

04-20-2000



101326491

03-27-2000

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

New

Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_

Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Conveyance Type

Assignment  License

Security Agreement  Nunc Pro Tunc Assignment

Merger

Change of Name

Other \_\_\_\_\_

Effective Date  
Month Day Year  
03 21 2000

Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name Flooring America, Inc.

Formerly \_\_\_\_\_

Individual  General Partnership  Limited Partnership  Corporation  Association

Other \_\_\_\_\_

Citizenship/State of Incorporation/Organization Delaware

Receiving Party

Mark if additional names of receiving parties attached

Name State Street Bank and Trust Company, as Trustee

DBA/AKA/TA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) Goodwin Square, 225 Asylum Street

Address (line 2) \_\_\_\_\_

Address (line 3) \_\_\_\_\_ Hartford, CT 06103  
City State/Country Zip Code

Individual  General Partnership  Limited Partnership  If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation  Association

Other Massachusetts Trust Company

Citizenship/State of Incorporation/Organization Massachusetts

04/20/2000 JJALLAN2 00000046 75731928

FOR OFFICE USE ONLY

01 FC:481  
02 FC:482

40.00 OP  
1175.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK  
REEL: 002059 FRAME: 0958

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments. #

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**

<input type="text"/>	<input type="text" value="75731928"/>	<input type="text" value="75693544"/>
<input type="text" value="75769527"/>	<input type="text" value="75699867"/>	<input type="text" value="22635736"/>
<input type="text" value="75731927"/>	<input type="text" value="75699868"/>	<input type="text" value="75433434"/>

<input type="text" value="1873957"/>	<input type="text" value="1859007"/>	<input type="text" value="1616209"/>
<input type="text" value="1862102"/>	<input type="text" value="1843048"/>	<input type="text" value="1583764"/>
<input type="text" value="1843344"/>	<input type="text" value="1863792"/>	<input type="text" value="2123486"/>

**Number of Properties**

Enter the total number of properties involved. #

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed  Deposit Account

Deposit Account (Enter for payment by deposit account or if additional fees can be charged to the account.)  
Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

*MARSHA FINCHER*

*Marsha Fincher*

*3/24/00*

Name of Person Signing

Signature

Date Signed

**RECORDATION FORM COVER SHEET  
CONTINUATION  
TRADEMARKS ONLY**

FORM PTO-1618C  
Expires 06/30/99  
OMB 0851-0027

U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

**Conveying Party**

Enter Additional Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name

Formerly

Individual  General Partnership  Limited Partnership  Corporation  Association

Other

Citizenship State of Incorporation/Organization

**Receiving Party**

Enter Additional Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

Individual  General Partnership  Limited Partnership

Corporation  Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

**CONDITIONAL ASSIGNMENT AND  
TRADEMARK SECURITY AGREEMENT**

**THIS CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT** is made as of the 21<sup>st</sup> day of March, 2000 (this "**Agreement**"), by each of **FLOORING AMERICA, INC.**, a Delaware corporation (together, with its successors and assigns, the "**Company**"), **FLOORING AMERICA FRANCHISING, L.P.**, a Georgia limited partnership, **ADVANCE FLOOR DECORATORS, INC.**, a Michigan corporation, **BAILEY & ROBERTS CARPETMAX OF TENNESSEE, INC.**, a Tennessee corporation, **C&S TEXTILES, INC.**, an Idaho corporation, **CARPETMAX OF UTAH, INC.**, a Utah corporation, **CARPETMAX RETAIL STORES, INC.**, a Delaware corporation, **CARPETSPLUS OF AMERICA, INC.**, a Georgia corporation, **COLORADO CARPET & RUGS, INC.**, a Colorado corporation, **EVERYTHINGDECOR, INC.**, a Georgia corporation, **FLOOR SOURCE DISTRIBUTORS, INC.**, a Georgia corporation, **4 FLOORS, INC.**, an Ohio corporation, **GCO, INC.**, a Nevada corporation, **GCO CARPET OUTLET, INC.**, an Alabama corporation, **INVESTOR MANAGEMENT, INC.**, an Alabama corporation, **KAREN'S INC.**, a Michigan corporation, **MANASOTA CARPET, INC.**, a Florida corporation, **MAXIM EQUIPMENT LEASING COMPANY, INC.**, a Georgia corporation, **MAXIM INDUSTRIES, INC.**, a Delaware corporation, **MAXIM RETAIL GROUP, INC.**, a Georgia corporation, **MAXIM RETAIL STORES, INC.**, a Georgia corporation, **TRI-R OF ORLANDO, INC.**, a Georgia corporation, **WADSWORTH & OWENS DECORATING CENTER, INC.**, a Florida corporation (all of the foregoing (other than the Company), together with their respective successors and assigns, referred to herein, individually, as a "**Subsidiary Grantor**," and, collectively, as the "**Subsidiary Grantors**;" the Company and the Subsidiary Grantors being collectively referred to herein as the "**Obligors**"), in favor of **STATE STREET BANK AND TRUST COMPANY**, a Massachusetts trust company, as beneficiary and grantee ("**State Street**"), not in its individual corporate capacity but solely in its capacity as security trustee (in its capacity as such security trustee, and together with any successor or co-security trustee that becomes such in accordance with the provisions of the Indenture (as hereinafter defined), the "**Trustee**") for the Noteholders (as hereinafter defined) pursuant to the Indenture, and the Security Agreement (as hereinafter defined).

**WHEREAS**, the Company, as issuer, the Subsidiary Grantors, as guarantors, and State Street, as trustee, are parties to an indenture, dated as of October 16, 1997 (the "**1997 Indenture**"), pursuant to which the Company was authorized to issue \$100,000,000 in Securities (as defined therein) and said guarantors were obligated to Guarantee (as defined therein) any such issued Securities; and

**WHEREAS**, the 1997 Indenture was amended by that certain First Supplemental Indenture as of January 30, 1998, that certain Second Supplemental Indenture as of August 9, 1998, that certain Third Supplemental Indenture as of November 25, 1998 and that certain Fourth Supplemental Indenture as of July 31, 1999, and is being further amended by that certain Fifth Supplemental Indenture, date as of the date hereof (the 1997 Indenture, as heretofore amended and as the same may be further amended, restated, supplemented or otherwise modified from time to time, is referred to herein as the "**Indenture**"); and

**WHEREAS**, pursuant to the Indenture the Company issued certain 9¼% Senior Subordinated Notes due 2007 (such notes, as amended, extended, renewed, consolidated or otherwise modified from time to time, together with any and all notes that may be given from time to time in substitution or replacement therefor, are collectively referred to herein as the “Notes”; and the Persons whose names appear on the register, maintained pursuant to the Indenture for the registration and for the transfer and exchange of Notes, as the registered owners from time to time of any of the Notes are collectively referred to herein as the “Noteholders”); and

**WHEREAS**, to induce the Noteholders to enter into the Fifth Supplemental Indenture, each of the Obligors has agreed to execute and deliver this Agreement as security for its Secured Obligations; and

**WHEREAS**, the Company and the Subsidiary Grantors will derive substantial benefits, both directly and indirectly, from the Fifth Supplemental Indenture and the transactions contemplated thereby; and

**WHEREAS**, capitalized terms used herein without definition shall have the respective meanings ascribed to such terms in that certain Security Agreement, dated as of the date hereof (hereinafter, as amended, restated, supplemented or otherwise modified from time to time, the “Security Agreement”), among the Obligors and the Trustee;

**NOW, THEREFORE**, in consideration of the premises, the Obligors hereby agree with the Trustee as follows:

1. Grant of Security Interest.

To secure the complete and timely payment, observance and performance of all of its Secured Obligations each Obligor hereby grants, assigns, transfers and conveys to the Trustee, for the benefit of the Secured Creditors, a continuing security interest in such Obligor’s entire world-wide right, title and interest in and to the trademarks and their respective registrations and applications for registration listed in Schedule A attached hereto and by reference made a part hereof, together with the goodwill of the business symbolized by the trademarks, all licenses relating thereto, and all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements (all of which trademarks, trademark registrations, applications for registration, goodwill, licenses, proceeds, and other rights are collectively called the “Trademarks”). Anything contained herein to the contrary notwithstanding, with respect to any Obligor (other than the Company), the aggregate amount of Secured Obligations secured hereunder shall be reduced to the extent necessary to prevent the security interests granted hereunder from violating or becoming voidable under applicable federal and state laws relating to fraudulent conveyance or fraudulent transfer, insolvency of debtors and similar laws affecting the rights of creditors generally.

2. Representations, Warranties and Covenants.

Each Obligor represents, warrants and covenants that to the best of its knowledge:

- (a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part by any court or government agency of competent jurisdiction, in the United States of America (the "U.S.") or in any of the respective states thereof;
- (b) The Trademarks listed on Schedule A constitute all of the trademarks owned by any Obligor;
- (c) Each of the Trademarks is valid and enforceable in the U.S. and the respective states thereof and all claims by others to rights in the Trademarks of which any Obligor is aware, including, without limitation, licenses, are noted on Schedule B, attached hereto and by reference made a part hereof;
- (d) Except for liens in favor of the Agent pursuant to the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement), liens in favor of the Trustee or any other liens noted on Schedule B, the Obligor listed on Schedule A as the owner of one or more Trademarks is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to such Trademarks, free and clear of any liens, charges, encumbrances, mortgages, hypothecations, pledges, liens, security interests or claims of any kind, including, without limitation, covenants by such Obligor not to sue third persons and licenses;
- (e) Each Obligor has made all necessary applications, filings and recordations to protect and maintain its interest in the Trademarks, including, without limitation, all necessary filings and recordations in the U.S. Patent and Trademark Office;
- (f) Each Obligor has the unqualified right, power and authority to execute, deliver and perform this Agreement;
- (g) Until all of the Secured Obligations shall have been satisfied in full and the Indenture shall have been discharged, no Obligor will enter into any agreement which is inconsistent with the Obligors' obligations under this Agreement without the Trustee's prior written consent; and
- (h) Each Obligor shall perform all acts and execute all documents necessary or reasonably requested by the Trustee at any time and from time to time to evidence, perfect, maintain, record and enforce the Trustee's security interest in the Trademarks, including, without limitation, any trademarks falling under Paragraph 3 hereof.

3. Conditional Grant of Security Interest in Additional Trademarks.

If, before the Secured Obligations shall have been satisfied in full and the Indenture shall have been discharged, any Obligor shall have or obtain ownership of any trademark,

including any registration or application therefor, with respect to goods sold in any Obligor's business (the "Goods"), the provisions of Paragraph 1 hereof shall automatically apply thereto, and also to any composite marks or other marks of any Obligor which are confusingly similar to such mark, and the Company shall give to the Trustee prompt written notice thereof. This Paragraph 3 shall not apply to trademarks which are owned by others and licensed to any Obligor. Each Obligor shall perform all acts and execute all documents necessary or reasonably requested by the Trustee at any time and from time to time to evidence, perfect, maintain, record and enforce the Trustee's security interest in the Trademarks, including, without limitation, any trademarks falling under this Paragraph 3.

4. Modification of Agreement.

Each Obligor authorizes the Trustee to modify this Agreement by amending Schedule A to include any additional trademarks, registrations and applications for registration thereof which are Trademarks under Paragraph 1 or Paragraph 3 hereof, and to have this Agreement, as amended, or any other document evidencing the security interest granted therein, recorded in the United States Patent and Trademark Office at the expense of the Obligors. The representations and warranties of the Obligors shall be deemed to be remade and restated by each Obligor as of the date of the amendment of Schedule A with respect to all Trademarks listed on the amended Schedule A at that time.

5. Covenants of Obligors.

(a) Each Obligor covenants that it will use best efforts to act as follows: (i) it will maintain the high standard of quality which has become associated with the Trademarks; (ii) the Trustee from time to time and upon request shall have the right to inspect samples of the Goods and the premises at which the Goods are produced and records relating to the Trademarks at the premises where such records are kept; and (iii) the Trustee shall have the right to prevent use of the Trademarks on Goods which are not of high quality, all so as to preserve the goodwill symbolized by the Trademarks, provided that Trustee can demonstrate to the reasonable satisfaction of the Obligors why such Goods are not of high quality.

(b) Each Obligor further agrees that: it will use best efforts to (i) use and not knowingly abandon or do any act or omit to do any act that may cause or contribute to the abandonment of any Trademark, or permit the expiration of any registration of any Trademark; (ii) it shall give the Trustee written notice, and a complete copy, of any sublicense of any Trademark; and (iii) ensure all uses of the Trademarks by it or its permitted sublicensees will include such notices of registration as are required or authorized from time to time under applicable law.

(c) With respect to each Trademark, each Obligor agrees to take all reasonably necessary steps, including, without limitation, in the U.S. Patent and Trademark Office or in any court, to (i) maintain each such Trademark, and (ii) pursue each such application for trademark registration, now or hereafter included in the Trademarks under this Agreement, including, without limitation, the filing of responses to office actions issued by the Patent and Trademark Office, the filing of applications for renewal, the filing of affidavits under Sections 8 and 15 of the United States Trademark Act, the participation

in those opposition, cancellation and infringement and misappropriation proceedings necessary to protect their rights in the Trademark and the payment of fees and taxes incurred in connection therewith. Notwithstanding the foregoing, if any Obligor determines that any such Trademark is not material to such Obligor's business, such Obligor may, with the prior written consent of the Trustee, elect not to pursue any such infringement action. Each Obligor agrees to take corresponding steps with respect to each new or acquired trademark, trademark registration, or application therefor covered by Paragraph 3 hereof. Trustee understands and agrees that the Obligors, in their sole discretion, may decline to renew all state registrations for a mark if a federal registration for the same mark identifying the same goods or service exists. Any expenses incurred in connection with such activities shall be borne by the Obligors, and each Obligor agrees to promptly provide the Trustee with written notice of any such actions or proceedings.

6. Remedies Upon Default; Power of Attorney.

(a) In addition to the grant of the security interest contained in Paragraphs 1 and 3 hereof, if any Event of Default shall have occurred, upon the election of the Trustee, all right, title and interest in and to the Trademarks shall be automatically granted, assigned, conveyed and delivered to the Trustee or its designee. Each Obligor hereby irrevocably constitutes and appoints the Trustee and any officer, agent or employee thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Obligor and in the name of such Obligor or the Trustee's own name or the name of the Trustee's designee, all acts of said attorney being hereby ratified and confirmed, upon the occurrence of an Event of Default: (i) to complete, date, execute and file, or cause to be filed, the Assignment attached hereto as **Exhibit A** and incorporated herein by this reference (the "Assignment") in the United States Patent and Trademark Office and in all other applicable offices, and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purpose of the Assignment, including, without limitation, the right (but not the obligation) to prosecute applications in the name of such Obligor or the Trustee, and to take any other actions deemed necessary by the Trustee to maintain such registrations in effect; (ii) to collect proceeds from the Trademarks (including, by way of example, license royalties and proceeds of infringement suits); (iii) to convey in any transaction authorized by the Indenture or the Security Agreement, any Goods covered by the registrations applicable to the Trademarks to any purchaser thereof; and (iv) to make payment or to discharge taxes or liens levied or placed upon or threatened against any goods covered by the Trademarks, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Trustee in its sole discretion, and such payments made by the Trustee to become the obligations of the Obligors to the Trustee, due and payable immediately without demand. Such power, being coupled with an interest, is irrevocable.

(b) The Trustee shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be enforceable, and, without limiting the generality of the foregoing, the Trustee may, if any Event of Default shall have occurred and be continuing, immediately, without demand or performance and without other notice (except as set forth below) or



demand whatsoever to any Obligor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the Trademarks, together with the goodwill of the business symbolized by the Trademarks, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including, without limitation, all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds in accordance with Section 5.7 of the Security Agreement. Notice of any sale or other disposition of the Trademarks shall be given to the Company, in its capacity as agent for the Obligors, at least ten (10) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which each Obligor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, the Trustee or any Noteholder may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of any Obligor, which right is hereby waived and released. Each Obligor hereby agrees to execute any documents reasonably requested by the Trustee in connection with any disposition hereunder.

(c) Upon the occurrence of the conditional assignment provided for herein, no Obligor shall have any right, title, or interest in or to any of the Trademarks and each Obligor shall cease and desist in the use of the Trademarks and of any colorable imitation thereof, and shall, upon written demand of the Trustee, or pursuant to the terms of the Security Agreement, deliver to the Trustee all Goods bearing the Trademarks.

7. Termination of Agreement.

At such time as the Obligors shall completely satisfy all of the Secured Obligations and the Indenture shall have been discharged, the Trustee shall, at the Obligors' expense, execute and deliver to the Obligors all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Obligors title to the Trademarks and the goodwill of the business symbolized by the Trademarks, subject to any disposition thereof which may have been made by the Trustee pursuant hereto.

8. Limitation of Liability and Indemnification.

Each Obligor hereby releases the Trustee and Secured Creditors, and agrees to hold the Trustee and each Secured Creditor free and harmless from and against, any claims arising out of any action taken or omitted to be taken with respect to the Trademarks (except to the extent of such Secured Creditor's gross negligence or willful misconduct), and each Obligor agrees to indemnify each Trustee and Secured Creditor from and against any and all claims, demands, suits, losses, damages or other expenses (including, without limitation, reasonable attorneys' fees) arising from or in any way related to the Trademarks and any trademark infringement claim (except to the extent arising from such Trustee or Secured Creditor's gross negligence or willful misconduct).

9. Waiver and Amendment.

(a) No course of dealing between any Obligor and any Secured Creditor, nor any failure to exercise, nor any delay in exercising, on the part of any Secured Creditor, any right, power or privilege hereunder or thereunder shall preclude any

other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement is subject to modification only by a writing signed by the parties hereto (with the written consent of the Majority Noteholders).

10. Cumulative Rights.

All of the Secured Creditors' rights and remedies with respect to the Trademarks, whether established hereby or under the Security Agreement or the Indenture, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

11. Severability.

The provisions of this Agreement are severable, and if any term or provision shall be held illegal, invalid or unenforceable in whole or in part in any jurisdiction, then such illegality, invalidity or unenforceability shall affect only such term or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such term or provision in any other jurisdiction, or any other term or provision of this Agreement in any jurisdiction.

12. Survival.

The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

13. Counterparts.

This Agreement may be executed in one or more counterparts (including by telecopier), all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

14. Choice of Law.

THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, EXCLUDING (TO THE FULLEST EXTENT A NEW YORK COURT WOULD PERMIT) ANY RULE OF LAW THAT WOULD CAUSE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK.

15. Intercreditor Agreement.

THE SECURITY INTERESTS GRANTED TO THE TRUSTEE HEREIN, AND THE RIGHTS AND REMEDIES OF THE TRUSTEE AND THE OBLIGATIONS OF THE OBLIGORS WITH RESPECT THERETO, ARE SUBJECT TO THE TERMS OF THE INTERCREDITOR AGREEMENT. IN THE EVENT OF A CONFLICT OR ANY INCONSISTENCY BETWEEN THE TERMS OF THIS AGREEMENT AND THE

INTERCREDITOR AGREEMENT, THE TERMS OF THE INTERCREDITOR AGREEMENT SHALL PREVAIL.

16. Consistent with Indenture and Intercreditor Agreement.

Any and all rights granted to the Trustee under this Agreement are to be held and exercised by the Trustee as trustee for the benefit of the Noteholders, pursuant to the provisions of the Indenture. To the extent set forth in the Financing Documents and any other document or instrument creating or evidencing any Secured Obligation, each of the Noteholders shall be a beneficiary of the terms of this Agreement. Any and all obligations under this Agreement of the parties to this Agreement, and the rights and indemnities granted to the Trustee under this Agreement, are created and granted consistent with, and in furtherance (and not in limitation) of, the terms of the Indenture and the Intercreditor Agreement, and such rights and indemnities under the Indenture apply to the Trustee as if set forth herein, including, but not limited to, Article Five and Six of the Indenture. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any Person other than the Obligors, the Noteholders, and the Trustee any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or provision herein contained, and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Obligors, the Noteholders and the Trustee.

17. Representations and Covenants Exculpation; No Accountability.

The Trustee makes no representation or warranty as to the validity, sufficiency or enforceability hereof, of any other Security Document or any instrument included in the Collateral, or as to the value, title, condition, or adequacy of insurance on, or otherwise with respect to, the Collateral. The Trustee shall not be accountable to anyone for the use or application of the proceeds of the Secured Obligations or for the use or application of any property or the proceeds thereof which shall be released from the Lien of the Security Documents in accordance with the provisions hereof or any such Security Document. The Trustee makes no representation or warranty as to the attachment, perfection or priority of the security interests and Liens contemplated hereby or by the other Security Documents.

18. Release upon Sale of Trademarks.

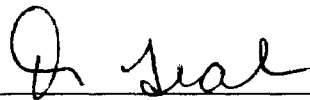
Notwithstanding anything to the contrary contained in this Agreement, the Indenture, any Guarantee, or any Security Document (as defined in the Indenture), the continuing security interest created in all or a portion of the Trademarks shall be automatically and unconditionally released upon any disposition of all or such portion of the Trademarks by or with the consent of the Agent; provided, however, that the Trustee shall retain a continuing security interest in the proceeds of any such sale or other disposition provided, further, that so long as no Event of Default has occurred and is continuing, the Net Cash Proceeds of any such sale or disposition shall be used, invested or applied, as the case may be, in accordance with Section 1013 of the Indenture.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

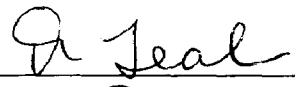
**OBLIGORS:**

**FLOORING AMERICA, INC.**

By:   
Name: *Thomas P. Leaney*  
Title: *Exec. VP*

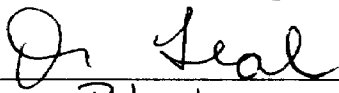
**FLOORING AMERICA FRANCHISING,  
L.P., a Georgia limited  
partnership**

By: Flooring America, Inc., as its sole  
General Partner

By:   
Name: *Thomas P. Leaney*  
Title: *Exec. VP*

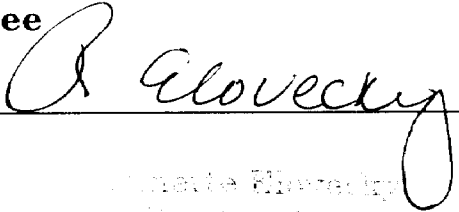
[Signature Page to Conditional Assignment and Trademark Security Agreement]

**ADVANCE FLOOR DECORATORS, INC.**,  
a Michigan corporation  
**BAILEY & ROBERTS CARPETMAX OF  
TENNESSEE, INC.**, a Tennessee corporation  
**C&S TEXTILES, INC.**, an Idaho corporation  
**CARPETMAX OF UTAH, INC.**, a Utah  
corporation  
**CARPETMAX RETAIL STORES, INC.**, a  
Delaware corporation  
**CAPRETSPLUS OF AMERICA, INC.**, a Georgia  
corporation  
**COLORADO CARPET & RUGS, INC.**, a  
Colorado corporation  
**EVERYTHINGDECOR, INC.**, a Georgia  
corporation  
**FLOOR SOURCE DISTRIBUTORS, INC.**, a  
Georgia corporation  
**4 FLOORS, INC.**, an Ohio corporation  
**GCO, INC.**, a Nevada corporation  
**GCO CARPET OUTLET, INC.**, an Alabama  
corporation  
**INVESTOR MANAGEMENT, INC.**, an Alabama  
corporation  
**KAREN'S INC.**, a Michigan corporation  
**MANASOTA CARPET, INC.**, a Florida  
corporation  
**MAXIM EQUIPMENT LEASING COMPANY**, a  
Georgia corporation  
**MAXIM INDUSTRIES, INC.**, a Delaware  
corporation  
**MAXIM RETAIL GROUP, INC.**, a Georgia  
corporation  
**MAXIM RETAIL STORES, INC.**, a Georgia  
corporation  
**TRI-R OF ORLANDO, INC.**, a Georgia  
corporation  
**WADSWORTH & OWENS DECORATING  
CENTER, INC.**, a Florida corporation

By:   
Name: Thomas P. Leahy  
Title: VP  
each of the foregoing Obligors

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**STATE STREET BANK AND TRUST  
COMPANY,  
as Trustee**

By: 

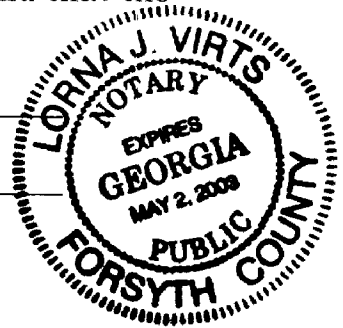
Name: Rosalind Elvick  
Title: Trustee

STATE OF Georgia )

COUNTY OF Fulton ) ss:

On this 21<sup>st</sup> day of March, 2000, before me personally appeared Thomas P. Leahy to me known, who, being by me duly sworn, declared that (s)he is a Exec. VP of FLOORING AMERICA, INC., the corporation described in and which executed the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT; that, being duly authorized, (s)he did execute the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT on behalf of said corporation; and that the foregoing constitutes the free act and deed of said corporation.

Lorna J. Virts  
Notary Public  
My commission expires: 5/2/03

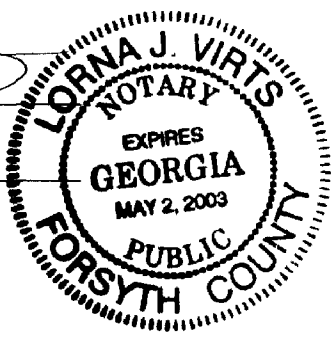


STATE OF Georgia )

COUNTY OF Fulton ) ss:

On this 21<sup>st</sup> day of March, 2000, before me personally appeared Thomas P. Leahy to me known, who, being by me duly sworn, declared that (s)he is a EVP of FLOORING AMERICA, INC., the corporation described in and which executed the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT as the sole general partner of FLOORING AMERICA FRANCHISING, INC., that, being duly authorized, (s)he did execute the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT on behalf of the said corporation; and that the foregoing constitutes the free act and deed of said corporation.

Lorna J. Virts  
Notary Public  
My commission expires: 5/2/03



STATE OF Georgia )  
COUNTY OF Fulton ) ss:

On this 21<sup>st</sup> day of March, 2000, before me personally appeared Thomas P. Leahy to me known, who, being by me duly sworn, declared that (s)he is a VP of ADVANCE FLOOR DECORATORS, INC., BAILEY & ROBERTS CARPETMAX OF TENNESSEE, INC., C&S TEXTILES, INC., CARPETMAX OF UTAH, INC., CARPETMAX RETAIL STORES, INC., CARPETSPLUS OF AMERICA, INC., COLORADO CARPET & RUGS, INC., EVERYTHINGDECOR, INC., FLOOR SOURCE DISTRIBUTORS, INC., 4 FLOORS, INC., GCO, INC., GCO CARPET OUTLET, INC., INVESTOR MANAGEMENT, INC., KAREN'S INC., MANASOTA CARPET, INC., MAXIM EQUIPMENT LEASING COMPANY, INC., MAXIM INDUSTRIES, INC., MAXIM RETAIL GROUP, INC., MAXIM RETAIL STORES, INC., TRI-R OF ORLANDO, INC., WADSWORTH & OWENS DECORATING CENTER, INC., the corporations described in and which executed the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT; that, being duly authorized, (s)he did execute the foregoing CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT on behalf of said corporations; and that the foregoing constitutes the free act and deed of said corporations.

Lorna J. Virtus  
Notary Public  
My commission expires: 5/2/03





**Schedule A**

***Listing of Trademark Registrations and Applications***

**CARPETMAX, L.P. (N/K/A FLOORING AMERICA FRANCHISING, L.P.)**

**U.S. TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration/ Serial No.<sup>1</sup></u></b>	<b><u>Registration/ Application Date<sup>2</sup></u></b>
CARPETMAX MAKING A WORLD OF DIFFERENCE and Design	1873957	January 17, 1995
CARPETMAX MAKING A WORLD OF DIFFERENCE and Design	1862102	November 8, 1994
Making a World of Difference	1843344	July 5, 1994
CARPETMAX	1859007	October 18, 1994
CARPETMAX	1843048	July 5, 1994
MAKING A WORLD OF DIFFERENCE	1863792	November 22, 1994
CARPETMAX - THE NATIONAL CARPET EXCHANGE	1616209	October 2, 1990
CARPET MAX	1583764	February 20, 1990
CARPET MAX (stacked logo)	2123486	December 23, 1997
CARPETMAX FLOORING IDEA GALLERY and Design	2168454	June 23, 1998
CARPETMAX (horizontal logo)	2121428	December 16, 1997
MAXCARE PROFESSIONAL CLEANING SYSTEMS MAX & Design	2192827	September 29, 1998
MAXCARE	2192828	September 29, 1998

<b>Trademark</b>	<b>Registration/ Serial No.<sup>1</sup></b>	<b>Registration/ Application Date<sup>2</sup></b>
Carpetmax Satellite Network and Design	2198357	October 20, 1998
Everything Decor.com (Stylized)	75/769527	August 8, 1999
Flooring America and Design	75/731927	June 18, 1999
Flooring America and Design (Horizontal Logo)	75/731928	June 18, 1999
E-Decor	75/699867	May 4, 1999
E-Decor.com	75/699868	May 4, 1999
Flooring America	75/693544	April 28, 1999
Cariselle By Rainy Lawrence & Design	22635736	February 12, 1998
Cariselle & Design	75/433434	February 12, 1998
Maxcare	75/477167	April 30, 1998
Maxcare Professional Cleaning Systems & Design	75/477166	April 30, 1998
CARPETIME <sup>3</sup>	1903215	July 4, 1995
Cariselle and Design	75/585809	November 10, 1998
The Decor Exchange	75/666814	March 24, 1999

<sup>1</sup>The "Application Number," which has a prefix separated from the remaining numbers by a slash, is the number assigned to a new trademark application. The "Registration Number," which is usually a seven-digit number, is the number assigned to a trademark which the Government has in fact granted.

<sup>2</sup>The "Application Date" is the date upon which an application sought trademark protection. The "Registration Date" is the date upon which the Government granted trademark protection.

<sup>3</sup>Documents transferring this mark from CarpetMAX of Utah, Inc. f/k/a Steve Peterson Interiors & Associates, Inc. to Carpetmax, L.P. (n/k/a Flooring America Franchising, L.P.) were recorded in the U.S. Patent and Trademark Office on December 14, 1998, but a recordation notice has not yet been received.

**EVERYTHINGDECOR, INC.**

**U.S. TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration/ Serial No.<sup>1</sup></u></b>	<b><u>Registration/ Application Date<sup>2</sup></u></b>
Everythingdecor Network	75/833920	October 29, 1999

**FOREIGN TRADEMARKS**

<b>Trademark</b>	<b>Registration/ Serial No.</b>	<b>Registration/ Application Date</b>	<b>Country</b>	<b>Status</b>
MAX MAXCARE PROFESSIONAL CLEANING SYSTEMS & DESIGN	1016230	May 20, 1999	Canada	Pending
MAXCARE	1016230	May 20, 1999	Canada	Pending
MAX MAXCARE PROFESSIONAL CLEANING SYSTEMS & DESIGN	888289	August 25, 1998	Canada	Pending
MAXCARE	888290	August 25, 1998	Canada	Pending
MAX MAXCARE PROFESSIONAL CLEANING SYSTEMS & DESIGN	865706	January 5, 1998	Canada	Pending
MAXCARE	865707	January 5, 1998	Canada	Pending
Cariselle By Rainy Lawrence and Design	883940	July 10, 1998	Canada	Pending
Cariselle and Design	883941	July 10, 1998	Canada	Pending
CARPETMAX MAKING A WORLD OF DIFFERENCE and Design	475476	April 29, 1997	Canada	Registered
CARPETMAX	475474	April 29, 1997	Canada	Registered
CARPETMAX MAKING A WORLD OF DIFFERENCE and Design	466927	July 19, 1994	Mexico	Registered
CARPETMAX	465609	July 4, 1994	Mexico	Registered
CARPETMAX	465610	July 4, 1994	Mexico	Registered
CARPETMAX MAKING A WORLD OF DIFFERENCE and Design	466156	July 11, 1994	Mexico	Registered

**GCO, INC.,  
(a Nevada corporation)**

**U.S. TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration/ Serial No.<sup>1</sup></u></b>	<b><u>Registration/ Application Date<sup>2</sup></u></b>
GCO Credit Plus	2171706	June 7, 1996
GCO Carpet Outlets	2162577	June 2, 1998
GCO Your Georgia Carpet Outlet	2011361	October 29, 1996
GCO	1770673	May 11, 1993
GCO Carpet Outlets Bringing Beautiful Carpet Within Reach of Everyone and Design	1805597	November 16, 1993
GCO Carpet Outlets	1779888	June 29, 1993
Georgia Carpet Outlets	74/025415	February 5, 1990

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<sup>1</sup>The "Application Number," which has a prefix separated from the remaining numbers by a slash, is the number assigned to a new trademark application. The "Registration Number," which is usually a seven-digit number, is the number assigned to a trademark which the Government has in fact granted.

<sup>2</sup>The "Application Date" is the date upon which an application sought trademark protection. The "Registration Date" is the date upon which the Government granted trademark protection.

**GCO, INC.**  
**(a Nevada corporation)**

**STATE TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration Number</u></b>	<b><u>Registration Date</u></b>	<b><u>State</u></b>
YOUR GEORGIA CARPET OUTLET		June 29, 1995	Nevada
GEORGIA CARPET OUTLETS and Design	53117	December 30, 1993	Texas
GEORGIA CARPET OUTLETS	940203	February 7, 1994	Rhode Island
GEORGIA CARPET OUTLETS and Design	48160	May 20, 1993	Massachusetts
GEORGIA CARPET OUTLETS (stylized)		June 1, 1994	South Dakota
GEORGIA CARPET OUTLETS		May 9, 1994	Kansas
GEORGIA CARPET OUTLETS and Design		May 11, 1994	South Carolina
GEORGIA CARPET OUTLETS		March 28, 1994	Louisiana
GEORGIA CARPET OUTLETS and Design	S12766	April 12, 1994	Missouri
GEORGIA CARPET OUTLETS (stylized)	10928	October 21, 1993	Kentucky
GEORGIA CARPET OUTLETS	105383	June 3, 1992	Alabama
GEORGIA CARPET OUTLETS and Design	104498	April 9, 1990	Alabama

**GCO, INC.**  
**(a Nevada corporation)**

**STATE TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration Number</u></b>	<b><u>Registration Date</u></b>	<b><u>State</u></b>
GEORGIA CARPET OUTLETS (stylized)	S13127	November 5, 1993	Georgia
GEORGIA CARPET OUTLETS and Design	S13756	October 15, 1993	New York
GEORGIA CARPET OUTLETS and Design		September 13, 1994	West Virginia
GEORGIA CARPET OUTLETS and Design	TK94061003	June 10, 1994	New Mexico
GEORGIA CARPET OUTLETS and Design	T93321	March 15, 1993	Florida
GEORGIA CARPET OUTLETS	S28020	March 29, 1994	Oregon
GEORGIA CARPET OUTLETS and Design		October 11, 1993	Tennessee
GEORGIA CARPET OUTLETS (stylized)	931014	October 14, 1993	Mississippi

**GCO, INC.**  
**(a Nevada corporation)**

**FOREIGN TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Application Serial No.</u></b>	<b><u>Country</u></b>	<b><u>Filing Date</u></b>
GCO CREDIT PLUS and Design	0828574	Canada	November 12, 1996
GCO CARPET OUTLET and Design	0821442	Canada	August 22, 1996



# REGISTERED TRADEMARKS OF MAXIM RETAIL STORES, INC.

## 1. Federally Registered Trademarks

<b><u>MARK</u></b>	<b><u>REGISTRATION NO.</u></b>
CarpetSmart	2,173,871
Carpetland	972,069
Carpetland USA	972,070
Carpetland USA (and design)	852,938
Certified HCC Health Care Carpets	1,863,793
C USA (and Design)	1,076,686
New York Carpet World	1,210,903
New York Carpet World (and Design)	2,103,493
Reedy	1,874,378
Reedy Carpet & Tile	1,878,995
SmartChoice	1,871,709
SmartChoice Assurance	1,976,356
Walter	1,188,757

## 2. State Registered Trademarks

<b><u>MARK</u></b>	<b><u>STATE</u></b>	<b><u>REGISTRATION NO.</u></b>
Carpetland USA	KY	9,173
Carpetland	KY	9,174
Carpetland	IA	4759
Carpetland USA	IA	4760
Carpetland USA	IN	5,006-841
Carpetland	IL	38,315
Carpetland USA	IL	38,316
Carpetland	IN	5,006-840
Racine Carpetland USA, Inc.	WI	None

## SCHEDULE B

### Liens and Claims of Third Parties

First priority security interest in favor of Foothill Capital Corporation, as Administrative Agent ("Agent"), pursuant to that certain Loan and Security Agreement dated January 28, 2000 and that certain Trademark Security Agreement dated January 28, 2000, each by and among Flooring America, Inc., certain of its affiliates, and Agent.

## EXHIBIT A

### Assignment of Trademarks and Goodwill

THIS ASSIGNMENT, dated the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, from [NAME OF OBLIGOR], a \_\_\_\_\_ corporation (the "Assignor"), to STATE STREET BANK AND TRUST COMPANY, as Trustee (the "Assignee"), recites and provides:

WHEREAS, the Assignor is the owner of certain trademarks and service marks and the registrations and applications to register therefor listed in Schedule A hereto (the "Trademarks"); and

WHEREAS, the Assignee desires to obtain for the Secured Creditors (as defined in by the Conditional Assignment and Trademark Security Agreement, dated as of March \_\_\_\_ 2000, among the Assignor, certain affiliates of the Assignor and the Assignee), all of the Assignor's right, title and interest in and to all such Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Assignor hereby assigns, sells and transfers to the Assignee, its successors and assigns, the entire right, title and interest of the Assignor in and to the Trademarks, including, without limitation, all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements, together with the goodwill of the business symbolized by the Trademarks. The Assignor acknowledges that it has granted the Assignee the right to secure the assets of the Assignor associated with the business symbolized by the Trademarks, under separate agreement.

The Assignor further agrees to execute such further instruments and documents and perform such further acts as the Assignee may deem necessary to secure to the Assignee the rights herein conveyed.

The Assignor warrants and represents that it is the sole owner of the interest conveyed hereunder and that such interest is not the subject of any prior transfer, assignment, lien, mortgage or other transaction which would affect the Assignor's ability to transfer such interest.

The Assignor further agrees to indemnify the Assignee and the Secured Creditors for any breach of the above warranty.



SCHEDULE A

Listing of Trademark Registrations and Applications

<u>Trademark</u> or <u>Service Mark</u>	Registrations -- United States Patent and Trademark Office <u>Registration No.</u>	<u>Registration Date</u>
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<u>Trademark</u> or <u>Service Mark</u>	Registrations -- United States Patent and Trademark Office <u>Registration No.</u>	<u>Registration Date</u>
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**CONDITIONAL ASSIGNMENT AND  
TRADEMARK SECURITY AGREEMENT****(A) Additional Names of conveyance parties:**

- |   |                               |
|---|-------------------------------|
| 1) Flooring America Franchising, LP.            | A Georgia Limited Partnership |
| 2) Advance Floor Decorators, Inc.               | A Michigan Corporation        |
| 3) Bailey & Roberts Carpetmax of Tennessee, Inc | A Tennessee Corporation       |
| 4) C&S Textiles, Inc.                           | An Idaho Corporation          |
| 5) Carpetmax of Utah, Inc.                      | A Utah Corporation            |
| 6) Carpetmax Retail Stores, Inc.                | A Delaware Corporation        |
| 7) Carpetplus of America, Inc.                  | A Georgia Corporation         |
| 8) Colorado Carpet & Rugs, Inc.                 | A Colorado Corporation        |
| 9) Everthingdecor, Inc.                         | A Georgia Corporation         |
| 10)Floor Source Distributors, Inc.              | A Georgia Corporation         |
| 11)4 Floors, Inc                                | An Ohio Corporation           |
| 12)GCO, Inc.                                    | A Nevada Corporation          |
| 13)GCO Carpet Outlet, Inc.                      | An Alabama corporation        |
| 14)Investor Management, Inc.                    | An Alabama Corporation        |
| 15)Karen's, Inc                                 | A Michigan Corporation        |
| 16)Manasota Carpet, Inc.                        | A Florida Corporation         |
| 17)Maxim Equipment Leasing company, Inc.        | A Georgia Corporation         |
| 18)Maxim Industries, Inc.                       | A Delaware Corporation        |
| 19)Maxim Retail Group, Inc.                     | A Georgia Corporation         |
| 20)Maxim retail Stores, Inc.                    | A Georgia Corporation         |
| 21)Tri-R of Orlando, Inc.                       | A Georgia Corporation         |
| 22)Wadsworth & Owens decorating Center, Inc.    | A Florida Corporation         |

**(B)Additional Listing of Application numbers and Registration numbers:**

1878995  
1871709  
1976356  
1188757