

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

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SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
RESUBMIT DOCUMENT ID:	900626314		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Polar Corp.		11/19/2020	Corporation: MASSACHUSETTS
RECEIVING PARTY DATA			
Name:	Bank of America, N.A.		
Street Address:	100 Federal Street		
City:	Boston		
State/Country:	MASSACHUSETTS		
Postal Code:	02110		
Entity Type:	National Banking Association: UNITED STATES		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	5460013	CLEAR & SPARKLING	
Registration Number:	5899111		
Registration Number:	5864368	FRANNIE'S	
Registration Number:	4540465	MAKE IT SPARKLE	
Registration Number:	5388149	POLAR	
Registration Number:	4297796	REFRESHINGLY NATURAL	
Registration Number:	5292985	SELTZERADE	
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:	16172390567		
Email:	carla.hines@lockelord.com		
Correspondent Name:	Carla Hines		
Address Line 1:	111 Huntington Avenue		
Address Line 4:	Boston, MASSACHUSETTS 02199		
ATTORNEY DOCKET NUMBER:	1423830.00243		
NAME OF SUBMITTER:	Carla Hines		

SIGNATURE:	/s/ Carla Hines
DATE SIGNED:	07/30/2021
Total Attachments: 21 source=polartsa#page1.tif source=polartsa#page2.tif source=polartsa#page3.tif source=polartsa#page4.tif source=polartsa#page5.tif source=polartsa#page6.tif source=polartsa#page7.tif source=polartsa#page8.tif source=polartsa#page9.tif source=polartsa#page10.tif source=polartsa#page11.tif source=polartsa#page12.tif source=polartsa#page13.tif source=polartsa#page14.tif source=polartsa#page15.tif source=polartsa#page16.tif source=polartsa#page17.tif source=polartsa#page18.tif source=polartsa#page19.tif source=polartsa#page20.tif source=polartsa#page21.tif	

**TRADEMARK SECURITY AGREEMENT
AND
CONDITIONAL ASSIGNMENT
(POLAR CORP.)**

This TRADEMARK SECURITY AGREEMENT AND CONDITIONAL ASSIGNMENT (POLAR CORP.) (this "Agreement"), is dated as of November 19, 2020, and is entered into by and between **POLAR CORP.**, a Massachusetts corporation (the "Debtor"), and **BANK OF AMERICA, N.A.**, as agent (the "Secured Party") for the lenders (the "Lenders") party from time to time to that certain Third Amended and Restated Credit Agreement (the "Credit Agreement"), dated of even date herewith, among the Debtor, Adirondack Beverages Corp., a Delaware corporation ("Adirondack"), GA Beverage Plant Leasing LLC, a Delaware limited liability company ("GA Beverage"), Agent, and the Lenders.

WHEREAS, the Debtor, Adirondack, GA Beverage, the Secured Party and the Lenders have entered into the Credit Agreement for the purpose of providing loans to the Debtor, Adirondack and GA Beverage.

WHEREAS, in order to secure the timely payment and performance of all of the obligations under the Credit Agreement and the Loan Documents (as such term is defined in the Credit Agreement), the Debtor has granted a security interest and conditional assignment of the Collateral (as hereinafter defined) to the Secured Party, as agent for the Lenders, pursuant to a certain Amended and Restated Security Agreement (Polar Corp.), dated as of June 7, 2011 (as amended, restated or otherwise modified from time to time, the "Security Agreement") from Debtor in favor of Secured Party;

WHEREAS, as a condition of extending loans pursuant to the Credit Agreement, the Secured Party and the Lenders require that the Debtor enter into this Agreement to grant a security interest and conditional assignment pursuant to the Security Agreement in, among other things, all of the intangible assets of the Debtor, whether now owned or hereafter acquired, including trademarks, service marks, designs, logos, indicia, tradenames, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto (collectively, the "Trademarks").

WHEREAS, the Collateral (as such term is used herein) also includes all registrations that have been or may hereafter be issued or applied for thereon in the United States and any state thereof and in foreign countries (the "Registrations"), all common law and other rights in and to the Trademarks in the United States and any state thereof and in foreign countries (the "Trademark Rights"), all goodwill of Debtor's business symbolized by the Trademarks and

associated therewith, including without limitation the documents and things described in Section 1(b) (the “Associated Goodwill”), and all proceeds of the Trademarks, the Registrations, the Trademark Rights and the Associated Goodwill.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lenders to make loans and other extensions of credit under the Credit Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees with Secured Party as follows:

Section 1. Grant of Security. Debtor hereby (i) grants to Secured Party a security interest in all of Debtor’s right, title and interest in and to the following, in each case whether now or hereafter existing or in which Debtor now has or hereafter acquires an interest and wherever the same may be located (collectively, the “Collateral”) and (ii) acknowledges and agrees that the security interest granted by the Debtor to the Secured Party in the Collateral pursuant to this Agreement secures the complete payment and performance when due of all of the Secured Obligations, as amended and restated by the Credit Agreement and/or any of the Loan Documents:

(a) each of the Trademarks and rights and interests in Trademarks which are presently, or in the future may be, owned, held (whether pursuant to a license or otherwise) or used by Debtor, in whole or in part (including, without limitation, the Trademarks specifically identified in Schedule A annexed hereto, as the same may be amended pursuant hereto from time to time), and including all Trademark Rights with respect thereto and all federal, state and foreign Registrations therefor heretofore or hereafter granted or applied for, the right (but not the obligation) to register claims under any state or federal trademark law or regulation or any trademark law or regulation of any foreign country and to apply for, renew and extend the Trademarks, Registrations and Trademark Rights, the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of Debtor or in the name of Secured Party or otherwise for past, present and future infringements of the Trademarks, Registrations or Trademark Rights and all rights (but not obligations) corresponding thereto in the United States and any foreign country, and the Associated Goodwill; it being understood that the rights and interests included herein shall include, without limitation, all rights and interests pursuant to licensing or other contracts in favor of Debtor pertaining to the Trademarks, Registrations or Trademark Rights presently or in the future owned or used by third parties but, in the case of third parties which are not Affiliates (as such term is defined in the Credit Agreement) of Debtor, only to the extent permitted by such licensing or other contracts and, if not so permitted, only with the consent of such third parties;

(b) the following documents and things in Debtor’s possession, or subject to Debtor’s right to possession, related to (y) the production, sale and delivery by Debtor, or by any Affiliate, licensee, franchisee or subcontractor of Debtor, of products or services sold or delivered by or under the authority of Debtor in connection with the Trademarks, Registrations or Trademark Rights (which products and services shall, for purposes of this Agreement, be deemed

to include, without limitation, products and services sold or delivered pursuant to merchandising operations utilizing any Trademarks, Registrations or Trademark Rights); or (z) any retail or other merchandising operations conducted under the name of, or in connection with, the Trademarks, Registrations or Trademark Rights of Debtor or any Affiliate, licensee, franchisee or subcontractor of Debtor:

(i) all lists and ancillary documents that identify and describe any of Debtor's customers, or those of its Affiliates, licensees, franchisees or subcontractors, for products sold and services delivered under or in connection with the Trademarks or Trademark Rights, including, without limitation, any lists and ancillary documents that contain a customer's name and address, the name and address of any of its warehouses, branches or other places of business, the identity of the person or entity having the principal responsibility on a customer's behalf for ordering products or services of the kind supplied by Debtor, or the credit, payment, discount, delivery or other sale terms applicable to such customer, together with information setting forth the total purchases, by brand, product, service, style, size or other criteria, and the patterns of such purchases;

(ii) all product and service specification documents and production and quality control manuals used in the manufacture or delivery of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights;

(iii) all documents which reveal the name and address of any source of supply, and any terms of purchase and delivery, for any and all materials, components and services used in the production of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights; and

(iv) all documents constituting or concerning the then current or proposed advertising and promotion by Debtor or its Affiliates, licensees, franchisees or subcontractors of products and services sold or delivered under or in connection with the Trademarks or Trademark Rights including, without limitation, all documents which reveal the media used or to be used and the cost for all such advertising conducted within the described period or planned for such products and services;

(c) all general intangibles relating to the Collateral;

(d) all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data or processing software that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon; and

(e) all proceeds, products, rents and profits (including, without limitation, license royalties and proceeds of infringement suits) of or from any and all of the foregoing Collateral and, to the extent not otherwise included, all payments under insurance (whether or not

Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the Collateral.

For purposes of this Agreement, the term “proceeds” includes whatever is receivable or received when Collateral or proceeds are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

Notwithstanding the foregoing, Collateral shall exclude any intellectual property rights, contracts and agreements to the extent, and only to the extent, that such intellectual property right, contract or agreement contains a provision enforceable at law and in equity that would be breached by the grant of the security interest created herein pursuant to the terms of this Agreement; provided, however, that if and when any prohibition on the assignment, pledge or grant of a security interest in such intellectual property right, contract or agreement is removed, the Secured Party will be deemed to have been granted a security interest in such intellectual property right, contract or agreement as of the date hereof, and the Collateral will be deemed to include such intellectual property right, contract or agreement.

Section 2. Conditional Assignment. In addition to, and not by way of limitation of, the granting of a security interest in the Collateral pursuant to Section 1, Debtor hereby, effective only upon the occurrence and during the continuance of an Event of Default (as such term is defined in the Credit Agreement) and upon written notice from Secured Party and subject to the terms of this Agreement, grants, sells, conveys, transfers, assigns and sets over to Secured Party, for its benefit and the ratable benefit of the Lenders, all of Debtor’s right, title and interest in and to the Collateral, including, without limitation, Debtor’s right, title and interest in and to the Trademarks identified in Schedule A annexed hereto, the goodwill of the business symbolized by said Trademarks and all Registrations relating to said Trademarks.

Section 3. Security for Obligations. This Agreement secures, and the Collateral is collateral security for, the prompt payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a)), of all obligations and liabilities of every nature of Debtor, now or hereafter existing, under or arising out of or in connection with the Credit Agreement and all extensions, renewals, amendments, restatements, and amendments and restatements thereof, now or at anytime in the future, whether for principal, interest (including, without limitation, interest that, but for the filing of a petition in bankruptcy with respect to Debtor, would accrue on such obligations), fees, expenses, indemnities or otherwise, whether voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations or liabilities that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from Secured Party or any Lender as a preference, fraudulent

transfer or otherwise, together with all obligations of every nature of Debtor now or hereafter existing under this Agreement (collectively, the “Secured Obligations”).

Section 4. Debtor Remains Liable. Anything contained herein to the contrary notwithstanding, (a) Debtor shall remain liable under any contracts and agreements included in the Collateral, to the extent set forth therein, to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Secured Party of any of its rights hereunder shall not release Debtor from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) Secured Party shall not have any obligation or liability under any contracts and agreements included in the Collateral by reason of this Agreement, nor shall Secured Party be obligated to perform any of the obligations or duties of Debtor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

Section 5. Representations and Warranties. Debtor represents and warrants as follows:

(a) Description of Collateral. A true and complete list of all Trademarks, Registrations and Trademark Rights owned, held (whether pursuant to a license or otherwise) or used by Debtor, in whole or in part, that were registered, applied for or otherwise created or acquired by the Debtor on or after June 7, 2011 are set forth in Schedule A annexed hereto.

(b) Validity and Enforceability of Collateral. Each of the Trademarks, Registrations and Trademark Rights that is material to Debtor’s business is valid, subsisting and enforceable, and Debtor is not aware of any pending or, to Debtor’s knowledge, threatened claim by any third party that any such material Trademark, Registration or Trademark Right is invalid or unenforceable or that the use such of any material Trademark, Registration or Trademark Right violates the rights of any third person, or of any basis for any such claim.

(c) Ownership of Collateral. Except for any interests disclosed in Schedule B annexed hereto, if any, and any Liens (as such term is defined in the Credit Agreement) permitted by the terms of the Credit Agreement, (i) Debtor owns the Collateral free and clear of all Liens, (ii) no effective financing statement, security agreement, negative pledge agreement or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office, including, without limitation, the United States Patent and Trademark Office, in each case as of the date hereof.

Section 6. New Trademarks, Registrations and Trademark Rights.

(a) Debtor hereby authorizes Secured Party to modify this Agreement without obtaining Debtor’s approval of or signature to such modification by amending Schedule A annexed hereto to include reference to any right, title or interest in any existing Trademark, Registration or Trademark Right or any Trademark, Registration or Trademark Right acquired or developed by Debtor after the execution hereof or to delete any reference to any right, title or

interest in any Trademark, Registration or Trademark Right in which Debtor no longer has or claims any right, title or interest.

(b) If Debtor shall obtain rights to any new Trademarks, Registrations or Trademark Rights, the provisions of this Agreement shall automatically apply thereto. Debtor shall promptly notify Secured Party in writing of any Registrations issued or applications for Registration made after the date hereof. Concurrently with the filing of an application for Registration for any Trademark, Debtor shall execute, deliver and record in all places where this Agreement is recorded an appropriate Trademark Security Agreement and Conditional Assignment, substantially in the form hereof, with appropriate insertions, or an amendment to this Agreement, in form and substance satisfactory to Secured Party, pursuant to which Debtor shall grant a security interest and conditional assignment to the extent of its interest in such Registration as provided herein to Secured Party unless so doing would, in the reasonable judgment of Debtor, after due inquiry, result in the grant of a Registration in the name of Secured Party, in which event Debtor shall give written notice to Secured Party as soon as reasonably practicable and the filing shall instead be undertaken as soon as practicable but in no case later than immediately following the grant of the Registration.

Section 7. Certain Covenants of Debtor. Debtor shall:

(a) diligently keep reasonable records respecting the Collateral and at all times keep at least one complete set of its records concerning substantially all of the Trademarks and Registrations at its chief executive office or principal place of business;

(b) not permit the inclusion in any contract to which it becomes a party after the date hereof of any provision that could or might in any way impair or prevent the creation of a security interest in, or the assignment of, Debtor's rights and interests in any property included within the definitions of any Trademarks, Registrations, Trademark Rights and Associated Goodwill acquired under such contracts;

(c) take all steps reasonably necessary to protect the secrecy of all trade secrets relating to the products and services sold or delivered under or in connection with the Trademarks and Trademark Rights;

(d) use proper statutory notice in connection with its use of each of the Trademarks, Registrations and Trademark Rights; and

(e) use consistent standards of high quality in the manufacture, sale and delivery of products and services sold or delivered under or in connection with the Trademarks, Registrations and Trademark Rights.

Section 8. Certain Inspection Rights. Debtor hereby agrees that Secured Party and its employees, representatives and agents may visit Debtor's plants, facilities and other places of

business that are utilized in connection with the manufacture, production, inspection, storage or sale of products and services sold or delivered under any of the Trademarks, Registrations or Trademark Rights, and may inspect the quality control and all other records relating thereto, in accordance with Section 10.02 of the Credit Agreement.

Section 9. Amounts Payable in Respect of the Collateral. Except as otherwise provided in this Section, Debtor shall continue to collect, at its own expense, all amounts due or to become due to Debtor in respect of the Collateral or any portion thereof. In connection with such collections, Debtor may take (and, at Secured Party's direction, shall take) such action as Debtor or Secured Party may deem necessary or advisable to enforce collection of such amounts; provided, however, Secured Party shall have the right at any time, upon the occurrence and during the continuation of an Event of Default and upon written notice to Debtor of its intention to do so, to notify the obligors with respect to any such amounts of the existence of the security interest created, and the conditional assignment effected hereby, and to direct such obligors to make payment of all such amounts directly to Secured Party, and, upon such notification and at the expense of Debtor, to enforce collection of any such amounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as Debtor might have done. After receipt by Debtor of the notice from Secured Party referred to in the proviso to the preceding sentence, (i) all amounts and proceeds (including checks and other instruments) received by Debtor in respect of the Collateral or any portion thereof shall be received in trust for the benefit of Secured Party hereunder, shall be segregated from other funds of Debtor and shall be forthwith paid over or delivered to Secured Party in the same form as so received (with any necessary endorsement), and (ii) Debtor shall not adjust, settle or compromise the amount or payment of any such amount, or release wholly or partly any obligor with respect thereto or allow any credit or discount thereon.

Section 10. Trademark Applications and Litigation.

(a) Subject to Debtor's reasonable business judgment, Debtor shall have the duty, through counsel reasonably acceptable to Secured Party, to prosecute diligently any trademark application relating to any of the Trademarks specifically identified in Schedule A annexed hereto which are pending as of the date of this Agreement, to make federal application on any existing or future registerable but unregistered Trademarks, and to file and prosecute opposition and cancellation proceedings, renew Registrations and do any and all acts which are necessary or desirable to preserve and maintain all rights in all Trademarks, Registrations and Trademark Rights. Any expenses incurred in connection therewith shall be borne solely by Debtor. Subject to Debtor's reasonable business judgment, Debtor shall not abandon any Trademark, Registration or Trademark Right.

(b) Except as provided in Section 10(d) and notwithstanding Section 2, Debtor shall have the right to commence and prosecute in its own name, as real party in interest, for its own benefit and at its own expense, such suits, proceedings or other actions for infringement,

unfair competition, dilution or other damage as are in its reasonable business judgment necessary to protect the Collateral.

(c) Debtor shall promptly, following its becoming aware thereof, notify Secured Party of the institution of, or of any adverse determination in, any proceeding (whether in the United States Patent and Trademark Office or any federal, state, local or foreign court) described in Section 10(a) or 10(b) or regarding Debtor's claim of ownership in or right to use any Trademarks, Registrations or Trademark Rights, its right to register the same, or its right to keep and maintain such Registration. Debtor shall provide to Secured Party any information with respect thereto reasonably requested by Secured Party.

(d) Anything contained herein to the contrary notwithstanding, upon the occurrence and during the continuation of an Event of Default, Secured Party shall have the right (but not the obligation) to bring suit, in the name of Debtor, Secured Party or otherwise, to enforce any Trademark, Registration, Trademark Right, Associated Goodwill and any license thereunder, in which event Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all documents required by Secured Party in aid of such enforcement, and Debtor shall promptly, upon demand, reimburse and indemnify Secured Party as provided in Section 17 in connection with the exercise of its rights under this Section. To the extent that Secured Party elects not to bring suit to enforce any Trademark, Registration, Trademark Right, Associated Goodwill or any license thereunder as provided in this Section 10(d), Debtor agrees to use all reasonable measures, whether by action, suit, proceeding or otherwise, to prevent the infringement of any of the Trademarks, Registrations, Trademark Rights or Associated Goodwill by others and for that purpose agrees to diligently maintain any action, suit or proceeding against any person or entity so infringing, which is necessary to prevent such infringement.

Section 11. Reassignment of Collateral. If (a) an Event of Default shall have occurred and, by reason of cure, waiver, modification, amendment or otherwise, no longer be continuing, (b) no other Event of Default shall have occurred and be continuing, (c) an assignment to Secured Party of any rights, title and interests in and to the Collateral shall have been previously made and shall have become absolute and effective pursuant to the provisions of this Agreement, and (d) the Secured Obligations shall not have become immediately due and payable, upon the written request of Debtor and the written consent of Secured Party, Secured Party shall promptly execute and deliver to Debtor such assignments as may be necessary to reassign to Debtor any such rights, title and interests as may have been assigned to Secured Party as aforesaid, subject to any disposition thereof that may have been made by Secured Party pursuant hereto; provided that, after giving effect to such reassignment, Secured Party's security interest and conditional assignment granted hereunder shall continue to be in full force and effect; and provided, further that the rights, title and interests so reassigned shall be free and clear of all Liens other than Liens (if any) permitted by the terms of the Credit Agreement.

Section 12. Secured Party Appointed Attorney-in-Fact. Debtor hereby irrevocably appoints Secured Party as Debtor's attorney-in-fact, with full authority in the place and stead of

Debtor and in the name of Debtor, Secured Party or otherwise, from time to time in Secured Party's discretion to take any action and to execute any instrument that Secured Party may deem necessary or advisable, consistent with the terms of this Agreement, to accomplish the purposes of this Agreement, including without limitation:

(a) to endorse Debtor's name on all applications, documents, papers and instruments necessary for Secured Party in the use or maintenance of the Collateral;

(b) during the continuation of an Event of Default, to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (b) above;

(d) during the continuation of an Event of Default, to file any claims or take any action or institute any proceedings that Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of Secured Party with respect to any of the Collateral;

(e) to pay or discharge taxes or Liens (other than Liens permitted under the Credit Agreement) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Secured Party in its sole discretion, any such payments made by Secured Party to become obligations of Debtor to Secured Party, due and payable immediately without demand; and

(f) upon the occurrence and during the continuation of an Event of Default, (i) to execute and deliver any of the assignments or documents requested by Secured Party pursuant to Section 15(b), (ii) to grant or issue an exclusive or non-exclusive license to the Collateral or any portion thereof to any person or entity, and (iii) otherwise generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and Debtor's expense, at any time or from time to time, all acts and things that Secured Party deems necessary to protect, preserve or realize upon the Collateral and Secured Party's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as Debtor might do.

Section 13. Secured Party May Perform. If Debtor fails to perform any agreement contained herein, Secured Party may itself perform, or cause performance of, such agreement, and the expenses of Secured Party incurred in connection therewith shall be payable by Debtor upon demand.

Section 14. Standard of Care. The powers conferred on Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Secured Party shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of Collateral in its possession if such Collateral is accorded treatment substantially equal to that which Secured Party accords its own property.

Section 15. Remedies. If any Event of Default shall have occurred and be continuing:

(a) Secured Party may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code as in effect in any relevant jurisdiction (the "Code") (whether or not the Code applies to the affected Collateral), and also may (i) require Debtor to, and Debtor hereby agrees that it will at its expense and upon request of Secured Party forthwith, assemble all or part of the Collateral as directed by Secured Party and make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties, (ii) enter onto the property where any Collateral is located and take possession thereof with or without judicial process, (iii) prior to the disposition of the Collateral, store the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent Secured Party deems appropriate, (iv) take possession of Debtor's premises or place custodians in exclusive control thereof, remain on such premises and use the same for the purpose of taking any actions described herein, (v) exercise any and all rights and remedies of Debtor under or in connection with the contracts related to the Collateral or otherwise in respect of the Collateral, including, without limitation, any and all rights of Debtor to demand or otherwise require payment of any amount under, or performance of any provision of, such contracts, and (vi) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of Secured Party's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as Secured Party may deem commercially reasonable. Secured Party or any Lender may be the purchaser of any or all of the Collateral at any such sale and Secured Party, as agent for the Lenders, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price for any Collateral payable by Secured Party at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Debtor, and Debtor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Debtor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to Debtor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Secured Party

shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Debtor hereby waives any claims against Secured Party arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if Secured Party accepts the first offer received and does not offer such Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Debtor shall be liable for the deficiency and the fees of any attorneys employed by Secured Party to collect such deficiency.

(b) Upon written demand from Secured Party, Debtor shall execute and deliver to Secured Party a confirmatory written assignment or assignments of the Trademarks, Registrations, Trademark Rights and the Associated Goodwill and such other documents as are necessary or appropriate to carry out the intent and purposes of this Agreement; provided that the failure of Debtor to comply with such demand will not impair or affect the validity of the conditional assignment effected by Section 2 or its effectiveness upon notice by Secured Party as specified in Section 2. Debtor agrees that such assignment (including, without limitation, the conditional assignment effected by Section 2) and/or recording shall be applied to reduce the Secured Obligations outstanding only to the extent that Secured Party (or any Lender) receives cash proceeds in respect of the sale of, or other realization upon, the Collateral.

Section 16. Application of Proceeds. Except as otherwise expressly required by the terms of this Agreement, upon the occurrence and continuance of an Event of Default, all proceeds received by Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may be applied against the Secured Obligations in any order as determined in the sole discretion of the Secured Party, including, without limitation, to the payment of all costs and expenses of such sale, collection or other realization, and all other expenses, liabilities and advances made or incurred by Secured Party in connection therewith, and all amounts for which Secured Party is entitled to indemnification hereunder and all advances made by Secured Party hereunder for the account of Debtor.

Section 17. Indemnity.

(a) Indemnification. The Debtor shall (to the fullest extent permitted by applicable law) indemnify the Secured Party and the Lenders and their respective directors, officers, employees, attorneys and agents from, and hold each of them harmless against, any and all losses, liabilities, claims or damages to which any of them may become subject, insofar as such losses, liabilities, claims or damages arise out of, or in any way relate to, or result from the operation of this Agreement or the exercise of the rights of the Agent or the Lenders hereunder, or from any investigation, litigation or other proceeding (including any threatened investigation or proceeding) relating to the foregoing, and the Debtor shall reimburse the Agent and each Lender and their respective directors, officers, employees, attorneys and agents, upon demand,

for any expenses (including legal fees) incurred in connection with any such losses, liabilities, claims, damages or expenses (but excluding any such losses, liabilities, claims, damages or expenses to the extent caused by action taken which constitutes the gross negligence or willful misconduct of the person or entity to be indemnified). If and to the extent that the obligations of the Debtor under the preceding sentence may be unenforceable for any reason, the Debtor shall make the maximum contribution to the payment and satisfaction of each of the losses, liabilities, claims, damages and expenses referred to above as may be permitted by applicable law.

(b) Contribution. If and to the extent that the obligations of the Debtor under this Section are unenforceable for any reason, the Debtor hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations that is permissible under applicable law.

(c) Survival. The obligations of the Debtor contained in this Section shall survive the termination of this Agreement and the discharge of the Debtor's other obligations hereunder and under the Credit Agreement.

(d) Security. Any amounts paid by an Indemnitee as to which such Indemnitee has the right to reimbursement shall constitute Secured Obligations secured by the Collateral.

Section 18. Miscellaneous.

(a) No Waiver; Cumulative Remedies. No failure or delay on the part of the Secured Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The remedies herein provided are cumulative and not exclusive of any remedies provided by law or otherwise available to the Secured Party. The Secured Party's remedies may be exercised without resort or regard to any other source of satisfaction of any liabilities of the Debtor to the Secured Party. The provisions of this Agreement are not in derogation or limitation of any obligations, liabilities or duties of the Debtor under any other documents related hereto or any other agreement with or for the benefit of the Secured Party on behalf of the Lenders. No inconsistency in default provisions between this Agreement and any other related documents will be deemed to create any additional grace period or otherwise derogate from the express terms of each such default provision. No covenant, agreement or obligation of the Debtor contained herein, nor any right or remedy of the Secured Party contained herein, shall in any respect be limited by or be deemed in limitation of any inconsistent or additional provisions contained in any other related documents.

(b) Restoration of Rights. In the event the Secured Party shall have instituted any proceeding to enforce any right, power or remedy under this Agreement by foreclosure, sale, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Secured Party, then and in every such case,

the Debtor and the Secured Party shall be restored to their respective former positions and rights hereunder with respect to the Collateral, and all rights, remedies and powers of the Secured Party shall continue as if no such proceeding had been instituted.

(c) Amendments. No amendment, modification, supplement, termination or waiver of any provision of this Agreement, nor consent to any departure by the Debtor therefrom, shall be effective unless the same shall be authorized by the terms of the Credit Agreement, shall be in writing, and shall be signed by the Secured Party. Any such amendment, modification, supplement, waiver or consent to any departure by the Debtor from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. Except where notice is specifically required by this Agreement or the Credit Agreement, no notice to or demand on the Debtor in any case shall entitle the Debtor to any other or further notice or demand in similar or other circumstances.

(d) Termination; Release. When all of the Secured Obligations (other than Secured Obligations in the nature of continuing indemnities or expense reimbursement obligations not yet due and payable) have been indefeasibly paid in full and have been terminated, and the commitments of the Lenders to make any loan pursuant to the Credit Agreement have expired, this Agreement shall terminate. Upon termination of this Agreement, and the delivery by the Debtor to the Secured Party of a general release in form and substance satisfactory to the Secured Party, the Secured Party shall, upon the request and at the expense of the Debtor, forthwith assign, transfer and deliver to the Debtor, against receipt and without recourse to or warranty by the Secured Party, such of the Collateral to be released as may then be in the possession of the Secured Party, on the order of, and at the expense of, the Debtor, and proper instruments (including discharges to be filed with the United States Patent and Trademark Office, and UCC termination statements on Form UCC-3) acknowledging the termination of this Agreement or the release of such Collateral, as the case may be.

(e) Notices. Unless otherwise provided herein, any notice or other communication herein required or permitted to be given shall be given in accordance with the terms of the Credit Agreement.

(f) Continuing Security Interest; Assignment. This Agreement shall create a continuing security interest in the Collateral and shall be binding upon the Debtor, its permitted successors and assigns, and shall inure to the benefit of the Lenders and their successors, transferees and assigns; no other persons or entities (including, without limitation, any other creditor of the Debtor) shall have any interest herein or any right or benefit with respect hereto. The Lenders may assign or otherwise transfer any indebtedness held by them and secured by this Agreement to any other person or entity in accordance with the provisions of the Credit Agreement, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to such the Secured Party, herein or otherwise.

(g) Part of Loan Documents. This Agreement constitutes one of the Loan Documents, as such term is defined in the Credit Agreement.

(h) Governing Law. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of laws, except to the extent that the UCC provides that the validity or perfection of the security interest hereunder, or remedies hereunder, in respect of any particular portion of the Collateral are governed by the laws of a jurisdiction other than Massachusetts. Terms used in Articles 8 or 9 of the UCC in Massachusetts are used in this Agreement as therein defined.

(i) Consent to Jurisdiction. The Debtor irrevocably submits to the non-exclusive jurisdiction of any Massachusetts court or any federal court sitting within The Commonwealth of Massachusetts over any suit, action or proceeding arising out of or relating to this Agreement. The Debtor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in such a court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum.

(j) WAIVER OF JURY TRIAL. THE DEBTOR HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING TO WHICH IT IS A PARTY INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY MANNER ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER.

(k) Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

(l) Execution in Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such counterparts together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

(m) Headings. The Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(n) Future Advances. This Agreement shall secure the payment of any amounts advanced from time to time pursuant to the Credit Agreement.

IN WITNESS WHEREOF, the Debtor has caused this Agreement to be executed and delivered under seal by its duly authorized officer as of the date first above written.

POLAR CORP.

By: Michael J. Murphy
Name: Michael J. Murphy
Title: Chief Financial Officer

(Signature Page to Trademark Security Agreement)

(POLAR CORP.)

ACKNOWLEDGED AND CONSENTED:

BANK OF AMERICA, N.A., as Secured Party

By: Christine M. Trotter

Name: Christine M. Trotter




Title: Assistant Vice President

(Signature Page to Trademark Security Agreement)
(POLAR CORP.)

TRADEMARK
REEL: 007368 FRAME: 0107

SCHEDULE A



United States Trademark Registrations

<u>Registered Owner</u>	<u>Trademark Description</u>	<u>Registration Number</u>	<u>Registration Date</u>
Polar Corp.	CLEAR & SPARKLING (Stylized)	5460013	May 1, 2019
Polar Corp.	 Design Only	5899111	October 29, 2019
Polar Corp.	FRANNIE'S	5864368	September 17, 2019
Polar Corp.	MAKE IT SPARKLE	4540465	August 12, 2020
Polar Corp.	 POLAR (Stylized)	5388149	January 23, 2018
Polar Corp.	REFRESHINGLY NATURAL	4297796	March 16, 2018
Polar Corp.	 SELTZERADE (Stylized)	5292985	September 19, 2017

United States Trademark Applications

N/A

Foreign Trademark Applications

<u>Registered Owner</u>	<u>Trademark Description</u>	<u>Registration / Application Number</u>	<u>Country</u>
Polar Corp.	POLAR	5706	Bonaire, Saint Eustatius and Saba
Polar Corp.	POLAR	51826	Cambodia
Polar Corp.	<u>Design Only</u>	31638992	China
Polar Corp.	<u>POLAR and Design</u>	31638990	China
Polar Corp.	<u>POLAR and Design</u>	31638991	China
Polar Corp.	<u>POLAR and Design</u>	46623793	China
Polar Corp.	<u>POLAR</u>	16396	Curaçao
Polar Corp.	<u>SUGAR FREE AMERICOLA and Design</u> 	F115397	Greece
Polar Corp.	<u>POLAR</u>	PR 212145	Puerto Rico
Polar Corp.	<u>POLAR and Design</u>  AN: 874081	874081	Thailand

Polar Corp.	POLAR	4-0227485-000	Viet Nam
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Unregistered Trademarks

None.

SCHEDULE B

Other Interests

None.