligations secured hereby.

4. EVENTS OF DEFAULT

All Obligations shall become immediately due and payable, without notice or demand, at the option of Lender, upon the occurrence of any Event of Default, as such term is defined in the Loan Agreement (each, an "Event of Default" hereunder).

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 Lender, whether provided under this Agreement, the Loan Agreement, the other Financing Agreements, applicable law or otherwise, Lender shall have the following rights and remedies which may be exercised without notice to, or consent by, Borrower except as such notice or consent is expressly provided for hereunder:

(a) Lender may require that neither Borrower nor any affiliate or subsidiary of Borrower make any use of the Trademarks or any marks similar thereto for any purpose whatsoever. Lender 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 Lender by Borrower or any subsidiary or affiliate of Borrower or for such other reason as Lender may determine.

(b) Lender may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Lender 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) Lender 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 Borrower of intended disposition of Collateral is required by law, the giving of ten (10) days prior written notice to Borrower of any proposed disposition shall be deemed reasonable notice thereof and Borrower waives any other notice with respect thereto. Lender shall have the power to buy the Collateral or any part thereof, and Lender shall also have the power to execute assurances and perform all other acts which Lender may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Borrower shall be liable for any deficiency.

(d) Lender may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or any employee or employees of Lender or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and/or manager) of any Collateral of Borrower (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his/her stead. Any such Receiver shall, so far as concerns responsibility for his/her acts, be deemed the agent of the Borrower, and Lender shall not be in any way responsible for any misconduct, negligence or non-feasance on the part of any such Receiver, his/her servants, agents or employees. Subject to the provisions of the instrument appointing him/her, any such Receiver shall have power to take possession of the Collateral, to preserve the Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Borrower and to sell, lease, license or otherwise dispose of or concur in selling, leasing, licensing or otherwise disposing of the Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including the Borrower, enter upon, use and occupy all premises owned or occupied by the Borrower wherein the Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use the Collateral directly in carrying on the Borrower's business or as security for loans or advances to enable the Receiver to carry on Borrower's business or otherwise, as such Receiver shall, in its discretion, determine. Except as may be otherwise directed by the Lender, all money received from time to time by such Receiver in carrying out his/her appointment shall be received in trust for and paid over to the Lender. Every such Receiver may, in the discretion of the Lender, be vested with all or any of the rights and powers of the Lender. The Lender, may, either directly or through its agents or nominees, exercise any or all powers and rights given to a Receiver by virtue of the foregoing provisions of this paragraph.

(e) 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, Lender may at any time execute and deliver on behalf of Borrower, pursuant to the authority granted in the Special Power of Attorney described in Section 3(g) hereof, 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. Borrower agrees to pay Lender on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and reasonable attorneys' and professionals' fees and legal expenses. Borrower agrees that Lender has no obligation to preserve rights to the Trademarks against any other parties.

(f) Lender 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' and professionals' fees and all legal,

travel and other expenses which may be incurred by Lender. Thereafter, Lender may apply any remaining proceeds to such of the Obligations as Lender may in its discretion determine. Borrower shall remain liable to Lender for any of the Obligations remaining unpaid after the application of such proceeds, and Borrower shall pay Lender on demand any such unpaid amount, together with interest at the rate then applicable to the indebtedness of Borrower to Lender as set forth in the Loan Agreement.

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

(h) Nothing contained herein shall be construed as requiring Lender to take any such action at any time. All of Lender's rights and remedies, whether provided under this 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.

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

(a) The validity, interpretation and enforcement of this Agreement and the other Financing Agreements 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 Commonwealth of Pennsylvania 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 Commonwealth of Pennsylvania.

(b) Borrower and Lender irrevocably consent and submit to the non-exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania in Philadelphia County and the United States District Court for the Eastern District of Pennsylvania, whichever Lender may elect, and waive any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or any of the other Financing Agreements or in any way connected with or related or incidental to the dealings of Borrower and Lender in respect of this Agreement or any of the other Financing Agreements or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agree that any dispute with respect to any such matters shall be heard only in the courts described above (except that Lender shall have the right to bring any action or proceeding against Borrower or its property in the courts of any other jurisdiction which Lender deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against Borrower or its property).

(c) Borrower hereby 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 herein and service so made shall be deemed to be completed immediately upon receipt thereof by Borrower, or, at Lender's option, by service upon Borrower in any other manner provided under the rules of any such courts. Within thirty (30) days after such service, Borrower shall appear in answer to such process, failing which

Borrower shall be deemed in default and judgment may be entered by Lender against Borrower for the amount of the claim and other relief requested.

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

(e) Notwithstanding any other provision contained herein, Lender shall not have any liability to Borrower (whether in tort, contract, equity or otherwise) for losses suffered by Borrower in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this 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 Lender that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any such litigation, Lender 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 Agreement and the other Financing Agreements.

7. EFFECT OF AMENDED AND RESTATED AGREEMENT

Except as otherwise explicitly provided in this Agreement, as of the date hereof, the terms, conditions, agreements, covenants, representations and warranties set forth in the Original Security Agreement are hereby amended and restated in their entirety, and as so amended and restated, replaced and superseded, by the terms, conditions, agreements, covenants, representations and warranties set forth in this Agreement, except that nothing herein or in the other Financing Agreements shall impair or adversely affect the continuation of the liability of the parties to the Original Security Agreement or the security interest or lien granted or created thereby. The amendment and restatement contained herein shall not, in any manner, be construed to constitute payment of, or impair, limit, waive, release, cancel or extinguish, or constitute a novation in respect of, the security interest, lien or obligations evidenced by or arising under the Original Security Agreement.

8. MISCELLANEOUS

(a) All notices, requests and demands hereunder shall be deemed to have been given or made if done so in accordance with the notice provisions of the Loan Agreement.

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural. All references to Borrower and Lender 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 Agreement" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this 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(d) 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 or unlimited 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. This Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon Borrower and its successors and assigns and inure to the benefit of and be enforceable by Lender and its successors and assigns.

(c) If any provision of this Agreement is held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be illegal, 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.

(d) Neither this 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 Lender. Lender shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Lender. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Lender 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 Lender would otherwise have on any future occasion, whether similar in kind or otherwise.

(e) This 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 Agreement by telefacsimile or other means of electronic transmission shall have the same force and effect as the delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other means of electronic transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Borrower and Lender have executed this Agreement as of the day and year first above written.

FIVE BELOW, INC.

By: 

Name: KENNETH R. BULL

Title: CFO, SECRETARY, TREASURER

WELLS FARGO BANK, N.A., successor by merger to Wachovia Bank, National Association

By: _____

Name:

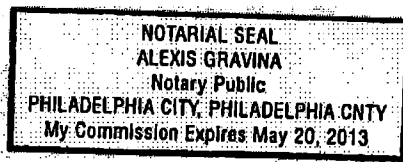
Title:

[Signature Page to Amended and Restated Trademark and Collateral Assignment and Security Agreement]

COMMONWEALTH OF PENNSYLVANIA)
) ss.:
COUNTY OF PHILADELPHIA)

On this 16th day of May, 2012, before me personally came KENNETH R. BULL,
to me known, who being duly sworn, did depose and say, that he/she is the CEO, TREASURER, Sec'y
of FIVE BELOW, INC., and that (s)he being authorized to do so, executed the foregoing
instrument for the purposes therein contained by signing.

Alexis Gravina
Notary Public

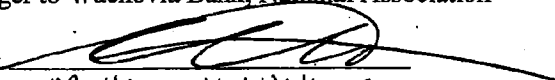


IN WITNESS WHEREOF, Borrower and Lender have executed this Agreement as of the day and year first above written.

FIVE BELOW, INC.

By: _____
Name:
Title:

WELLS FARGO BANK, N.A., successor by
merger to Wachovia Bank, National Association

By: 
Name: Matthew N. Williams
Title: Managing Director

[Signature Page to Amended and Restated Trademark and Collateral Assignment and Security Agreement]

STATE OF Massachusetts

COUNTY OF Suffolk

)
) ss.:
)

On this 10 day of May, 2012, before me personally came Matthew N. Williams to me known, who, being duly sworn, did depose and say, that he/she is the Managing Director of WELLS FARGO BANK, N.A., and that (s)he being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing.


Margaret Arseneault

Notary Public

Margaret Arseneault
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 27, 2012

EXHIBIT A
TO
TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT

LIST OF U.S. AND FOREIGN TRADEMARK REGISTRATIONS
AND U.S. TRADEMARK APPLICATIONS

Trademark	Registration Number	Registration Date	Country
5B ESSENTIALS 5B ESSENTIALS	3,817,923	July 13, 2010	United States
FIVE BELOW FIVE BELOW	4,048,994	November 1, 2011	United States
FIVE BELOW and Design 	2,813,080	February 10, 2004	United States
FIVE BELOW HOT STUFF. COOL PRICES. <small>FIVE BELOW hot stuff. cool prices.</small>	3,650,837	July 7, 2009	United States
PARTIKI PARTIKI	3,959,025	May 10, 2011	United States
ROOM 2 ROOM	4,091,585	January 24, 2012	United States
FIVE BELOW	TMA789594	February 3, 2011	Canada
FIVE & TEN BELOW	2505878	June 26, 2009	United Kingdom
FIVE BELOW	2505879	June 26, 2009	United Kingdom

Trademark Application	Application/Serial Number	Application Date
FIVE & TEN BELOW <small>FIVE & TEN BELOW</small>	77/515,581	July 7, 2008
ROOM 2 ROOM ROOM 2 ROOM	77/964,598	March 22, 2010
TEN BELOW TEN BELOW	77/515,567	July 7, 2008

EXHIBIT B
TO
TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT

LIST OF LICENSES

None

EXHIBIT C
TO
TRADEMARK COLLATERAL ASSIGNMENT
AND SECURITY AGREEMENT

SPECIAL POWER OF ATTORNEY
(see attached)

SPECIAL POWER OF ATTORNEY

COMMONWEALTH OF PENNSYLVANIA)
) ss.:
COUNTY OF _____)

KNOW ALL MEN BY THESE PRESENTS, that FIVE BELOW, INC. (“Borrower”), having an office at 1818 Market Street, Suite 1900, Philadelphia, Pennsylvania 19103 hereby appoints and constitutes, severally, WELLS FARGO BANK, N.A., as Lender (“Lender”), and each of its officers, its true and lawful attorney, with full power of substitution and with full power and authority to perform the following acts on behalf of Borrower:

1. Execution and delivery of any and all agreements, documents, instrument of assignment, or other papers which Lender, in its discretion, deems necessary or advisable for the purpose of assigning, selling, or otherwise disposing of all right, title, and interest of Borrower in and to any trademarks and all registrations, recordings, reissues, extensions, and renewals thereof, or for the purpose of recording, registering and filing of, or accomplishing any other formality with respect to the foregoing.

2. Execution and delivery of any and all documents, statements, certificates or other papers which Lender, in its discretion, deems necessary or advisable to further the purposes described in Subparagraph 1 hereof.

This Power of Attorney is made pursuant to an Amended and Restated Trademark Collateral Assignment and Security Agreement, dated of even date herewith, between Borrower and Lender (the “Security Agreement”) and is subject to the terms and provisions thereof. This Power of Attorney, being coupled with an interest is made for consideration, is irrevocable until all “Obligations”, as such term is defined in the Security Agreement, are paid in full and the Security Agreement is terminated in writing by Lender.

Dated: May __, 2012

FIVE BELOW, INC.

By: _____

Name:

Title:

COMMONWEALTH OF PENNSYLVANIA)
) ss.:
COUNTY OF PHILADELPHIA)

On this ___ day of _____, 2012, before me personally came _____, to me known, who being duly sworn, did depose and say, that he/she is the _____ of FIVE BELOW, INC., and that (s)he being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing.

Notary Public