

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM333336

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Portrait Innovations, Inc.		02/26/2015	CORPORATION: DELAWARE
Portrait Innovations Holding Company		02/26/2015	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Fifth Third Bank		
<b>Street Address:</b>	201 N. Tryon St.		
<b>Internal Address:</b>	Suite 1700		
<b>City:</b>	Charlotte		
<b>State/Country:</b>	NORTH CAROLINA		
<b>Postal Code:</b>	28202		
<b>Entity Type:</b>	CORPORATION: OHIO		
<b>PROPERTY NUMBERS Total: 4</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2841139	PORTRAIT INNOVATIONS	
<b>Registration Number:</b>	3762912	THAT'S A PORTRAIT	
<b>Registration Number:</b>	4678898	IMAGE CAFE	
<b>Registration Number:</b>	4679153	ICAFE	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	9197831075		
<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>	919-783-2802		
<b>Email:</b>	johale@poynerspruill.com		
<b>Correspondent Name:</b>	John W. O'Hale		
<b>Address Line 1:</b>	301 Fayetteville St.		
<b>Address Line 2:</b>	Suite 1900		
<b>Address Line 4:</b>	Raleigh, NORTH CAROLINA 27601		
<b>NAME OF SUBMITTER:</b>	John W. O'Hale		
<b>SIGNATURE:</b>	/John W. O'Hale/		
<b>DATE SIGNED:</b>	02/26/2015		

OP \$115.00 2841139

**Total Attachments: 9**

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# Rider to Security Agreement – Trademarks

THIS RIDER TO SECURITY AGREEMENT (“Rider”) is executed as of this 26<sup>th</sup> day of February, 2015, by and between PORTRAIT INNOVATIONS, INC. and PORTRAIT INNOVATIONS HOLDING COMPANY, (collectively, the “Grantor”) with an address at 2016 Ayrley Town Blvd., Suite 200, Charlotte, NC 28273 and FIFTH THIRD BANK (the “Bank”), with an address at 201 North Tryon Street, Suite 1700, Charlotte, NC 28202. This Rider is incorporated into and made part of that certain Security Agreement (“Security Agreement”) between the Grantor and the Bank dated February 26, 2015, and also into certain other financing documents and security agreements executed by and between the Grantor and the Bank or by and between the Borrower (as defined in the Security Agreement) and the Bank (all such documents including this Rider being collectively referred to as “Loan Documents”). All capitalized terms not otherwise defined in this Rider shall have the same meanings ascribed to such terms in the other Loan Documents.

The Grantor has adopted, used and is using (or has filed applications, other than intent-to-use applications, for the registration of) the trademarks, service marks and trade names listed on Schedule “A” attached hereto and made part hereof (all such marks or names hereinafter referred to as the “Trademarks”).

The Bank desires to acquire a lien and security interest on the Trademarks and the registration thereof, together with all the goodwill of the Grantor associated therewith and represented thereby, as security for all of the Obligations (as defined in the Security Agreement) to the Bank, and the Bank desires to have its security interest in such Trademarks confirmed by a document identifying same and in such form that it may be recorded in the United States Patent and Trademark Office.

NOW, THEREFORE, with the foregoing background deemed incorporated by reference and made part hereof, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. Grant of Security Interest. In consideration of and pursuant to the terms of the Loan Documents, and for other good, valuable and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, and to secure payment and performance of the Obligations, the Grantor grants a lien and security interest to the Bank in all its present and future right, title and interest in and to the Trademarks, together with all the goodwill and other tangible assets of the Grantor associated with and represented by the Trademarks, and the non-intent-to-use applications for and registration thereof and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits.

2. Representations and Warranties. The Grantor represents, warrants and covenants that: (a) the Trademarks are subsisting and have not been abandoned, suspended, voluntarily terminated or canceled by the Grantor, have not been adjudged invalid or unenforceable, and to the best of the Grantor’s knowledge, there is no reason why the Trademarks should be adjudged invalid or unenforceable; (b) each of the Trademarks is valid and enforceable; (c) the Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, and each of the Trademarks is free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, licenses and covenants by the Grantor not to sue third persons except for liens granted herein and except for Permitted Liens; (d) the Grantor has the unqualified right to enter into this Rider and perform its terms; (e) the Grantor has used, and will continue to use for the duration of this Rider, proper notice, as required by 15 U.S.C. §§ 1051-1127 in connection with its use of the Trademarks; (f) the Grantor has used, and will continue to use for the duration of this Rider, consistent standards of quality in products leased or sold under the Trademarks; and (g) with respect to any Trademarks material to the business of the Grantor, the Grantor will not (and will not permit any licensee thereof to) do any act or knowingly omit to do any act whereby any of the Trademarks may become invalidated, abandoned,

unenforceable, avoided, avoidable or otherwise diminished in value, and shall notify the Bank immediately if it knows of any reason or has any reason to know of any grounds under which any of the foregoing may occur.

**3. Reserved.**

**4. Covenants.** The Grantor further covenants to the Bank that until all of the Obligations have been satisfied in full: (a) subject to the terms of this Rider, the Grantor shall maintain the Trademarks in full force and effect; (b) the Grantor will not enter into any agreements which are inconsistent with the Grantor's obligations under this Rider or which restrict or impair the Bank's rights hereunder; and (c) if the Grantor acquires rights to any new non-intent-to-use Trademarks, the provisions of this Rider shall automatically apply thereto and the Grantor shall give the Bank prompt written notice thereof along with an amended Schedule A; provided, however, that notwithstanding anything to the contrary contained in this Agreement, the Grantor shall have the right to enter into agreements in the ordinary course of business with respect to the Trademarks.

**5. Exclusive Use of Trademarks.** So long as this Rider is in effect and so long as the Grantor has not received notice from the Bank that an Event of Default has occurred under the Loan Documents and that the Bank has elected to exercise its rights to assignment hereunder, the Grantor shall continue to have the exclusive right to use the Trademarks including licenses thereof, and the Bank shall have no right to use the Trademarks or issue any exclusive or non-exclusive license with respect thereto, or assign, pledge or otherwise transfer title in the Trademarks to anyone else.

**6. Negative Pledge.** The Grantor agrees not to sell, assign (by operation of law or otherwise) or further encumber its rights and interest in the Trademarks without prior written consent of the Bank. The Grantor shall defend the Trademarks against and shall take other action as is necessary to remove any lien, security interest, claim, right or other encumbrance of any nature whatsoever in or to the Trademarks, and will defend the right, title and interest of the Bank in and to any of the Grantor's rights under the Trademarks against the claims or demands of all persons whatsoever, other than Permitted Liens.

**7. No Additional Trademarks.** As of the date hereof, the Grantor does not own any Trademarks, or have any Trademarks registered in or the subject of pending applications in the United States Patent and Trademark Office or any similar office or agency in any other country or any political subdivision thereof, other than those grants, registrations or applications for registrations listed on Schedule A annexed hereto and made a part hereof.

**8. Pledge of Additional Trademarks.** In the event the Grantor, either itself or through any agent, employee, licensee or designee shall:

(a) file or record an application for the registration of any Trademark with the United States Patent and Trademark Office or any similar office or agency of the United States, any State thereof, or any other country or any political subdivision thereof; or

(b) file or record any assignment of any Trademark which the Grantor may acquire, own or license from a third party, with the United States Patent and Trademark Office or any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof;

the Grantor shall promptly, but in no event more than fifteen (15) days subsequent to such filing, notify the Bank thereof, and, upon request of the Bank shall promptly, but in no event more than twenty (20) days subsequent to such notice, execute and deliver any and all assignments, agreements, instruments, documents and papers as the Bank may reasonably request to evidence the Bank's interest in such Trademark and the goodwill of the Grantor associated thereto or represented thereby. The Grantor hereby grants the Bank a power of attorney, irrevocable until the Obligations are fully paid and satisfied, to modify this Rider by amending Schedule A, as applicable, to include any future Trademarks or Licenses, including, without limitation, registrations or applications appurtenant thereto, covered by this Rider.

**9. Remedies Upon Default.** (a) Anything herein contained to the contrary notwithstanding, if and while an Event of Default occurs under the Loan Documents which is not cured during any applicable cure period, the Grantor hereby covenants and agrees that the Bank, as the holder of a security interest under the Uniform Commercial Code, may take such action permitted under the Loan Documents or permitted by law, in its exclusive discretion, to foreclose upon the Trademarks covered hereby.

(b) For such purposes, after the occurrence of an Event of Default under the Loan Documents not cured during any applicable cure period, the Grantor hereby authorizes and empowers the Bank to make, constitute and appoint any officer or agent of the Bank as the Bank may select, in its exclusive discretion, as the Grantor's true and lawful attorney-in-fact, with the power to endorse the Grantor's name on all applications, documents, papers and instruments necessary for the Bank to use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to anyone else, or necessary for the Bank to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. The Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof, except for the gross negligence or willful misconduct of such attorney. This power of attorney shall be irrevocable for the life of this Rider and the Loan Documents, and until all the Obligations are satisfied in full.

(c) The Grantor expressly acknowledges that this Rider shall be recorded with the Patent and Trademark Office in Washington, D.C.

**10. Subject to Security Agreement.** This Rider shall be subject to the terms, provisions, and conditions set forth in the Security Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

**11. Inconsistent with Security Agreement.** All rights and remedies herein granted to the Bank shall be in addition to any rights and remedies granted to the Bank under the Loan Documents. In the event of an inconsistency between (a) this Rider and the Loan Agreement, the language of the Loan Agreement shall control and (b) this Rider and the Security Agreement, the language of the Security Agreement shall control. The terms and conditions of the Security Agreement are hereby incorporated herein by reference.

**12. Termination of Agreement.** Upon payment and performance of all Obligations under the Loan Documents, the Bank shall execute and deliver to the Grantor all documents necessary to terminate any interest of the Bank therein.

**13. Prosecution of Trademark Applications.** (a) Subject to the terms of the Loan Documents, the Grantor shall have the duty to prosecute diligently any trademark application with respect to the Trademarks pending as of the date of this Rider or thereafter, until the Obligations shall have been satisfied in full, to preserve and maintain all rights in the registration and grant of the Trademarks, to halt any infringement of the Trademarks, and upon reasonable request of the Bank, the Grantor shall make federal application on registrable but unregistered trademarks belonging to the Grantor. Any reasonable expenses incurred in connection with such applications or defense of said Trademarks shall be borne by the Grantor. Subject to the terms of this Rider, including Section 2(g), the Grantor shall not abandon any Trademark without the written consent of the Bank.

(b) The Grantor shall have the right to bring suit in its own name to enforce the Trademarks, in which event the Bank may, if the Grantor deems it necessary or after an Event of Default under the Loan Documents, be joined as a nominal party to such suit if the Bank shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. The Grantor shall promptly, upon demand, reimburse and indemnify the Bank for all damages, reasonable costs and reasonable expenses, including attorneys' fees, incurred by the Bank in the fulfillment of the provisions of this paragraph.

**14. Responsibility and Liability.** The Grantor assumes all responsibility and liability arising from the use of the Trademarks, and hereby indemnifies and holds the Bank and each director, officer, employee, affiliate and agent thereof, harmless from and against any claim, suit, loss, damage or expense (including attorneys' fees and expenses) arising out of any alleged defect in any product manufactured, promoted or sold by the Grantor in

connection with any of the Trademarks or otherwise arising out of the Grantor's operation of its business from the use of the Trademarks. In any suit, proceeding or action brought by the Bank under any License for any sum owing thereunder, or to enforce any provisions of such License, the Grantor will indemnify and keep the Bank harmless from and against all expense, loss or damage suffered by reason of any defense, set off, recoupment, claim, counterclaim, reduction or liability whatsoever of the obligee thereunder or arising out of a breach of the Grantor of any obligation thereunder or arising out of any agreement, indebtedness or liability at any time owing to or in favor of such obligee or its successors from the Grantor, and all such Obligations of the Grantor shall be and remain enforceable against and only against the Grantor and shall not be enforceable against the Bank. This indemnity is given to supplement the indemnity granted to the Bank in Section 10.11 of the Loan Agreement. Notwithstanding the foregoing, the Grantor shall have no liability under this Section to the extent such liability has resulted primarily from the gross negligence or willful misconduct of the Bank or its directors, officers, employees, attorneys or agents.

**15. Bank's Rights.** The Bank may, in its sole discretion, pay any amount or do any act required of the Grantor hereunder or requested by the Bank to preserve, defend, protect, maintain, record or enforce the Grantor's obligations contained herein, the Obligations of the Grantor to the Bank, the Trademarks, or the right, title and interest granted the Bank herein, and which the Grantor fails to do or pay, and any such payment shall be deemed an advance by the Bank to the Grantor and shall be payable on demand together with interest thereon at the default rate specified in the Loan Documents.

**16. Protection of the Trademarks.** The Grantor agrees that if it learns of any use by any person or any term or design likely to cause confusion with any Trademark, or of any claim of any lien, security interest, claim, right or other encumbrance of any nature whatsoever in or to the Trademarks (other than Permitted Liens), the Grantor shall promptly notify the Bank of such use, lien, security interest, claim, right or other encumbrance and, if requested by the Bank, shall join with the Bank, at the Grantor's expense, in such action as the Bank, in its reasonable discretion, may deem advisable for the protection of the Bank's interest in and to the Trademarks, it being understood that the foregoing shall not preclude the Grantor from bringing an action against a person for the protection of the Grantor's interest in and to such Trademarks.

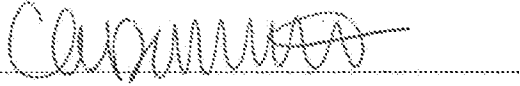
**17. Additional Remedies.** Upon the occurrence of an Event of Default under the Loan Documents (which is not cured during any applicable cure period), the Bank may, without any obligation to do so, complete any material obligation of the Grantor hereunder, in the Grantor's name or in the Bank's name, but at the Grantor's expense, and the Grantor hereby agrees to reimburse the Bank in full for all reasonable expenses, including reasonable attorney's fees, incurred by the Bank in protecting, defending and maintaining the Trademarks.

**18. Governing Law.** THIS RIDER WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE BANK'S OFFICE INDICATED ABOVE IS LOCATED, EXCLUDING ITS CONFLICT OF LAWS RULES, EXCEPT THAT THE FEDERAL LAWS OF THE UNITED STATES OF AMERICA SHALL GOVERN TO THE EXTENT APPLICABLE.

**19. Counterparts.** This Rider may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart. Any party so executing this Agreement by facsimile transmission shall promptly deliver a manually executed counterpart, provided that any failure to do so shall not affect the validity of the counterpart executed by facsimile transmission.

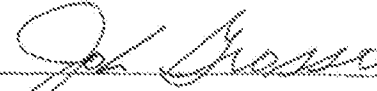
WITNESS the due execution hereof as a document under seal, as of the date first written above.

WITNESS / ATTEST:



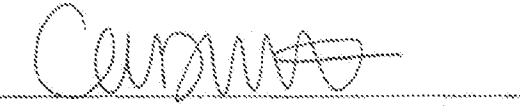
Print Name: Christine DeMaere Hoke  
Title: \_\_\_\_\_  
(include title only if an officer of entity signing to the right)

PORTRAIT INNOVATIONS, INC.

By:  (SEAL)

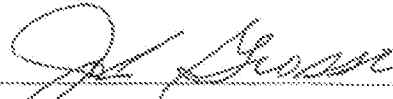
John Grasso, President and Chief Executive Officer

WITNESS / ATTEST:



Print Name: Christine DeMaere Hoke  
Title: \_\_\_\_\_  
(include title only if an officer of entity signing to the right)

PORTRAIT INNOVATIONS HOLDING COMPANY

By:  (SEAL)

John Grasso, President and Chief Executive Officer

FIFTH THIRD BANK

By: \_\_\_\_\_ (SEAL)  
Fred H. Bumgardner, Jr., Vice President

WITNESS the due execution hereof as a document under seal, as of the date first written above.

WITNESS / ATTEST:

PORTRAIT INNOVATIONS, INC.

.....

By: .....  
(SEAL)

Print Name: .....

John Grosso, President and Chief Executive Officer

Title: .....

(Include title only if an officer of entity signing to the right)

WITNESS / ATTEST:

PORTRAIT INNOVATIONS HOLDING  
COMPANY

.....

By: .....  
(SEAL)

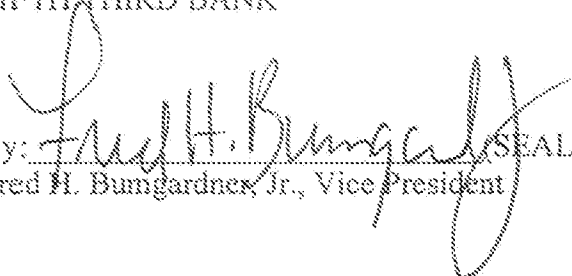
Print Name: .....

John Grosso, President and Chief Executive Officer

Title: .....

(Include title only if an officer of entity signing to the right)

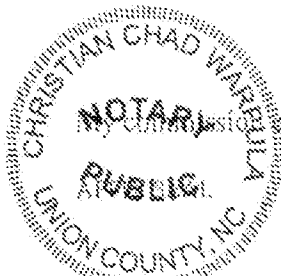
FIFTH THIRD BANK

By:  (SEAL)  
Fred H. Bungardner, Jr., Vice President



STATE OF NORTH CAROLINA )  
 )  
COUNTY OF UNION )

On this, the 24<sup>th</sup> day of February, 2015, before me, a Notary Public, the undersigned officer, John Grosso, personally appeared, who acknowledged himself to be the President and Chief Executive Officer of PORTRAIT INNOVATIONS, INC., a Delaware corporation, and that he, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said corporation, and the undersigned certifies that said officer is personally known to me or has produced a driver's license or \_\_\_\_\_ as identification.  
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

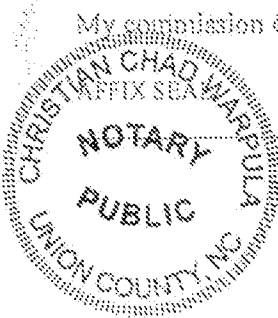


My commission expires: 11/2/17

Christian Chad Wapoula  
Notary Public  
Print Name CHRISTIAN CHAD WAPOULA

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF UNION )

On this, the 24<sup>th</sup> day of February, 2015, before me, a Notary Public, the undersigned officer, John Grosso, personally appeared, who acknowledged himself to be the President and Chief Executive Officer of PORTRAIT INNOVATIONS HOLDING COMPANY, a Delaware corporation, and that he, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said corporation, and the undersigned certifies that said officer is personally known to me or has produced a driver's license or \_\_\_\_\_ as identification.  
IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My commission expires: 11/2/17

Christian Chad Wapoula  
Notary Public  
Print Name CHRISTIAN CHAD WAPOULA

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

SS:

On this, the 25<sup>th</sup> day of FEBRUARY, 2015, before me, a Notary Public, the undersigned officer, personally appeared Fred H. Bumgardner, Jr. who acknowledged himself to be the Vice President of FIFTH THIRD BANK and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said bank as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

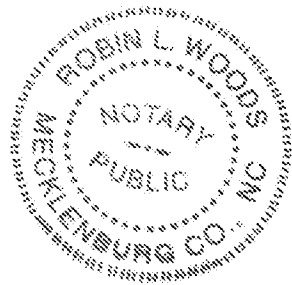
*Robin L Woods*

Notary Public

Print Name: ROBIN L. WOODS

My commission expires:

10-26-2018  
AFFIX SEAL



**SCHEDULE A TO RIDER TO SECURITY AGREEMENT - TRADEMARKS**

Mark	Application No.	Application Date	Registration No.	Registration Date	Status
PORTRAIT INNOVATIONS	76/425281	6/21/02	2841139	5/11/04	Registered
THAT'S A PORTRAIT	77/797893	8/5/09	3762912	3/23/10	Registered
PORTRAITPS.COM	85/479269	11/22/11	N/A	N/A	Abandoned
IMAGE CAFE	86/318818	6/24/14	4678898	1/27/15	Registered
ICAFE	86/383873	9/3/14	4679153	1/27/15	Registered