

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM319681

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Colorado Trading & Clothing Company		09/24/2014	CORPORATION: COLORADO

RECEIVING PARTY DATA

Name:	Wells Fargo Bank, National Association
Street Address:	1740 Broadway
Internal Address:	MAC C7300-210
City:	Denver
State/Country:	COLORADO
Postal Code:	80274
Entity Type:	National Association: UNITED STATES

PROPERTY NUMBERS Total: 11

Property Type	Number	Word Mark
Serial Number:	86253725	TRANQUILITY BY COLORADO CLOTHING
Serial Number:	86253695	COLORADO CLOTHING
Serial Number:	86253704	
Serial Number:	86253686	
Serial Number:	86253734	LIFE IS A WORKOUT
Serial Number:	86253676	SOYBU
Serial Number:	86016797	GRACIE BY SOYBU
Serial Number:	86253712	KILLER CABOOSE
Serial Number:	86196752	ACTIVE FASHION GROUP
Serial Number:	86016801	GRACIE BY SOYBU
Serial Number:	86373234	TRANQUILITY BY ACTIVE FASHION GROUP

CORRESPONDENCE DATA

Fax Number: 4352143811

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 435-214-3807

Email: mjones@markuswilliams.com

Correspondent Name: Melinda Jones

Address Line 1: 2750 Rasmussen Road, Suite H-104

TRADEMARK

Address Line 4: Park City, UTAH 84098

ATTORNEY DOCKET NUMBER: 10918.572

NAME OF SUBMITTER: Melinda Jones

SIGNATURE: /mej/

DATE SIGNED: 10/09/2014

Total Attachments: 15

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PATENT AND TRADEMARK SECURITY AGREEMENT

This Patent and Trademark Security Agreement (this "Agreement"), dated as of September 24, 2014, is made by and between COLORADO TRADING & CLOTHING COMPANY, a Colorado corporation having a business location at the address set forth below next to its signature ("Borrower"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Lender"), having a business location at the address set forth below next to its signature.

Recitals

Borrower and Lender are parties to a Credit and Security Agreement (as amended, supplemented, restated or otherwise modified from time to time, the "Credit Agreement") dated the same date as this Agreement, setting forth the terms on which Lender may now or hereafter extend credit to or for the account of Borrower.

As a condition to extending credit to or for the account of Borrower, Lender has required the execution and delivery of this Agreement by Borrower.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them in the Credit Agreement. In addition, the following terms have the meanings set forth below:

"Claim" has the meaning given in Section 8.

"Patents" means all of Borrower's right, title and interest in patents and patent applications, including (a) the patents and patent applications listed on Exhibit A, (b) all continuations, divisionals, continuations-in-part, re-examinations, reissues, and renewals thereof and improvements thereon, (c) all licenses with respect thereto and all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements thereof, (d) the right to sue for past, present, and future infringements thereof, and (e) all of Borrower's rights corresponding thereto throughout the world.

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of Borrower's right, title and interest in and to trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including (a) the trade names, registered trademarks, trademark applications, registered service marks and service mark applications listed on Exhibit B, (b) all renewals thereof, (c) all licenses with respect thereto and all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and

damages and payments for past or future infringements or dilutions thereof, (d) the right to sue for past, present and future infringements and dilutions thereof, (e) the goodwill of Borrower's business symbolized by the foregoing or connected therewith, and (f) all of Borrower's rights corresponding thereto throughout the world.

2. Security Interest. Borrower hereby irrevocably pledges and assigns to, and grants Lender a security interest (the "Security Interest") with power of sale to the extent permitted by law in, the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of Borrower. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. § 1060.

3. Representations, Warranties and Agreements. Borrower represents, warrants and agrees as follows:

(a) *Existence; Authority.* Borrower is duly organized and existing and in good standing under the laws of the jurisdiction of its organization. The execution, delivery, and performance by Borrower of this Agreement have been duly authorized by all necessary action on the part of Borrower.

(b) *Patents.* Exhibit A accurately lists all Patents owned or controlled by Borrower as of the date hereof, or to which Borrower has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Borrower owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Borrower shall within 60 days provide written notice to Lender with a replacement Exhibit A, which upon acceptance by Lender shall become part of this Agreement.

(c) *Trademarks.* Exhibit B accurately lists all Trademarks owned or controlled by Borrower as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that Exhibit B need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to Borrower's or any Affiliate's business(es). If after the date hereof, Borrower owns or controls any Trademarks not listed on Exhibit B (other than common law marks which are not material to Borrower's or any Affiliate's business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Borrower shall promptly provide written notice to Lender with a replacement Exhibit B, which upon acceptance by Lender shall become part of this Agreement.

(d) **Affiliates.** As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by Borrower, constitute Patents or Trademarks. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then Borrower shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to Borrower; or (ii) notify Lender of such item(s) and cause such Affiliate to execute and deliver to Lender a patent and trademark security agreement substantially in the form of this Agreement.

(e) **Title; Validity.** Borrower has absolute title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. Borrower (i) will have, at the time Borrower acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens. To Borrower's knowledge after reasonable inquiry, all registered Trademarks and issued Patents that are owned by Borrower and necessary in the conduct of its or any of its Affiliates' business are valid, subsisting and enforceable and in compliance with all legal requirements, filings, and payments and other actions that are required to maintain such registered Trademarks and issued Patents in full force and effect.

(f) **No Sale.** Except as permitted under the Credit Agreement, Borrower will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without Lender's prior written consent.

(g) **Defense.** Except as permitted under the Credit Agreement, Borrower shall have the duty, with respect to the Patents and Trademarks, to protect and diligently enforce and defend at such Borrower's expense the Patents and Trademarks, including (i) to diligently enforce and defend, including promptly suing for infringement, misappropriation, or dilution and to recover any and all damages for such infringement, misappropriation, or dilution, and filing for opposition, interference, and cancellation against conflicting Intellectual Property rights of any Person, (ii) to prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement, (iii) to prosecute diligently any patent application that is part of the Patents pending as of the date hereof or hereafter until the termination of this Agreement, and (iv) to take all reasonable and necessary action to preserve and maintain all of Borrower's Trademarks and Patents and its rights therein, including paying all maintenance fees and filing of applications for renewal, affidavits of use, and affidavits of noncontestability.

(h) **Maintenance.** Except as permitted under the Credit Agreement, Borrower will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Except as permitted under the Credit Agreement, Borrower covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof, without

first providing Lender: (i) sufficient written notice, of at least 30 days, to allow Lender to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(i) ***Lender's Right to Take Action.*** If Borrower fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after Lender gives Borrower written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Borrower notifies Lender that it intends to abandon a Patent or Trademark, Lender may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Borrower (or, at Lender's option, in Lender's own name) and may (but need not) take any and all other actions which Lender may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(j) ***Costs and Expenses.*** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Borrower shall pay Lender on demand the amount of all moneys expended and all costs and expenses (including Lender Expenses) incurred by Lender in connection with or as a result of Lender's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by Lender at the Default Rate.

(k) ***Power of Attorney.*** To facilitate Lender's taking action under subsection (i) and exercising its rights under Section 6, Borrower hereby irrevocably appoints (which appointment is coupled with an interest) Lender, or its delegate, as the attorney-in-fact of Borrower with full authority (but not the duty) in the place and stead of Borrower, and in the name of Borrower or otherwise, from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Borrower, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by Borrower under this Section 3, or necessary for Lender, upon the occurrence of an Event of Default and during the continuation thereof, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. **Borrower's Use of the Patents and Trademarks.** Borrower shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses

thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) Borrower shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained herein shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and during the continuation thereof, and at any time thereafter, Lender may, at its option, take any or all of the following actions:

(a) Lender may exercise any or all remedies available under the Credit Agreement.

(b) Lender may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) Lender may enforce the Patents and Trademarks and any licenses thereunder, and if Lender shall commence any suit for such enforcement, Borrower shall, at the request of Lender, do any and all lawful acts and execute any and all proper documents required by Lender in aid of such enforcement.

7. Miscellaneous. No amendment or modification of this Agreement shall be effective unless it has been agreed to by Lender in a writing that specifically states that it is intended to amend or modify this Agreement. No failure by Lender to exercise any right, remedy, or option under this Agreement, or delay by Lender in exercising the same, will operate as a waiver thereof. No waiver by Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Lender on any occasion shall affect or diminish Lender's rights thereafter to require strict performance by Borrower of any provision of this Agreement. Lender's rights under this Agreement will be cumulative and not exclusive of any other right or remedy that Lender may have. The Security Interest can be released, only explicitly in a writing signed by Lender. All notices to be given to Borrower or Lender under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. Lender shall not be obligated to preserve any rights Borrower may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as 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 also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not

affect the validity, enforceability, and binding effect of this Agreement. This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, however, that Borrower may not assign this Agreement or any rights or duties hereunder without Lender's prior written consent, which consent may be withheld by Lender in Lender's sole and absolute discretion, and any prohibited assignment shall be absolutely void ab initio. Lender may assign this Agreement in whole or in part and its rights and duties hereunder and no consent or approval by Borrower is required in connection with any such assignment. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision. All representations and warranties made by Borrower in this Agreement shall be considered to have been relied upon by Lender and shall survive the execution and delivery of this Agreement, regardless of any investigation made by Lender or on its behalf and notwithstanding that Lender may have had notice or knowledge of any Event of Default or incorrect representation or warranty. This Agreement shall take effect when signed by Borrower and delivered to Lender, and Borrower waives notice of Lender's acceptance hereof or reliance hereon. Lender may execute this Agreement if appropriate for the purpose of filing, but the failure of Lender to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by Borrower shall have the same force and effect as the original for all purposes of a financing statement.

8. CHOICE OF LAW AND VENUE.

(a) THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, AND THE RIGHTS OF THE PARTIES WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR RELATED HERETO AS WELL AS ALL CLAIMS, CONTROVERSIES OR DISPUTES ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF.

(b) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT MAY BE TRIED AND LITIGATED IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO; PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT LENDER'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE LENDER ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH OF BORROWER AND LENDER WAIVES, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 8(b).

(c) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF BORROWER AND LENDER HEREBY WAIVES ITS RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH, A "CLAIM"). EACH OF BORROWER AND LENDER REPRESENTS THAT IT HAS REVIEWED THIS WAIVER AND KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(d) NO CLAIM MAY BE MADE BY BORROWER AGAINST LENDER, ANY AFFILIATE OF LENDER OR ANY DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION THEREWITH, AND BORROWER HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

9. ARBITRATION.

(a) ARBITRATION. THE PARTIES HERETO AGREE, UPON DEMAND BY ANY PARTY, WHETHER MADE BEFORE THE INSTITUTION OF A JUDICIAL PROCEEDING OR NOT MORE THAN 60 DAYS AFTER SERVICE OF A COMPLAINT, THIRD PARTY COMPLAINT, CROSS-CLAIM, COUNTERCLAIM OR ANY ANSWER THERETO OR ANY AMENDMENT TO ANY OF THE ABOVE TO SUBMIT TO BINDING ARBITRATION ALL CLAIMS, DISPUTES AND CONTROVERSIES BETWEEN OR AMONG THEM (AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, ATTORNEYS, AND OTHER AGENTS), WHETHER IN TORT, CONTRACT OR OTHERWISE ARISING OUT OF OR RELATING TO IN ANY WAY (I) ANY CREDIT SUBJECT HERETO, OR THIS AGREEMENT, AND THEIR NEGOTIATION, EXECUTION, COLLATERALIZATION, ADMINISTRATION, REPAYMENT, MODIFICATION, EXTENSION, SUBSTITUTION, FORMATION, INDUCEMENT, ENFORCEMENT, DEFAULT OR TERMINATION; OR (II) REQUESTS FOR ADDITIONAL CREDIT.

(b) GOVERNING RULES. ANY ARBITRATION PROCEEDING WILL (I) PROCEED IN A LOCATION IN DENVER, COLORADO SELECTED BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA"); (II) BE GOVERNED BY THE FEDERAL ARBITRATION ACT (TITLE 9 OF THE UNITED STATES CODE), NOTWITHSTANDING ANY CONFLICTING CHOICE OF LAW PROVISION IN ANY

OF THE DOCUMENTS BETWEEN THE PARTIES; AND (III) BE CONDUCTED BY THE AAA, OR SUCH OTHER ADMINISTRATOR AS THE PARTIES SHALL MUTUALLY AGREE UPON, IN ACCORDANCE WITH THE AAA'S COMMERCIAL DISPUTE RESOLUTION PROCEDURES, UNLESS THE CLAIM OR COUNTERCLAIM IS AT LEAST \$1,000,000.00 EXCLUSIVE OF CLAIMED INTEREST, ARBITRATION FEES AND COSTS IN WHICH CASE THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE AAA'S OPTIONAL PROCEDURES FOR LARGE, COMPLEX COMMERCIAL DISPUTES (THE COMMERCIAL DISPUTE RESOLUTION PROCEDURES OR THE OPTIONAL PROCEDURES FOR LARGE, COMPLEX COMMERCIAL DISPUTES TO BE REFERRED TO HEREIN, AS APPLICABLE, AS THE "RULES"). IF THERE IS ANY INCONSISTENCY BETWEEN THE TERMS HEREOF AND THE RULES, THE TERMS AND PROCEDURES SET FORTH HEREIN SHALL CONTROL. ANY PARTY WHO FAILS OR REFUSES TO SUBMIT TO ARBITRATION FOLLOWING A DEMAND BY ANY OTHER PARTY SHALL BEAR ALL COSTS AND EXPENSES INCURRED BY SUCH OTHER PARTY IN COMPELLING ARBITRATION OF ANY DISPUTE. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO BE A WAIVER BY ANY PARTY THAT IS A BANK OF THE PROTECTIONS AFFORDED TO IT UNDER 12 U.S.C. §91 OR ANY SIMILAR APPLICABLE STATE LAW.

(c) NO WAIVER OF PROVISIONAL REMEDIES, SELF-HELP AND FORECLOSURE. THE ARBITRATION REQUIREMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY BEFORE, DURING OR AFTER THE PENDENCY OF ANY ARBITRATION PROCEEDING TO (I) FORECLOSE AGAINST REAL OR PERSONAL PROPERTY COLLATERAL; (II) EXERCISE SELF-HELP REMEDIES RELATING TO COLLATERAL OR PROCEEDS OF COLLATERAL SUCH AS SETOFF OR REPOSSESSION; OR (III) OBTAIN PROVISIONAL OR ANCILLARY REMEDIES SUCH AS REPLEVIN, WRIT OF POSSESSION, INJUNCTIVE RELIEF, ATTACHMENT, GARNISHMENT OR THE APPOINTMENT OF A RECEIVER. THIS EXCLUSION DOES NOT CONSTITUTE A WAIVER OF THE RIGHT OR OBLIGATION OF ANY PARTY TO SUBMIT ANY DISPUTE TO ARBITRATION OR REFERENCE HEREUNDER, INCLUDING THOSE ARISING FROM THE EXERCISE OF THE ACTIONS DETAILED IN SECTIONS (I), (II) AND (III) OF THIS SECTION 9(C).

(d) ARBITRATOR QUALIFICATIONS AND POWERS. ANY ARBITRATION PROCEEDING IN WHICH THE AMOUNT IN CONTROVERSY IS \$5,000,000.00 OR LESS WILL BE DECIDED BY A SINGLE ARBITRATOR SELECTED ACCORDING TO THE RULES, AND WHO SHALL NOT RENDER AN AWARD OF GREATER THAN \$5,000,000.00. ANY DISPUTE IN WHICH THE AMOUNT IN CONTROVERSY EXCEEDS \$5,000,000.00 SHALL BE DECIDED BY MAJORITY VOTE OF A PANEL OF THREE ARBITRATORS; PROVIDED HOWEVER, THAT ALL THREE ARBITRATORS MUST ACTIVELY PARTICIPATE IN ALL HEARINGS AND DELIBERATIONS, EXCEPT THAT A SINGLE ARBITRATOR MAY DECIDE PRE-HEARING DISCOVERY DISPUTES. THE ARBITRATOR(S) WILL BE A NEUTRAL ATTORNEY LICENSED IN THE STATE OF COLORADO OR A NEUTRAL RETIRED JUDGE OF THE STATE OR FEDERAL JUDICIARY OF

COLORADO, IN EITHER CASE WITH A MINIMUM OF TEN YEARS EXPERIENCE IN THE SUBSTANTIVE LAW APPLICABLE TO THE SUBJECT MATTER OF THE DISPUTE TO BE ARBITRATED. THE ARBITRATOR(S) WILL DETERMINE WHETHER OR NOT AN ISSUE IS ARBITRATABLE AND WILL GIVE EFFECT TO THE STATUTES OF LIMITATION OR REPOSE IN DETERMINING ANY CLAIM. IN ANY ARBITRATION PROCEEDING THE ARBITRATOR(S) WILL DECIDE (BY DOCUMENTS ONLY OR WITH A HEARING AT THE ARBITRATOR'S DISCRETION) ANY PRE-HEARING MOTIONS WHICH ARE SIMILAR TO MOTIONS TO DISMISS FOR FAILURE TO STATE A CLAIM OR MOTIONS FOR SUMMARY ADJUDICATION. THE ARBITRATOR(S) SHALL RESOLVE ALL DISPUTES IN ACCORDANCE WITH THE SUBSTANTIVE LAW OF THE STATE OF COLORADO AND MAY GRANT ANY REMEDY OR RELIEF THAT A COURT OF SUCH STATE COULD ORDER OR GRANT WITHIN THE SCOPE HEREOF AND SUCH ANCILLARY RELIEF AS IS NECESSARY TO MAKE EFFECTIVE ANY AWARD. THE ARBITRATOR(S) SHALL ALSO HAVE THE POWER TO AWARD RECOVERY OF ALL COSTS AND FEES, TO IMPOSE SANCTIONS AND TO TAKE SUCH OTHER ACTION AS THE ARBITRATOR(S) DEEMS NECESSARY TO THE SAME EXTENT A JUDGE COULD PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, THE COLORADO RULES OF CIVIL PROCEDURE OR OTHER APPLICABLE LAW. JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE INSTITUTION AND MAINTENANCE OF AN ACTION FOR JUDICIAL RELIEF OR PURSUIT OF A PROVISIONAL OR ANCILLARY REMEDY SHALL NOT CONSTITUTE A WAIVER OF THE RIGHT OF ANY PARTY, INCLUDING THE PLAINTIFF, TO SUBMIT THE CONTROVERSY OR CLAIM TO ARBITRATION IF ANY OTHER PARTY CONTESTS SUCH ACTION FOR JUDICIAL RELIEF.

(e) DISCOVERY. IN ANY ARBITRATION PROCEEDING, DISCOVERY WILL BE PERMITTED IN ACCORDANCE WITH THE RULES. ALL DISCOVERY SHALL BE EXPRESSLY LIMITED TO MATTERS DIRECTLY RELEVANT TO THE DISPUTE BEING ARBITRATED AND MUST BE COMPLETED NO LATER THAN 20 DAYS BEFORE THE HEARING DATE. ANY REQUESTS FOR AN EXTENSION OF THE DISCOVERY PERIODS, OR ANY DISCOVERY DISPUTES, WILL BE SUBJECT TO FINAL DETERMINATION BY THE ARBITRATOR(S) UPON A SHOWING THAT THE REQUEST FOR DISCOVERY IS ESSENTIAL FOR THE PARTY'S PRESENTATION AND THAT NO ALTERNATIVE MEANS FOR OBTAINING INFORMATION IS AVAILABLE.

(f) CLASS PROCEEDINGS AND CONSOLIDATIONS. NO PARTY HERETO SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, EXCEPT PARTIES WHO HAVE EXECUTED ANY OTHER CONTRACT, INSTRUMENT OR DOCUMENT RELATING TO ANY OBLIGATIONS, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

(g) PAYMENT OF ARBITRATION COSTS AND FEES. THE ARBITRATOR(S) SHALL AWARD ALL COSTS AND EXPENSES OF THE ARBITRATION PROCEEDING.

(h) REAL PROPERTY COLLATERAL LOCATED IN CALIFORNIA; JUDICIAL REFERENCE. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NO DISPUTE SHALL BE SUBMITTED TO ARBITRATION IF THE DISPUTE CONCERNS INDEBTEDNESS SECURED DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, BY ANY REAL PROPERTY LOCATED IN CALIFORNIA UNLESS (I) THE HOLDER OF THE MORTGAGE, LIEN OR SECURITY INTEREST SPECIFICALLY ELECTS IN WRITING TO PROCEED WITH THE ARBITRATION, OR (II) ALL PARTIES TO THE ARBITRATION WAIVE ANY RIGHTS OR BENEFITS THAT MIGHT ACCRUE TO THEM BY VIRTUE OF THE SINGLE ACTION RULE STATUTE OF CALIFORNIA, THEREBY AGREEING THAT ALL INDEBTEDNESS AND OBLIGATIONS OF THE PARTIES, AND ALL MORTGAGES, LIENS AND SECURITY INTERESTS SECURING SUCH INDEBTEDNESS AND OBLIGATIONS, SHALL REMAIN FULLY VALID AND ENFORCEABLE. IF ANY SUCH DISPUTE IS NOT SUBMITTED TO ARBITRATION, WITH RESPECT TO REAL PROPERTY COLLATERAL LOCATED IN CALIFORNIA, THE DISPUTE SHALL BE REFERRED TO A REFEREE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 ET SEQ., AND THIS GENERAL REFERENCE AGREEMENT IS INTENDED TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH SAID SECTION 638. A REFEREE WITH THE QUALIFICATIONS REQUIRED HEREIN FOR ARBITRATORS SHALL BE SELECTED PURSUANT TO THE AAA'S SELECTION PROCEDURES. JUDGMENT UPON THE DECISION RENDERED BY A REFEREE SHALL BE ENTERED IN THE COURT IN WHICH SUCH PROCEEDING WAS COMMENCED IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 644 AND 645.

(i) MISCELLANEOUS. TO THE MAXIMUM EXTENT PRACTICABLE, THE AAA, THE ARBITRATOR(S) AND THE PARTIES SHALL TAKE ALL ACTION REQUIRED TO CONCLUDE ANY ARBITRATION PROCEEDING WITHIN 180 DAYS OF THE FILING OF THE DISPUTE WITH THE AAA. NO ARBITRATOR(S) OR OTHER PARTY TO AN ARBITRATION PROCEEDING MAY DISCLOSE THE EXISTENCE, CONTENT OR RESULTS THEREOF, EXCEPT FOR DISCLOSURES OF INFORMATION BY A PARTY REQUIRED IN CONNECTION WITH FINANCIAL REPORTING IN THE ORDINARY COURSE OF ITS BUSINESS OR BY APPLICABLE LAW OR REGULATION. IF MORE THAN ONE AGREEMENT FOR ARBITRATION BY OR BETWEEN THE PARTIES POTENTIALLY APPLIES TO A DISPUTE, THE ARBITRATION PROVISION MOST DIRECTLY RELATED TO THIS AGREEMENT OR ANY OTHER CONTRACT, INSTRUMENT OR DOCUMENT RELATING TO ANY OBLIGATIONS OR THE SUBJECT MATTER OF THE DISPUTE SHALL CONTROL. THIS ARBITRATION PROVISION SHALL SURVIVE TERMINATION, AMENDMENT OR EXPIRATION OF ANY OF ANY CONTRACT, INSTRUMENT OR DOCUMENT RELATING TO ANY OBLIGATIONS OR ANY RELATIONSHIP BETWEEN THE PARTIES.

(j) WAIVER OF JURY TRIAL. THE PARTIES HERETO HEREBY ACKNOWLEDGE THAT BY AGREEING TO BINDING ARBITRATION THEY HAVE IRREVOCABLY WAIVED THEIR RESPECTIVE RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT DELIVERED IN CONNECTION HEREWITH, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

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IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Colorado Trading & Clothing Company
6161 S. Syracuse Way, Suite 300
Greenwood Village, CO 80111

COLORADO TRADING & CLOTHING
COMPANY

By: [Signature]
Name: Jeffrey D. Schmitt
Its: President

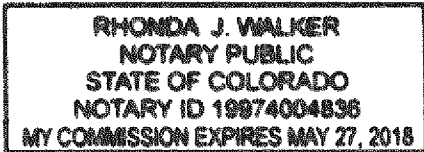
Wells Fargo Bank, National Association
MAC C7300-210
1740 Broadway
Denver, Colorado 80274

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By: [Signature]
Name: Karen S. Kenney
Its: Authorized Signatory

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

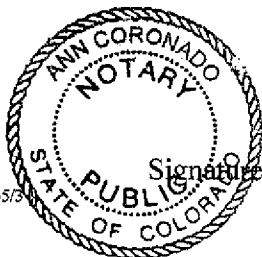
The foregoing instrument was acknowledged before me this 14 day of ~~September~~ ^{October}, 2014, by Jeffrey D. Schmitt, the President of Colorado Trading & Clothing Company, a Colorado corporation, on behalf of the corporation.



[Signature]
Notary Public

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 8 day of ~~September~~ ^{October}, 2014, by Karen S. Kenney, an authorized signatory of Wells Fargo Bank, National Association, on behalf of the national association.



[Signature]
Notary Public

Signature Page of Patent and Trademark Security Agreement

{Z00282657}

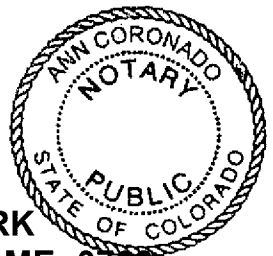


EXHIBIT A

UNITED STATES ISSUED PATENTS

Patent Description	Registration Number	Registration Date

NONE

UNITED STATES PATENT APPLICATIONS

Patent Application	Application/Serial Number	Application/Filing Date

NONE

FOREIGN ISSUED PATENTS

Patent Description	Country	Registration Number	Registration Date

NONE

FOREIGN PATENT APPLICATIONS

Patent Description	Country	Application/Serial Number	Application/Filing Date

NONE

Exh. A

{Z0028265/3 }

EXHIBIT B




**UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS**

REGISTRATIONS

Trademark	Registration Number	Registration Date



NONE

APPLICATIONS

Trademark Application	Application/Serial Number	Application Date
TRANQUILITY BY COLORADO CLOTHING	86/253725	April 16, 2014
	86/253695	April 16, 2014
	86/253704	April 16, 2014
	86/253686	April 16, 2014
LIFE IS A WORKOUT	86/253734	April 16, 2014

Exh. B-1

{20028265/3 }

Trademark Application	Application/Serial Number	Application Date
SOYBU	86/253676	April 16, 2014
	86/016797	July 22, 2013
KILLER CABOOSE	86/253712	April 16, 2014
ACTIVE FASHION GROUP	86/196752	February 18, 2014
	86/016801	July 22, 2013
TRANQUILITY BY ACTIVE FASHION GROUP	86/373234	August 21, 2014

TRADENAMES; REGISTERED SERVICE MARKS; SERVICE MARKS

NONE

Exh. B-2

{20028265/3 }