

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM556906

| | | | |
|---|-------------------------------|-----------------------|-------------------------------------|
| SUBMISSION TYPE: | NEW ASSIGNMENT | | |
| NATURE OF CONVEYANCE: | SECURITY INTEREST | | |
| CONVEYING PARTY DATA | | | |
| Name | Formerly | Execution Date | Entity Type |
| Blue Bell Mattress Company, LLC | | 12/28/2018 | Limited Liability Company: DELAWARE |
| RECEIVING PARTY DATA | | | |
| Name: | Ironwood Mezzanine Fund IV LP | | |
| Street Address: | 45 Nod Road | | |
| City: | Avon | | |
| State/Country: | CONNECTICUT | | |
| Postal Code: | 06001 | | |
| Entity Type: | Limited Partnership: DELAWARE | | |
| PROPERTY NUMBERS Total: 4 | | | |
| Property Type | Number | Word Mark | |
| Serial Number: | 88091355 | TERRASOMNA | |
| Serial Number: | 88030483 | ENVOY | |
| Serial Number: | 88030494 | ENVOY SLEEP | |
| Serial Number: | 88030498 | NATURAL ELEGANCE | |
| CORRESPONDENCE DATA | | | |
| Fax Number: | 8883259172 | | |
| <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> | | | |
| Phone: | 617-239-0567 | | |
| Email: | carla.hines@lockelord.com | | |
| Correspondent Name: | Carla Hines | | |
| Address Line 1: | 111 Huntington Avenue | | |
| Address Line 2: | Locke Lord LLP | | |
| Address Line 4: | Boston, MASSACHUSETTS 02199 | | |
| ATTORNEY DOCKET NUMBER: | 1568615.00003 | | |
| NAME OF SUBMITTER: | Carla Hines | | |
| SIGNATURE: | /s/ Carla Hines | | |
| DATE SIGNED: | 01/10/2020 | | |
| Total Attachments: 10 | | | |

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NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIEN AND SECURITY INTEREST HEREIN GRANTED, AND THE EXERCISE OF RIGHTS AND REMEDIES BY THE SECURED PARTY HEREUNDER, ARE SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AND SUBORDINATION AGREEMENT, DATED AS OF THE DATE HEREOF (AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE “INTERCREDITOR AGREEMENT”), AMONG BLUE BELL MATTRESS COMPANY, LLC, AS BORROWER, THE OTHER GRANTORS FROM TIME TO TIME PARTY THERETO, PEOPLE’S UNITED BANK, NATIONAL ASSOCIATION, AS SENIOR LENDER, IRONWOOD MEZZANINE FUND IV LP, IRONWOOD MEZZANINE FUND IV-A LP AND IRONWOOD MEZZANINE FUND IV-B LP, AS SUBORDINATE LENDERS, AND PEOPLE’S UNITED BANK, NATIONAL ASSOCIATION, AS CONTROL AGENT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE INTERCREDITOR AGREEMENT AND THIS AGREEMENT, THE TERMS OF THE INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

**SENIOR SUBORDINATED
PATENT AND TRADEMARK SECURITY AGREEMENT**

This Agreement, dated as of December 28, 2018, is made by and between Blue Bell Mattress Company, LLC, a Delaware limited liability company, having an address at 24 Thomson Road, East Windsor, CT 06088 (the “**Debtor**”), and Ironwood Mezzanine Fund IV LP, a Delaware limited partnership, as collateral agent (in such capacity, the “**Agent**”) on behalf of the Secured Parties (defined below), having a business location at 45 Nod Road, Avon, CT 06001.

Recitals

Ironwood Mezzanine Fund IV LP, Ironwood Mezzanine Fund IV-A LP, Ironwood Fund IV-B LP, each a Delaware limited partnership, as purchasers (in such capacity, collectively, the “**Secured Parties**”), the Agent, the Debtor, and certain other parties, are parties to a Senior Subordinated Note Purchase and Security Agreement dated as of December 8, 2017 (as the same may hereafter be amended, supplemented or restated from time to time, the “**Note Purchase Agreement**”) setting forth the terms on which the Secured Parties may now or hereafter extend credit to or for the account of the Debtor.

As a condition to extending credit to or for the account of the Debtor, the Agent, on behalf of the Secured Parties, has required the execution and delivery of this Agreement by the Debtor.

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 Note Purchase Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

“**Obligations**” means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Note Purchase Agreement) which the Debtor may now or at any time hereafter owe to the Secured Parties, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Note Purchase Agreement).

“**Patents**” means all of the Debtor’s right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

“**Security Interest**” has the meaning given in Section 2.

“**Trademarks**” means all of the Debtor’s right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. The Debtor hereby irrevocably pledges and assigns to, and grants the Agent, for the benefit of the Secured Parties, 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 Note Purchase Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of the Debtor. 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. The Debtor represents, warrants and agrees as follows:

(a) **Existence; Authority.** The Debtor is a limited liability company duly organized, validly existing and in good standing under the laws of its state of formation, and this Agreement has been duly and validly authorized by all necessary organizational action on the part of the Debtor.

(b) **Patents.** Exhibit A accurately lists all Patents owned or controlled by the Debtor as of the date hereof, or to which the Debtor 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, the Debtor 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 the Debtor shall within 60 days (or such longer period as agreed by the Agent in its sole discretion) provide written notice to the Agent with a replacement Exhibit A, which upon acceptance by the Agent shall become part of this Agreement.

(c) **Trademarks.** Exhibit B accurately lists all Trademarks owned or controlled by the Debtor 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 the Debtor's business(es). If after the date hereof, the Debtor owns or controls any Trademarks not listed on Exhibit B (other than common law marks which are not material to the Debtor's business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then the Debtor shall within 60 days (or such longer period as agreed by the Agent in its sole discretion) provide written notice to the Agent with a replacement Exhibit B, which upon acceptance by the Agent shall become part of this Agreement.

(d) [Reserved].

(e) **Title.** The Debtor has absolute title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. The Debtor (i) will have, at the time the Debtor 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.

(f) **No Sale.** Except as permitted in the Note Purchase Agreement, the Debtor will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without the Agent's prior written consent.

(g) **Defense.** The Debtor will, at its own expense, and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(h) **Maintenance.** The Debtor will, at its own expense, maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, 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. The Debtor 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 the Agent: (i) sufficient written notice, of at least thirty (30) days, to allow the Agent 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) **Agent's Right to Take Action.** If the Debtor 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 thirty (30) calendar days after the Agent gives the Debtor 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 the Debtor notifies the Agent that it intends to abandon a Patent or Trademark, the Agent 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 the Debtor (or, at the Agent's option, in the Agent's own name) and may (but need not) take any and all other actions which the Agent 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, the Debtor shall pay the Agent within ten (10) days after demand the amount of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees and disbursements) incurred by the Agent in connection with or as a result of the Agent taking action under Subsection (i) or exercising its rights under Section 6, together with interest at the Default Rate accruing thereon if not paid upon demand.

(k) **Power of Attorney.** To facilitate the Agent taking action under Subsection (i) and exercising its rights under Section 6, the Debtor hereby irrevocably appoints (which appointment is coupled with an interest) the Agent, on behalf of the Secured Parties, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time, while an Event of Default exists, to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, if necessary for the Secured Parties, while an Event of Default exists, 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. The Debtor 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 Note Purchase Agreement as provided therein and the payment and performance of all Obligations.

4. Debtor's Use of the Patents and Trademarks. The Debtor 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 exists.

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 Note Purchase Agreement, shall exist; or (b) the Debtor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. While an Event of Default exists, the Agent may, at its option, take any or all of the following actions:

(a) The Agent may exercise any or all remedies available under the Note Purchase Agreement.

(b) The Agent may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks and apply, toward the Obligations, the consideration and/or proceeds received in connection therewith.

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

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by (a) the Agent and (b) with respect to any amendments, modifications or waivers that impose additional Obligations on the Debtor, the Debtor. A waiver signed by the Agent shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the rights or remedies of the Agent on behalf of the Secured Parties. All rights and remedies of the Secured Parties shall be cumulative and may be exercised singularly or concurrently, at the Agent's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Note Purchase Agreement. The Agent shall not be obligated to preserve any rights the Debtor 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 shall be binding upon and inure to the benefit of the Debtor and the Agent, on behalf of the Secured Parties, and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Agent, and the Debtor waives notice of the Agent's acceptance hereof. The Agent may execute this Agreement if appropriate for the purpose

of filing, but the failure of the Agent 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 the Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of the State of New York without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

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THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

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

DEBTOR:

BLUE BELL MATTRESS COMPANY, LLC

By: 

Name: David Brault

Title: Chief Financial Officer

AGENT:

IRONWOOD MEZZANINE FUND IV LP

By: Ironwood Mezzanine Management IV
LLC, its General Partner

By  _____
Alex Levental, Managing Director

EXHIBIT A

None.

EXHIBIT B

| <u>Mark</u> | <u>Application No.</u> | <u>Application Date</u> | <u>Registration No.</u> | <u>Registration Date</u> |
|------------------|------------------------|-------------------------|-------------------------|--------------------------|
| TERRASOMNA | 88091355 | 8/24/2018 | | |
| ENVOY | 88030483 | 7/9/2018 | | |
| ENVOY SLEEP | 88030494 | 7/9/2018 | | |
| NATURAL ELEGANCE | 88030498 | 7/9/2018 | | |