

Form PTO-1594 (Rev. 12-11)
OMB Collection 0651-0027 (exp. 04/30/2015)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

The Clearly Food & Beverage Co.

- Individual(s)
- Partnership
- Corporation- State: Delaware
- Other _____
- Association
- Limited Partnership

Citizenship (see guidelines) Delaware

Additional names of conveying parties attached? Yes No

3. Nature of conveyance/Execution Date(s) :

Execution Date(s) August 6, 2012

- Assignment
- Security Agreement
- Other _____
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Robert E. Nutt

Street Address: 2121 Lake Point Dr.

City: Knoxville

State: Tennessee

Country: USA Zip: 37922

- Individual(s) Citizenship Tennessee
- Association Citizenship _____
- Partnership Citizenship _____
- Limited Partnership Citizenship _____
- Corporation Citizenship _____
- Other _____ Citizenship _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s) _____ Text _____

B. Trademark Registration No.(s) _____

(4) TM Reg. Nos.: 1697898, 3346404, 3346405, and 3346406

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

Each of the Word marks: "CLEARLY CANADIAN", "DAILYVITAMIN", "DAILENERGY", and "DAILYHYDRATION"

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

Name: James E. Urmin, Sr.

Internal Address: General Counsel

The Clearly Food & Beverage Co.

Street Address: 502 S. Waterview Dr.

City: Richardson

State: Texas Zip: 75080

Phone Number: 972-913-4467

Docket Number: _____

Email Address: JimUrmin@clearlyfab.com

6. Total number of applications and registrations involved:

4

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$115.00

- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

Deposit Account Number _____

Authorized User Name _____

9. Signature:

James E. Urmin, Sr.
Signature

August 16, 2012
Date

James E. Urmin, Sr.

Name of Person Signing

Total number of pages including cover sheet, attachments, and document: **49**

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Branch, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

OP \$115.00 1697898

JANUARY 12, 2012 – EXECUTION COPY

THE SECURITIES REPRESENTED OR TO BE ISSUED PURSUANT TO THE TERMS OF THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

CONVERTIBLE PROMISSORY NOTE

\$500,000.00

January 12, 2012
Knoxville, Tennessee

For value received, The Clearly Food & Beverage Co., Inc., a Delaware corporation (the "Company"), promises to pay to ROBERT E. NUTT or his assigns (the "Holder"), the principal sum of Five Hundred Thousand U.S. Dollars (\$500,000.00) the "Principal".

Interest shall accrue on a simple basis from the date of this Note on the unpaid Principal amount at a rate equal to seven percent (7%) per annum. The Company may execute and deliver, on or about the same date of this Note, a series of other convertible notes which contain, to some extent, similar terms and conditions. The Company acknowledges, however, that the specific terms and obligations of this Note are not identical to those of any other convertible notes, and that this Note grants unique rights to the Holder hereof. This Note is subject to the following terms and conditions:

1. Maturity. Unless converted to equity as provided in Section 2 below, the Principal and any accrued but unpaid interest under this Note shall be due and payable upon demand by the Holder at any time after the third (3rd) anniversary of this Note. Notwithstanding the foregoing, the entire unpaid Principal sum of this Note, together with accrued and unpaid interest thereon, shall become immediately due and payable upon the insolvency of the Company, the execution by the Company of a general assignment for the benefit of creditors, the filing by or against the Company of a petition in bankruptcy or any petition for relief under the federal bankruptcy act or the continuation of such petition without dismissal for a period of ninety (90) days or more, the appointment of a receiver or trustee to take possession of the property or assets of the Company, or in the event of a default by the Company under that certain "Agreement" between the Company and the Holder dated and entered into as of the same date as this Note.

2. Conversion.

(a) Investment by the Holder. The entire Principal amount of and accrued interest on this Note shall be converted into shares of the Company's equity securities (the "Equity Securities") issued at the close of the Company's next equity financing in a single transaction or a series of related transactions yielding gross proceeds to the Company of at least

\$5,000,000.00USD in the aggregate (the "Next Equity Financing"). The Holder shall receive the same class and type of equity securities issued to the purchaser(s), and the issuance of such shares shall be upon the same terms and conditions as the issuance of the Equity Securities to the purchasers. The number of shares of Equity Securities to be issued to the Holder upon such conversion shall be equal to the quotient obtained by dividing (i) the entire Principal amount of this Note plus accrued interest by (ii) **fifty-percent (50%)** of the purchase price per share of the Equity Securities sold by the Company in the Next Equity Financing, rounded to the nearest whole share.

(b) **Mechanics and Effect of Conversion.** No fractional shares of the Company's capital stock will be issued upon conversion of this Note. In lieu of any fractional share to which the Holder would otherwise be entitled, the Company will pay to the Holder in cash the amount of the unconverted Principal and interest balance of this Note that would otherwise be converted into such fractional share. Upon conversion of this Note pursuant to this Section 2, the Holder shall surrender this Note, duly endorsed, at the principal offices of the Company or any transfer agent of the Company. At its expense, the Company will, as soon as practicable thereafter, issue and deliver to such Holder, at Holder's address, a certificate or certificates for the number of shares to which such Holder is entitled upon such conversion, together with and other securities and property to which the Holder is entitled upon such conversion under the terms of this Note, including a check payable to the Holder for any cash amounts payable as described herein. Upon conversion of this Note, the Company will be forever released from all of its obligations and liabilities under this Note with regard to that portion of the Principal amount and accrued interest being converted, including without limitation the obligation to pay such portion of the Principal amount and accrued interest.

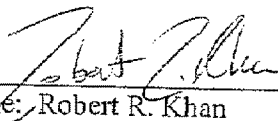
(c) **Holder's Option to Require Conversion if No Next Equity Financing by Third Anniversary.** Should Holder not demand that this Note be paid in full upon or after maturity as specified in Section 1 above, or if this Note is not automatically converted to Equity Securities as specified in Section 2 above, by the third (3rd) anniversary of this Note, this Note shall, at the option of the Holder exercisable by written notice at any time thereafter, automatically convert to a fully diluted 10% ownership of the total Equity Securities of the Company.

3. **Payment.** All payments shall be made in lawful money of the United States of America at such place as the Holder hereof may from time to time designate in writing to the Company. Payment shall be credited first to the accrued interest then due and payable and the remainder applied to Principal. Prepayment of this Note may be made at any time without penalty, provided that all of the Notes shall be prepaid on a pro rata basis.

4. **Secured Position.** Unless otherwise waived in writing by the Holder, all assets of the Company shall be pledged to secure this Note, and at all times the Note shall be secured by a fully perfected first lien on such assets, pursuant to that certain "Agreement" between the Company and the Holder referred to above, which is incorporated herein by reference. The entire unpaid Principal sum of this Note, together with accrued and unpaid interest thereon, shall become immediately due and payable upon the failure and default of the Company to comply with the terms of the Agreement regarding the perfection of the Holder's first lien on such assets.

5. **Transfer, Successors and Assigns.** The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. This Note may be transferred only upon surrender of the original Note for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form reasonably satisfactory to the Company. Thereupon, a new note for the same Principal amount and interest will be issued to, and registered in the name of, the transferee. Interest and Principal are payable only to the registered holder of this Note.
6. **Governing Law.** This Note and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.
7. **Notices.** Any notice required or permitted by this Note shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by a nationally-recognized delivery service (such as Federal Express or UPS), or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.
8. **Amendments and Waivers.** Any term of this Note may be amended only with the written consent of the Company and the Holder. This requirement may not be orally waived. Any amendment or waiver effected in accordance with this Section 8 shall be binding upon the Company, the Holder and each transferee of the Note.
9. **Shareholders, Officers and Directors Not Liable.** In no event shall any shareholder, officer or director of the Company be liable for any amounts due or payable pursuant to his Note.
10. **Action to Collect on Note.** If action is instituted to collect on this Note, the Company promises to pay all costs and expenses, including reasonable attorney's fees, incurred in connection with such action.

The Clearly Food & Beverage Co., Inc.


By: 
Name: Robert R. Khan
Title: Chief Executive Officer

Mailing Address:
555 East 7th St., Perrysburg, OH 43551

AGREED TO AND ACCEPTED:

HOLDER:

By:


Robert E. Nutt

Address: 2121 Lake Point Drive
Knoxville, Tennessee 37922

Not to be construed as an offer of insurance or any other financial product.

JANUARY 12, 2012 – EXECUTION COPY

AGREEMENT

This Agreement, made this 12th day of January 2012, between The Clearly Food & Beverage Co., Inc., a Delaware corporation (the “Company”) and Robert E. Nutt (the “Investor”).

RECITALS:

1. The Company, as “Purchaser” is purchasing from Midsummer Investment, Ltd. (“Midsummer”), as “Seller,” all the intellectual property rights, trademarks and other related assets formerly owned by Clearly Canadian Beverage Corporation, a Canadian corporation, and/or its affiliates (the “CC IP”).

2. The Company is pursuing one or more definitive agreements with Midsummer, which will result in the acquisition by the Company of the CC IP and all other assets necessary and sufficient to make, sell, distribute and otherwise use for commercial purposes beverages formerly marketed by Clearly Canadian and/or additional products with the Clearly Canadian name, make, and brand (the “CC Assets”).

3. The Company has agreed with Midsummer to an outright purchase of such CC Assets for a one-time cash payment of \$500,000.00.

4. The Company is willing to enter into this Agreement with the Investor to induce the Investor to loan funds to the Company to assist with the acquisition and commercialization of the CC Assets, on the terms and conditions set forth herein.

5. The Investor is willing to loan funds to the Company, contingent upon, subject to, and in accord with the conditions, terms, purposes, and covenants set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Investor hereby agree as follows:

1. Conditions Precedent to Investor’s Loan of Funds to the Company. Any loan of funds (“Loan”) from the Investor to the Company pursuant to this Agreement shall be subject to the following conditions precedent, all of which must be met to the Investor’s absolute and sole satisfaction prior to any Loan Closing and/ or advancement of funds:

(i) The Company must have entered into a legally binding, definitive agreement which vests in the Company the absolute right to acquire the CC Assets, such agreement to be satisfactory to the Investor in form and substance.

(ii) The closing of the Investor's Loan to the Company and the closing of the Company's acquisition of the CC Assets shall occur simultaneously, and all closing documents shall be satisfactory in form and substance to the Investor.

(iii) At such simultaneous closing, the Company shall execute and deliver to the Investor a "Convertible Promissory Note" (the "Note") in the form attached hereto as Exhibit A, or in such alternate form as the Investor shall, in writing, approve.

(iv) At such simultaneous closing, the Company shall execute and deliver to the Investor any and all other documents as the Investor shall reasonably require to establish, document, evidence, and/or secure the obligations of the Company and the rights of the Investor as more particularly set forth in this Agreement.

2. Amount of Loan. The Investor's Loan to the Company shall be \$500,000.00.

3. Security for the Loan. The Investor's Loan to the Company shall be secured by a first mortgage lien on all the CC Assets. The Company shall, at its sole expense, prepare, execute, and file any and all documents necessary to establish and perfect a first lien security interest in favor of the Investor in all the assets of the Company, within thirty (30) days of the closing of the Investor's Loan to the Company, and within such period of time shall deliver to the Investor the opinion of the Company's counsel, in form and substance satisfactory to the Investor, stating, without qualification, that Investor has a valid, registered, and perfected first security position and lien on all the Company's assets. In the event of a failure or default by the Company to comply with such requirements within such time, the Investor may either (1) immediately demand payment of that certain "Convertible Promissory Note" executed and delivered by the Company as of the same date of this Agreement, or (2) require the Company to immediately transfer, at the Company's expense, all the Company's assets to the Holder, free and clear of any liens, encumbrances, or indebtedness.

4. Investor's Rights in "Next Equity Financing." Upon the occurrence of the "Next Equity Financing" as defined in Section 2(a) of the Note referenced herein, Investor shall have the right to acquire, in addition to the number of Equity Securities to be issued to him in accord with the conversion provisions of such Section 2(a) of the Note, the right and option, but not the obligation, to participate in the purchase of equity in the Company, on the same terms and conditions applicable to the purchase of equity by the lead investor in such Next Equity Financing, up to an additional 10% equity position in the Company. The Company shall give the Investor notice of any proposed Next Equity Financing at least thirty (30) calendar days before the closing and issuance of any equities, with detailed information regarding the proposed sale (including, but not limited to, the type of equity, sale price, proposed purchaser(s), and any additional relevant terms of the sale). Investor shall have fifteen (15) days after receipt of such notice within which to notify the Company of his option to participate, and the level of his participation. If the proposed issuance of equities by the Company does not occur, or is

delayed, or if the terms thereof are altered, the Company shall be required to give the Investor new notice of any new or revised Next Equity Financing.

5. "Put" Right of Investor. In the event that the Note referenced herein is converted to equity securities of the Company, either by the mandatory conversion provisions of the Note or at the option of the Investor, for a period of three (3) years after the date of such conversion the Investor shall have the right to elect, by written notice to the Company, to require the Company to re-purchase the equity securities issued to him as a result of such conversion. The purchase price in such event shall be Five Hundred Thousand Dollars (\$500,000.00), in addition to the sum of seven percent (7%) accruing from the date of the Note, and such purchase price shall be paid in cash within thirty (30) days after the Company's receipt of such written notice from the Investor.

6. Miscellaneous. This Agreement incorporates the following terms:

(i) The law of the State of Tennessee shall apply to this Agreement, without regard to any conflict of laws.

(ii) This Agreement shall be binding upon the heirs, beneficiaries, personal representatives, successors, and assigns of the parties.

(iii) The Investor may assign his rights and obligations under this Agreement to any third party entity or person, or any combination thereof.

(iv) This Agreement shall not be modified, and no term thereof may be waived, without a written modification executed by the Company and the Investor, or by the party to be charged with a waiver. This requirement may not be orally waived.

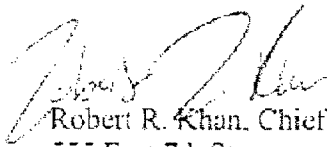
(v) This Agreement may be signed in multiple counterparts, each of which, together, shall constitute one agreement.

(vi) This Agreement shall be effective when both parties have received delivery of a fully executed original (or fully executed original counterparts).

(vii) Should either party incur reasonable attorney's fees or other expenses to enforce this Agreement against the other party, in the event of the other party's breach, default, or unexcused failure to perform, such other party shall be responsible to the enforcing party for such fees and expenses.

(viii) Any notice required or permitted by this Note shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by a nationally-recognized delivery service (such as Federal Express or UPS), or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed to the party to be notified at such party's address as set forth below or as subsequently modified by written notice.

THE CLEARLY FOOD & BEVERAGE CO., INC.

By: 
Robert R. Khan, Chief Executive Officer
555 East 7th Street
Perrysburg, Ohio 43551


Robert E. Nutt

Address: 2121 Lake Point Drive
Knoxville, Tennessee 37922

2011-2012 Agreement of Clearly Food and Beverage Co and Robert Nutt Co

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated *nunc pro tunc* as of January 12, 2012 (together with all amendments, if any, from time to time hereto, this "Security Agreement"), among each of the grantors signatory hereto and each additional party that becomes a grantor hereto pursuant to Section 25 hereof (together with their respective successors and assigns, collectively "Grantors" and individually as a "Grantor"), and Robert E. Nutt (the "Secured Party").

WITNESSETH:

WHEREAS, Secured Party has loaned \$500,000 in the aggregate to The Clearly Food & Beverage Co., Inc., a Delaware corporation (the "Borrower") (the "Loan");

WHEREAS, in consideration of the Secured Party making the Loan, (1) the Borrower has executed and delivered to the Secured Party a Convertible Promissory Note dated January 12, 2012 (the "Note") and (2) each Grantor has agreed to grant a continuing first priority perfected Security Interest (as hereinafter defined) in, and Lien (as hereinafter defined) on, the Collateral (as hereinafter defined) to secure all of the Secured Obligations (as hereinafter defined), as security for payments to which Secured Party is entitled under the Note; and

WHEREAS, it is a condition subsequent to the Secured Party's making the Loan that the Grantor execute and deliver to the Secured Party this Security Agreement; and

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINED TERMS. All terms not specifically defined herein which are defined in the Code (as defined herein) shall have the meanings as defined in the Code. In addition, as used herein:

(a) "Accounts" means all "accounts," as such term is defined in the Code, now owned or hereafter acquired by any Grantor, including (i) all accounts receivable, other receivables, book debts and other forms of obligations (other than forms of obligations evidenced by Chattel Paper, or Instruments), (including any such obligations that may be characterized as an account or contract right under the Code), (ii) all of each Grantor's rights in, to and under all purchase orders or receipts for goods or services, (iii) all of each Grantor's rights to any goods represented by any of the foregoing (including unpaid sellers' rights of rescission, replevin, reclamation and stoppage in transit and rights to returned, reclaimed or repossessed goods), (iv) all rights to payment due to any Grantor for property sold, leased, licensed, assigned or otherwise disposed of, for a policy of insurance issued or to be issued, for a secondary obligation incurred or to be incurred, for energy provided or to be provided, for the use or hire of a vessel under a charter or other contract, arising out of the use of a credit card or charge card, or for services rendered or to be rendered by such Grantor or in connection with any other transaction (whether or not yet earned by performance on the part of such Grantor), (v) all health care insurance

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receivables and (vi) all collateral security of any kind, given by any Account Debtor or any other Person with respect to any of the foregoing.

(b) “Account Debtor” means any Person who may become obligated to any Grantor under, with respect to, or on account of, an Account, Chattel Paper or General Intangibles (including a payment intangible).

(c) “Business” means the business from time to time, now or hereafter, conducted by the Borrower and any Subsidiary (as defined herein).

(d) “Business Day” shall mean any day other than (i) a Saturday or Sunday or (ii) a day on which the Federal Reserve Bank of New York is authorized or obligated by law or executive order to be closed.

(e) “Chattel Paper” means any “chattel paper,” as such term is defined in the Code, including electronic chattel paper, now owned or hereafter acquired by any Grantor.

(f) “Code” means the Uniform Commercial Code as the same may, from time to time, be enacted and in effect in the State of Delaware; provided, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, Secured Party’s Security Interest on any Collateral is governed by the Uniform Commercial Code as enacted and in effect from time to time in a jurisdiction other than the State of Delaware, the term “Code” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

(g) “Collateral” has the meaning ascribed thereto in Section 2(a) hereof.

(h) “Contracts” means all contracts and agreements to which any Grantor is a party, as the same may be amended, supplemented or otherwise modified from time to time, including without limitation, (i) all rights of any Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (ii) all rights of any Grantor to damages arising thereunder and (iii) all rights of any Grantor to perform and to exercise all remedies thereunder.

(i) “Copyright Licenses” means any and all rights now owned or hereafter acquired by any Grantor under any written agreement granting any right to use any Copyright (as defined below) or Copyright registration.

(j) “Copyrights” means all of the following now owned or hereafter adopted or acquired by any Grantor: (i) all copyrights and General Intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof, and (ii) all reissues, extensions

or renewals thereof, including but not limited to rights of reproduction, distribution, or such other rights of authorship, and works for hire.

(k) “Default” or “Event of Default” shall be a default of any of the Borrower’s obligations under the Note, including but not limited to a default of a payment to be made under the Note, but excluding the Borrower’s good faith failure as of the date of execution of this Security Agreement to renew its Trademark for Clearly Canadian Tropical Tangerine. If Grantor perfects this lien by recording this Security Agreement as a lien on the Note’s collateral with the State of Delaware, the United States Patent Office, and the Canadian Intellectual Property Office, and provides to Secured Party, on or before September 1, 2012 the opinion of counsel as required by the January 12, 2012 “Agreement” listed on Schedule II attached hereto, any defaults by Grantor in failing to sooner perfect or record such lien or to sooner provide such opinion shall be deemed automatically waived by Secured Party.

(l) “Deposit Accounts” means all “deposit accounts,” as such term is defined in the Code, now or hereafter held in the name of any Grantor.

(m) “Documents” means all “documents”, as such term is defined in the Code, now owned or hereafter acquired by any Grantor, wherever located.

(n) “Equipment” means all “equipment,” as such term is defined in the Code, now owned or hereafter acquired by any Grantor, wherever located and, in any event, including all such Grantor’s machinery and equipment, including processing equipment, conveyors, machine tools, data processing and computer equipment, including embedded software and peripheral equipment and all engineering, processing and manufacturing equipment, office machinery, furniture, materials handling equipment, tools, attachments, accessories, automotive equipment, trailers, trucks, forklifts, molds, dies, stamps, motor vehicles, rolling stock and other equipment of every kind and nature, trade fixtures and fixtures not forming a part of real property, together with all additions and accessions thereto, replacements therefor, all parts therefor, all substitutes for any of the foregoing, fuel therefor, and all manuals, drawings, instructions, warranties and rights with respect thereto, and all products and proceeds thereof and condemnation awards and insurance proceeds with respect thereto.

(o) “Fixtures” means all “fixtures,” as such term is defined in the Code, now owned or hereafter acquired by any Grantor.

(p) “General Intangibles” means all “general intangibles”, as such term is defined in the Code, now owned or hereafter acquired by any Grantor, including all right, title and interest that such Grantor may now or hereafter have in or under any Contract, all payment intangibles, customer lists, Licenses, Copyrights, Trademarks, Patents, and all applications therefor and reissues, extensions or renewals thereof, rights in Intellectual Property, interests in partnerships, joint ventures and other business associations, licenses, permits, copyrights, trade secrets, proprietary or confidential information, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know-how, software, data bases, data, skill, expertise, experience, processes, models, drawings, materials and records, goodwill (including the goodwill associated with any Trademark or Trademark License), all rights and claims in or under insurance policies (including insurance for fire, damage, loss and casualty, whether covering personal property, real property, tangible rights or intangible rights,

all liability, life, key man and business interruption insurance, and all unearned premiums), uncertificated securities, choses in action, deposit, checking and other bank accounts, rights to receive tax refunds and other payments, rights to receive dividends, distributions, cash, Instruments and other property in respect of or in exchange for pledged stock and Investment Property, rights of indemnification, all books and records, correspondence, credit files, invoices and other papers, including without limitation all tapes, cards, computer runs and other papers and documents in the possession or under the control of such Grantor or any computer bureau or service company from time to time acting for such Grantor.

(q) “Goods” means all “goods,” as such term is defined in the Code, now owned or hereafter acquired by any Grantor, wherever located, including embedded software to the extent included in “goods” as defined in the Code.

(r) “Instruments” means all “instruments,” as such term is defined in the Code, now owned or hereafter acquired by any Grantor, wherever located, and, in any event, including all certificated securities, all certificates of deposit, and the promissory Note and other evidences of indebtedness, other than instruments that constitute, or are a part of a group of writings that constitute, Chattel Paper.

(s) “Intellectual Property” means any and all Licenses, Patents, Copyrights, Trademarks, service marks, trade dress, trade names, domain names, brand names and certification marks presently owned by any Grantor or (pursuant to license, sublicense, agreement or permission) used by any Grantor in connection with such Grantor’s business.

(t) “Inventory” means all “inventory,” as such term is defined in the Code, now owned or hereafter acquired by any Grantor, wherever located, and in any event including inventory, merchandise, goods and other personal property that are held by or on behalf of any Grantor for sale or lease or are furnished or are to be furnished under a contract of service, or that constitute raw materials, work in process, finished goods returned goods, or materials or supplies of any kind, nature or description used or consumed or to be used or consumed in the Business or in the processing, production, packaging, promotion, delivery or shipping of the same, including other supplies and embedded software.

(u) “Investment Property” means all “investment property,” as such term is defined in the Code now owned or hereafter acquired by any Grantor, wherever located including (i) all securities, whether certificated or uncertificated, including stocks, bonds, interests in limited liability companies, partnership interests, treasuries, certificates of deposit, and mutual fund shares; (ii) all securities entitlements of any Grantor, including the rights of any Grantor to any securities account and the financial assets held by a securities intermediary in such securities account and any free credit balance or other money owing by any securities intermediary with respect to that account, (iii) all securities accounts of any Grantor; (iv) all commodity contracts of any Grantor and (v) all commodity accounts held by any Grantor.

(v) “Issuers” means, collectively, the entities identified on Schedule VI hereto, and any other entities formed by any Grantor or entities in which any Grantor owns or hereafter acquires any capital stock, limited liability company membership interest or other equity interest.

(w) "Letter of Credit Rights" means "letter of credit rights," as such term is defined in the Code, now owned or hereafter acquired by any Grantor, including rights to payment or performance under a letter of credit, whether or not such Grantor, as beneficiary, has demanded or is entitled to demand payment or performance.

(x) "Licenses" means any Copyright License, Patent License, Trademark License or other license of rights or interests now held or hereafter acquired by any Grantor.

(y) "Lien" means any mortgage, pledge, security interest, lien, claim, encumbrance or other similar restrictions, of any kind or nature whatsoever.

(z) "Patent Licenses" means rights under any written agreement now owned or hereafter acquired by any Grantor granting any right with respect to any invention on which a Patent (as defined below) is in existence.

(aa) "Patents" means all of the following in which any Grantor now holds or hereafter acquires any interest: (i) all letters patent of the United States or of any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or of any other country, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State or any other country, and (ii) all reissues, continuations, continuations-in-part or extensions thereof.

(bb) "Permitted Liens" means Liens of materialmen, mechanics, warehousemen, carriers, or other similar liens arising in the ordinary course of business and securing obligations which are not delinquent, and Liens for taxes not yet payable as of the date hereof.

(cc) "Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, a governmental entity or any department, agency or political subdivision thereof and any other entity.

(dd) "Pledged Stock" means collectively, the Borrower's direct or indirect ownership interest in the respective capital stock of the Issuers and all other shares of capital stock of whatever class of the Issuers, now or hereafter owned by the Borrower, in each case together with the certificates evidencing the same.

(ee) "Proceeds" means "proceeds," as such term is defined in the Code, including (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to any Grantor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to any Grantor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental authority (or any Person acting under color of governmental authority), (iii) any claim of any Grantor against third parties (A) for past, present or future infringement of any Patent or Patent License, or (B) for past, present or future infringement or dilution of any Copyright, Copyright License, Trademark or Trademark License, or for injury to the goodwill associated with any Trademark or Trademark License, (iv) any recoveries by any Grantor against third parties with respect to any litigation or dispute concerning any of the

Collateral including claims arising out of the loss or nonconformity of, interference with the use of, defects in, or infringement of rights in, or damage to, Collateral, (v) all amounts collected on, or distributed on account of, other Collateral, including dividends, interest, distributions and Instruments with respect to Investment Property and pledged stock, and (vi) any and all other amounts, rights to payment or other property acquired upon the sale, lease, license, exchange or other disposition of Collateral and all rights arising out of Collateral.

(ff) "Secured Obligations" means all obligations arising under or pursuant to the Note.

(gg) "Security Interests" means the Liens in and the charges (fixed or floating, as the case may be) over the Collateral granted hereunder securing the Secured Obligations.

(hh) "Software" means all "software," as such term is defined in the Code, now owned or hereafter acquired by any Grantor, other than software embedded in any category of goods, including all computer programs and all supporting information provided in connection with a transaction related to any program.

(ii) "Stock Collateral" has the meaning ascribed thereto in Section 2(a)(xiv) hereof.

(jj) "Subsidiary" means any corporation, partnership, limited liability company, joint venture, association or other business entity at least 50% of the outstanding voting stock or voting interests of which is at the time owned or controlled, directly or indirectly, by any Grantor.

(kk) "Supporting Obligations" means all "supporting obligations," as such term is defined in the Code, including letters of credit and guaranties issued in support of Accounts, Chattel Paper, Documents, General Intangibles, Instruments, or Investment Property.

(ll) "Termination Date" means the date on which all Secured Obligations have been fully performed by Grantor, including but not limited to payment in full, conversion to equity or other full satisfaction of the Note.

(mm) "Trademark License" means rights under any written agreement now owned or hereafter acquired by any Grantor granting any right to use any Trademark (as defined below).

(nn) "Trademarks" means all of the following now owned or hereafter existing or adopted or acquired by any Grantor: (i) all trademarks, trade names, corporate names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature (whether pursuant to statutory or common law, and whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof; (ii) all reissues, extensions or renewals thereof; and (iii) all goodwill associated with or symbolized by any of the foregoing.

(oo) “Uniform Commercial Code Jurisdiction” means any jurisdiction that has adopted all or substantially all of Article 9 as contained in the 2000 Official Text of the Uniform Commercial Code, as recommended by the National Conference of Commissioners on Uniform State Laws and the American Law Institute, together with any subsequent amendments or modifications to the Official Text.

2. GRANT OF LIEN.

(a) To secure the prompt and complete payment, performance and observance of all of the Secured Obligations, each Grantor hereby grants, assigns, conveys, mortgages, pledges, hypothecates and transfers to Secured Party, for itself, a first priority continuing Security Interest and Lien upon all of its right, title and interest in, to and under all personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of such Grantor (including under any trade names, styles or derivations thereof), and whether owned or consigned by or to, or leased from or to, such Grantor, and regardless of where located (all of which being hereinafter collectively referred to as the “Collateral”), including:

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Contracts;
- (iv) all Documents;
- (v) all General Intangibles (including payment intangibles and Software);
- (vi) all Goods (including Inventory, Equipment and Fixtures);
- (vii) all Instruments;
- (viii) all Investment Property;
- (ix) all Deposit Accounts, of any Grantor, including all deposit and other bank accounts and all deposits therein;
- (x) all money, cash or cash equivalents of any Grantor;
- (xi) all Supporting Obligations and Letter of Credit Rights of any Grantor;
- (xii) all Pledged Stock of any Grantor;
- (xiii) all shares, securities, moneys or property representing a dividend on any of the Pledged Stock, or representing a distribution or return of capital upon or in respect of the Pledged Stock, or resulting from a split-up, revision, reclassification or other like change of the Pledged Stock or otherwise received in exchange therefore, and

any subscription warrants, rights or options issued to the holders of, or otherwise in respect of, the Pledged Stock;

(xiv) without affecting the obligations of the Borrower under any provision prohibiting such action hereunder or under the Note, in the event of any consolidation or merger in which any Issuer is not the surviving corporation, all shares of each class of the capital stock of the successor corporation (unless such successor corporation is the Borrower itself) formed by or resulting from such consolidation or merger (the Pledged Stock, together with all other certificates, shares, securities, properties or moneys as may from time to time be pledged hereunder pursuant to clause (xii) or (xiii) above and this clause (xiv) being herein collectively referred to as the "Stock Collateral"); and

(xv) to the extent not otherwise included, all Proceeds, tort claims, insurance claims and other rights to payments not otherwise included in the foregoing and products of the foregoing and all accessions to, substitutions and replacements for, and rents and profits of, each of the foregoing.

(b) The aforementioned Security Interests are granted as security only and shall not subject Secured Party, or any of Secured Party's successors or assigns to, or transfer or in any way affect or modify, any obligation of any Grantor with respect to any of the Collateral or any transaction connected therewith.

(c) To secure the prompt and complete payment, performance and observance of the Secured Obligations and in order to induce Secured Party as aforesaid, each Grantor hereby grants to Secured Party, for itself, a right of setoff against the property of such Grantor held by Secured Party, consisting of property described above in Section 2(a) now or hereafter in the possession or custody of or in transit to Secured Party, for any purpose, including safekeeping, collection or pledge, for the account of such Grantor, or as to which such Grantor may have any right or power.

(d) Notwithstanding the foregoing, the aforementioned Security Interests granted hereunder shall continue until the payment in full and the satisfaction of the Secured Obligations, including but not limited to satisfaction in full of Grantor's payment obligation under the Note, whether by a conversion of the Note and its accrued interest into shares of Grantor's equity securities (as per Note at ¶ 2), or by Grantor's prepayment in full (as per Note at ¶ 3), whereupon, provided all other Secured Obligations have been fully performed by Grantor, the Note and such Security Interests shall immediately and automatically terminate and become null and void. After termination of the Note and Security Interests the Secured Party shall, promptly upon Grantor's written request and at the Grantor's sole cost and expense, execute such further documents and take such further actions as may be reasonably necessary to effect the release of such Security Interests, including duly executing and delivering termination statements for filing in all relevant jurisdictions under the Code, in the United States Patent Office, in the Canadian Intellectual Property Office, and in any other jurisdiction in which Secured Party filed a lien pursuant to the Note or this Security Agreement.

3. LIMITATIONS ON SECURED PARTY'S OBLIGATIONS.

(a) It is expressly agreed by each Grantor that, anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of its Contracts and each of its Licenses to observe and perform all the conditions and obligations to be observed and performed by it thereunder. The Secured Party shall have no obligation or liability under any Contract or License by reason of or arising out of this Security Agreement or the granting herein of a Security Interest thereon or the receipt by Secured Party of any payment relating to any Contract or License pursuant hereto. The Secured Party shall not be required or obligated in any manner to perform or fulfill any of the obligations of any Grantor under or pursuant to any Contract or License, or to make any payment, or to make any inquiry as to the nature or the sufficiency of any payment received by it or the sufficiency of any performance by any party under any Contract or License, or to present or file any claims, or to take any action to collect or enforce any performance or the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

(b) The Secured Party may at any time after an Event of Default has occurred and be continuing (or if any rights of set-off (other than set-off against an Account arising under the Contract giving rise to the same Account) or contra accounts may be asserted with respect to the following), without prior notice to any Grantor, notify Account Debtors and other Persons obligated on the Collateral that Secured Party has a security interest therein, and that payments shall be made directly to Secured Party. Upon the request of Secured Party after the occurrence and during the continuance of an Event of Default, each Grantor shall so notify Account Debtors and other Persons obligated on Collateral. Once any such notice has been given to any Account Debtor or other Person obligated on the Collateral, the affected Grantor shall not give any contrary instructions to such Account Debtor or other Person without Secured Party's prior written consent.

(c) Secured Party may at any time in Secured Party's own name, in the name of a nominee of Secured Party or in the name of any Grantor communicate (by mail, telephone, facsimile or otherwise) with Account Debtors, parties to Contracts, obligors in respect of Instruments and obligors in respect of Chattel Paper and/or payment intangibles to verify with such Persons, to Secured Party's satisfaction, the existence, amount terms of, and any other matter relating to, any such Accounts, Contracts, Instruments or Chattel Paper and/or payment intangibles. If a Default or Event of Default shall have occurred and be continuing, each Grantor, at its own expense, shall cause the independent certified public accountants then engaged by such Grantor to prepare and deliver to Secured Party at any time and from time to time promptly upon Secured Party's request the following reports with respect to each Grantor: (i) a reconciliation of all Accounts; (ii) an aging of all Accounts; (iii) trial balances; and (iv) a test verification of such Accounts as Secured Party may request. Each Grantor, at its own expense, shall deliver to Secured Party the results of each physical verification, if any, which such Grantor may in its discretion have made, or caused any other Person to have made on its behalf, of all or any portion of its Inventory.

4. REPRESENTATIONS AND WARRANTIES. Each Grantor represents and warrants that:

(a) Each Grantor has rights in and the power to transfer each item of the Collateral upon which it purports to grant a Security Interest hereunder free and clear of any and all Security Interests other than Permitted Liens.

(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 (i) by any Grantor in favor of Secured Party pursuant to this Security Agreement and (ii) in connection with any Permitted Liens.

(c) This Security Agreement is effective to create a valid and continuing Security Interest on and, upon the filing of the appropriate financing statements listed on Schedule I hereto, a perfected Security Interest in favor of Secured Party, for itself, on the Collateral with respect to which a Security Interest may be perfected by filing pursuant to the Code and in the United States Patent Office and in the Canadian Intellectual Property Office, and to the extent commercially feasible in any other offices. Such Security Interest is prior to all other Security Interests, except Permitted Liens that would be prior to Security Interests in favor of Secured Party for the benefit of Secured Party, and is enforceable as such as against any and all creditors of and purchasers from any Grantor (other than purchasers and lessees of Inventory in the ordinary course of business).

(d) Schedule II hereto lists all Instruments, Letter of Credit Rights and Chattel Paper of each Grantor. All actions by any Grantor necessary or desirable to protect and perfect the Security Interest of Secured Party on each item set forth on Schedule II (including the delivery of all originals thereof to Secured Party and the legending of all Chattel Paper as required by Section 5(b) hereof) has been duly taken. The Security Interest of Secured Party, for the benefit of Secured Party, on the Collateral listed on Schedule II hereto is prior to all other Security Interests, except Permitted Liens that would be prior to the Security Interests in favor of Secured Party as a matter of law, and is enforceable as such against any and all creditors of and purchasers from any Grantor.

(e) Each Grantor's name as it appears in official filings in the state of its incorporation or other organization, the type of entity of each Grantor (including corporation, partnership, limited partnership or limited liability company), organizational identification number issued by each Grantor's state of incorporation or organization or a statement that no such number has been issued, each Grantor's state of organization or incorporation, the location of each Grantor's chief executive office, principal place of business, offices, all warehouses and premises where Collateral is stored or located, and the locations of its books and records concerning the Collateral are set forth on Schedule III hereto. Each Grantor has only one state of incorporation or organization.

(f) With respect to each Grantor's Accounts (i) such Accounts represent bona fide sales of Inventory or rendering of services to Account Debtors in the ordinary course of each Grantor's business and are not evidenced by a judgment, Instrument or Chattel Paper; (ii) there are no setoffs, claims or disputes existing or asserted with respect thereto and no Grantor has made any agreement with any Account Debtor for any extension of time for the payment thereof, any compromise or settlement for less than the full amount thereof, any release of any Account Debtor from liability therefor, or any deduction therefrom except a discount or allowance allowed by such Grantor in the ordinary course of its business for prompt payment and disclosed to Secured Party; (iii) to each Grantor's knowledge, there are no facts, events or occurrences which in any way impair the validity or enforceability thereof or could reasonably be expected to reduce the amount payable thereunder as shown on any Grantor's books and records and any

invoices or statements; (iv) no Grantor has received any written notice of proceedings or actions which are pending or, to the Grantor's knowledge, threatened against any Account Debtor which might result in any adverse change in such Account Debtor's financial condition; and (v) no Grantor has knowledge that any Account Debtor is unable generally to pay its debts as they become due. Further with respect to the Accounts (x) the amounts shown on all invoices and statements, which may be delivered to the Secured Party with respect thereto are actually and absolutely owing to such Grantor as indicated thereon and are not in any way contingent; (y) no payments have been or shall be made thereon; and (z) to each Grantor's knowledge, all Account Debtors have the capacity to contract.

(g) With respect to any of the Grantor's Inventory (i) such Inventory is located at one of the applicable Grantor's locations set forth on Schedule III hereto, (ii) no Inventory is now, or shall at any time or times hereafter be stored at any other location without Secured Party's prior consent, and if Secured Party gives such consent, each applicable Grantor will concurrently therewith obtain, to the extent required by the bailee, landlord and mortgagee agreements, (iii) the applicable Grantor has good, indefeasible and merchantable title to such Inventory and such Inventory is not subject to any Lien or Security Interest or document whatsoever except for the Security Interest granted to Secured Party, for the benefit of Secured Party, and except for Permitted Liens, (iv) except as specifically disclosed in the most recent Collateral Report delivered to Secured Party, such Inventory is of good and merchantable quality, free from any defects, (v) such Inventory is not subject to any licensing, patent, royalty, trademark, trade name or copyright agreements with any third parties which would require any consent of any third party upon sale or disposition of that Inventory or the payment of any monies to any third party as a precondition of such sale or other disposition, and (vi) the completion of manufacture, sale or other disposition of such Inventory by Secured Party following an Event of Default shall not require the consent of any Person and shall not constitute a breach or default under any contract or agreement to which any Grantor is a party or to which such property is subject.

(h) Grantor is the sole and exclusive owner of the Trademarks set forth in Schedule IV hereto. No Grantor has any interest in, or title to, any Patent, Trademark or Copyright except as set forth in Schedule IV hereto. This Security Agreement is effective to create a valid and continuing Security Interest immediately upon the execution of this Security Agreement and shall be deemed to create a fully perfected security interest in favor of Secured Party on each Grantor's Patents, Trademarks and Copyrights, upon the proper filing of this Security Agreement with the appropriate financing statements with the United States Patent and Trademark Office and with the Canadian Intellectual Property Office, and such perfected security interests shall be fully enforceable as such as against any and all creditors of and purchasers from Grantor upon the completion of such filings. Upon filing of a copyright security agreement with the United States Copyright Office and filings of the Patent Security Agreement and Trademark Security Agreement with the United State Patent and Trademark Office and the filing of appropriate financing statements listed on Schedule I hereto, all action necessary or desirable to protect and perfect Secured Party's Security Interest on each Grantor's Patents, Trademarks or Copyrights shall have been duly taken.

(i) All motor vehicles owned by each Grantor are listed on Schedule V hereto, by model, model year and vehicle identification number ("VIN"). Each Grantor shall

deliver to Secured Party motor vehicle title certificates for all motor vehicles from time to time owned by it and shall cause those title certificates to be filed (with Secured Party's lien noted thereon) in the appropriate state motor vehicle filing office.

(j) The Pledged Stock, directly or indirectly, owned by each Grantor in the entities identified in Schedule VI hereto is, and all other Pledged Stock, whether issued now or in the future, will be duly authorized, validly issued, fully paid and nonassessable, free and clear of all Liens other than Permitted Liens and none of such Pledged Stock is or will be subject to any contractual restriction, preemptive and similar rights, or any restriction under the charter or by-laws of the respective Issuers of such Pledged Stock, upon the transfer of such Pledged Stock (except for any such restriction contained herein).

(k) The Pledged Stock directly or indirectly owned by each Grantor in the entities identified in Schedule VI hereto constitutes all of the issued and outstanding shares of capital stock of any class of such Issuers beneficially owned by such Grantor on the date hereof (whether or not registered in the name of such Grantor) and said Schedule VI correctly identifies, as at the date hereof, the respective Issuers of such Pledged Stock.

5. COVENANTS. Each Grantor covenants and agrees with Secured Party, for the benefit of Secured Party, that from and after the date of this Security Agreement and until the Termination Date:

(a) Further Assurances: Pledge of Instruments; Chattel Paper.

(i) At any time and from time to time, upon the written request of Secured Party and at the sole expense of Grantors, each Grantor shall promptly and duly execute and deliver any and all such further instruments and documents and take such further actions as Secured Party may deem desirable to obtain the full benefits of this Security Agreement and of the rights and powers herein granted, including (A) using its commercially reasonable efforts to secure all consents and approvals necessary or appropriate for the assignment to or for the benefit of Secured Party of any License or Contract held by such Grantor and to enforce the Security Interests granted hereunder; and (B) filing any financing or continuation statements under the Code with respect to the Security Interests granted hereunder as to those jurisdictions that are not Uniform Commercial Code Jurisdictions.

(ii) Unless Secured Party shall otherwise consent in writing (which consent may be revoked), each Grantor shall deliver to Secured Party all Collateral consisting of negotiable Documents, certificated securities, Chattel Paper and Instruments (in each case, accompanied by stock powers, allonges or other instruments of transfer executed in blank) promptly after such Grantor receives the same.

(iii) Each Grantor shall obtain or use its commercially reasonable efforts to obtain waivers or subordinations of Security Interests from landlords and mortgagees, and each Grantor shall in all instances obtain signed acknowledgements of Secured Party's Security Interests from bailees having possession of any Grantor's Goods that they hold for the benefit of Secured Party.

(iv) Each Grantor shall obtain a blocked account, lockbox or similar agreement with each bank or financial institution holding a Deposit Account for such Grantor.

(v) Each Grantor that is or becomes the beneficiary of a letter of credit shall promptly, and in any event within two (2) Business Days after becoming a beneficiary, notify Secured Party thereof and enter into a tri-party agreement with Secured Party and the issuer and/or confirmation bank with respect to Letter of Credit Rights assigning such Letter of Credit Rights to Secured Party and directing all payments thereunder to a collection account, all in form and substance reasonably satisfactory to Secured Party.

(vi) Each Grantor shall take all steps necessary to grant the Secured Party control of all electronic chattel paper in accordance with the Code and all "transferable records" as defined in each of the Uniform Electronic Transactions Act and the Electronic Signatures in Global and National Commerce Act.

(vii) Each Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any filing office in any Uniform Commercial Code Jurisdiction, in the United States Patent Office and/or in the Canadian Intellectual Property Office, any initial financing statements and amendments thereto that (A) indicate that the Collateral (x) constitutes all assets of such Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Code of such jurisdiction, or (y) as being of an equal or lesser scope or with greater detail, and (B) contain any other information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance of any financing statement or amendment, including (xx) whether such Grantor is an organization, the type of organization and any organization identification number issued to such Grantor, and (yy) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Each Grantor agrees to furnish any such information to the Secured Party promptly upon request. Each Grantor also ratifies its authorization for the Secured Party to have filed in any Uniform Commercial Code Jurisdiction, in the United States Patent Office and/or in the Canadian Intellectual Property Office, any initial financing statements or amendments thereto if filed prior to the date hereof.

(viii) Each Grantor shall promptly, and in any event within two (2) Business Days after the same is acquired by it, notify Secured Party of any commercial tort claim (as defined in the Code) acquired by it and unless otherwise consented by Secured Party, such Grantor shall enter into a supplement to this Security Agreement, granting to Secured Party a Security Interest in such commercial tort claim.

(b) Maintenance of Records. Each Grantor shall keep and maintain, at their own cost and expense, satisfactory and complete records of the Collateral, including a record of any and all payments received and any and all credits granted with respect to the Collateral and all other dealings with the Collateral. Each Grantor shall mark their books and records pertaining to the Collateral to evidence this Security Agreement and the Security Interests granted hereby. If any Grantor retains possession of any Chattel Paper or Instruments with

Secured Party's consent, such Chattel Paper and Instruments shall be marked with the following legend: "This writing and the obligations evidenced or secured hereby are subject to the security interest of Robert E. Nutt for the benefit of Secured Party."

(c) Covenants Regarding Patent, Trademark and Copyright Collateral.

(i) Each Grantor shall notify Secured Party immediately if they know or have reason to know that any application or registration relating to any Patent, Trademark or Copyright (now or hereafter existing) may become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding any Grantor's ownership of any Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same.

(ii) In no event shall any Grantor, either by itself or through any agent, employee, licensee or designee, file an application for the registration of any Patent, Trademark or Copyright with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency without giving Secured Party prior written notice thereof, and, upon request of Secured Party, each Grantor shall execute and deliver an amendment to the copyright security agreement, Patent Security Agreement and/or Trademark Security Agreement as Secured Party may request to evidence Secured Party's Security Interest on such Patent, Trademark or Copyright, and the General Intangibles of such Grantor relating thereto or represented thereby.

(iii) Each Grantor shall take all actions necessary or requested by Secured Party to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of the Patents, Trademarks and Copyrights (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

(iv) In the event that any of the Patent, Trademark or Copyright Collateral is infringed upon, or misappropriated or diluted by a third party, such Grantor shall comply with Section 5(a)(viii) of this Security Agreement. Such Grantor shall, unless such Grantor shall reasonably determine that such Patent, Trademark or Copyright Collateral is in no way material to the conduct of its business or operations, promptly sue for infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, and shall take such other actions as Secured Party shall deem appropriate under the circumstances to protect such Patent, Trademark or Copyright Collateral.

(d) Covenants Regarding Stock Collateral.

(i) Each Grantor will cause the Stock Collateral to constitute at all times the percentage of the total number of shares of each class of capital stock of each Issuer, as provided in Schedule VI hereto, then outstanding that is owned directly or indirectly by such Grantor.

(ii) So long as no Event of Default shall have occurred and be continuing, each Grantor shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Stock Collateral for all purposes not inconsistent with the terms of this Security Agreement, the Note or any other instrument or agreement referred to herein or therein, provided that such Grantor agrees that it will not vote the Stock Collateral in any manner that is inconsistent with the terms of this Security Agreement, the Note or any such other instrument or agreement; and the Secured Party shall execute and deliver to each Grantor or cause to be executed and delivered to each Grantor all such proxies, powers of attorney, dividend and other orders, and all such instruments, without recourse, as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the rights and powers which it is entitled to exercise pursuant to this Section 5(d)(ii).

(iii) Unless and until an Event of Default has occurred and is continuing, each Grantor shall be entitled to receive and retain any dividends on the Stock Collateral paid in cash out of earned surplus.

(iv) If any Event of Default shall have occurred, then so long as such Event of Default shall continue, and whether or not the Secured Party exercises any available right to declare any Secured Obligations due and payable or seeks or pursues any other agreement relating to such Secured Obligations, all dividends and other distributions on the Stock Collateral shall be paid directly to the Secured Party and retained by it as part of the Stock Collateral, subject to the terms of this Security Agreement, and, if the Secured Party shall so request in writing, each Grantor agrees to execute and deliver to Secured Party appropriate additional dividend, distribution and other orders and documents to that end, provided that if such Event of Default is cured, any such dividend or distribution theretofore paid to the Secured Party shall, upon request of such Grantor (except to the extent theretofore applied to the Secured Obligations) be returned by the Secured Party to such Grantor.

(e) Indemnification.

(i) Each Grantor shall, jointly and not severally, indemnify the Secured Party from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, costs of settlement, suits, costs, expenses or disbursements of any kind whatsoever (including, without limitation, reasonable fees and disbursements of counsel to the Secured Party) (collectively, "Losses"), which may at any time (including, without limitation, at any time following the payment of the Secured Obligations) be imposed on, incurred by, asserted against or due and owing to the Secured Party in any way relating to or arising out of actions taken or omitted to be taken by the Secured Party or as a result of the Secured Party's status as Secured Party, all of which Losses shall periodically be reimbursed as incurred; provided, that no Grantor shall be liable for the payment of any portion of such Losses directly resulting from the gross negligence or willful misconduct of the Secured Party in its capacity as Secured Party (in its capacity as such) as finally determined by a court of competent jurisdiction.

(ii) In any suit, proceeding or action brought by the Secured Party relating to any Collateral for any sum owing with respect thereto or to enforce any rights

or claims with respect thereto, each Grantor will save, indemnify and keep Secured Party harmless from and against all Losses suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of the Account Debtor or other Person obligated on the Collateral, arising out of a breach by any Grantor of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to, or in favor of, such obligor or its successors from such Grantor, except in the case of Secured Party, to the extent such expense, loss, or damage is attributable solely to the gross negligence or willful misconduct of Secured Party (in its capacity as such) as finally determined by a court of competent jurisdiction. All such obligations of any Grantor shall be and remain enforceable against and only against such Grantor(s) and shall not be enforceable against Secured Party.

(iii) The agreements in this Section 5(e) shall survive (x) the payment of the Secured Obligations and all other amounts payable under the Note, (y) any resignation by the Secured Party and (z) the termination of the Note.

(f) Compliance with Terms of Accounts, etc. In all material respects, each Grantor will perform and comply with all obligations in respect of the Collateral and all other agreements to which it is a party or by which it is bound relating to the Collateral.

(g) Limitation on Liens on Collateral. No Grantor will create, permit or suffer to exist, and each Grantor will defend the Collateral against, and take such other action as is necessary to remove, any Liens or Security Interests on the Collateral except Permitted Liens, and will defend the right, title and interest of Secured Party in and to any of such Grantor's rights under the Collateral against the claims and demands of all Persons whomsoever.

(h) Limitations on Disposition. No Grantor will sell, license, lease, transfer or otherwise dispose of any of the Collateral or any interest therein, or attempt or contract to do so, except as done in the ordinary course of such Grantor's business.

(i) Further Identification of Collateral. Each Grantor will, if so requested by Secured Party, furnish to Secured Party, as often as Secured Party reasonably requests, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Secured Party may reasonably request, all in such detail as Secured Party may specify.

(j) Notices. Each Grantor will advise Secured Party promptly, in reasonable detail, (i) of any Security Interest (other than Permitted Liens) or claim made or asserted against any of the Collateral, and (ii) of the occurrence of any other event which would have a material adverse effect on the aggregate value of the Collateral or on the Security Interest created hereunder.

(k) Terminations; Amendments Not Authorized. Each Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Secured Party and agrees that it will not do so without the prior written consent of Secured Party, subject to such Grantor's rights under Section 9-509(d)(2) of the Code.

6. SECURED PARTY'S APPOINTMENT AS ATTORNEY-IN-FACT.

Each Grantor shall execute and deliver to Secured Party a power of attorney (the "Power of Attorney") substantially in the form attached hereto as Exhibit A. The power of attorney granted pursuant to the Power of Attorney is a power coupled with an interest and shall be irrevocable until the Termination Date. The powers conferred on Secured Party, for the benefit of Secured Party, under the Power of Attorney are solely to protect Secured Party's interests (for the benefit of Secured Party) in the Collateral and shall not impose any duty upon Secured Party to exercise any such powers. Secured Party agrees that (a) except for the powers granted in clause (h) of the Power of Attorney, it shall not exercise any power or authority granted under the Power of Attorney unless an Event of Default has occurred and is continuing, and (b) Secured Party shall account for any moneys received by Secured Party in respect of any foreclosure on or disposition of Collateral pursuant to the Power of Attorney provided that Secured Party shall not have any duty as to any Collateral, and Secured Party shall be accountable only for amounts that they actually receive as a result of the exercise of such powers. SECURED PARTY, ITS RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL NOT BE RESPONSIBLE TO ANY GRANTOR FOR ANY ACT OR FAILURE TO ACT UNDER ANY POWER OF ATTORNEY OR OTHERWISE, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION, NOR FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

7. REMEDIES: RIGHTS UPON DEFAULT.

(a) In addition to all other rights and remedies authorized or granted to it under this Security Agreement, the Note and under any other instrument or agreement securing, evidencing or relating to any of the Secured Obligations, if any Event of Default shall have occurred and be continuing, Secured Party may exercise all rights and remedies of a secured party under the Code (whether or not in effect in the jurisdiction where such rights are exercised) and as provided under applicable laws by or through the United States Patent Office and/or the Canadian Intellectual Property Office. Without limiting the generality of the foregoing, each Grantor expressly agrees that in any such event Secured Party, 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 such Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the Code and other applicable law), may forthwith enter upon the premises of such Grantor where any Collateral is located through self-help, without judicial process, without first obtaining a final judgment or giving such Grantor or any other Person notice and opportunity for a hearing on Secured Party's claim or action and may collect, receive, assemble, process, appropriate and realize upon the Collateral, or any part thereof, and may forthwith sell, lease, license, assign, give an option or options to purchase, or sell or otherwise dispose of and deliver said Collateral (or contract to do so), or any part thereof, in one or more parcels at a public or private sale or sales, at any exchange at such prices as it may deem acceptable, for cash or on credit or for future delivery without assumption of any credit risk. Secured Party shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase for the benefit of Secured Party, the whole or any part of said

Collateral so sold, free of any right or equity of redemption, which equity of redemption each Grantor hereby releases. Such sales may be adjourned and continued from time to time with or without notice. Secured Party shall have the right to conduct such sales on any Grantor's premises or elsewhere and shall have the right to use any Grantor's premises without charge for such time or times as Secured Party deems necessary or advisable.

If any Event of Default shall have occurred and be continued, each Grantor further agrees, at Secured Party's request, to assemble the Collateral and make it available to Secured Party at a place or places designated by Secured Party which are reasonably convenient to Secured Party and such Grantor, whether at such Grantor's premises or elsewhere. Until Secured Party is able to effect a sale, lease, or other disposition of Collateral, Secured Party shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by Secured Party. Secured Party shall have no obligation to any Grantor to maintain or preserve the rights of such Grantor as against third parties with respect to Collateral while Collateral is in the possession of Secured Party. Secured Party may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of Secured Party's remedies (for the benefit of Secured Party), with respect to such appointment without prior notice or hearing as to such appointment. Secured Party shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale to the Secured Obligations as provided in the Note, and only after so paying over such net proceeds, and after the payment by Secured Party of any other amount required by any provision of law, need Secured Party account for the surplus, if any, to any Grantor. To the maximum extent permitted by applicable law, each Grantor waives all claims, damages, and demands against Secured Party arising out of the repossession, retention or sale of the Collateral except such as arise solely out of the gross negligence or willful misconduct of Secured Party as finally determined by a court of competent jurisdiction. Each Grantor agrees that ten (10) days prior notice by Secured Party of the time and place of any public sale or of the time after which a private sale may take place is reasonable notification of such matters. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Secured Obligations, including any reasonable attorneys' fees and other expenses incurred by Secured Party to collect such deficiency.

(b) Except as otherwise specifically provided herein, each Grantor hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Security Agreement or any Collateral.

(c) To the extent that applicable law imposes duties on the Secured Party to exercise remedies in a commercially reasonable manner, each Grantor acknowledges and agrees that it is not commercially unreasonable for the Secured Party (i) to fail to incur expenses reasonably deemed significant by the Secured Party to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Account Debtors or other Persons obligated on Collateral or to remove Security Interests on or any adverse claims against Collateral, (iv) to

exercise collection remedies against Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as the Grantor, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure the Secured Party against risks of loss, collection or disposition of Collateral or to provide to the Secured Party a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by the Secured Party, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Secured Party in the collection or disposition of any of the Collateral. Each Grantor acknowledges that the purpose of this Section 7(c) is to provide non-exhaustive indications of what actions or omissions by the Secured Party would not be commercially unreasonable in the Secured Party's exercise of remedies against the Collateral and that other actions or omissions by the Secured Party shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 7(c). Without limitation upon the foregoing, nothing contained in this Section 7(c) shall be construed to grant any rights to any Grantor or to impose any duties on Secured Party that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 7(c).

(d) The Secured Party shall not be required to make any demand upon, or pursue or exhaust any of their rights or remedies against, any Grantor, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof. The Secured Party shall not be required to marshal the Collateral or any guarantee of the Secured Obligations or to resort to the Collateral or any such guarantee in any particular order, and all of its and their rights hereunder shall be cumulative. To the extent it may lawfully do so, each Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Secured Party, any valuation, stay, appraisal, extension, redemption or similar laws and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise.

8. GRANT OF LICENSE TO USE INTELLECTUAL PROPERTY COLLATERAL. For the purpose of enabling Secured Party to exercise rights and remedies under Section 7 hereof (including, without limiting the terms of Section 7 hereof, in order to take possession of, hold, preserve, process, assemble, prepare for sale, market for sale, sell or otherwise dispose of Collateral) at such time as Secured Party shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to Secured Party, to the extent it may lawfully do so, for the benefit of Secured Party, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to such Grantor) to use, license or

sublicense any Intellectual Property now owned or hereafter acquired by such Grantor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof.

9. LIMITATION ON SECURED PARTY'S DUTY IN RESPECT OF COLLATERAL. Secured Party shall use reasonable care with respect to the Collateral in its possession or under its control. Secured Party shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of Secured Party, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto.

10. REINSTATEMENT. This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

11. NOTICES. Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Security Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Note.

12. EXPENSES. Each Grantor hereby agrees to pay all reasonable fees and expenses of the Secured Party in connection with the performance of its duties under this Security Agreement.

13. SEVERABILITY. Whenever possible, each provision of this Security Agreement shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Security Agreement. This Security Agreement is to be read, construed and applied together with the Note which, taken together, set forth the complete understanding and agreement of Secured Party and each Grantor with respect to the matters referred to herein and therein.

14. NO WAIVER; CUMULATIVE REMEDIES. Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies

hereunder, and no waiver shall be valid unless in writing, signed by Secured Party and then only to the extent therein set forth. A waiver by Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Secured Party would otherwise have had on any future occasion. Neither failure to exercise nor any delay in exercising on the part of Secured Party, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Security Agreement may be waived, altered, modified or amended except by an instrument in writing, duly executed by Secured Party and each Grantor.

15. LIMITATION BY LAW. All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

16. TERMINATION OF THIS SECURITY AGREEMENT. Subject to Section 10 hereof, this Security Agreement shall terminate upon the Termination Date.

17. SUCCESSORS AND ASSIGNS. This Security Agreement and all obligations of each Grantor hereunder shall be binding upon the successors and assigns of each Grantor (including any debtor-in-possession on behalf of such Grantor) and shall, together with the rights and remedies of Secured Party, for the benefit of Secured Party, hereunder, inure to the benefit of Secured Party, all future holders of any instrument evidencing any of the Secured Obligations and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Secured Obligations or any portion thereof or interest therein shall in any manner affect the Security Interest granted to Secured Party, for the benefit of Secured Party, hereunder. No Grantor may assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Security Agreement.

18. COUNTERPARTS. This Security Agreement may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one agreement.

19. GOVERNING LAW. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE NOTE, IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THAT STATE, AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. EACH GRANTOR HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN DELAWARE SHALL HAVE EXCLUSIVE JURISDICTION TO

HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN ANY GRANTOR AND SECURED PARTY PERTAINING TO THIS SECURITY AGREEMENT OR THE NOTE OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR THE NOTE, PROVIDED, THAT SECURED PARTY AND EACH GRANTOR ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF DELAWARE, AND, PROVIDED, FURTHER, NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE SECURED PARTY FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION TO REALIZE ON THE COLLATERAL OR ANY OTHER SECURITY FOR THE SECURED OBLIGATIONS, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF SECURED PARTY. EACH GRANTOR EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND EACH GRANTOR HEREBY WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. EACH GRANTOR HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH GRANTOR AT THE ADDRESS SET FORTH IN THE NOTE AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE U.S. MAILED, PROPER POSTAGE PREPAID.

20. WAIVER OF JURY TRIAL. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT DISPUTES ARISING HEREUNDER OR RELATING HERETO BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, AMONG SECURED PARTY AND ANY GRANTOR ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED IN CONNECTION WITH, THIS SECURITY AGREEMENT OR THE NOTE OR THE TRANSACTIONS RELATED HERETO OR THERETO.

21. SECTION TITLES. The Section titles contained in this Security Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

22. NO STRICT CONSTRUCTION. The parties hereto have participated jointly in the negotiation and drafting of this Security Agreement. In the event an ambiguity or

question of intent or interpretation arises, this Security Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Security Agreement.

23. ADVICE OF COUNSEL. Each of the parties represents to each other party hereto that it has discussed this Security Agreement and, specifically, the provisions of Section 19 and Section 20, with its counsel.

24. BENEFIT OF SUCCESSORS. All Security Interests granted or contemplated hereby shall be for the benefit of Secured Party and Secured Party's successors and assigns, and all proceeds or payments realized from Collateral in accordance herewith shall be applied to the Secured Obligations in accordance with the terms of the Note.

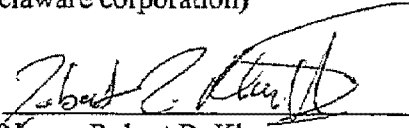
25. ADDITIONAL GRANTORS. The initial Grantors hereunder shall include the Borrower signatory hereto on the date hereof. From time to time subsequent to the date hereof, additional direct and indirect Subsidiaries of Borrower may become parties hereto, as additional Grantors (each, an "Additional Grantor"), by executing a counterpart of this Security Agreement substantially in the form of Exhibit B attached hereto. Upon delivery of any such counterpart to Secured Party, notice of which is hereby waived by the Grantors, each Additional Grantor shall be a Grantor and shall be as fully a party hereto as if such Additional Grantor were an original signatory hereto. Each Grantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Grantor hereunder nor by any election of Secured Party not to cause any Subsidiary of Borrower to become an Additional Grantor hereunder. This Security Agreement shall be fully effective as to any Grantor that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Grantor hereunder.

[END OF TEXT. SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

GRANTOR:

THE CLEARLY FOOD & BEVERAGE CO.
(a Delaware corporation)

By: 
Name: Robert R. Khan
Title: Chairman

SECURED PARTY:

Robert E. Nutt

Final wNotary (8-03-12)


IN WITNESS WHEREOF, each of the parties hereto has caused this Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

GRANTOR:

THE CLEARLY FOOD & BEVERAGE CO.
(a Delaware corporation)

By: _____
Name: Robert R. Khan
Title: Chief Executive Officer

SECURED PARTY:



Robert E. Nutt

Final wNotary (8-03-12)

NOTARY PUBLIC CERTIFICATE

On this 6th day of August, 2012, Robert R. Khan who is personally known to me appeared before me in his capacity as the Chairman of The Clearly Food & Beverage Co. ("Grantor") and executed on behalf of Grantor this Security Agreement in favor of the Secured Party, Robert E. Nutt, to which this Certificate is attached.

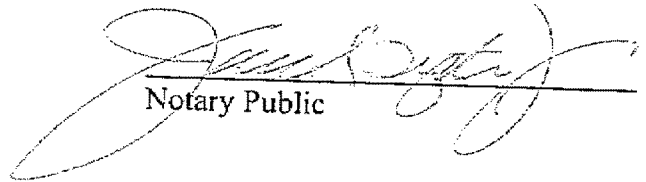
Solemnly affirmed before me on this 6th day of August 2012.

Karyn Torrie
Notary Public



NOTARY PUBLIC CERTIFICATE

On this 7th day of August, 2012, Robert E. Nutt, who is personally known to me, appeared before me in his individual capacity as the Secured Party ("Secured Party") named in the attached Security Agreement, to which this Certificate is attached.


Notary Public



SCHEDULE I
to
SECURITY AGREEMENT

1. United States Patent and Trademark Office
2. Secretary of State of the State of Delaware
3. Canadian Intellectual Property Office

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SCHEDULE II
to
SECURITY AGREEMENT

Convertible Promissory Note, dated as of January 12, 2012, by and between Grantor and Secured Party

Agreement, dated as of January 12, 2012, by and between Grantor and Secured Party, referenced by and incorporated in the Convertible Promissory Note

SCHEDULE III
to
SECURITY AGREEMENT

SCHEDULE OF OFFICES, LOCATIONS OF COLLATERAL
AND RECORDS CONCERNING COLLATERAL

- I. Each Grantor's official name: **The Clearly Food & Beverage Company, Inc.**
- II. Type of entity (e.g. corporation, partnership, business trust, limited partnership, limited liability company): **Corporation**
- III. Organizational identification number issued by Grantor's state of incorporation or organization or a statement that no such number has been issued: **Delaware File No. 5064335**
- IV. State of Incorporation or Organization: **Delaware**
- V. Chief Executive Office mailing address: **P.O. Box 325, Perrysburg, OH 43551-0325**
- VI. Warehouses: **None**
- VII. Other Premises at which Collateral is Stored or Located: **None**
- VIII. Locations of Records Concerning Collateral: **Messrs. Robert R. Khan, P.O. Box 325, Perrysburg, OH 43551-0325 USA; and James E. Urmin Sr. Esq., 502 S. Waterview Dr., Richardson, TX 75080 USA**

SCHEDULE IV
to
SECURITY AGREEMENT

U.S. Trademarks of Debtor

Trade-Mark	Application No.	Registration No.	Wares/Services	Owner
CLEARLY CANADIAN (Disclaimer: "CANADIAN")	73-703401 (Filed December 22, 1987)	1697898 (Registered June 30, 1992; Renewed; Renewal June 30, 2012)	flavored mineral waters, fruit flavored mineral waters, non- flavored mineral waters, carbonated mineral waters, non- carbonated mineral waters, bottled drinking waters, spring waters, soft drinks and fruit juices	The Clearly Food & Beverage Co. Canada
DAILYENERGY DAILYENERGY	77-049130 (Filed November 21, 2006)	3346405 (Registered November 27, 2007; Renewal November 27, 2017)	non-alcoholic, non- carbonated, fruit- flavoured beverages and unflavoured beverages, namely, water	The Clearly Food & Beverage Co. Canada
DAILYHYDRAT ION DAILYHYDRATION	77-049134 (Filed November 21, 2006)	3346406 (Registered November 27, 2007; Renewal November 27, 2017)	non-alcoholic, non- carbonated, fruit- flavoured beverages and unflavoured beverages, namely, water	The Clearly Food & Beverage Co. Canada
DAILYVITAMIN DAILYVITAMIN	77-049122 (Filed November 21, 2006)	3346404 (Registered November 27, 2007; Renewal November 27, 2017)	non-alcoholic, non- carbonated, fruit- flavoured beverages and unflavoured beverages, namely, water	The Clearly Food & Beverage Co. Canada

Non-U.S. Trademarks of Debtor

Trade-Mark	Application No.	Registration No.	Wares/Services	Owner
CLEARLY CANADIAN (CANADIAN disclaimed)	586,621 (Filed June 23, 1987)	TMA357,731 (Registered June 30, 1989)	Soft drinks, water, flavoured, non-flavoured, carbonated and uncarbonated mineral water and fruit juices, spring water, bottled	The Clearly Food & Beverage Co.

Trade-Mark	Application No.	Registration No.	Wares/Services	Owner
			drinking water.	
CLEARLY CANADIAN DESIGN CLEARLY CANADIAN (CANADIAN disclaimed)	700,011 (Filed February 28, 1992)	TMA408,558 (Registered February 19, 1993)	Soft drinks, water, flavoured, non-flavoured, carbonated and uncarbonated mineral water and fruit juices, spring water, bottled drinking water.	The Clearly Food & Beverage Co.
DAILYENERGY	1,324,380 (Filed November 16, 2006)	TMA710,058 (Registered March 20, 2008)	Non-alcoholic, non-carbonated, fruit-flavoured water beverages.	The Clearly Food & Beverage Co.
DAILYHYDRATION	1,324,382 (Filed November 16, 2006)	TMA709,048 (Registered March 6, 2008)	Non-alcoholic, non-carbonated, fruit-flavoured water beverages.	The Clearly Food & Beverage Co.
DAILYVITAMIN	1,324,376 (Filed November 16, 2006)	TMA710,059 (Registered March 20, 2008)	Non-alcoholic, non-carbonated, fruit-flavoured water beverages.	The Clearly Food & Beverage Co.
CLEARLY CANADIAN O2		TMA528,734		The Clearly Food & Beverage Co.

you
8/11/12
(AGG. FOR CEAB
"Company")

SCHEDULE V
to
SECURITY AGREEMENT

None

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SCHEDULE VI
to
SECURITY AGREEMENT

None

EXHIBIT A

POWER OF ATTORNEY

This Power of Attorney is executed and delivered by The Clearly Food & Beverage Co., a Delaware corporation ("Grantor") to Robert E. Nutt (hereinafter referred to as "Attorney"), as Secured Party for the benefit of Secured Party, under the Convertible Promissory Note dated as of January 12, 2012 and the Security Agreement effective *nunc pro tunc* as of January 12, 2012, and other related documents (the "Loan Documents"). No person to whom this Power of Attorney is presented, as authority for Attorney to take any action or actions contemplated hereby, shall be required (including in respect of clauses (d) and (e) in the next succeeding paragraph) to inquire into or seek confirmation from Grantor as to the authority of Attorney to take any action described below, or as to the existence of or fulfillment of any condition to this Power of Attorney, which is intended to grant to Attorney unconditionally the authority to take and perform the actions contemplated herein, and Grantor irrevocable waives any right to commence any suit or action, in law or equity, against any person or entity which acts in reliance upon or acknowledges the authority granted under this Power of Attorney. The power of attorney granted hereby is coupled with an interest, and may not be revoked or canceled by Grantor without Attorney's written consent.

Grantor hereby irrevocably constitutes and appoints Attorney (and all officers, employees or agents designated by Attorney), with full power of substitution, as Grantor's true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Grantor and in the name of Grantor or in its own name, from time to time in Attorney's discretion, to take any and all appropriate action and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purposes of the Loan Documents and, without limiting the generality of the foregoing, Grantor hereby grants to Attorney the power and right, on behalf of Grantor, without notice to or assent by Grantor, (other than in connection with a change of address as specified in clause (a), as to which Attorney shall use commercially reasonable efforts to give Grantor concurrent notice thereof provided that failure to do so will not affect Attorney's rights hereunder, and at any time, to do the following: (a) change the mailing address of Grantor, open a post office box on behalf of Grantor, open mail for Grantor, and ask, demand, collect, give acquittances and receipts for, take possession of, endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, and notices in connection with any property of Grantor; (b) effect any repairs to any asset of Grantor, or continue or obtain any insurance and pay all or any part of the premiums therefor and costs thereof, and make, settle and adjust all claims under such policies of insurance, and make all determinations and decisions with respect to such policies; (c) pay or discharge any taxes, liens, security interests, or other encumbrances levied or placed on or threatened against Grantor or its property; (d) defend any suit, action or proceeding brought against Grantor if Grantor does not defend such suit, action or proceeding or if Attorney believes that Grantor is not pursuing such defense in a manner that will maximize the recovery to Attorney, and settle, compromise or adjust any suit, action, or proceeding described above and, in connection therewith, give such discharges or

releases as Attorney may deem appropriate, provided that in connection with the foregoing Attorney shall act in a manner consistent with the terms of the Note to the extent explicitly covered thereby; (e) file or prosecute any claim, litigation, suit or proceeding in any court of competent jurisdiction or before any arbitrator, or take any other action otherwise deemed appropriate by Attorney for the purpose of collecting any and all such moneys due to Grantor whenever payable and to enforce any other right in respect of Grantor's property provided, in the case of any such claim, litigation, suit or proceeding relating to product liability insurance Attorney shall act in a manner consistent with the terms of the Note to the extent explicitly covered thereby; (f) cause the certified public accountants then engaged by Grantor to prepare and deliver to Attorney at any time and from time to time, promptly upon Attorney's request, the following reports: (1) a reconciliation of all accounts, (2) an aging of all accounts, (3) trial balances, (4) test verifications of such accounts as Attorney may request, and (5) the results of each physical verification of inventory; (g) communicate in its own name with any party to any Contract with regard to the assignment of the right, title and interest of such Grantor in and under the Contracts and other matters relating thereto; (h) to file such financing statements with respect to the Security Agreement, with or without Grantor's signature, or to file a photocopy of the Security Agreement in substitution for a financing statement, as the Secured Party may deem appropriate and to execute in Grantor's name such financing statements and amendments thereto and continuation statements which may require the Grantor's signature; and (i) execute, in connection with any sale provided for in any Loan Document, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral and to otherwise direct such sale or resale, all as though Attorney were the absolute owner of the property of Grantor for all purposes, and to do, at Attorney's option and Grantor's expense, at any time or from time to time, all acts and other things that Attorney reasonably deems necessary to perfect, preserve, or realize upon Grantor's property or assets and Attorney's Liens thereon, all as fully and effectively as Grantor might do. Grantor hereby ratifies, to the extent permitted by law, all that said Attorney shall lawfully do or cause to be done by virtue hereof.

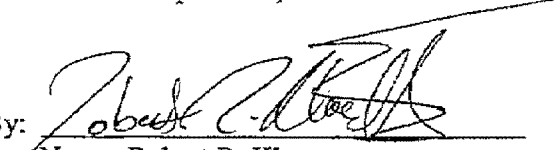
[Signature page follows.]

IN WITNESS WHEREOF, this Power of Attorney is executed by the undersigned Grantor this 6th day of August, 2012.

GRANTOR:

THE CLEARLY FOOD & BEVERAGE
CO.
(a Delaware corporation)

By:


Name: Robert R. Khan
Title: Chairman

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NOTARY PUBLIC CERTIFICATE

On this 6th day of August, 2012, Robert R. Khan who is personally known to me appeared before me in his capacity as the Chairman of The Clearly Food & Beverage Co. ("Grantor") and executed on behalf of Grantor the Power of Attorney in favor of Robert E. Nutt to which this Certificate is attached.

Karyn Torrie
Notary Public

Solemnly affirmed before me in the city of
Montreal on this 6th day of August 2012.

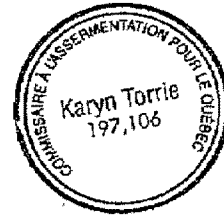


EXHIBIT B

COUNTERPART TO SECURITY AGREEMENT

This counterpart, dated _____, 2012, is delivered pursuant to Section 25 of that certain Security Agreement effective as of January 12, 2012 (as from time to time amended, modified or supplemented, the "Security Agreement"; the terms defined therein and not otherwise defined herein being used as therein defined), among Borrower, the other Grantors signatory thereto and Robert E. Nutt, as Secured Party. The undersigned hereby agrees (i) that this counterpart may be attached to the Security Agreement, and (ii) that the undersigned will comply with and be subject to, including representations and warranties, all the terms and conditions of the Security Agreement as if it were an original signatory thereto.

[NAME OF ADDITIONAL GRANTOR]

By: _____
Name:
Title:

Final wNotary (8-03-12)

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