

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM324390

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Siena Funding LLC		10/31/2014	LIMITED LIABILITY COMPANY: DELAWARE
Smooth Fitness, LLC		10/31/2014	LIMITED LIABILITY COMPANY: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	TREADMILLDOCTOR.COM, INC.		
<b>Street Address:</b>	3508 Tchulahoma Road		
<b>City:</b>	Memphis		
<b>State/Country:</b>	TENNESSEE		
<b>Postal Code:</b>	38118		
<b>Entity Type:</b>	CORPORATION: TENNESSEE		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3414959	DMT	
<b>Registration Number:</b>	3846000	SMOOTH FITNESS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	7039203399		
<i>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.</i>			
<b>Phone:</b>	7039201122		
<b>Email:</b>	mail@iplawsolutions.com		
<b>Correspondent Name:</b>	Welsh Flaxman & Gitler LLC		
<b>Address Line 1:</b>	2000 Duke Street		
<b>Address Line 2:</b>	Suite 100		
<b>Address Line 4:</b>	Alexandria, VIRGINIA 22314		
<b>ATTORNEY DOCKET NUMBER:</b>	S-14079		
<b>NAME OF SUBMITTER:</b>	John L. Welsh		
<b>SIGNATURE:</b>	/jlw/		
<b>DATE SIGNED:</b>	11/25/2014		
<b>Total Attachments: 34</b>			
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TRADEMARK

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## FORECLOSURE AND SALE AGREEMENT

This FORECLOSURE AND SALE AGREEMENT (the "Agreement") is entered into as of October 31, 2014, by and among TREADMILLDOCTOR.COM, INC., a Tennessee corporation ("Buyer") and Siena Funding LLC, a Delaware limited liability company ("Lender").

## RECITALS

A. Pursuant to that certain Loan and Security Agreement dated as of September 23, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), among Siena Lending Group LLC, as lender, Smooth Fitness, LLC ("Smooth Fitness") and iHeater, LLC ("iHeater"), and together with Smooth Fitness, collectively, the "Borrowers" and each individually a "Borrower", as well as certain other documents, instruments and agreements executed by Borrowers their affiliates, pursuant to the Loan Agreement or in connection therewith (together with the Loan Agreement, collectively, the "Loan Documents"), Lender made loans and other financial accommodations to or for the benefit of the Borrowers (all such loans and other financial accommodations being herein referred to collectively as the "Loans"). The Loans and all other liabilities and obligations of the Borrowers to the Lender under the Loan Documents, howsoever created, arising or evidenced (collectively, the "Obligations"), are secured by a first priority, perfected lien on and security interest in substantially all of the Borrowers' assets in favor of Lender. Capitalized terms used but not defined herein shall have the meanings given to them in the Loan Agreement.

B. As a result of numerous continuing defaults in respect of the Obligations under the Loan Agreement, Lender has determined that it is entitled under Sections 9-610 et seq. of the Uniform Commercial Code applicable Uniform Commercial Code (the "UCC"), the Loan Documents and other applicable law to, among other things, sell and transfer to any person or entity for value all of the Borrowers' right, title and interest in and to any or all of the personal property subject to Lender's security interest (such assets are collectively referred to herein as the "Encumbered Assets") in one or more foreclosure sales.

C. Based on the foregoing, Lender desires to sell, transfer and deliver to Buyer, and Buyer desires to acquire from Lender for value in a private foreclosure sale pursuant to the UCC and on the terms and conditions hereinafter set forth, all of the Borrowers' right, title and interest in and to the Subject Assets (as hereinafter defined), which shall be surrendered by Borrowers to Buyer at the Closing (as hereinafter defined).

## AGREEMENT

**NOW THEREFORE**, in consideration of the mutual promises and agreements set forth herein, the parties hereto agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into and form an integral part of the agreement between the parties contained in this Agreement.

2. Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, in consideration of the Purchase Price (as hereinafter defined), at the Closing referred to in Section 4 hereof, pursuant to Sections 9-610 et seq. of the UCC and the Loan Documents, Lender shall sell, assign and transfer to the Buyer, and the Buyer shall purchase, acquire and take assignment of, all of the Borrowers' right, title and interest in and to all of the Encumbered Assets more particularly described on Schedule 2 attached hereto (all of which assets are hereinafter referred to collectively as the "Subject Assets"), whereupon Lender's liens on, and security interests in, the Subject Assets, and all liens and security interests, will be discharged.

2.1. Excluded Assets. Notwithstanding the foregoing, Lender is not selling, and the Buyer is not purchasing, any of those assets more particularly described on Schedule 2.1 hereto (such assets being referred to hereinafter as the "Excluded Assets"). Prior to the Closing Date, the Buyer may elect to exclude any of the Subject Assets from the sale hereunder, and the list of Excluded Assets in Schedule 2.1 shall be amended to include the assets Buyer elects to exclude, provided that no such exclusions shall result in any reduction of the Purchase Price (as hereinafter defined).

2.2. Compliance with Sections 9-610 et seq. It is the express intent of the parties hereto that the sale of the Subject Assets contemplated hereby be consummated pursuant to Sections 9-610 et seq. of the UCC. To the extent not waived in writing to the satisfaction of Lender and the Buyer, Lender has sent notices with respect to the foreclosure sale contemplated hereby to (i) any secondary obligor (as defined in the UCC), (ii) any person from whom Lender has received before the notification date (as defined in Section 9-611(a) of the UCC) an authentication notification of a claim of an interest in the Subject Assets, and (iii) any secured party or lienholder pursuant to Sections 9-611(c)(3)(B) (by compliance with Sections 9-611(e) and 9-611(c)(3)(C) of the UCC.

2.3. Limited Assumption of Obligations or Liabilities. The Buyer shall not assume or be deemed to assume any liabilities or accrued liabilities of the Borrowers. Lender shall not assume, nor shall any such party be deemed to have assumed, any liability or obligation of the Borrowers whatsoever.

2.4. Sale As Is; Where Is. Except as set forth in Section 7 hereof, Lender specifically disclaims (and the Buyer expressly agrees that Lender is not making or giving) any covenant, undertaking, representation or warranty, express or implied, in connection with this Agreement, the Subject Assets or any other matter relating hereto or thereto.

THE BUYER ACKNOWLEDGES AND AGREES THAT EXCEPT AS, AND ONLY TO THE EXTENT EXPRESSLY, SET FORTH HEREIN: (A) THE SALE OF SUBJECT ASSETS TO THE BUYER IS: WITHOUT RECOURSE TO THE LENDER; ON AN "AS IS, WHERE IS" BASIS; WITHOUT ANY REPRESENTATIONS OR WARRANTIES AS TO ITEMS, EXISTENCE, OWNERSHIP, TITLE, CONDITION, QUANTITY OR ANY OTHER MATTERS WHATSOEVER; (B) LENDER MAKES NO REPRESENTATION AS TO THE VALUE, IF ANY, OF THE SUBJECT ASSETS BEING TRANSFERRED HEREBY; (C) LENDER MAKES NO REPRESENTATIONS OR WARRANTIES THAT ALL OR A PORTION OF THE SUBJECT ASSETS ARE MERCHANTABLE (IN THE SENSE OF AN IMPLIED WARRANTY OF MERCHANTABILITY UNDER THE UCC OR OTHERWISE) OR FIT FOR A PARTICULAR PURPOSE; AND (D) THE SOLE REPRESENTATIONS AND WARRANTIES OF LENDER REGARDING THE SUBJECT ASSETS ARE THOSE SPECIFICALLY PROVIDED IN SECTION 7 OF THIS AGREEMENT.

3. Purchase Price.

3.1. For the purchase of the Subject Assets, the Buyer shall pay to Lender by wire transfer of immediately available funds in US Dollars the amounts set forth on Schedule 3 hereto (the "Purchase Price") pursuant to the wire instructions set forth on Schedule 3.

3.2. The Purchase Price shall be paid at the Closing. All amounts payable to Lender under this Agreement and all instruments, documents and agreements executed and/or delivered in connection herewith (collectively, the "Transaction Documents"), constitute proceeds of Lender's Collateral, and Lender's liens on and security interests in the Subject Assets shall immediately attach to and be perfected in the proceeds of the sale of the Subject Assets.

4. Closing.

4.1. Closing Date. The "Closing Date" shall mean the date upon which the Purchase Price is paid by the Buyer to Lender and the Borrowers' right, title and interest in the Subject Assets is transferred to the Buyer which shall occur on or before November \_\_, 2014 (the "Deadline").

4.2. Time and Place. The transfer and delivery of all documents and instruments necessary to consummate the transactions contemplated by this Agreement (the "Closing") shall be held at the offices of Blank Rome LLP, 405 Lexington Avenue, New York, New York 10174, on the Closing Date.

4.3. Transactions at Closing. At the Closing:

(a) Lender shall execute and deliver to the Buyer the General Assignment and Bill of Sale in substantially the form of Exhibit A hereto.

(b) The Buyer shall deliver to Lender the Purchase Price.

5. Taxes. Any personal property taxes, sales taxes, and transfer taxes arising as a result of the transactions and sales contemplated by this Agreement or any other Transaction Document shall be paid by the Buyer, it being understood that Lender shall cooperate at the Buyer's expense in taking advantage of any reasonably available exemption(s).

6. Representations, Warranties, and Covenants of the Buyer. The Buyer represents, warrants and covenants to Lender as follows:

6.1. Organization of the Buyer. The Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the State of Tennessee. The Buyer has all requisite power and authority (i) to purchase the Subject Assets under applicable law, (ii) to execute and deliver this Agreement and the other Transaction Documents, and (iii) to carry out all of the actions required of it pursuant to the terms of this Agreement and the other Transaction Documents.

6.2. Approval; Binding Effect. The Buyer has obtained all necessary authorizations and approvals required for the execution and delivery of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by the Buyer and constitutes the legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except to the extent that such enforcement is limited by principles of equity and laws relating to bankruptcy and creditors' rights. All approvals of the Buyer, including approval of its members and managers, if any required, to consummate the transactions provided for in this Agreement and the other Transaction Documents will have been obtained prior to the Closing. The Buyer has the absolute and unrestricted right, power, authority and capacity to purchase the Borrowers' right, title and interest in the Subject Assets and to enter into this Agreement and the other Transaction Documents. Neither the execution and delivery of this Agreement or the other Transaction Documents nor the consummation of the

transactions contemplated hereby and thereby will result in a breach of, or constitute a default (or with notice or lapse of time or both result in a breach of or constitute a default) under, or otherwise give any person or entity the right to terminate, any material license, contract or other agreement or instrument to which the Buyer is a party. Neither the execution and delivery by the Buyer of this Agreement or the other Transaction Documents nor the consummation of the transactions contemplated hereby and thereby will (A) violate or conflict with any provision of the articles of incorporation, by-laws, operating agreement or any other organizational documents of the Buyer, (B) violate or conflict with any provision of any law, rule, regulation, order, permit, certificate, writ, judgment, injunction, decree, determination, award or other decision of any court, government, governmental agency or instrumentality, domestic or foreign, or arbitration by which the Buyer is bound or affected or (C) result in a breach or violation of any license, contract or other agreement or instrument to which the Buyer is party, which violation, conflict, breach of default as described in clauses (A), (B) or (C) of this Section would have a materially adverse effect on the Buyer. The execution of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby are within the authority of the individual who shall execute this Agreement on behalf of the Buyer.

6.3. Brokers. The Buyer has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement.

6.4. Good Faith. The Buyer is acting in good faith (as such term is defined in Section 9-102(a)(43) of the UCC) in connection with this Agreement and the other Transaction Documents.

7. Representations, Warranties, and Covenants of Lender. Lender represents, warrants and covenants to the Buyer that:

7.1. Organization of Lender. Lender is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware. Lender has all requisite power and authority (i) to sell the Subject Assets under applicable law, (ii) to execute and deliver this Agreement and the other Transaction Documents to which it is a party, and (iii) to carry out all of the actions required of it pursuant to the terms of this Agreement and the other Transaction Documents to which it is a party.

7.2. Approval; Binding Effect. Lender has obtained all necessary authorizations and approvals required for the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Lender and constitutes the legal, valid and binding obligation of Lender,

enforceable against Lender in accordance with its terms, except to the extent that such enforcement is limited by principles of equity and laws relating to bankruptcy and creditors' rights. All approvals of Lender, if any required, to consummate the transactions provided for in this Agreement and the other Transaction Documents to which it is a party will have been obtained prior to the Closing. Lender has the absolute and unrestricted right, power, authority and capacity to sell Borrowers' right, title and interest in the Subject Assets and Lender has the absolute and unrestricted right, power, authority and capacity to enter into this Agreement and the other Transaction Documents to which it is a party. Neither the execution and delivery of this Agreement or the other Transaction Documents to which it is a party by Lender nor the consummation of the transactions contemplated hereby and thereby will result in a breach of, or constitute a default (or with notice or lapse of time or both result in a breach of or constitute a default) under, or otherwise give any person or entity the right to terminate, any material license, contract or other agreement or instrument to which Lender is a party. Neither the execution and delivery by Lender of this Agreement or the other Transaction Documents to which it is a party nor the consummation of the transactions contemplated hereby and thereby will (A) violate or conflict with any provision of the articles of incorporation, by-laws, operating agreement or any other organizational documents of Lender or (B) violate or conflict with any provision of any law, rule, regulation, order, permit, certificate, writ, judgment, injunction, decree, determination, award or other decision of any court, government, governmental agency or instrumentality, domestic or foreign, or arbitration by which Lender is bound or affected. The execution of this Agreement and the other Transaction Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby are within the authority of the individual who shall execute this Agreement on behalf of Lender.

7.3. Security Interest; Approvals. Lender has a valid, perfected and enforceable security interest in the Subject Assets.

7.4. Section 9-610 et seq. Lender has complied with the relevant provisions of Section 9-610 et seq. of the UCC to sell the Subject Assets to the Buyer in accordance with the provisions of this Agreement. To the extent not waived in writing to the satisfaction of Lender and the Buyer, Lender has sent notices with respect to the foreclosure sale contemplated hereby to (i) any secondary obligor (as defined in the UCC), (ii) any person from whom any of the Lender has received before the notification date (as defined in Section 9-611(a) of the UCC) an authentication notification of a claim of an interest in the Subject Assets, and (iii) any secured party or lienholder pursuant to Sections 9-611(c)(3)(B) (by compliance with Sections 9-611(e)) and 9-611(c)(3)(C) of the UCC.



7.5. Valid Obligations. All of the Obligations of the Borrowers to Lender are valid, binding, enforceable and due and owing, and the Borrowers are in default of such Obligations in a manner that vests in Lender the authority to sell the Subject Assets to the Buyer pursuant to this Agreement.

7.6. Brokers. Lender has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement,<sup>1</sup>

7.7. Good Faith. Lender is acting in good faith (as such term is defined in Section 9-102(a)(43) of the UCC) in connection with this Agreement and the transactions contemplated hereby.

8. Buyer's Conditions to Closing: Deliveries to the Buyer at Closing. The obligation of the Buyer to consummate the Closing shall be subject to the satisfaction, at or prior to Closing, of the following conditions (to the extent non-compliance is not waived in writing by the Buyer in its sole but reasonable discretion):

8.1. Bill of Sale. The Buyer shall have received the duly executed General Assignment and Bill of Sale in substantially the form of Exhibit A hereto, dated as of the Closing Date.

8.2. Termination and Release of Security Interest in Trademarks and Patents. The Buyer shall have received the duly executed Termination and Release of Security Interest in Trademarks and Patents in substantially the form of Exhibit B hereto, dated as of the Closing Date.

8.3. Representations and Warranties True. All representations, certifications and warranties of Lender hereunder shall be true as of the Closing Date in every material respect.

8.4. No Default. Lender shall have performed and complied with all agreements, covenants and conditions required by this Agreement and the other Transaction Documents, to be performed or complied with by such party, prior to or at the Closing.

8.5. No Statutes, Rules or Orders. There will be no statute, rule, regulation or order of any court or administrative agency in effect which prohibits Lender or the Buyer from consummating the transactions contemplated hereby.

8.6. Other Documents. The Buyer shall have received such other documents, instruments or certificates as the Buyer may reasonably request with respect to any matter

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<sup>1</sup> Steve: Please confirm.

relevant to this Agreement, the transfer of the Subject Assets or the transactions contemplated by this Agreement and the other Transaction Documents.

8.7. No Litigation. No action, inquiry or investigation shall have been instituted or pending which (unless dismissed with prejudice) is reasonably likely to make illegal, or to otherwise restrain or prohibit, the consummation of the transactions contemplated by this Agreement or the other Transaction Documents. There will be no stay, bankruptcy or insolvency petition, appointment of a receiver by or on behalf of any of the Borrowers or any other action, suit, proceeding or order against any of the Borrowers which would prohibit the consummation of the transaction contemplated by this Agreement or other Transaction Documents.

9. Lender's Conditions to Closing. The obligation of Lender to consummate the Closing shall be subject to the satisfaction, at or prior to Closing, of the following conditions (to the extent noncompliance is not waived in writing by Lender in its sole discretion):

9.1. Consideration Paid. Lender shall have received the Purchase Price payable to the Lender hereunder.

9.2. Lender shall have received a duly executed trademark license in substantially the same form of Exhibit C hereto, executed by the Buyer, regarding Smooth Fitness' sitNcycles and smoothXbikes inventory.

9.3. No Statutes, Rules or Orders. There will be no statute, rule, regulation or order of any court or administrative agency in effect which prohibits Lender or the Buyer from consummating the transactions contemplated hereby.

9.4. Representations and Warranties True. All representations, certifications and warranties of the Buyer hereunder shall be true as of the Closing Date in every material respect.

9.5. No Default. The Buyer shall have performed and complied with, in all material respects, all agreements, covenants and conditions required by this Agreement and the other Transaction Documents, to be performed or complied with by such party prior to or at the Closing.

9.6. No Litigation. No action, inquiry or investigation shall have been instituted or pending which (unless dismissed with prejudice) is reasonably likely to make illegal, or to otherwise restrain or prohibit, the consummation of the transactions contemplated by this Agreement or the other Transaction Documents. There will be no stay, bankruptcy or insolvency petition, appointment of a receiver by or on behalf of any

of the Borrowers or any other action, suit, proceeding or order against any of the Borrowers which would prohibit the consummation of the transaction contemplated by this Agreement or other Transaction Documents.

10. General.

10.1. Expenses. Except as otherwise agreed herein, all expenses of the preparation, execution and consummation of this Agreement and the other Transaction Documents and of the transactions contemplated hereby and thereby, including, without limitation, attorneys', accountants' and outside advisor's fees and disbursements, shall be borne by the party incurring such fees.

10.2. Notice. All notices, demands and other communications hereunder shall be in writing or by written telecommunication, and shall be deemed to have been duly given if delivered personally, if mailed by certified mail return receipt requested, if delivered by overnight courier, if mailed, postage prepaid, or if sent by written telecommunication, confirmation of receipt received, as follows:

If to Lender, to:

Siena Funding LLC  
1177 Summer Street  
Stamford, Connecticut 06905  
Attention: Steve Sanicola  
Email: [ssanicola@sienalending.com](mailto:ssanicola@sienalending.com)

With copies sent contemporaneously to:

Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, NY 10174  
Attn: Lawrence F. Flick II, Esq.  
Fax: (212) 832-5556  
Email: [Flick@blankrome.com](mailto:Flick@blankrome.com)

If to the Buyer, to:

TREADMILLDOCTOR.COM, Inc.  
3508 Tchulahoma Road  
Memphis, TN 38118-2170  
Attn: Jon Stevenson  
Fax: (877) 795-6386  
Email: jon@treadmilldoctor.com

With a copy sent contemporaneously to:

Robert Wayne McPherson  
McPherson Law Firm  
1621 Carr Avenue, Memphis, TN 38104-5015  
Fax: (901) 276-0710  
Email: bob@rwmcp.com

10.3. Entire Agreement. This Agreement and the related schedules, exhibits and agreements delivered in connection herewith contain the entire understanding of the parties with respect to the subject matter hereof, supersede all prior agreements and understandings relating to the subject matter hereof, and shall not be amended except by a written instrument hereafter signed by all of the parties hereto.

10.4. Governing Law. The validity and construction of this Agreement shall be governed by the internal laws of the State of New York without regard to principles of conflicts of laws.

10.5. Sections, Section Headings and Defined Terms. All enumerated subdivisions of this Agreement are herein referred to as "sections" or "subsections." The headings of the sections and subsections are for reference only and shall not limit or control the meaning thereof. Capitalized terms contained in the exhibits or schedules to this Agreement, which are not otherwise defined in such exhibits or schedules, shall have the meanings ascribed to them in this Agreement.

10.6. Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, and each such party's respective heirs, successors and assigns; provided, however, that no party may assign, whether absolutely or merely for collateral purposes, its rights, claims and benefits hereunder to any other person or entity without the express written consent of each of the other parties to this Agreement.

10.7. Further Assurances. From time to time, at the reasonable request of another party hereto, each party hereto shall execute and deliver such further instruments and take such further actions at the expense of the requesting party, as such requesting party may reasonably deem necessary or desirable in order to assure that the transfers, purposes and objectives of this Agreement and other Transaction Documents are fully accomplished.

10.8. No Implied Rights or Remedies. Except as otherwise expressly provided herein, nothing herein express or implied is intended or shall be construed to confer upon or to give any person, firm, or corporation other than the Lender and the Buyer, any rights or remedies under or by reason of this Agreement.

10.9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Any party hereto may execute and deliver a counterpart of this Agreement by delivering by facsimile or other electronic transmission a signature page of this Agreement signed by such party, and any such facsimile or similar electronic signature shall be treated in all respects as having the same effect as an original signature.

10.10. Schedules and Exhibits. The Schedules and Exhibits to this Agreement are an integral part hereof and are incorporated herein by reference.

**[Signature Page on the Following Page]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly respective officers as of the date and the year first above written.

LENDER:

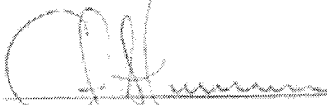
SIENA FUNDING LLC

By: \_\_\_\_\_  
Anthony Lavinio  
Director

By: \_\_\_\_\_  
Steven Sanicola  
Director

BUYER:

TREADMILL DOCTOR.COM, INC.

By:  \_\_\_\_\_  
Jon Stevenson  
President

ATTEST:  \_\_\_\_\_  
Clark Stevenson, Secretary

[Signature Page to Foreclosure and Sale Agreement (Treadmill Doctor)]

140690 011005 7453425v.6

**TRADEMARK**  
**REEL: 005408 FRAME: 0345**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly respective officers as of the date and the year first above written.

**LENDER:**

SIENA FUNDING LLC

By: \_\_\_\_\_

*Anthony Lavinio*  
Anthony Lavinio  
Director

By: \_\_\_\_\_

*Steven Sanicola*  
Steven Sanicola  
Director

**BUYER:**

TREADMILL DOCTOR.COM, INC.

By: \_\_\_\_\_

Jon Stevenson  
President

ATTEST: \_\_\_\_\_

Clark Stevenson, Secretary

[Signature Page to Foreclosure and Sale Agreement (Treadmill Doctor)]

140690.01005/7453425v.7

LIST OF SCHEDULES TO FORECLOSURE AND SALE AGREEMENT\*

Schedule 2	Subject Assets
Schedule 2.1	Excluded Assets
Schedule 3	Purchase Price and Wire Instructions

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\* Capitalized terms used but not defined in the Schedules have the meanings ascribed thereto in the Foreclosure and Sale Agreement



LIST OF EXHIBITS TO FORECLOSURE AND SALE AGREEMENT

- A. General Assignment and Bill of Sale
- B. Termination and Release of Security Interest in Trademarks and Patents
- C. Trademark License

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## SCHEDULE 2 - LIST OF SUBJECT ASSETS

Except for any Excluded Assets as set forth, and defined in, Schedule 2.1 to the Agreement, all of the Borrowers' right, title and interest in and to Borrowers' customer lists, databases (including the Sugar customer database), phone numbers (including (888) 800-1167 and (888) 211-1611), intellectual property, including without limitation, the patents, licenses, trademarks and registrations, set forth on Annex 1 and the websites, URLs, and domain names set forth on Annex 2, in each case exclusively held or used in connection with Borrowers' Legacy Fitness Business in which Lender has a perfected lien and security interest.

**ANNEX 1 TO SCHEDULE 2 – INTELLECTUAL PROPERTY**

Patents

None.

Trademarks

<b>Grantor</b>	<b>Trademark Title</b>	<b>Trademark Application Number and Country if not USA</b>	<b>Trademark Registration Number and Country if not USA</b>
Smooth Fitness, LLC	SMOOTH FITNESS	1441049 (Canada)	TMA783631 (Canada)
Smooth Fitness, LLC	SMOOTH FITNESS & Design	1443320 (Canada)	TMA818041 (Canada)
Smooth Fitness, LLC	DMT	77/006,246	3,414,959
Smooth Fitness, LLC	ELLIPTICYCLE	85/866,026	
Smooth Fitness, LLC	SMOOTH FITNESS & Design	77/674,497	3,846,000

**ANNEX 2 TO SCHEDULE 2 – DOMAIN NAMES**

<u>DomainName</u>	<u>TLD</u>	<u>Expiration Date</u>	<u>Status</u>	<u>Privacy</u>	<u>Locked</u>
1-800TREADMILL.COM	.com	2/23/2016	Active	Public	Locked
1-800TREADMILLS.COM	.com	2/23/2016	Active	Public	Locked
1800FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
1800TREADMILLS.COM	.com	2/16/2015	Active	Private	Locked
1888FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
AEROSLINGELITE.COM	.com	9/16/2015	Active	Public	Locked
AEROSLINGELITE.NET	.net	9/16/2015	Active	Public	Locked
ALLELLIPTICALREVIEWS.COM	.com	4/13/2015	Active	Public	Locked
ALLTREADMILLREVIEWS.COM	.com	4/13/2015	Active	Public	Locked
BESTFITNESSELLIPTICALTRAINER.COM	.com	7/25/2015	Active	Public	Locked
BESTHOMEUSETREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
BESTINCLINETREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
BESTPRICEDTREADMILL.COM	.com	7/25/2015	Active	Public	Locked
BESTREVIEWSELLIPTICALS.COM	.com	7/25/2015	Active	Public	Locked
BESTRUNNINGTREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
CALORIEBURNINGWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
CLEARANCEELLIPTICAL.COM	.com	4/25/2015	Active	Public	Locked
CLEARANCEELLIPTICALS.COM	.com	4/25/2015	Active	Public	Locked
CLEARANCETREADMILLS.COM	.com	4/25/2015	Active	Public	Locked
CROSSTRAININGBENEFITS.COM	.com	7/25/2015	Active	Public	Locked
CROSSTRAININGFORWOMEN.COM	.com	7/25/2015	Active	Public	Locked
CROSSTRAINWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
ELLIPTICALBUYINGGUIDE.COM	.com	10/18/2015	Active	Private	Locked
ELLIPTICALCLEARANCE.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALCONSUMERGUIDE.COM	.com	4/13/2015	Active	Public	Locked
ELLIPTICALFITNESSCROSSTRAINER.COM	.com	7/25/2015	Active	Public	Locked
ELLIPTICALGENIE.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALSADVISOR.COM	.com	4/25/2015	Active	Public	Locked

ELLIPTICALSFORCHEAP.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALSFORHOME.COM	.com	7/25/2015	Active	Public	Locked
EVOELLIPTICAL.COM	.com	3/17/2016	Active	Public	Locked
EVOELLIPTICALS.COM	.com	3/17/2016	Active	Public	Locked
FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
FOREVERGYM.COM	.com	2/27/2015	Active	Public	Locked
HIGHESTRADEELLIPTICALS.COM	.com	4/13/2015	Active	Public	Locked
HIGHESTRADEDTREADMILLS.COM	.com	4/13/2015	Active	Public	Locked
HOMEELLIPTICALEXERCISEMACHINES.COM	.com	7/25/2015	Active	Public	Locked
HOMEELLIPTICALSREVIEWS.COM	.com	7/25/2015	Active	Public	Locked
HOMEFITNESSMACHINES.COM	.com	3/23/2015	Active	Public	Locked
LOWIMPACTWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
MYELLIPTICYCLE.COM	.com	3/4/2015	Active	Public	Locked
MYSMOOTHTRAINER.COM	.com	9/21/2015	Active	Public	Locked
OFFICIALELLIPTICYCLE.COM	.com	3/4/2015	Active	Public	Locked
RUNNINGTREADMILLREVIEWS.COM	.com	7/25/2015	Active	Public	Locked
SMOOTHCOUPON.COM	.com	8/15/2015	Active	Public	Locked
SMOOTHFIT.CA	.ca	3/6/2017	Active	Public	Locked
SMOOTHFITNESS.COM	.com	2/15/2019	Active	Private	Locked
SMOOTHFITNESSBANKRUPT.COM	.com	9/12/2015	Active	Private	Locked
SMOOTHFITNESSCOUPONS.COM	.com	1/28/2015	Active	Private	Locked
SMOOTHFITNESSREVIEWS.COM	.com	6/9/2015	Active	Public	Locked
SMOOTHTREADMILL.COM	.com	5/1/2015	Active	Public	Locked
SMOOTHTREADMILLS.COM	.com	5/1/2015	Active	Public	Locked
SMOOTHVFIT.COM	.com	9/14/2015	Active	Public	Locked
TREADMILL-REVIEWS.COM	.com	4/23/2015	Active	Private	Locked
TREADMILLCLEARANCE.COM	.com	4/25/2015	Active	Public	Locked
TREADMILLCONSUMERGUIDE.COM	.com	4/13/2015	Active	Public	Locked
TREADMILLFATBURNINGWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
TREADMILLFORHOMEUSE.COM	.com	7/25/2015	Active	Public	Locked

TREADMILLGENIE.COM	.com	4/25/2015	Active	Public	Locked
TREADMILLSADVISOR.COM	.com	4/25/2015	Active	Public	Locked
TRUMOTIONFITNESS.COM	.com	7/14/2016	Active	Private	Locked
TRUPACE.COM	.com	7/28/2015	Active	Public	Locked
TRUPACEFITNESS.COM	.com	8/8/2015	Active	Public	Locked
WEIGHTLOSSTREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
WHERETOBUYATREADMILL.COM	.com	7/25/2015	Active	Public	Locked
smoothfitness.ca	.ca	4/13/2016	Active	Public	Locked

SCHEDULE 2.1 - EXCLUDED ASSETS

All assets and personal property of the Borrowers other than the Subject Assets.

**SCHEDULE 3 - PURCHASE PRICE AND WIRE INSTRUCTIONS**

"Purchase Price" means an aggregate of [REDACTED] payable to Lender.

**WIRE INSTRUCTIONS:**

Bank Name:	Wells Fargo Bank, NA
Bank Routing Number:	121 000 248
Account Name:	Siena Funding Depository Account
Account Number:	4986311751
Reference	Smooth Fitness/Treadmill Doctor



EXHIBIT A

**GENERAL ASSIGNMENT AND BILL OF SALE**

SIENA FUNDING LLC (the "Seller"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, convey, assign, transfer and deliver to TREADMILL DOCTOR.COM, INC., a Tennessee corporation (the "Buyer"), and its successors and assigns forever, pursuant to Section 9-610 et seq. of the applicable Uniform Commercial Code, the Loan Documents and other applicable law, all the right, title and interest of Smooth Fitness, LLC, a Delaware limited liability company, and iHeater, LLC, a Delaware limited liability company (the "Borrowers") in and to all of the personal property and assets of the Borrowers (collectively, the "Property") listed on Schedule I hereto.

EXCEPT AS EXPRESSLY SET FORTH IN THAT CERTAIN FORECLOSURE AND SALE AGREEMENT, DATED AS OF OCTOBER 31, 2014, BETWEEN SELLER AND THE BUYER, LENDER DOES NOT MAKE ANY REPRESENTATION, WARRANTY, COVENANT OR UNDERTAKING, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE OF ANY SPECIFIC ITEMS CONSTITUTING THE PROPERTY OR THE QUANTITY THEREOF, OR THE COMPANY'S BUSINESS OR PROSPECTS, OR THE CONDITION, QUALITY, MERCHANTABILITY (IN THE SENSE OF A UCC WARRANTY), FITNESS FOR A PARTICULAR PURPOSE OR VALUE OF THE PROPERTY; AND THE PROPERTY IS SOLD WITHOUT RECOURSE ON AN ABSOLUTE "AS IS, WHERE IS" BASIS.

On or after the date hereof, Lender will from time to time at the Buyer's reasonable request, execute and deliver such further instruments and take or cause to be taken such other action to carry out the effect, intent and purpose of the conveyance, assignment and transfer to the Buyer hereunder and otherwise in the carrying out of the intent and purposes of this General Assignment and Bill of Sale.

Dated this 31st day of October, 2014.

SIENA FUNDING LLC

By:



Anthony Lavinio  
Director

By:



Steven Sanicola  
Director

## SCHEDULE I

As used herein, the term "Subject Assets" shall mean:

Except for any Excluded Assets as set forth, and defined in, Schedule 2.1 to the Agreement, all of the Borrowers' right, title and interest in and to Borrowers' customer lists, databases (including the Sugar customer database), phone numbers (including (888) 800-1167 and (888) 211-1611), intellectual property, including without limitation, the patents, licenses, trademarks and registrations, set forth on Annex 1 and the websites, URLs, and domain names set forth on Annex 2, in each case exclusively held or used in connection with Borrowers' Legacy Fitness Business in which Lender has a perfected lien and security interest.

As used herein, the term "Excluded Assets" shall mean:

All assets and personal property of the Borrowers other than the Subject Assets.

**ANNEX 1 TO SCHEDULE I – INTELLECTUAL PROPERTY**

Patents

None.

Trademarks

<b>Grantor</b>	<b>Trademark Title</b>	<b>Trademark Application Number and Country if not USA</b>	<b>Trademark Registration Number and Country if not USA</b>
Smooth Fitness, LLC	SMOOTH FITNESS	1441049 (Canada)	TMA783631 (Canada)
Smooth Fitness, LLC	SMOOTH FITNESS & Design	1443320 (Canada)	TMA818041 (Canada)
Smooth Fitness, LLC	DMT	77/006,246	3,414,959
Smooth Fitness, LLC	ELLIPTICYCLE	85/866,026	
Smooth Fitness, LLC	SMOOTH FITNESS & Design	77/674,497	3,846,000
Smooth Fitness, LLC	Copyright: SitNCycle Deluxe Photographs and Advertising		VA 1-916-523

**ANNEX 2 TO SCHEDULE I – DOMAIN NAMES**

<u>DomainName</u>	<u>TLD</u>	<u>Expiration Date</u>	<u>Status</u>	<u>Privacy</u>	<u>Locked</u>
1-800TREADMILL.COM	.com	2/23/2016	Active	Public	Locked
1-800TREADMILLS.COM	.com	2/23/2016	Active	Public	Locked
1800FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
1800TREADMILLS.COM	.com	2/16/2015	Active	Private	Locked
1888FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
AEROSLINGELITE.COM	.com	9/16/2015	Active	Public	Locked
AEROSLINGELITE.NET	.net	9/16/2015	Active	Public	Locked
ALLELLIPTICALREVIEWS.COM	.com	4/13/2015	Active	Public	Locked
ALLTREADMILLREVIEWS.COM	.com	4/13/2015	Active	Public	Locked
BESTFITNESSELLIPTICALTRAINER.COM	.com	7/25/2015	Active	Public	Locked
BESTHOMEUSETREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
BESTINCLINETREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
BESTPRICEDTREADMILL.COM	.com	7/25/2015	Active	Public	Locked
BESTREVIEWSELLIPTICALS.COM	.com	7/25/2015	Active	Public	Locked
BESTRUNNINGTREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
CALORIEBURNINGWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
CLEARANCEELLIPTICAL.COM	.com	4/25/2015	Active	Public	Locked
CLEARANCEELLIPTICALS.COM	.com	4/25/2015	Active	Public	Locked
CLEARANCETREADMILLS.COM	.com	4/25/2015	Active	Public	Locked
CROSSTRAININGBENEFITS.COM	.com	7/25/2015	Active	Public	Locked
CROSSTRAININGFORWOMEN.COM	.com	7/25/2015	Active	Public	Locked
CROSSTRAINWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
ELLIPTICALBUYINGGUIDE.COM	.com	10/18/2015	Active	Private	Locked
ELLIPTICALCLEARANCE.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALCONSUMERGUIDE.COM	.com	4/13/2015	Active	Public	Locked
ELLIPTICALFITNESSCROSSTRAINER.COM	.com	7/25/2015	Active	Public	Locked
ELLIPTICALGENIE.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALSADVISOR.COM	.com	4/25/2015	Active	Public	Locked
ELLIPTICALSFORCHEAP.COM	.com	4/25/2015	Active	Public	Locked

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ELLIPTICALSFORHOME.COM	.com	7/25/2015	Active	Public	Locked
EVOELLIPTICAL.COM	.com	3/17/2016	Active	Public	Locked
EVOELLIPTICALS.COM	.com	3/17/2016	Active	Public	Locked
FLEXORING.COM	.com	4/21/2015	Active	Public	Locked
FOREVERGYM.COM	.com	2/27/2015	Active	Public	Locked
HIGHESTRATEDELLIPTICALS.COM	.com	4/13/2015	Active	Public	Locked
HIGHESTRATEDTREADMILLS.COM	.com	4/13/2015	Active	Public	Locked
HOMEELLIPTICALEXERCISEMACHINES.COM	.com	7/25/2015	Active	Public	Locked
HOMEELLIPTICALSREVIEWS.COM	.com	7/25/2015	Active	Public	Locked
HOMEFITNESSMACHINES.COM	.com	3/23/2015	Active	Public	Locked
LOWIMPACTWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
MYELLIPTICYCLE.COM	.com	3/4/2015	Active	Public	Locked
MYSMOOTHTRAINER.COM	.com	9/21/2015	Active	Public	Locked
OFFICIALELLIPTICYCLE.COM	.com	3/4/2015	Active	Public	Locked
RUNNINGTREADMILLREVIEWS.COM	.com	7/25/2015	Active	Public	Locked
SMOOTHCOUPON.COM	.com	8/15/2015	Active	Public	Locked
SMOOTHFIT.CA	.ca	3/6/2017	Active	Public	Locked
SMOOTHFITNESS.COM	.com	2/15/2019	Active	Private	Locked
SMOOTHFITNESSBANKRUPT.COM	.com	9/12/2015	Active	Private	Locked
SMOOTHFITNESSCOUPONS.COM	.com	1/28/2015	Active	Private	Locked
SMOOTHFITNESSREVIEWS.COM	.com	6/9/2015	Active	Public	Locked
SMOOTHTREADMILL.COM	.com	5/1/2015	Active	Public	Locked
SMOOTHTREADMILLS.COM	.com	5/1/2015	Active	Public	Locked
SMOOTHVFIT.COM	.com	9/14/2015	Active	Public	Locked
TREADMILL-REVIEWS.COM	.com	4/23/2015	Active	Private	Locked
TREADMILLCLEARANCE.COM	.com	4/25/2015	Active	Public	Locked
TREADMILLCONSUMERGUIDE.COM	.com	4/13/2015	Active	Public	Locked
TREADMILLFATBURNINGWORKOUTS.COM	.com	7/25/2015	Active	Public	Locked
TREADMILLFORHOMEUSE.COM	.com	7/25/2015	Active	Public	Locked
TREADMILLGENIE.COM	.com	4/25/2015	Active	Public	Locked
TREADMILLSADVISOR.COM	.com	4/25/2015	Active	Public	Locked

140690.01005/7453425v.6

TRUMOTIONFITNESS.COM	.com	7/14/2016	Active	Private	Locked
TRUPACE.COM	.com	7/28/2015	Active	Public	Locked
TRUPACEFITNESS.COM	.com	8/8/2015	Active	Public	Locked
WEIGHTLOSSTREADMILLS.COM	.com	7/25/2015	Active	Public	Locked
WHERETOBUYATREADMILL.COM	.com	7/25/2015	Active	Public	Locked
smoothfitness.ca	.ca	4/13/2016	Active	Public	Locked

**EXHIBIT B**

**TERMINATION AND RELEASE OF SECURITY INTEREST IN  
TRADEMARKS AND PATENTS**

This Termination and Release of Security Interest in Trademarks and Patents is effective as of October 31, 2014, by SIENA FUNDING LLC (the "Lender").

WHEREAS, a certain Patent and Trademark Security Agreement dated as of September 23, 2013, (as amended, restated, supplemented or otherwise modified from time to time, the "Intellectual Property Security Agreement"), was executed in favor of the Lender by and among Smooth Fitness, LLC, a Delaware limited liability company and iHeater, LLC, a Delaware limited liability company (collectively, the "Grantors") and Lender, pursuant to which the Grantors granted to Lender a security interest in certain of the Grantors' assets, including each of their Patents and Trademarks, as defined in the Intellectual Property Security Agreement, and as set forth in the Annex attached hereto; and

WHEREAS, the Intellectual Property Security Agreement was recorded (a) for Patents with the U.S. Patent and Trademark Office on November 18, 2013, at Reel 031664, Frame 0729 and (b) for Trademarks with the U.S. Patent and Trademark Office on November 18, 2013, at Reel 5155, Frame 0823.

NOW, THEREFORE, intending to be legally bound hereby, Lender hereby releases and terminates any and all rights, title and interests in and to the Patents and Trademarks, and hereby authorizes the Grantors or Grantors' authorized representatives to record this Termination and Release of Security Interest with the United States Patent and Trademark Office.

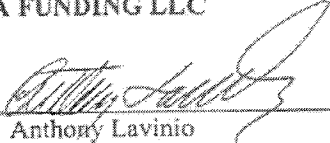
[REMAINDER OF PAGE LEFT BLANK]




IN WITNESS WHEREOF, Lender duly executes this Termination and Release of Security Interest in Trademarks and Patents, which is effective as of the day and year first written above.

SIENA FUNDING LLC

By:

  
\_\_\_\_\_  
Anthony Lavinio  
Director

By:

  
\_\_\_\_\_  
Steven Sanicola  
Director

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TRADEMARK  
REEL: 005408 FRAME: 0364

ANNEX I

Patents

None.

Trademarks

<b>Grantor</b>	<b>Trademark Title</b>	<b>Trademark Application Number and Country if not USA</b>	<b>Trademark Registration Number and Country if not USA</b>
Smooth Fitness, LLC	SMOOTH FITNESS	1441049 (Canada)	TMA783631 (Canada)
Smooth Fitness, LLC	SMOOTH FITNESS & Design	1443320 (Canada)	TMA818041 (Canada)
Smooth Fitness, LLC	DMT	77/006,246	3,414,959
Smooth Fitness, LLC	ELLIPTICYCLE	85/866,026	Abandoned
Smooth Fitness, LLC	SITNCYCLE	85/866,164	4,414,549
Smooth Fitness, LLC	SMOOTH BIKE & Design	86/155,264	Pending (Notice of Allowance issued 8/5/2014)
Smooth Fitness, LLC	SMOOTH FITNESS & Design	77/674,497	3,846,000
Smooth Fitness, LLC	Copyright: SitNCycle Deluxe Photographs and Advertising		VA 1-916-523

EXHIBIT C

TRADEMARK LICENSE

This Trademark License (the "License") is entered into as of October 31, 2014, by TREADMILL DOCTOR, a Tennessee corporation ("Licensor") in favor of any purchaser of Smooth Fitness' sitNcycles and smoothXbikes inventory in existence as of the date hereof ("Licensee").

Pursuant to that certain Foreclosure and Sale Agreement, dated as of the date hereof, by and among Licensor and Siena Funding I.L.C., Licensor grants a limited-scope, non-exclusive, non-transferrable, non-sublicensable, royalty-free license to Licensee to use Smooth Fitness, I.L.C.'s trademarks regarding Smooth Fitness' sitNcycles and smoothXbikes inventory.

TREADMILL DOCTOR.COM, INC.

By: \_\_\_\_\_

Jon Stevenson  
President

ATTEST: \_\_\_\_\_

Clark Stevenson, Secretary

**CONSENT AND ACKNOWLEDGMENT**

The Borrowers hereby approve and consent to this Agreement and the sale of the Subject Assets to Buyer under the terms and conditions set forth herein and irrevocably waive any and all of their rights in Subject Assets, pursuant to the UCC or otherwise. Buyer and each of the Borrowers acknowledges and agrees that this Agreement and the transactions described herein are commercially reasonable and that the Buyer is taking the Subject Assets free and clear of the Borrowers' right, title and interest in and to the Subject Assets. Each of the Borrowers hereby waives (i) any right to notice of the sale or disposition of the Subject Assets required under Section 9-611 of the UCC or otherwise, and (ii) any right to redeem any of the Subject Assets. Each of the Borrowers further covenants and agrees to (i) surrender possession of the Subject Assets to Buyer at Closing under the terms and conditions of this Agreement and the other Transaction Documents and (ii) provide to Buyer after the Closing reasonable access to Borrowers' records, information and personnel regarding the Subject Assets which Buyer did not acquire pursuant to this Agreement and the other Transaction Documents.

**SMOOTH FITNESS, LLC**

By:   
\_\_\_\_\_  
Harry C. Dugan  
Vice President & Chief Financial Officer

**IHEATER, LLC**

By:   
\_\_\_\_\_  
Harry C. Dugan  
Vice President & Chief Financial Officer