

03-28-2001



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### 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  
Effective Date  
Month Day Year

Merger

Change of Name

Other

#### Conveying Party

Mark if additional names of conveying parties attached

Name  Execution Date  
Month Day Year

Formerly

Individual  General Partnership  Limited Partnership  Corporation  Association

Other

Citizenship/State of Incorporation/Organization

#### 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 Assignment.)

#### FOR OFFICE USE ONLY

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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: 002259 FRAME: 0424

**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"/>	<input type="text"/>	<input type="text" value="2111544"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**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.

Kenneth Rubin

Name of Person Signing



Signature

3/9/2001

Date Signed

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

BETWEEN

WALDEN SPORTS, INC.

AND

CITIZENS BANK OF MASSACHUSETTS

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Dated as of June 14, 2000

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## SCHEDULES

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TRADEMARK

REEL: 002259 FRAME: 0429

# INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT (this "Agreement"), is made as of June 14, 2000, by and between **WALDEN SPORTS, INC.**, a Massachusetts corporation (hereinafter referred to as the "Pledgor"), and **CITIZENS BANK OF MASSACHUSETTS** (the "Secured Party") under the Credit Agreement described below, having an address at 100 Summer Street, Boston, MA 02110.

## RECITALS

A. Pursuant to that certain Amended and Restated Credit Agreement, dated as of the date hereof (as amended from time to time, the "Credit Agreement"), by and between the Pledgor and the Secured Party, the Secured Party agreed, subject to the terms and conditions set forth therein, to make certain Revolving Credit Loans, as defined in the Credit Agreement (the "Loans") to the Pledgor. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement.

B. The Pledgor is the owner of the Pledged Collateral (as defined herein) which is designated as being owned by the Pledgor on the schedules attached hereto.

C. It is a condition precedent to the Secured Party's obligations to make the Loans that the Pledgor shall execute and deliver the applicable Loan Documents, including this Agreement.

D. This Agreement is given by the Pledgor in favor of the Secured Party to secure the payment and performance of all of the Secured Obligations (as defined in Section 2).

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgor and the Secured Party hereby agree as follows:

1. Pledge. The Pledgor hereby pledges and grants to the Secured Party a continuing first priority security interest in all of the Pledgor's right, title and interest, whether now existing or hereafter acquired, in and to the following property (collectively, the "Pledged Collateral") to secure all of the Secured Obligations:

(a) Patents issued or assigned to and all patent applications made by the Pledgor and, to the extent that the grant of a security interest does not cause a breach or termination thereof, all exclusive and nonexclusive licenses (other than nonexclusive licenses to use off-the-shelf software products) to the Pledgor from third parties or rights to use patents owned by such third parties, including, without limitation, the patents, patent applications and licenses listed on Schedule A hereto, along with any and all (1) inventions and improvements described and claimed therein, (2) reissues, divisions, continuations, extensions and continuations-in-part thereof, (3) income, royalties, damages, claims and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (4) rights to sue for past, present and future infringements

thereof, and (5) any other rights corresponding thereto throughout the world (collectively, "Patents");

(b) Trademarks (including service marks), federal and state trademark registrations and applications made by the Pledgor (other than Federal Intent To Use Applications prior to the filing of a verified Statement of Use under 15 U.S.C. §1051(d)), common law trademarks and trade names owned by or assigned to the Pledgor, all registrations and applications for the foregoing and, to the extent that the grant of a security interest does not cause a breach or termination thereof, all exclusive and nonexclusive licenses from third parties of the right to use trademarks of such third parties, including, without limitation, the registrations, applications, unregistered trademarks, service marks and licenses listed on Schedule B hereto, along with any and all (1) renewals thereof, (2) income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages, claims and payments for past or future infringements thereof, (3) rights to sue for past, present and future infringements thereof, and (4) foreign trademarks, trademark registrations, and trade name applications for any thereof and any other rights corresponding thereto throughout the world (collectively, "Trademarks");

(c) Copyrights, whether statutory or common law, owned by or assigned to the Pledgor, and, to the extent that the grant of a security interest does not cause a breach or termination thereof, all exclusive and nonexclusive licenses (other than nonexclusive licenses to use off-the-shelf software products) to the Pledgor from third parties or rights to use copyrights owned by such third parties, including, without limitation, the registrations, applications and licenses listed on Schedule C hereto, along with any and all (1) renewals and extensions thereof, (2) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (3) rights to sue for past, present and future infringements thereof, and (4) foreign copyrights and any other rights corresponding thereto throughout the world (collectively, "Copyrights");

(d) The entire goodwill of the Pledgor's business and other general intangibles (including know-how, trade secrets, customer lists, proprietary information, inventions, domain names, methods, procedures and formulae) connected with the use of and symbolized by Trademarks of the Pledgor; and

(e) All Proceeds (as defined under the Uniform Commercial Code as in effect in any relevant jurisdiction (the "UCC") or other relevant law) of any of the foregoing, and in any event including, without limitation, any and all (1) proceeds of any insurance, indemnity, warranty or guaranty payable to the Secured Party or to the Pledgor from time to time with respect to any of the Pledged Collateral, (2) payments (in any form whatsoever) made or due and payable to the Pledgor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Pledged Collateral by any Governmental Authority (or any person acting on behalf of a Governmental Authority), (3) instruments representing amounts receivable in respect of any Patents, Trademarks or Copyrights, (4) products of the Pledged Collateral and (5) other amounts from time to time paid or payable under or in connection with any of the Pledged Collateral.



2. Secured Obligations. The security interest hereby granted shall secure the due and punctual payment and performance of the following liabilities and obligations of the Pledgor (herein called the "Secured Obligations"):

(a) Principal of and premium, if any, and interest on the Loans;

(b) Any and all other obligations of the Pledgor or any of its Subsidiaries to the Secured Party under the Credit Agreement or any Loan Document or under any agreement or instrument relating thereto, all as amended from time to time, including without limitation any Interest Rate Protection Products; and

(c) Any and all other fees, premiums, penalties, guaranteed obligations, liabilities, undertakings and Indebtedness of the Pledgor to the Secured Party, whether direct or indirect, absolute or contingent, due or to become due or now existing or hereafter arising, including, without limitation, any reasonable costs and expenses incurred by the Secured Party in attempting to collect or enforce any of the forgoing, and any and all guaranteed obligations or Indebtedness of the Pledgor to the Secured Party under that certain Guaranty dated as of the date hereof between the Pledgor and the Secured Party, pursuant to which the Pledgor agreed, subject to the terms and conditions set forth therein, to guaranty the obligations of Hardigg Industries, Inc. to the Secured Party.

3. No Release. Nothing set forth in this Agreement shall relieve the Pledgor from the performance of any term, covenant, condition or agreement on the Pledgor's part to be performed or observed under or in respect of any of the Pledged Collateral or from any liability to any Person under or in respect of any of the Pledged Collateral or impose any obligation on the Secured Party to perform or observe any such term, covenant, condition or agreement on the Pledgor's part to be so performed or observed or impose any liability on the Secured Party for any act or omission on the part of the Pledgor relating thereto or for any breach of any representation or warranty on the part of the Pledgor contained in this Agreement or any other Loan Document or under or in respect of the Pledged Collateral or made in connection herewith or therewith.

4. Supplements; Further Assurances. The Pledgor (1) agrees that it will join with the Secured Party in executing and, at its own expense, will file and refile, or permit the Secured Party to file and refile, such financing statements, continuation statements and other documents (including, without limitation, this Agreement and licenses to use software and other property protected by copyright), in such offices (including, without limitation, the United States Patent and Trademark Office, appropriate state trademark offices and the United States Copyright Office), as the Secured Party may reasonably deem necessary or appropriate, wherever required or permitted by law in order to perfect and preserve the rights and interests granted to the Secured Party hereunder, and (2) hereby authorizes the Secured Party to file financing statements and amendments, relative to all or any part thereof, without the signature of the Pledgor where permitted by law and agrees to do such further acts and things, and to execute and deliver to the Secured Party such additional assignments, agreements, powers and instruments, as the Secured Party may reasonably require to carry into effect the purposes of this Agreement or better to assure and confirm unto the Secured Party its respective rights, powers and remedies hereunder. The Pledgor shall, upon the reasonable request of the Secured Party, and hereby authorizes the

Secured Party to, take any and all such actions as may be deemed advisable by the Secured Party to perfect and preserve the rights and interests granted to the Secured Party for the benefit of the Secured Party with respect to the Pledged Collateral wherever located. All of the foregoing shall be at the sole cost and expense of the Pledgor.

5. Representations and Warranties of the Pledgor. The Pledgor hereby represents and warrants to the Secured Party as follows:

(a) The Pledgor is, and, as to Pledged Collateral acquired by it from time to time after the date hereof, the Pledgor will be, except as indicated on the schedules attached hereto, the sole and exclusive owner or, as applicable, exclusive or nonexclusive licensee of all Pledged Collateral which on the schedules attached hereto is designated as being owned or licensed by the Pledgor. The pledge and security interest created by this Agreement shall not at any time be subject to any prior lien, pledge, security interest, encumbrance, license, assignment, collateral assignment or charge of any kind, including, without limitation, any filing or agreement to file a financing statement as debtor under the UCC or any similar statute or any subordination arrangement in favor of any party other than the Pledgor (collectively, "Liens"), except for those Liens set forth on Schedule D hereto, rights of licensors under any licenses of Pledged Collateral and except as expressly permitted hereunder and under the Credit Agreement (collectively, "Prior Liens"). The Pledgor further represents and warrants to the Secured Party that Schedules A, B and C hereto, respectively, are true, correct and complete lists as of the date hereof of all Patents, Trademarks and Copyrights owned by the Pledgor and that Schedules D and E hereto are true and correct with respect to the matters set forth therein as of the date hereof.

(b) The Pledgor has full corporate power, authority and legal right to pledge and grant a security interest in the respective Pledged Collateral in accordance with the terms of this Agreement and this Agreement has been duly and validly executed and delivered by the Pledgor, constitutes the legal, valid and binding obligation of the Pledgor, enforceable against the Pledgor in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity and considerations of public policy, regardless of whether considered in a proceeding in equity or at law.

(c) Except as set forth on Schedule E hereto and except for filings with the Patent and Trademark Office, under the UCC and under applicable foreign law, no authorization, consent, approval, license, qualification or formal exemption from, nor any filing, declaration or registration with, any court (other than in connection with the exercise of judicial remedies), governmental agency or regulatory authority, or with any securities exchange or any other Person is required in connection with (1) the pledge by the Pledgor of the Pledged Collateral pursuant to this Agreement, or the execution, delivery or performance by the Pledgor of this Agreement, (2) the grant of a security interest (including the priority thereof when the appropriate filings have been made and accepted) in, the Pledged Collateral by the Pledgor in the manner and for the purpose contemplated by this Agreement or (3) the exercise of the rights and remedies of the Secured Party created hereby.

(d) The Pledgor has made and will continue to make all necessary filings and recordations from time to time and use appropriate statutory notice to protect its interests in the

Pledged Collateral owned by it which is material to the business of the Pledgor, including, without limitation, appropriate recordations of its interests in the Patents and Trademarks in the United States Patent and Trademark Office and in corresponding offices wherever it does business using such Patents and Trademarks throughout the world and its claims to Copyrights in the United States Copyright Office, and as otherwise reasonably requested from time to time by the Secured Party, but in any event all in a manner consistent with prudent and commercially reasonable business practices.

(e) The Pledgor owns or has rights to use all the Pledged Collateral and all rights with respect to any of the foregoing used in, necessary for or material to the Pledgor's business as currently conducted and as contemplated to be conducted pursuant to the Loan Documents. To the Pledgor's knowledge, (i) the use of such Pledged Collateral and all rights with respect to the foregoing by the Pledgor does not infringe on the rights of any Person and, (ii) except as set forth in the Credit Agreement, no material claim has been made and remains outstanding that the Pledgor's use of the Pledged Collateral does or may violate the rights of any third person, in each case where any infringement or claim could have a material adverse effect on the business, property, assets or condition, financial or otherwise, of the Pledgor.

(f) Upon filings and the acceptance thereof in the appropriate offices under the UCC and in the United States Patent and Trademark Office and the United States Copyright Office, this Agreement will create a valid and duly perfected first priority lien and security interest in favor of the Secured Party in the Pledged Collateral located in the United States, subject to no Liens other than Prior Liens.

## 6. Covenants.

(a) On a continuing basis, the Pledgor will, at the expense of the Pledgor, subject to any Prior Liens, make, execute, acknowledge and deliver, and file and record in the proper filing and recording offices, all such instruments or documents, including, without limitation, appropriate financing and continuation statements, licenses (to the extent that such license does not cause a breach or termination of any underlying license) and collateral agreements, and take all such action (limited, as aforesaid, if applicable) as may reasonably be deemed necessary or appropriate by the Secured Party (1) to carry out the intent and purposes of this Agreement, (2) to assure and confirm to the Secured Party the grant or perfection of a security interest in the Pledged Collateral for the benefit of the Secured Party, and (3) during the continuation of an Event of Default, to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral. Without limiting the generality of the foregoing, the Pledgor agrees that it:

(A) will not enter into any agreement that would materially impair or conflict with the Pledgor's obligations hereunder;

(B) will, from time to time, upon the Secured Party's reasonable request, cause its books and records to be marked with such legends or segregated in such manner as the Secured Party may specify and take or cause to be taken such other action and adopt such procedures as the Secured Party may specify to give notice or to perfect the security interest in the Pledged Collateral intended to be conveyed hereby;

(C) will, promptly following its becoming aware thereof, notify the Secured Party of

(i) any materially adverse determination in any proceeding in the United States Patent and Trademark Office or United States Copyright Office with respect to any Patent, Trademark or Copyright material to the Pledgor's business; or

(ii) any written claim received, the institution of any proceeding or any materially adverse determination in any federal, state, local or foreign court or administrative bodies regarding the Pledgor's claim of ownership in or right to use any of the Pledged Collateral material to the Pledgor's business, its right to register such Pledged Collateral, or its right to keep and maintain such registration in full force and effect;

(D) will properly maintain and protect the Pledged Collateral which is material to its business to the extent necessary or appropriate for the conduct of the Pledgor's business (as presently conducted and as contemplated by the Loan Documents) and consistent with the Pledgor's current practice in accordance with applicable statutory requirements;

(E) will not grant or permit to exist any Lien upon or with respect to the Pledged Collateral or any portion thereof except Liens in favor of the Secured Party or as permitted under this Agreement or the Credit Agreement, and will not execute any security agreement or financing statement covering any of the Pledged Collateral except in the name of the Secured Party or as permitted under this Agreement or the Credit Agreement;

(F) except in accordance with prudent and commercially reasonable business practices, will not permit to lapse or become abandoned, settle or compromise any pending or future litigation or administrative proceeding with respect to the Pledged Collateral material to its business without the consent of the Secured Party in accordance with the provisions of the Credit Agreement, or contract for sale or otherwise dispose of the Pledged Collateral or any portion thereof except pursuant to Section 7 hereof;

(G) will, upon obtaining knowledge thereof, promptly notify the Secured Party in writing of any event which may reasonably be expected to materially adversely affect the value or utility of the Pledged Collateral or any portion thereof, the ability of the Pledgor or the Secured Party to dispose of the Pledged Collateral or any portion thereof or the rights and remedies of the Secured Party in relation thereto including, without limitation, a levy or threat of levy or any legal process against the Pledged Collateral or any portion thereof;

(H) until the Secured Party exercises its rights to make collection, will diligently keep adequate records respecting the Pledged Collateral;

(I) subject to the first sentence of this Section 6(a), hereby authorizes the Secured Party, in its sole discretion, to file one or more financing or continuation

statements and amendments thereto, relative to all or any part of the Pledged Collateral without the signature of the Pledgor where permitted by law;

(J) will furnish to the Secured Party from time to time statements and amended schedules further identifying and describing the Pledged Collateral and such other materials evidencing or reports pertaining to the Pledged Collateral as the Secured Party may from time to time reasonably request, all in reasonable detail;

(K) will pay when due any and all taxes, levies, maintenance fees, charges, assessments, license fees and similar taxes or impositions payable in respect of the Pledged Collateral, that, if not paid, could result in a material adverse effect on the business, property, assets or condition, financial or otherwise, of the Pledgor, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Pledgor has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a material adverse effect on the business, property, assets or condition, financial or otherwise, of the Pledgor; and

(L) will comply in all material respects with all laws, rules and regulations applicable to the Pledged Collateral.

(b) If, before the Secured Obligations shall have been indefeasibly paid and satisfied in full and the obligations of the Secured Party to make additional Loans under the Credit Agreement shall have terminated or expired, the Pledgor shall: (1) obtain any rights to any additional Pledged Collateral or (2) become entitled to the benefit of any additional Pledged Collateral or any renewal or extension thereof, including any reissue, division, continuation, or continuation-in-part of any Patent, or any improvement on any Patent, the provisions of this Agreement shall automatically apply thereto and any item enumerated in clause 6(b)(1) or clause 6(b)(2) with respect to the Pledgor shall automatically constitute Pledged Collateral if such would have constituted Pledged Collateral at the time of execution of this Agreement, and be subject to the assignment, Lien and security interest created by this Agreement without further action by any party. The Pledgor shall, at least once in each calendar quarter, provide written notice to the Secured Party of all applications for Patents and all applications for registration of Trademarks or Copyrights, to the extent such applications exist, made during the preceding calendar quarter. The Pledgor agrees, promptly following the written request by the Secured Party, to confirm the attachment of the lien and security interest created by this Agreement to any rights described in clause 6(b)(1) or clause 6(b)(2) above if such would have constituted Pledged Collateral at the time of execution of this Agreement by execution of an instrument in form reasonably acceptable to the Secured Party.

(c) The Pledgor authorizes the Secured Party to modify this Agreement by amending Schedules A, B and/or C annexed hereto to include any future Pledged Collateral of the Pledgor, including, without limitation, any of the items listed in Section 6(b).

(d) The Pledgor shall file and prosecute diligently all applications for Patents, Trademarks or Copyrights now or hereafter pending that would be necessary to the businesses of

the Pledgor to which any such applications pertain, and to do all acts necessary to preserve and maintain all rights in such Pledged Collateral unless such Pledged Collateral is not material to the Pledgor's business, as reasonably determined by the Pledgor consistent with prudent and commercially reasonable business practices. Any and all costs and expenses incurred in connection with any such actions shall be borne by the Pledgor. Except in accordance with prudent and commercially reasonable business practices, the Pledgor shall not abandon any right to file a Patent, Trademark or Copyright application or any pending Patent, Trademark or Copyright application or any Patent, Trademark or Copyright, in each case material to its business, without the consent of the Secured Party.

7. Transfers and Other Liens. The Pledgor will not (a) sell, convey, assign or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral except for licensing in the ordinary course of business, dispositions of Pledged Collateral no longer used or useful in the Pledgor's business, termination or non-renewals of licenses in the ordinary course of business and such other transactions as may be permitted under the Credit Agreement or (b) create or permit to exist any Lien upon or with respect to any of the Pledged Collateral, except for Liens for taxes, assessments or government charges or claims the payment of which is not at the time required and inchoate Liens imposed by law (each of which shall, except to the extent otherwise required by law, be subordinate to the Lien created by this Agreement), Liens permitted by the Credit Agreement, rights of licensors under licenses and the Lien granted to the Secured Party under this Agreement.

8. Remedies upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party may to the full extent permitted by law or contract: (1) exercise any and all rights on a nonexclusive basis throughout the world irrevocably and perpetually as beneficial and legal owner or licensee, as the case may be, of the Pledged Collateral, including, without limitation, perfecting assignment of any and all contractual rights and powers with respect to the Pledged Collateral to the extent permitted by and subject to the terms of such Pledged Collateral and (2) sell or assign or grant a license to use, or cause to be sold or assigned or a license granted to use any or all of the Pledged Collateral (in the case of Trademarks, along with the goodwill associated therewith, and in the case of Trademark licenses, subject to terms in the original license) or any part thereof, in each case, free of all rights and claims of the Pledgor therein and thereto, but subject to the terms of any licenses. In accordance with such rights, the Secured Party shall have (A) the right to cause any or all of the Pledged Collateral to be transferred of record into the name of the Secured Party or its nominee and (B) the right to impose (i) such limitations and restrictions on the sale or assignment of the Pledged Collateral as the Secured Party may deem to be necessary or appropriate to comply with any law, rule or regulation (federal, state or local) having applicability to the sale or assignment, and (ii) any necessary or appropriate requirements for any required governmental approvals or consents.

(b) Except as provided in this Section 8 and other express notice provisions of the Loan Documents, the Pledgor hereby expressly waives, to the fullest extent permitted by applicable law, any and all notices, advertisements, hearings or process of law in connection with the exercise by the Secured Party of any of its rights and remedies hereunder.

(c) The Pledgor agrees that, to the extent notice of sale shall be required by law, ten (10) days' notice from the Secured Party of the time and place of any public sale or of the time after which a private sale or other intended disposition is to take place shall be commercially reasonable notification of such matters. In addition to the rights and remedies provided in this Agreement and in the other Loan Documents, the Secured Party shall have all the rights and remedies of a secured party under the UCC.

(d) Except as otherwise provided herein, the Pledgor hereby waives, to the fullest extent permitted by applicable law, notice of judicial hearing in connection with the Secured Party's taking possession or the Secured Party's disposition of any of the Pledged Collateral, including, without limitation, any and all prior notice and rights to a hearing for any prejudgment remedy or remedies and any such right which the Pledgor would otherwise have under law, and the Pledgor hereby further waives to the extent permitted by applicable law: (1) all damages occasioned by any such taking of possession; (2) all other requirements as to the time, place and terms of sale or other requirements with respect to the enforcement of the Secured Party's rights hereunder; and (3) all rights of redemption, appraisal, valuation, stay, extension or moratorium now or hereafter in force under any applicable law. Any sale of, or the grant of options to purchase, or any other realization upon, any Pledged Collateral shall operate to divest all right, title, interest, claim and demand, either at law or in equity, of the Pledgor therein and thereto, and shall be a perpetual bar both at law and in equity against the Pledgor and against any and all Persons claiming or attempting to claim the Pledged Collateral so sold, optioned or realized upon, or any part thereof, from, through or under the Pledgor.

9. Application of Proceeds. The proceeds of any Pledged Collateral obtained pursuant to the exercise of any remedy set forth in Section 8 shall be applied, together with any other sums then held by the Secured Party pursuant to this Agreement, promptly by the Secured Party:

First, to the payment of all costs and expenses, fees, commissions and taxes of such sale, collection or other realization, including, without limitation, reasonable reimbursement to the Secured Party and its agents and counsel for all expenses, fees, liabilities and advances made or incurred by them in connection with the exercise of such remedies and all expenses, liabilities, indebtedness and advances made or incurred by the Secured Party in connection therewith, together with interest on each such amount at the highest rate then in effect under the Credit Agreement;

Second, to the Secured Party to be applied against payment in full in cash of the Secured Obligations, in accordance with the terms of the Credit Agreement; and

Third, to the Pledgor, or its successors or assigns, or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct, of any surplus then remaining from such Proceeds.

10. Expenses. The Pledgor will pay on demand all reasonable expenses of the Secured Party in connection with the preparation, waiver or amendment of this Agreement or other Loan Documents executed in connection therewith, and all of the reasonable expenses of the Secured Party in connection with the administration, default or collection of the Revolving Credit Loans

or administration, default or collection in connection with the Secured Party's exercise, preservation or enforcement of any of its rights, remedies or options thereunder, including, without limitation, reasonable fees and disbursements of outside legal counsel or accounting, consulting, brokerage or other similar professional fees or expenses, and any fees or expenses associated with any travel or other costs relating to any appraisals or examinations conducted in connection with the Secured Obligations or any Pledged Collateral therefor, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any default rate).

#### 11. No Waiver; Cumulative Remedies.

(a) No failure on the part of the Secured Party to exercise, no course of dealing with respect to, and no 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 hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein provided are cumulative and are not exclusive of any remedies provided by law.

(b) In the event the Secured Party shall have instituted any proceeding to enforce any right, power or remedy under this instrument 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 Pledgor and the Secured Party shall, to the extent permitted by applicable law, be restored to their respective former positions and rights hereunder with respect to the Pledged Collateral, and all rights, remedies and powers of the Secured Party shall continue as if no such proceeding had been instituted.

12. The Secured Party May Perform; the Secured Party Appointed Attorney-in-Fact. If the Pledgor shall fail to do any act or thing that it has covenanted to do hereunder or any warranty on the part of the Pledgor contained herein shall be breached, the Secured Party may (but shall not be obligated to) do the same or cause it to be done or remedy any such breach, and may expend funds for such purpose. Any and all amounts so expended by the Secured Party shall be paid by the Pledgor promptly upon demand therefor, with interest at the highest rate then in effect under the Credit Agreement during the period from and including the date on which such funds were so expended to the date of repayment. The Pledgor hereby appoints, effective upon the occurrence and during the continuance of an Event of Default, the Secured Party as its attorney-in-fact with an interest, with full authority in the place and stead of the Pledgor and in the name of the Pledgor, or otherwise, from time to time in the Secured Party's reasonable discretion to take any action and to execute any instruments consistent with the terms of this Agreement and the other Loan Documents which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement. The foregoing grant of authority is a power of attorney coupled with an interest and such appointment shall be irrevocable for the term of this Agreement.



### 13. Indemnity.

(a) Indemnity. The Pledgor agrees to indemnify, reimburse and hold the Secured Party and its successors, assigns, employees, agents and servants (collectively, "Indemnitees") harmless from and against any and all liabilities, obligations, damages, injuries, penalties, claims, demands, actions, suits, judgments and any and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses and the allocated costs of internal counsel) of whatsoever kind and nature imposed on, asserted against or incurred by any of the Indemnitees in any way relating to or arising out of this Agreement or the other Loan Documents or in any other way connected with the administration of the transactions contemplated hereby or the enforcement of any of the terms hereof, or the preservation of any rights hereunder, or in any way relating to or arising out of the manufacture, processing, ownership, ordering, purchase, delivery, control, acceptance, lease, financing, possession, operation, condition, sale, return or other disposition, or use of the Pledged Collateral (including, without limitation, latent or other defects, whether or not discoverable), any claim for patent, trademark, trade secret or copyright infringement, the violation of the laws of any country, state or other governmental body or unit, any tort (including, without limitation, claims arising or imposed under the doctrine of strict liability, or for or on account of injury to or the death of any Person (including any Indemnitee)), or property damage, or contract claim; provided that the Pledgor shall have no obligation to an Indemnitee hereunder to the extent it is finally judicially determined that such indemnified liabilities arise solely from the gross negligence or willful misconduct of that Indemnitee. Upon written notice by any Indemnitee of the assertion of such a liability, obligation, damage, injury, penalty, claim, demand, action, judgment or suit, the Pledgor shall assume full responsibility for the defense thereof. If any action, suit or proceeding arising from any of the foregoing is brought against any Indemnitee, the Pledgor shall, if requested by such Indemnitee, resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel reasonably satisfactory to such Indemnitee. Each Indemnitee shall, unless any other Indemnitee has made the request described in the preceding sentence and such request has been complied with, have the right to employ its own counsel (or internal counsel) to investigate and control the defense of any matter covered by the indemnity set forth in this Section 13 and the fees and expenses of such counsel shall be paid by the Pledgor; provided that, only to the extent that no conflict exists between or among the Indemnitees as reasonably determined by the Indemnitees, the Pledgor shall not be obligated to pay the fees and expenses of more than one counsel for all Indemnitees as a group with respect to any such matter, action, suit or proceeding.

(b) Misrepresentations. Without limiting the application of subsection 13(a), the Pledgor agrees to pay, indemnify and hold each Indemnitee harmless from and against any loss, costs, damages and expenses which such Indemnitee may suffer, expend or incur in consequence of or growing out of any misrepresentation by the Pledgor in this Agreement or any of the other Loan Documents or in any statement or writing contemplated by or made or delivered pursuant to or in connection with this Agreement or any of the other Loan Documents.

(c) Contribution. If and to the extent that the obligations of the Pledgor under this Section 13 are unenforceable for any reason, the Pledgor hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations that is permissible under applicable law.

(d) Survival. The obligations of the Pledgor contained in this Section 13 shall survive the termination of this Agreement and the discharge of the Pledgor's other obligations hereunder and under the other Loan Documents.

(e) Reimbursement. Any amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement shall constitute Secured Obligations secured by the Pledged Collateral.

#### 14. Litigation.

(a) The Pledgor 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 applications for protection of the Pledged Collateral, suits, proceedings or other actions for infringement, counterfeiting, unfair competition, dilution or other damage as are in its reasonable business judgment necessary to protect the Pledged Collateral. The Pledgor shall promptly notify the Secured Party in writing as to the commencement and prosecution of any such actions, or threat thereof relating to the Pledged Collateral and shall provide to the Secured Party such information with respect thereto as may be reasonably requested. The Secured Party shall provide all reasonable and necessary cooperation in connection with any such suit, proceeding or action, including, without limitation, joining as a necessary party.

(b) Upon the occurrence and during the continuation of an Event of Default, the Secured Party shall have the right but shall in no way be obligated to file applications for protection of the Pledged Collateral and/or bring suit in the name of the Pledgor or the Secured Party to enforce the Pledged Collateral and any license thereunder; in the event of such suit, the Pledgor shall, at the request of the Secured Party, do any and all lawful acts and execute any and all documents required by the Secured Party in aid of such enforcement and the Pledgor shall promptly, upon demand, reimburse and indemnify the Secured Party, as the case may be, for all costs and expenses incurred by the Secured Party in the exercise of its rights under this Section 14. In the event that the Secured Party shall elect not to bring suit to enforce the Pledged Collateral, the Pledgor agrees to use all commercially reasonable measures, whether by action, suit, proceeding or otherwise, to prevent the infringement, counterfeiting or other diminution in value of any of the Pledged Collateral material to the business of the Pledgor by others and for that purpose agrees to diligently maintain any action, suit or proceeding against any Person so infringing necessary to prevent such infringement as is in the reasonable business judgment of the Pledgor necessary to protect the Pledged Collateral and the Secured Party shall provide, at the Pledgor's expense, all necessary and reasonable assistance to the Pledgor to maintain such action.

15. Modifications in Writing. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the Pledgor therefrom, shall be effective unless the same shall be in writing and signed by the Secured Party and, except in the case of any such termination, waiver or consent, by the Pledgor. Any amendment, modification or supplement of or to any provision of this Agreement, any waiver of any provision of this Agreement, and any consent to any departure by the Pledgor 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 any other Loan Document, no notice to or demand on the Pledgor in any case shall entitle the Pledgor to any other or further notice or demand in similar or other circumstances.

16. Termination; Release. When all the Secured Obligations have been paid in full and have been terminated and the Commitments of the Secured Party to make any Loan under the Credit Agreement have terminated or expired, this Agreement shall terminate. Upon termination of this Agreement or any release of Pledged Collateral in accordance with the provisions of the Credit Agreement, the Secured Party shall, upon the request and at the expense of the Pledgor, forthwith assign, transfer and deliver to the Pledgor against receipt and without recourse to or warranty by the Secured Party, such of the Pledged Collateral to be released (in the case of a release) as may be in the possession of the Secured Party and as shall not have been sold or otherwise applied pursuant to the terms hereof, on the order of and at the expense of the Pledgor, and proper instruments (including UCC termination statements on Form UCC-3 and documents suitable for recordation in the United States Patent and Trademark Office, the United States Copyright Office or similar domestic or foreign authority) acknowledging the termination of this Agreement or the release of such Pledged Collateral, as the case may be.

17. Reinstatement. Notwithstanding the provisions of Section 16, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by the Secured Party in respect of the Secured Obligations is rescinded or must otherwise be restored or returned by the Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Pledgor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, the Pledgor or any substantial part of its properties, or otherwise, all as though such payments had not been made.

18. Credit Agreement. Notwithstanding any other provision of this Agreement, the rights of the parties hereunder are subject to the provisions of the Credit Agreement, including the provisions thereof pertaining to the rights and responsibilities of the Secured Party. In the event that any provision of this Agreement is in conflict with the terms of the Credit Agreement, the Credit Agreement shall control. Unless the context shall otherwise clearly indicate, the term "Secured Party" as used herein shall include Citizens Bank of Massachusetts and any other holder from time to time of promissory notes issued under the Credit Agreement.

19. Notices. All notices, consents, approvals, elections and other communications hereunder shall be in writing (whether or not the other provisions of this Agreement expressly so provide) and shall be deemed to have been duly given if delivered in accordance with the terms of the Credit Agreement.

20. Continuing Security Interest; Assignment. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (a) remain in full force and effect until the indefeasible payment in full of all Secured Obligations and the termination or expiration of the obligations of the Secured Party to make Loans under the Credit Agreement, (b) be binding upon the Pledgor, its successors and assigns, and (c) inure, together with the rights and remedies of the Secured Party hereunder, to the benefit of the Secured Party and its successors, transferees and assigns; other than the Secured Party, no other Persons (including, without limitation, any other creditor of the Pledgor) shall have any interest herein or any right or benefit with respect hereto. Without limiting the generality of the foregoing clause 20(c), any Secured Party may assign or

otherwise transfer any indebtedness held by it secured by this Agreement to any other Person in accordance with the Credit Agreement, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to the Secured Party, herein or otherwise, subject however, to the provisions of the Credit Agreement.

21. GOVERNING LAW; TERMS. THIS AGREEMENT , INCLUDING THE VALIDITY HEREOF AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER IN RESPECT OF ANY PARTICULAR INTELLECTUAL PROPERTY ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE COMMONWEALTH OF MASSACHUSETTS.

22. CONSENT TO JURISDICTION AND SERVICE OF PROCESS; WAIVER OF JURY TRIAL. THE PLEDGOR, TO THE EXTENT THAT IT MAY LAWFULLY DO SO, HEREBY CONSENTS TO SERVICE OF PROCESS, AND TO BE SUED, IN THE COMMONWEALTH OF MASSACHUSETTS AND CONSENTS TO THE JURISDICTION OF THE COURTS OF THE COMMONWEALTH OF MASSACHUSETTS AND THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS, AS WELL AS TO THE JURISDICTION OF ALL COURTS TO WHICH AN APPEAL MAY BE TAKEN FROM SUCH COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF ANY OF THE SECURED OBLIGATIONS OR WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY, AND EXPRESSLY WAIVES ANY AND ALL OBJECTIONS IT MAY HAVE AS TO VENUE IN ANY SUCH COURTS. THE PLEDGOR FURTHER AGREES THAT A SUMMONS AND COMPLAINT COMMENCING AN ACTION OR PROCEEDING IN ANY OF SUCH COURTS SHALL BE PROPERLY SERVED AND SHALL CONFER PERSONAL JURISDICTION IF SERVED PERSONALLY OR BY CERTIFIED MAIL TO IT IN ACCORDANCE WITH PARAGRAPH 19 HEREOF OR AS OTHERWISE PROVIDED UNDER THE LAWS OF COMMONWEALTH OF MASSACHUSETTS. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THE SECURED PARTY MAY OTHERWISE HAVE TO BRING AN ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST THE PLEDGOR OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

23. 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.

24. 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.

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

26. Obligations Absolute. To the extent permitted by applicable law, all obligations of the Pledgor hereunder shall be absolute and unconditional irrespective of:


- (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition liquidation or the like of the Pledgor or any other Subsidiary of the Pledgor;
- (b) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, or any other agreement or instrument with the Secured Party;
- (c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document, or any other agreement or instrument with the Secured Party;
- (d) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to any departure from any guarantee, for all or any of the Secured Obligations; or
- (e) any exercise or non-exercise, or any waiver of any right, remedy, power or privilege under or in respect of this Agreement or any other Loan Document except as specifically set forth in a waiver granted pursuant to the provisions of Section 15 hereof.

27. Waiver of Single Action. The Pledgor hereby waives to the greatest extent permitted under law the right to a discharge of any of the Secured Obligations under any statute or rule of law now or hereafter in effect which provides that the exercise of any particular right or remedy as provided for herein (by judicial proceedings or otherwise), constitutes the exclusive means for satisfaction of the Secured Obligations or which makes unavailable any further judgment or any other right or remedy provided for herein because the Secured Party elected to proceed with the exercise of such initial right or remedy or because of any failure by the Secured Party or any other Secured Party to comply with laws that prescribe conditions to the entitlement to such subsequent judgment or the availability of such subsequent right or remedy. In the event that, notwithstanding the foregoing waiver, any court shall for any reason hold that such subsequent judgment or action is not available to the Secured Party, the Pledgor shall not (a) introduce in any other jurisdiction any judgment so holding as a defense to enforcement against the Pledgor of any remedy in the Credit Agreement or executed in connection with the Credit Agreement or (b) seek to have such judgment recognized or entered in any other jurisdiction, and any such judgment shall in all events be limited in application only to the state or jurisdiction where rendered and only with respect to the collateral referred to in such judgment.

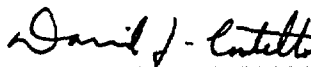
28. Future Advances. This Agreement shall secure the payment of any amounts advanced from time to time pursuant to the Credit Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Intellectual Property Security Agreement to be duly executed as of the date first above written.

WALDEN SPORTS, INC.,  
a Massachusetts corporation

By:   
Name: James M. Hardigg  
Title: President

CITIZENS BANK OF MASSACHUSETTS

By:   
Name: David J. Costello  
Title: Vice President

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**REQUIRED CONSENTS AND LICENSES**

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