

TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
HMX, LLC		08/22/2012	LIMITED LIABILITY COMPANY:

RECEIVING PARTY DATA

Name:	Salus Capital Partners, LLC
Street Address:	197 First Avenue, Suite 250
City:	Needham
State/Country:	MASSACHUSETTS
Postal Code:	02494
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE

PROPERTY NUMBERS Total: 56

Property Type	Number	Word Mark
Registration Number:	2881267	NATURALIFE
Registration Number:	1807678	DASH
Registration Number:	3186545	BARRIE PACE
Registration Number:	1788257	GILBERT & LODGE
Registration Number:	3034304	HF HICKEY FREEMAN
Registration Number:	3030363	HICKEY
Registration Number:	3062634	PERFECT AT ANY AGE
Registration Number:	3172450	MAX WEAR
Registration Number:	1449837	PUSSER'S OF THE WEST INDIES
Registration Number:	3327634	GOLD HART SCHAFFNER MARX
Registration Number:	2935823	HART SCHAFFNER MARX
Registration Number:	2975984	HART SCHAFFNER MARX
Registration Number:	1436523	HAWKSLEY & WIGHT
Registration Number:	3327635	HSM TRAVELOR

**TRADEMARK**

OP \$1415.00 2881267

Registration Number:	3327645	
Registration Number:	2939248	PALLESCO
Registration Number:	2956588	SOCIETY BRAND, LTD.
Registration Number:	1445272	ALUMNI
Registration Number:	1859751	ALEX
Registration Number:	2955147	STARSETTA
Registration Number:	3637555	EYE
Registration Number:	2965150	SANSABELT
Registration Number:	3552077	GARDEN OF EARTHLY DELIGHTS
Registration Number:	3338650	M MONARCHY
Registration Number:	3828954	M MONARCHY
Registration Number:	3575489	MANCHESTER ESC.
Registration Number:	3131717	MONARCHY
Registration Number:	3614377	RESTORATION OF THE MONARCHY
Registration Number:	3306091	EXCLUSIVELY MISOOK
Registration Number:	0798121	PALM BEACH
Registration Number:	3429561	PALM BEACH
Registration Number:	2958126	PALM BEACH PRECISION FIT
Registration Number:	3334079	PB BY PALM BEACH
Registration Number:	2171355	RACQUET CLUB
Registration Number:	3276807	SOOS BY MISOOK
Registration Number:	3231269	BLUE HOUSE DRIVE
Registration Number:	2217777	CHRISTOPHER BLUE
Registration Number:	3309032	HEIRLOOM BY CHRISTOPHER BLUE
Registration Number:	3118298	L. PASEO
Registration Number:	3149861	PINE IV
Registration Number:	3006312	WÖRN
Registration Number:	3385982	B. CHYLL
Registration Number:	3402470	B.CHYLL
Registration Number:	3075851	SWEATER.COM
Registration Number:	3521774	THE PURSUIT OF HARMONY
Registration Number:	3521776	THE PURSUIT OF HARMONY
Registration Number:	3361499	ZOOEY
Registration Number:	3463414	ZOOEY BY ALICE HELLER
Registration Number:	3361500	ZOOEY

	2207406	MATTEO MAAS
Registration Number:	3979654	HART SCHAFFNER MARX HSM 1887 1887
Registration Number:	3979653	HF INTEGRITAS VENERATIO
Registration Number:	3903510	HICKEY FREEMAN
Registration Number:	3979652	HICKEY FREEMAN ESTABLISHED 1899 HF INTEGRITAS VENERATIO
Registration Number:	4095435	MNRKY
Registration Number:	3327644	TRAVELOR HART SCHAFFNER MARX

**CORRESPONDENCE DATA**

**Fax Number:**

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.*

**Email:** thomasbr@gtlaw.com

**Correspondent Name:** Brandi Thomas

**Address Line 1:** Greenberg Traurig, One International Pl

**Address Line 4:** Boston, MASSACHUSETTS 02110

<b>NAME OF SUBMITTER:</b>	Brandi Thomas
<b>Signature:</b>	/s/ Brandi Thomas
<b>Date:</b>	09/04/2012

**Total Attachments: 16**

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## TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

**THIS TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT** (as may be amended, restated, supplemented or otherwise modified from time to time, this "**Agreement**"), dated as of August 22, 2012, is by HMX, LLC, a Delaware limited liability company, located at 125 Park Avenue, 7<sup>th</sup>-8<sup>th</sup> Floor, New York, New York 10017 (the "**Debtor**"), in favor of **Salus Capital Partners, LLC**, a Delaware limited liability company, located at 197 First Avenue, Suite 250, Needham, Massachusetts 02494, in its capacity as administrative agent for the Lenders (in such capacity, "**Agent**") pursuant to the Loan Agreement (as hereinafter defined) acting for and on behalf of the Secured Parties (as defined in the Loan Agreement).

### WITNESSETH:

**WHEREAS**, Debtor has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the trademarks, trade names, terms, designs and applications therefor described in Exhibit A hereto and made a part hereof;

**WHEREAS**, Agent and the parties to the Loan Agreement as lenders (individually, each a "**Lender**" and collectively, "**Lenders**") have entered or are about to enter into financing arrangements pursuant to which Lenders (or Agent on behalf of Lenders) may make loans and advances and provide other financial accommodations to Debtor, and Copley Corp. ("**Canadian Borrower**"); and together with Debtor, collectively, "**Borrowers**"), pursuant to the Loan and Security Agreement, dated as of August 7, 2009, as amended by Amendment No. 1 to Loan and Security Agreement and Consent dated as of March 31, 2010, as amended by Amendment No. 2 to Loan and Security Agreement dated as of May 24, 2011, as amended by Amendment No. 3 to Loan and Security Agreement and Consent dated as of September 2, 2011, as amended by Amendment No. 4 to Loan and Security Agreement and Consent dated as of March 30, 2012, as amended by Amendment No. 5 to Loan and Security Agreement dated as of July 19, 2012, as amended by Amendment No. 6 to Loan and Security Agreement dated as of August 7, 2012, as amended by Forbearance Agreement and Amendment No. 7 to Loan and Security Agreement dated as of the date hereof (as may be further amended, restated, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), which was assigned pursuant to that certain Assignment Agreement, dated as of the date hereof (the "**Assignment Agreement**") to the Agent and the lenders party thereto (the "**Lenders**"), and subject to the terms and conditions set forth in the Loan Agreement, the Lenders have agreed to continue to provide loans and financial accommodations to certain of the Loan Parties and the other Financing Agreements (as defined in the Loan Agreement); and

**WHEREAS**, Debtor has absolutely and unconditionally guaranteed the payment and performance of the Obligations (as defined in the Loan Agreement) of Borrowers to Agent and the Secured Parties as set forth in the Loan Agreement; and

**WHEREAS**, in order to induce Agent and Secured Parties to enter into the Loan Agreement and the other Financing Agreements and to make loans and advances and provide other financial accommodations to Borrowers pursuant thereto, Debtor has agreed to secure the

payment and performance of the Obligations and to accomplish same by granting to Agent certain collateral security as set forth herein.

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

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

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

3. Representations, Warranties and Covenants. Debtor hereby represents, warrants and covenants with and to Agent and the Secured Parties the following (all of such representations, warranties and covenants being continuing so long as any of the Obligations are outstanding):

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

(b) To Debtor's knowledge and to the extent identified in Exhibit A hereto, all of the existing Trademarks are valid and subsisting in full force and effect, and Debtor owns the sole, full and clear title thereto, and the right and power to grant the security interest and conditional assignment granted hereunder. Debtor shall, at Debtor's expense, perform all acts and execute all documents necessary to maintain the existence of registered Trademarks including, without limitation, the filing of any renewal affidavits and applications, except with respect to those Trademarks that (i) are not material and are no longer used or useful in any material respect in the business of Debtor or any of its Affiliates or Subsidiaries and do not appear on or are not affixed to or used in the manufacture, sale or distribution of any Inventory or incorporated in any Equipment or necessary in connection with the Records and have a minimal value and/or are not likely, in Debtor's reasonable business judgment, to issue (with respect to a Trademark application) or be sustained in a pending challenge, or (ii) Debtor is unable to execute the required renewal affidavits and applications in a manner that complies with applicable law. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests or encumbrances of any nature whatsoever, except: (A) the security interests granted hereunder and pursuant to the Loan Agreement, (B) the security interests permitted under the Loan Agreement, and (C) the licenses permitted under Section 3(e) below.

(c) Debtor shall not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating to the Collateral, or otherwise dispose of any of the Collateral or any of the Trademarks, in each case without the prior written consent of Agent, except as otherwise permitted herein or in the Loan Agreement. Nothing in this Agreement shall be deemed a consent by Agent or any other Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Debtor shall, at Debtor's expense, promptly perform all acts and execute all documents reasonably requested at any time by Agent to evidence, perfect, maintain, record or enforce the security interest in and conditional assignment of the Collateral panted hereunder or to otherwise further the provisions of this Agreement. Debtor hereby authorizes Agent to execute and file one or more financing statements (or similar documents) with respect to the Collateral, signed (if applicable) only by Agent or as otherwise determined by Agent. Debtor further authorizes Agent to have this Agreement or any other similar security agreement filed with the United States Commissioner of Patents and Trademarks, the Canadian Intellectual Property Office or any other appropriate federal, state or government office.

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

(f) Debtor shall, concurrently with the execution and delivery of this Agreement, execute and deliver to Agent five (5) originals of a Special Power of Attorney in the form of Exhibit C annexed hereto for the implementation of the assignment, sale or other

disposition of the Collateral pursuant to Agent's exercise of the rights and remedies granted to Agent hereunder.

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

(h) Debtor shall notify Agent within forty five (45) days of filing any application for the registration of a Trademark with the United States Patent and Trademark Office, the Canadian Intellectual Property Office or any similar office or agency in the United States of America or Canada, any State or Province thereof, any political subdivision thereof or in any other country. If, after the date hereof, Debtor shall (i) obtain any registered trademark or tradename, or apply for any such registration in the United States Patent and Trademark Office, the Canadian Intellectual Property Office or in any similar office or agency in the United States of America or Canada, any State or Province thereof, any political subdivision thereof or in any other country, or (ii) become the owner of any trademark registrations or applications for trademark registration used in the United States of America or Canada, or any State or Province thereof, political subdivision thereof or in any other country, the provisions of Section 1 hereof shall automatically apply thereto. Upon the request of Agent, Debtor shall promptly execute and deliver to Agent any and all assignments, agreements, instruments, documents and such other papers as may be requested by Agent to evidence the security interest in and conditional assignment of such Trademark in favor of Agent.

(i) Debtor has not abandoned any of the Trademarks and Debtor will not do any act, nor omit to do any act, whereby the Trademarks may become abandoned, invalidated, unenforceable, avoided, or avoidable; provided, that, Debtor may abandon or cancel such Trademarks that are not material and are no longer used or useful in any material respect in the business of Debtor or any of its Affiliates or Subsidiaries and do not appear on or are not affixed to or used in the manufacture, sale or distribution of any Inventory or incorporated in any Equipment or necessary in connection with the Records and has a minimal value and/or is not likely, in Debtor's reasonable business judgment, to issue (with respect to a Trademark application) or be sustained in a pending challenge. Debtor shall promptly notify Agent if it knows of any reason why any application, registration, or recording with respect to the Trademarks may become abandoned, canceled, invalidated, avoided, or avoidable.

(j) Debtor shall render any assistance, as Agent shall determine is necessary, to Agent in any proceeding before the United States Patent and Trademark Office, the Canadian Intellectual Property Office, any federal or state court, or any similar office or agency in the United States of America or Canada, any State or Province thereof, any political subdivision thereof or in any other country, to maintain such application and registration of the Trademarks as Debtor's exclusive property and to protect Agent's interest therein, including, without

limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

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

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

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

4. Events of Default. The occurrence or existence of any Event of Default under the Loan Agreement is referred to herein individually as an "**Event of Default**", and collectively as "**Events of Default**".

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

(a) Agent may require that neither Debtor nor any affiliate or subsidiary of Debtor make any use of the Trademarks or any marks similar thereto for any purpose



whatsoever. Agent may make use of any Trademarks for the sale of goods, completion of work-in-process or rendering of services or otherwise in connection with enforcing any other security interest granted to Agent by Debtor or any subsidiary or affiliate of Debtor or for such other reason as Agent may determine.

(b) Agent may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Agent shall in its discretion deem appropriate and so long as any such grant or grants of a license by Agent do not conflict with the then existing licenses granted by Debtor to a third party and that are known to Agent. Subject to the foregoing sentence, such license or licenses may be general, special or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America or Canada, its territories and possessions, and all foreign countries.

(c) Agent may assign, sell or otherwise dispose of the Collateral or any part thereof, together with the goodwill of the business to which the Trademarks relate, either with or without special conditions or stipulations except that if notice to Debtor of intended disposition of Collateral is required by law, the giving of ten (10) days prior written notice to Debtor of any proposed disposition shall be deemed reasonable notice thereof and Debtor waives any other notice with respect thereto. Agent shall have the power to buy the Collateral or any part thereof, and Agent shall also have the power to execute assurances and perform all other acts which Agent may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Debtor shall be liable for any deficiency.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to the terms hereof, upon the occurrence and during the continuance of an Event of Default, Agent may at any time execute and deliver on behalf of Debtor, pursuant to the authority granted in the Powers of Attorney described in Section 3(f) hereof, one or more instruments of assignment of the Trademarks (or any application for registration, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Debtor agrees to pay Agent on demand all costs incurred in any such transfer of the Collateral, including, but not Limited to, any taxes, fees, and reasonable attorneys' fees and legal expenses. Debtor agrees that Agent and the other Secured Parties have no obligation to preserve rights to the Trademarks against any other parties.

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

(f) Debtor shall supply to Agent or to Agent's designee, Debtor's knowledge and expertise relating to the manufacture, sale and distribution of the products and services

bearing the Trademarks and Debtor's customer lists and other records relating to the Trademarks and the distribution thereof.

(g) Nothing contained herein shall be construed as requiring Agent or any other Secured Party to take any such action at any time. All of Agent's and the other Secured Parties' rights and remedies, whether provided under this Agreement, the other Financing Agreements, applicable law, or otherwise, shall be cumulative and not exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently. No failure or delay on the part of Agent or any other Secured Party in exercising any of its options, powers or rights or partial or single exercise thereof, shall constitute a waiver of such option, power or right.

6. Jury Trial Waiver; Other Waivers and Consents; Governing Law.

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

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

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

(d) DEBTOR AND AGENT EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF DEBTOR AND AGENT OR ANY OF THE OTHER

SECURED PARTIES IN RESPECT OF THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. DEBTOR AND AGENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT DEBTOR OR AGENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF DEBTOR AND AGENT TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

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

7. Miscellaneous.

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. Notices delivered through electronic communications shall be effective to the extent set forth in Section 7(b) below. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to Debtor:

HMX, LLC  
125 Park Avenue, 7<sup>th</sup>-8<sup>th</sup> Floor  
New York, New York 10017  
Attention: Doug Williams, Chief Executive Officer  
Telephone No.:  
Telecopy No.:

If to Agent:

Salus Capital Partners, LLC  
197 First Avenue, Suite 250  
Needham, Massachusetts 02494

Attention: Daniel F. O'Rourke  
Telephone No.:  
Telecopy No.: 781-459-0058

(b) Notices and other communications to Agent hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Agent or as otherwise determined by Agent. Unless Agent otherwise requires, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided, that, if such notice or other communication is not given during the normal business hours of the recipient, such notice shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communications is available and identifying the website address therefor.

(c) Capitalized terms used herein and not defined herein shall have the meanings specified in the Loan Agreement. All references to the plural herein shall also mean the singular and to the singular shall also mean the plural. All references to Debtor, Agent, any Lender or any Secured Party pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns. The words "hereof," "herein," "hereunder," "this Agreement" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 11.3 of the Loan Agreement or is cured in a manner satisfactory to Agent. All references to the term "Person" or "Persons" herein shall mean any individual, sole proprietorship, partnership, corporation (including, without limitation, any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture or other entity or any government or any agency, instrumentality or political subdivision thereof.

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

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

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

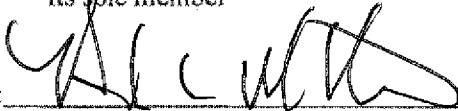
(g) This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, Debtor and Agent have executed this Agreement as of the day and year first above written.

HMX, LLC, as Debtor

By: HMX Acquisition Corp.,  
Its sole member

By:   
Name: Douglas L. Williams  
Title: Chief Executive Officer

SALUS CAPITAL PARTNERS, LLC, as Agent

By: \_\_\_\_\_  
Name: Kyle C. Shonak  
Title: Senior Vice President

*[Trademark Collateral Assignment and Security Agreement]*

**TRADEMARK**  
**REEL: 004852 FRAME: 0481**

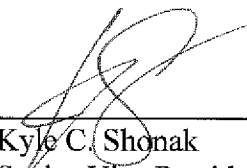
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HMX, LLC, as Debtor

By: HMX Acquisition Corp.,  
Its sole member

By: \_\_\_\_\_  
Name: Douglas L. Williams  
Title: Chief Executive Officer

SALUS CAPITAL PARTNERS, LLC, as Agent

By:  \_\_\_\_\_  
Name: Kyle C. Shonak  
Title: Senior Vice President

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

[See Attached]



SCHEDULE A

TRADEMARKS

<u>Trademark Description</u>	<u>Jurisdiction</u>	<u>Trademark Application/Registration No.</u>	<u>Application/Registration Date</u>
NATURALIFE	U.S.	2,881,267	9/7/2004
DASH	U.S.	1,807,678	11/30/1993
BARRIE PACE	U.S.	3,186,545	12/19/2006
GILBERT & LODGE (stylized)	U.S.	1,788,257	8/17/1993
HF HICKEY FREEMAN (design)	U.S.	3,034,304	12/27/2005
HICKEY	U.S.	3,030,363	12/13/2005
PERFECT AT ANY AGE	U.S.	3,062,634	3/4/1969
MAX WEAR	U.S.	3,172,450	11/14/2006
PUSSER'S OF THE WEST INDIES (design)	U.S.	1,449,837	7/28/1987
GOLD HART SCHAFFNER MARX	U.S.	3,327,634	10/30/2007
HART SCHAFFNER MARX	U.S.	2,935,823	3/29/2005
HART SCHAFFNER MARX	U.S.	2,975,984	7/26/2005
HAWKSLEY & WIGHT	U.S.	1,436,523	4/14/1987
HMS TRAVELOR	U.S.	3,327,635	10/30/2007
(MODERN HORSE & RIDER DESIGN)	U.S.	3,327,645	10/30/2007
PALLESCO	U.S.	2,939,248	4/12/2005
SOCIETY BRAND	U.S.	2,956,588	5/31/2005
ALUMNI	U.S.	1,445,272	6/30/1987
ALEX	U.S.	1,859,751	10/25/1994
STARSETTA	U.S.	2,955,147	5/24/2005

EYE	U.S.	3,637,555	6/16/2009
SANSABELT	U.S.	2,965,150	7/5/2005
GARDEN OF EARTHLY DELIGHTS	U.S.	3,552,077	12/23/2008
M MONARCHY (stylized)	U.S.	3,338,650	11/20/2007
M MONARCHY (stylized)	U.S.	3,828,954	8/3/2010
MANCHESTER ESC.	U.S.	3,575,489	2/17/2009
MONARCHY	U.S.	3,131,717	8/22/2006
RESTORATION OF THE MONARCHY	U.S.	3,614,377	5/5/2009
EXCLUSIVELY MISOOK	U.S.	3,306,091	10/9/2007
PALM BEACH	U.S.	798,121	10/26/1965
PALM BEACH (design)	U.S.	3,429,561	5/20/2008
PALM BEACH PRECISION FIT (design)	U.S.	2,958,126	5/31/2005
PB BY PALM BEARCH	U.S.	3,334,079	11/13/2007
RACQUET CLUB	U.S.	2,171,355	7/7/1998
SOOS BY MISOOK	U.S.	3,276,807	8/7/2007
BLUE HOUSE DRIVE	U.S.	3,231,269	4/17/2007
CHRISTOPHER BLUE	U.S.	2,217,777	1/12/1999
HEIRLOOM BY CHRISTOPHER BLUE	U.S.	3,309,032	10/9/2007
L. PASEO	U.S.	3,118,298	7/18/2006
PINE IV	U.S.	3,149,861	9/26/2006
WORN (stylized)	U.S.	3,006,312	10/11/2005
B. CHYLL	U.S.	3,385,982	2/19/2008
B. CHYLL (design)	U.S.	3,402,470	3/25/2008
SWEATER.COM	U.S.	3,075,851	4/4/2006
THE PURSUIT OF HARMONY	U.S.	3,521,774	10/21/2008
THE PURSUIT OF HARMONY (design)	U.S.	3,521,776	10/21/2008
ZOOEY	U.S.	3,361,499	1/1/2008

ZOOEY BY ALICE HELLER	U.S.	3,463,414	7/8/2008
ZOOEY (stylized)	U.S.	3,361,500	1/1/2008
MATTEO MAAS	U.S.	2,207,406	12/1/1998
KINGSRIDGE	U.S.	Common law	n/a
HART SCHAFFNER MARX HSM 1887 1887 (design)	U.S.	3,979,654	06/14/2011
HF INTEGRITASVENERATIO (design)	U.S.	3,979,653	06/14/2011
HICKEY FREEMAN	U.S.	3,903,510	01/11/2011
HICKEY FREEMAN ESTABLISHED 1899 HF INTEGRITAS VENERATIO (design)	U.S.	3,979,652	06/14/2011
MNRKY	U.S.	4,095,435	02/07/2012
TRAVELOR HART SCHAFFNER MARX	U.S.	3,327,644	10/30/2007