

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM464069

<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>
Charles Komar & Sons, Inc.		02/09/2018	Corporation: NEW YORK
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	San Francisco Mercantile Company, Inc.		
<b>Street Address:</b>	633 Battery Street, Ste. 100		
<b>City:</b>	San Francisco		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94111-1812		
<b>Entity Type:</b>	Corporation: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 22</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	86650978	RADIANT SPIRIT BY EILEEN WEST	
<b>Serial Number:</b>	86650965	EILEEN WEST	
<b>Registration Number:</b>	3844573	CLASSICS BY EILEEN WEST	
<b>Registration Number:</b>	3514279	EILEEN WEST	
<b>Registration Number:</b>	1900604	EILEEN WEST	
<b>Registration Number:</b>	1902757	EILEEN WEST	
<b>Registration Number:</b>	1470701	EILEEN WEST	
<b>Registration Number:</b>	1494607	EILEEN WEST	
<b>Registration Number:</b>	1955570	EILEEN WEST	
<b>Registration Number:</b>	1431188	EILEEN WEST	
<b>Registration Number:</b>	1463600	EW	
<b>Registration Number:</b>	1508614		
<b>Registration Number:</b>	2792719	E.W. STUDIO AN EILEEN WEST COMPANY	
<b>Registration Number:</b>	0946385	LANZ	
<b>Registration Number:</b>	3751906	LANZ ORIGINALS	
<b>Registration Number:</b>	1184867	LANZ OF SALZBURG	
<b>Registration Number:</b>	1518996	LANZ OF SALZBURG	
<b>Registration Number:</b>	4604076	LANZ OF SALZBURG	
<b>Registration Number:</b>	4604075	LANZ ORIGINALS	

OP \$565.00 86650978

Property Type	Number	Word Mark
Registration Number:	1260053	QUEEN ANNE'S LACE
Registration Number:	2906927	QUEEN ANNE'S LACE
Registration Number:	1891176	VIENNA NIGHTS

**CORRESPONDENCE DATA**

**Fax Number:** 2124480020  
*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:** 2124481800  
**Email:** trademark@rlllp.com  
**Correspondent Name:** Gregory N. Weisman  
**Address Line 1:** c/o Ritholz Levy Fields LLP  
**Address Line 2:** 235 Park Avenue South, 3rd Floor  
**Address Line 4:** New York, NEW YORK 10003

<b>NAME OF SUBMITTER:</b>	Gregory N. Weisman
<b>SIGNATURE:</b>	/GNW/
<b>DATE SIGNED:</b>	03/02/2018

**Total Attachments: 8**  
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SECURITY AGREEMENT

by and among

CHARLES KOMAR & SONS, INC.  
*(as Grantor)*

and

SAN FRANCISCO MERCANTILE CO., INC.  
*(as Secured Party)*

Dated as of February 2, 2018

LAZER, APTHEKER, ROSELLA & YEIBD, P.C.  
Melville Law Center  
225 Old Country Road  
Melville, NY 11747

## SECURITY AGREEMENT

This SECURITY AGREEMENT (this "Agreement") is made as of February 2, 2018 (the "Effective Date"), by and between CHARLES KOMAR & SONS, INC. (the "Grantor"), a corporation existing under the laws of the State of New York, and SAN FRANCISCO MERCANTILE CO., INC., a California corporation ("Secured Party"), with reference to the following facts.

### RECITALS

WHEREAS, Grantor and Secured Party are parties to a *Trademark Purchase and Assignment Agreement* of even date (the "TPA") whereby Grantor is obligated to make certain future payments to Secured Party, including without limitation the 2020 EWSF Payment (as such term is defined in the Trademark Purchase Agreement);

WHEREAS, Grantor and certain seller parties are parties to a *Membership Interest Purchase Agreement* of even date (the "MIPA") whereby Grantor is obligated to make certain future payments to such seller parties, including without limitation the 2019 LSC Payment and 2020 LSC Payment (as each such term is defined in the MIPA);

WHEREAS, in connection with its purchase of certain intellectual property of Secured Party and other rights purchased in the MIPA, Grantor has agreed to grant to Secured Party a first priority security interest in certain trademark assets purchased by Grantor from Secured Party, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

### AGREEMENT

1. DEFINITIONS. All capitalized terms not specifically defined in this Agreement retain their definitions in this TPA.
2. GRANT OF SECURITY INTEREST
  - (a) As collateral security for the prompt and complete payment by Grantor of each of: (i) the 2019 LSC Payment, (ii) the 2020 LSC Payment and (iii) the 2020 SFMC Payment (collectively, the "Future Installment Payment Obligations"), Grantor hereby grants to Secured Party a security interest in and to Grantor's entire rights, titles, and interests in the Transferred IP (as such term is defined in the TPA), presently meaning those registered and pending for registration trademarks described in the attached Exhibit "A" hereto (the "Current Trademarks") and incorporated herein by this reference.
  - (b) Secured Party shall promptly deliver or file such instruments and documents and take such further actions to perfect, continue the perfection or maintain the priority of Secured Party's security interest (collectively, the "Perfection Actions") in the Transferred IP.
  - (c) Grantor shall: (i) use commercially reasonable efforts to maintain the validity and enforceability of the Trademarks (including, without limitation, affirmatively taking action to eliminate infringements, filing renewals and required affidavits and declarations as required by foreign trademark offices); and (ii) not allow any Trademarks to be abandoned, cancelled, withdrawn, forfeited or dedicated to the public without the written consent of Secured Party, which shall not

be unreasonably withheld, unless Grantor determine that reasonable business practices suggest that abandonment or forfeiture is appropriate.

- (d) The rights granted to Secured Party herein shall additionally include hereafter adopted and/or derivative Trademarks each belonging to the same "EILEEN WEST" and "LANZ OF SALZBURG" family of trademarks which are used or licensed by Grantor to others to use (each a "Derivative Trademark" and, collectively with the Current Trademarks, the "Trademarks"), at the time Grantor first has rights in such Derivative Trademarks. By way of example, should Grantor itself or license to another the right to develop a sub-brand of apparel or related products called "EW New York," such sub-brand would be deemed a Derivative Trademark hereunder.
  - (e) This Agreement will create in favor of Secured Party a valid and perfected first priority security interest in the Trademarks to secure the payment of the Future Installment Payment Obligations.
  - (f) Grantor shall not enter into any agreement that would encumber the Trademarks hereunder without Secured Party's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party, any provisions that would in any way prevent the creation of a security interest in Grantor's rights and interests in any property included within the definition of the Trademarks acquired under such contracts.
  - (g) Within twenty (20) business days following Grantor's receipt of a written notice of default of any of the Future Installment Payment Obligations, Grantor will notify Secured Party in writing, with respect to the most current detailing of all then current Trademarks (including all Derivative Trademarks), and the status and local counsel contact for each, and of any license agreements relating to any Trademark, and of any known event that materially adversely affects the value of any Trademark, the ability of Grantor to transfer any Trademark, or any known fact materially affecting the rights and remedies of Secured Party in relation thereto, including the levy of any legal process against any of the Trademarks.
3. **SECURED PARTY'S RIGHTS.** Secured Party shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this Agreement to take but which Grantor fails to take, after fifteen (15) days' written notice to Grantor. Grantor shall reimburse and indemnify Secured Party for all reasonable and necessary costs and reasonable and necessary expenses incurred in the reasonable exercise of its rights under this section, provided that Secured Party has made diligent efforts to first confer with Grantor concerning the exercise of those rights by Secured Party.
4. **FURTHER ASSURANCES.**
- (a) On a continuing basis, Grantor will reasonably assist Secured Party to make, execute, acknowledge, and deliver, and file and record in the proper filing and recording places all such instruments, including appropriate financing and continuation statements and collateral agreements and, if applicable, filings with the relevant national, regional, and international trademark offices and other appropriate parties to assist Secured Party in filing and making the Perfection Actions.
  - (b) Grantor hereby irrevocably appoints Secured Party as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time-to-time in Secured Party's reasonable discretion, to take any action and to execute any instrument which is

necessary for the sole purposes of accomplishing the intent and purposes of this Agreement and Secured Party's performance thereon (provided that Secured Party has first made diligent and recorded efforts to notify and advise Grantor to take such actions prior to Grantor exercising its rights pursuant to this subsection, it being acknowledged and agreed that if Secured Party takes any action that is not, in fact, necessary to accomplish the intent and purposes of this Agreement and/or Secured Party's performance thereon, and such action causes actual damages to Grantor which damage[s] are not restored or cured by Secured Party within thirty (30) days of being taken, to the extent such damages are capable of being cured, Secured Party shall be liable for all damages incurred by Grantor as a result thereof), such actions of Secured Party including the right: (i) to complete the Perfection Actions; and (ii) to update, upon written notice and in good faith, the Trademark Assignment, without first obtaining Grantor's approval of or signature to such modification, as appropriate, to include reference to any Derivative Trademarks acquired or created by Grantor after the execution hereof, or to delete any reference to any right, title, or interest in any Trademarks in which Grantor no longer has or claims any right, title, or interest.

5. COOPERATION. Upon the request of Grantor, Secured Party and its Principal shall execute and deliver to Grantor all documentation required to effectuate and/or perfect the security interests granted herein in the Transferred IP. Each party shall execute and deliver to the other party any further documentation reasonably requested to effect or confirm the transfers and agreements contemplated by this Agreement.

6. MISCELLANEOUS.

(a) Specific Performance. Secured Party acknowledges and agrees that the breach of this Agreement may cause irreparable damage to Grantor and that Grantor may not have an adequate remedy at law. Therefore, the obligations of Secured Party under this Agreement shall be enforceable by a decree of specific performance issued by any court of competent jurisdiction, and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies shall, however, be cumulative and not exclusive and shall be in addition to any other remedies which any party may have under this Agreement or otherwise.

(b) Further Assurances. Secured Party and Grantor each agrees to execute and deliver such other documents or agreements and to take such other action as may be reasonably necessary or desirable for the implementation of this Agreement and the consummation of the security interest and other transactions contemplated hereby.

(c) Entire Agreement; Amendments and Waivers. This Agreement (including the schedules and exhibits hereto) represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any

other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.

- (d) Headings. The section headings of this Agreement are for reference purposes only and are to be given no effect in the construction or interpretation of this Agreement.
- (e) Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given (i) if by personal delivery, when so delivered, (ii) if mailed, five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth below, (iii) if given by facsimile, once such notice is transmitted to the facsimile number specified below and the appropriate answer back or telephonic confirmation is received, provided that such notice or other communication is promptly thereafter mailed in accordance with the provisions of clause (ii) above, or (iv) if sent through an overnight delivery service such as FedEx in circumstances to which such service guarantees next day delivery, the day following being so sent:

If to Secured Party, to:

San Francisco Mercantile Co., Inc.  
633 Battery St., Ste. 100  
San Francisco, CA 94111  
Attn: W. Laney Thornton  
Facsimile:

With a copy to:

Ritholz Levy Fields LLP  
235 Park Ave. South, third floor  
New York, NY 10003  
Attn: Gregory N. Weisman, Esq

If to Grantor, to:

Charles Komar & Sons, Inc.  
90 Hudson Street  
Jersey City, NJ 07302  
Attn: Harry Gaffney, C.F.O.  
Facsimile: 212-643-8618

With a copy to:

Lazer, Aptheker, Rosella & Yedid, P.C.  
225 Old Country Road  
Melville, New York 11747  
Attn: William A. Gartland, Esq.  
Facsimile: 631-761-0710

Any party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other parties notice in the manner herein set forth.

- (f) Severability. If any provision of this Agreement is invalid or unenforceable, the balance of this Agreement shall remain in effect.
- (g) Binding Effect; No Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third party beneficiary rights in any person or entity not a party to this Agreement except as provided below. No assignment of this Agreement or of any rights or obligations hereunder may be made by either Secured Party or Grantor (by operation of law or otherwise) without the prior written consent of the other parties hereto and any attempted assignment without the required consents shall be void.

[\*\*\*BALANCE OF PAGE INTENTIONALLY LEFT BLANK\*\*\*]



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

**GRANTOR:**

CHARLES KOMAR & SONS, INC.

By: \_\_\_\_\_  
Name: Charles E. Komar  
Title: CEO

**SECURED PARTY:**

SAN FRANCISCO MERCANTILE CO., INC.

By:  \_\_\_\_\_  
Name: W. Laney Thornton  
Title: President

[SIGNATURE PAGE TO SECURITY AGREEMENT]

**EXECUTION VERSION**

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

**GRANTOR:**

CHARLES KOMAR & SONS, INC.

By: 

Name: Charles E. Komar  
Title: President

**SECURED PARTY:**

SAN FRANCISCO MERCANTILE CO., INC.

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

Name: W. Laney Thornton  
Title: President

[SIGNATURE PAGE TO SECURITY AGREEMENT]