

Form PTO-1594 (Rev. 06/04)
OMB Collection 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

Chruchhill Capital Partners II

- Individual(s)
- General Partnership
- Corporation-State
- Other _____
- Association
- Limited Partnership

Citizenship (see guidelines) _____

Execution Date(s) December 6, 2004

Additional names of conveying parties attached? Yes No

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Marietta Corporation/Marietta
Internal American, Inc

Address: _____

Street Address: 37 Huntington Street

City: Cortland

State: New York

Country: US Zip: 13045

- Association Citizenship _____
- General Partnership Citizenship _____
- Limited Partnership Citizenship _____
- Corporation Citizenship New York
- Other _____ Citizenship _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other Release of Security Agreement
- Merger
- Change of Name

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

See Attached Exhibit "A"

See Attached Exhibit "A"

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: John Moran, Swidler Berlin Shereff

Internal Address: Friedman LLP

Street Address: 3000 K Street, NW
Suite 300

City: Washington

State: DC Zip: 20007

Phone Number: (202) 424-7500

Fax Number: (202) 293-8478

Email Address: ipmoran@swidlaw.com

6. Total number of applications and registrations involved:

14

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 365.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number 19-5127

Authorized User Name John P. Moran

9. Signature:

John P. Moran
Signature

December 16, 2004
Date

John P. Moran, Reg. No. 30,906

Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 22

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5996, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

CH \$366.00 196127 74704164

EXHIBIT A

REGISTERED TRADEMARKS

<u>Trademark</u>	<u>Registration Date</u>	<u>Registration No.</u>
Design Only	6/6/95	1,897,256
Sun & Sand	6/13/95	1,898,492
Design Only	2/8/94	1,819,633
The Amenities Choice for the 90's	9/10/91	1,656,995
Fresh 'N' Minty	7/21/92	1,701,293
Lord & Mayfair	10/8/91	1,639,351
The Amenities Source and Design	12/20/83	1,261,916

PENDING TRADEMARKS

<u>Trademark</u>	<u>Filing Date</u>	<u>Serial No.</u>
Cruizin' Kids	7/21/95	74-704,151
Brookhaven	4/20/95	74-664,106
Tamarack	4/20/95	74-664,105
Windscape	4/20/95	74-664,104
Cambria & Taylor	12/16/94	74-611,747
Lord & Mayfair	11/30/94	74-604,725
Fleur de Lis	4/25/94	74-517,006

KEVIN C. DOOLEY
GENERAL COUNSEL

CHURCHILL CAPITAL

December 6, 2004

Marietta Corporation
Marietta American, Inc.
50 East Sample Road, Suite 400
Pompano Beach, Florida 33064
Attention: Rick Bloom

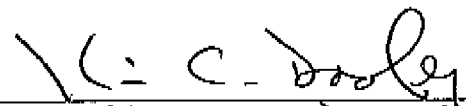
RE: Termination of Security Agreement – Intellectual Property (the “Security Agreement”) dated as of March 8, 1996 among Churchill Capital Partners II (“Churchill”), Marietta Corporation (“Marietta”) and Marietta American, Inc. (together with Marietta, the “Debtors”)

Dear Rick:

By this letter, Churchill acknowledges the repayment and performance of Marietta Corporation’s Obligations under the Security Agreement recorded at the U.S. Patent and Trademark Office on May 13, 1996 at Reel 1493, Frame 0952. We attach a copy of the recorded Security Agreement for your reference. Pursuant to Section 13 of the Security Agreement, the Secured Interests have terminated and all rights in the Collateral have reverted to the Debtors. As a result of the foregoing, Churchill hereby terminates all rights extended to it by Marietta by the Security Agreement. Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to such terms in the Security Agreement.

CHURCHILL CAPITAL PARTNERS II

By: Churchill Capital, Inc.,
Its General Partner


Name: KEVIN C. DOOLEY
Title: GENERAL COUNSEL

333 SOUTH SEVENTH STREET, SUITE 3100
MINNEAPOLIS, MN 55402

612 673 6708
612 673 6615 FAX



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325-492
D
07-23-1996



100236614

Marietta Corporation
Marietta American, Inc.
37 Huntington Street
Cortland, NY 13045

1. Conveying party:

2. Receiving party:

Churchill Capital Partners II
2400 Metropolitan Centre
333 South Seventh Street
Minneapolis, MN 55402

3. Nature of conveyance:

Security Interest

4. Execution date of conveyance:

March 8, 1996

5. Application numbers:

See attached Exhibit "A"

6. Registration numbers:

See attached Exhibit "A"

7. Number of registrations and applications involved:

14

8. Total fee enclosed:

\$365.00

9. Name and address of party to whom correspondence concerning documents should be mailed:

Thomas G. Rock, Esq.
Rider, Bennett, Egan & Arundel, LLP
2000 Metropolitan Centre
333 South Seventh Street
Minneapolis, MN 55402

10. Statement and signature: To the best of my knowledge and belief the foregoing information is true and correct and attached is the original document of assignment.

Thomas G. Rock

Thomas G. Rock

Date: May 6, 1996

30640-1

TRADEMARK
REEL: 1493 FRAME: 0934

TRADEMARK
REEL: 002994 FRAME: 0667



REGISTERED TRADEMARKS

<u>Trademark</u>	<u>Registration Date</u>	<u>Registration No.</u>
Design Only	6/6/95	1,897,256
Sun & Sand	6/13/93	1,898,492
Design Only	2/8/94	1,819,633
The Amenities Choice for the 90's	9/10/91	1,656,995
Fresh 'N' Minty	7/21/92	1,701,293
Lord & Mayfair	10/8/91	1,659,351
The Amenities Source and Design	12/20/83	1,261,916

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Windscape	4/20/95	74-664,104
Cambria & Taylor	12/16/94	74-611,747
Lord & Mayfair	11/30/94	74-604,725
Fleur de Lis	4/25/94	74-517,006

TRADEMARK
REEL: 1493 FRAME: 0935

TRADEMARK
REEL: 002994 FRAME: 0668

EXECUTION ORIGINAL

SECURED PARTY AND FOOTHILL CAPITAL CORPORATION, A CALIFORNIA CORPORATION, HAVE ENTERED INTO AN INTERCREDITOR AGREEMENT OF EVEN DATE HERewith. SECURED PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE INTERCREDITOR AGREEMENT AND RIGHTS GRANTED TO THE SENIOR CREDITOR THEREUNDER. THE INTERCREDITOR AGREEMENT SHALL BE BINDING UPON THE SUCCESSORS AND ASSIGNS OF FOOTHILL CAPITAL CORPORATION AND, SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT, SHALL BENEFIT ANY SENIOR LENDER THAT REPLACES FOOTHILL CAPITAL CORPORATION AS WORKING CAPITAL LENDER TO DEBTOR.

SECURITY AGREEMENT - INTELLECTUAL PROPERTY

THIS SECURITY AGREEMENT - INTELLECTUAL PROPERTY (the "Agreement"), dated as of the 8th day of March, 1996, among CHURCHILL CAPITAL PARTNERS II, a Minnesota limited partnership (the "Secured Party"), and MARIETTA CORPORATION, a New York corporation ("Marietta"), MARIETTA AMERICAN, INC., a Mississippi corporation and a wholly-owned subsidiary of Marietta ("American"), Marietta and American are each sometimes referred to herein as a "Debtor" and together as the "Debtors").

WHEREAS, pursuant to that certain Note Purchase Agreement among the Secured Party and the Debtors of even date herewith (the "Note Purchase Agreement"), the Secured Party has agreed to purchase Notes issued by the Debtors in the aggregate principal amount of \$15,000,000; and

WHEREAS, the Debtors have agreed to enter into this Security Agreement-Intellectual Property in order to induce the Secured Party, *inter alia*, to enter into the Note Purchase Agreement and to purchase the Notes issued by the Debtors thereunder;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

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REEL: 002994 FRAME: 0669

Section 1. Definitions. Except as to those terms otherwise defined in this Agreement, all capitalized terms used in this Agreement shall have the respective meanings ascribed to them in the Note Purchase Agreement.

Section 2. The Security Interests.

a. In order to secure the due and punctual payment of the Notes, and the performance of all other Obligations of the Debtors owing to the Secured Party from time to time (including, without limitation, Obligations pursuant to the Note Purchase Agreement and this Agreement), the Debtors hereby grant to the Secured Party a continuing security interest in and to any and all of Debtors':

i. Patents. Patents, if any, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Patent" means and includes (i) all letters patent of the United States or any other country or any political subdivision thereof, now existing or hereafter acquired, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country or any political subdivision thereof, now existing or hereafter acquired, including without limitation registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof and (ii) all reissues, continuations, continuations-in-part or extensions thereof), including without limitation each Patent listed on Schedule A hereto, and all of the inventions now or hereafter described and claimed in the Debtors' Patents;

ii. Patent Licenses. Patent Licenses, if any, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Patent Licenses" means and includes any written agreement granting to any person any right to exploit, use or practice any invention on which a Patent is owned by another person), including without limitation each Patent License listed on Schedule A hereto, and all royalties and other sums due or to become due under or in respect of the Debtors' Patent Licenses, together with the right to sue for and collect all such royalties and other sums;

iii. Trademarks. Trademarks and Trademark registrations, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Trademarks" means and includes (i) all trademarks, trade names, trade styles, service marks and logos, all prints and labels on which said trademarks, trade names, trade styles, service marks and logos have appeared or appear and all designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, including without limitation registrations, recordings and

applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof and (ii) all reissues, extensions or renewals thereof), including without limitation each Trademark registration listed on Schedule A hereto, and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark and Trademark registration and all customer lists and other records of the Debtors relating to the distribution of products bearing a Trademark;

iv. Trademark Licenses. Trademark Licenses, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Trademark Licenses" means and includes any written agreement granting to any person any right to use or exploit any Trademark or Trademark registration of another person), including without limitation the agreements described in Schedule A hereto, and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark licensed and all royalties and other sums due or to become due under or in respect of the Debtors' Trademark Licenses, together with the right to sue for and collect all such royalties and other sums;

5. Copyrights. Copyrights and Copyright registrations, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Copyrights" means and includes (i) all copyrights, whether or not published or registered, and all works of authorship and other intellectual property and the rights therein, including without limitation copyrights for computer programs and data bases, and all copyrightable materials, and all tangible property embodying such copyrights or copyrightable materials, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, including without limitation registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state thereof any other country or any political subdivision thereof, and (ii) all renewals, derivative works, enhancements, modifications, new releases and other revisions thereof, and (iii) all accounts receivable, income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, including without limitation payments under all licenses entered into in connection therewith, and (iv) all rights corresponding thereto throughout the world), including without limitation each Copyright registration listed on Schedule A hereto;

vi. Copyright Licenses. Copyright Licenses, whether now owned or hereafter acquired, or in which any Debtor now has or hereafter acquires any rights (the term "Copyright Licenses" means and includes any written agreement granting to any person the right to use or exploit any Copyright or Copyright registration of another person, including without limitation the right to use the foregoing to prepare for sale or distribution and sell or distribute any and all inventory now or hereafter owned by any Debtor and now or hereafter covered by such licenses), including

without limitation the license and subscription agreements listed on Schedule A hereto, and all royalties and other sums due or to become due under or in respect of the Debtors' Copyright Licenses, together with the right to sue for and collect all such royalties and other sums;

vii. Know-How and Trade Secret Collateral. All know-how, inventions, processes, methods, information, data, plans, blueprints, specifications, designs, drawings, engineering reports, test reports, material standards, processing standards and performance standards, to the extent that the foregoing pertain to manufacturing, production or processing operations of any Debtor and constitute trade secrets of the Debtor, and all licenses or other similar agreements granted to or by any Debtor with respect to any of the foregoing;

viii. General Intangibles and Records and Cabinets. General intangibles relating to any of the above-described property and supporting evidence and documents relating to any of the above-described property, including without limitation written applications, correspondence, delivery receipts and notes, together with all books of account, ledgers and cabinets in which the same are reflected or maintained, all whether now existing or hereafter arising;

ix. Accessions and Additions. All accessions and additions to and substitutions and replacements of any and all of the foregoing, whether now existing or hereafter arising; and

x. Proceeds and Products. All proceeds and products of the foregoing and all insurance of the foregoing and proceeds thereof, whether now existing or hereafter arising, including without limitation (i) any claim of any Debtor against third parties for damages by reason of past, present or future infringement of any Patent or any Patent licensed under any Patent License, (ii) any claims by any Debtor against third parties for damages by reason of past, present or future infringement or dilution of any Trademark or Trademark registration or of any Trademark licensed under any Trademark License, or for injury to the goodwill of the business connected with the use of, or symbolized by, any Trademark or Trademark registration or of any Trademark licensed under any Trademark License, (iii) any claim of any Debtor against third parties for damages by reason of past, present or future infringements of any Copyright or Copyright registration or of any Copyright licensed under any Copyright License, and (iv) any claim by any Debtor against third parties for damages by reason of past, present or future misappropriation or wrongful use or disclosure of any trade secret or other property or right described above or of any such trade secret or other property or right licensed under any license or agreement described above, and together with the right to sue for and collect the damages described in the immediately preceding clauses (i), (ii), (iii) and (iv);

all of the foregoing being herein sometimes referred to as the "Collateral."

b. The security interests granted pursuant to this Section 2 (the "Security Interests") are granted as security only, and shall not subject the Secured Party to, or transfer or in any way affect or modify, any obligation or liability of the Debtors with respect to any of the Collateral or any transaction which gave rise thereto.

Section 3. Use of Collateral. Notwithstanding anything to the contrary contained herein, unless an Event of Default under the Note Purchase Agreement has occurred and is continuing, the Debtors may continue to exploit, license, use, enjoy and protect the Collateral throughout the world and the Secured Party shall from time to time execute and deliver, upon written request of the Debtors, any and all instruments, certificates or other documents, in the form so requested, necessary or appropriate in the reasonable judgment of the Debtors to enable the Debtors to continue to exploit, license, use, enjoy and protect the Collateral throughout the world.

Section 4. Filing of Financing Statements and Other Instruments. The Debtors will, at their expense, execute, deliver, file and record (in such manner and form as the Secured Party shall require), or permit the Secured Party to file and record, such financing statements, continuation statements and other instruments and documents (including without limitation this Agreement) in such offices (including without limitation the United States Patent and Trademark Office and the United States Copyright Office) as the Secured Party may reasonably deem necessary or appropriate in order to perfect and preserve the rights and interests granted to the Secured Party hereunder and (ii) hereby authorize the Secured Party to file and record such instruments and documents and any other instruments or documents related thereto without the signature of the Debtors where permitted by law and (iii) agree to do such further acts and things, and to execute and deliver to the Secured Party such additional instruments and documents, as the Secured Party may reasonably require to carry into effect the purposes of this Agreement or to better assure and confirm unto the Secured Party its respective rights, powers and remedies hereunder; provided, however, that the Secured Party shall give the Debtors prompt notice of any action taken or to be taken by the Secured Party pursuant to this Section 4. All of the foregoing are to be at the sole cost of the Debtors. Any costs of the foregoing incurred by the Secured Party shall be payable by the Debtors within five (5) days of demand by the Secured Party, together with interest thereon from the date of incurrence at the rate for default under the Note Purchase Agreement until so paid, and shall constitute an Obligation. Each Debtor hereby appoints the Secured Party as such Debtor's attorney-in-fact to execute and file, in the name and on behalf of such Debtor, any additional Financing Statements as the Secured Party may request.

Section 5. Representations and Warranties of Debtors. Each Debtor hereby represents and warrants that:

a. Each Debtor is, and, as to the Collateral acquired by it from time to time after the date hereof, such Debtor will be, the owner or, as applicable, licensee of all the Collateral attributed to it pursuant to the Schedule A hereto. Each Debtor's rights in such Collateral are and shall remain free and clear of any lien, pledge, security interest, encumbrance, license, assignment, collateral assignment or charge of any kind, including without limitation any filing of or agreement to file a financing statement as debtor under the Uniform Commercial Code or any similar statute, except for the lien and security interest created by this Agreement and except for the Permitted Liens and any replacements or refinancings of Permitted Liens if and to the extent allowed pursuant to Section 7.03 of Note Purchase Agreement. No Debtor has made a previous assignment, conveyance, transfer or agreement in conflict herewith. Each Debtor further represents and warrants to the Secured Party that Schedule A hereto is a true and correct lists of all Patents, Patent Licenses, Trademarks, Trademark Licenses, Copyrights and Copyright Licenses owned or used by such Debtor as of the date hereof and that Schedule A is a true and correct with respect to the matters set forth therein as of the date hereof.

b. Each Debtor has full corporate power to pledge and grant a security interest in all the Collateral pursuant to this Agreement.

c. Except as shown on Schedule B hereto, no authorization, consent, approval, license, qualification or exemption from, nor any filing, declaration or registration with, any court, governmental agency or regulatory authority, or with any securities exchange or any other party, is required in connection with (i) each Debtor's execution, delivery or performance of this Agreement, (ii) each Debtor's grant of a security interest (including the priority thereof when the appropriate filings have been made and accepted) in the Collateral in the manner and for the purpose contemplated by this Agreement or (iii) the rights of the Secured Party created hereby, except those that have already been obtained or made and those referred to in paragraph (f) of this Section 5.

d. Except as shown on Schedule B hereto, each Debtor has made all necessary filings and recordations to protect its interest in the Collateral.

e. Each Debtor owns directly or has rights to use all trademarks, service marks, trade names and copyrights and all rights with respect to any of the foregoing used in, necessary for or of importance to business of such Debtor in the ordinary course as presently conducted. The use of such trademarks, service marks, trade names and copyrights and all rights with respect to the foregoing by such Debtor

does not, to the best of such Debtor's knowledge after due inquiry, infringe on the rights of any party, nor has any claim of such infringement been made.

f. Upon filings and the acceptance thereof in the appropriate offices under the Uniform Commercial Code and in the United States Patent and Trademark Office and the United States Copyright Office, this Agreement will create a valid and duly perfected lien and security interest in the Collateral located in the United States subject only to the lien or encumbrance of the Senior Creditor.

g. To the best of each Debtor's knowledge after due inquiry, no claim has been made and remains outstanding that such Debtor's use of any of the Collateral does or may violate the rights of any third person.

Section 6. Covenants of the Debtors. Each Debtor hereby covenants and agrees that:

a. Except as shown on Schedule B hereto and except for Permitted Liens, and any replacements or refinancings of Permitted Liens if and to the extent allowed pursuant to Section 7.03 of Note Purchase Agreement, each Debtor will defend the Collateral and the Security Interests against all claims and demands of all Persons at any time claiming any adverse interest with respect thereto except where the failure to so defend the Collateral and the Security Interests will be immaterial to the Company.

b. Each Debtor will give written notice thereof to the Secured Party at least thirty (30) days prior to any change in the principal executive office of such Debtor or the office where such Debtor maintains its books and records.

c. Each Debtor will promptly pay any and all taxes, assessments and governmental charges in accordance with Section 6.03 of the Note Purchase Agreement.

d. Each Debtor will promptly notify the Secured Party of any event causing a loss or diminution in the value of all or any material part of the Collateral, which is material to the business of Marietta and its Subsidiaries, taken as a whole and the amount (or such Debtor's best estimate of the amount) of such loss or diminution.

e. Each Debtor (i) will not enter into any agreement that would impair or conflict with such Debtor's obligations hereunder, (ii) will, promptly following its becoming aware thereof, notify the Secured Party of (A) any final adverse determination in any proceeding in the United States Patent and Trademark Office or United States Copyright Office with respect to any of the Collateral which is material to the business of Marietta and its Subsidiaries, taken as a whole or (B) the institution

of any proceeding or any adverse determination in any federal, state, local or foreign court or administrative bodies regarding such Debtor's claim of ownership in or right to use any of the Collateral which is material to the business of Marietta and its Subsidiaries, taken as a whole, its right to register any such Collateral or its right to keep and maintain such registration which is material to the business of Marietta and its Subsidiaries, taken as a whole.

f. No Debtor will sell or offer to sell or otherwise assign, transfer or dispose of, or grant any option with respect to any of the Collateral or any interest therein without the prior written consent of the Secured Party.

g. Except for Permitted Liens, and any replacements or refinancings of Permitted Liens if and to the extent allowed pursuant to Section 7.03 of Note Purchase Agreement, each Debtor will keep all of the Collateral free from any and all adverse liens, security interests or encumbrances.

h. No Debtor will use any of the Collateral in violation of any applicable law.

i. If, before the Obligations shall have been paid and satisfied in full, any Debtor shall (i) obtain any rights to any new inventions (whether or not patentable), know-how, trade secrets, design, process, procedure, formula, diagnostic test, service mark, trademark, trademark registration, trade name, copyright, copyright registration, or license or (ii) become entitled to the benefit of any patent, patent application, service mark, trademark, trademark application, trademark registration, copyright, copyright registration, license renewal or copyright renewal or extension, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of this Agreement shall automatically apply thereto and the same shall automatically constitute Collateral and be and become subject to the assignment, lien and security interest created hereby without further action by any party, all to the same extent and with the same force and effect as if the same had originally been Collateral hereunder. If any Debtor so obtains or becomes entitled to any of the foregoing rights described in clauses (i) and (ii), such Debtor shall promptly give written notice thereof to the Secured Party. Each Debtor agrees, promptly following written request therefor by the Secured Party, to confirm the attachment of the lien and security interest created hereby to any such rights described in clauses (i) and (ii) by execution of an instrument in form and substance reasonably acceptable to the Secured Party.

j. Each Debtor authorizes the Secured Party to modify this Agreement by amending Schedule A hereto to include any future Collateral.

k. Each Debtor shall prosecute diligently applications for the Patents, Trademarks and Copyrights now or hereafter pending that in such Debtor's reasonable judgment would be materially beneficial to the business of such Debtor in the ordinary course, make application on unpatented but patentable inventions and registrable but unregistered Trademarks and Copyrights that in such Debtor's reasonable judgment would be materially beneficial to the business of such Debtor in the ordinary course as presently conducted, file and prosecute opposition and cancellation proceedings and do all acts necessary to preserve and maintain all its rights in the Collateral, unless as to any Trademark or Copyright, in the reasonable judgment of such Debtor such Trademark or Copyright has become obsolete to such business of such Debtor. Any expenses incurred in connection with such actions shall be borne by the Debtors.

l. During the preceding one (1) year no Debtor has changed its name or operated or conducted business under any trade name or "d/b/a" which is different from its corporate name. Each Debtor shall promptly notify Secured Party of any change in such name or if it operates or conducts business under any trade name or "d/b/a" which is different from such name.

Section 7. Records Relating to Collateral. Each Debtor will keep and maintain materially complete and accurate records concerning the Collateral at its principal executive office, or at such other place(s) of business as the Secured Party may approve in writing. Each Debtor will (a) faithfully hold and preserve such records, (b) permit representatives of the Secured Party, at any time during normal business hours, upon reasonable notice, to examine and inspect the Collateral and to make copies and abstracts of such records, and (c) furnish to the Secured Party such information and reports regarding the Collateral as the Secured Party may from time to time reasonably request.

Section 8. Grant of License to Trademarks, Copyrights, Etc. Without in any way limiting the scope of the lien and security interest created hereby, each Debtor hereby grants to the Secured Party an irrevocable, nonexclusive license and right to use all of such Debtor's Patents, Patent applications, Patent Licenses, Trademarks, Trademark registration, Trademark Licenses, trade names, trade styles, Copyrights, Copyright registrations, Copyright Licenses and similar intangibles in the processing, production, marketing, distribution or sale by the Secured Party of all or any part of its collateral for the Obligations in connection with any foreclosure or other realization on such collateral. The license and rights granted the Secured Party hereby shall be exercisable without the payment of any royalty, fee, charge or any other compensation to such Debtor or any other party. Such license and rights shall include reasonable access to all records in which any of the licensed items may be recorded or stored. Such license and rights shall be absolute and unconditional to the extent used for the purpose stated above.

7152-1 - 01850-2 - 03/00/04 - 07:30 am

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Section 9. General Authority.

a. In the event that the Debtors, or any one of them, shall fail to satisfy their obligations under Section 8(c) hereof, then the Secured Party shall have the right, but shall not be obligated, to take such steps and make such payments as may be required in order to effect compliance, and the Secured Party shall have the right either to demand and receive immediate reimbursement from the Debtors for all costs and expenses incurred by the Secured Party in connection therewith, and/or to add such costs and expenses to the Obligations.

b. Each Debtor hereby irrevocably appoints the Secured Party the true and lawful attorney for such Debtor, with full power of substitution, in the name of such Debtor, the Secured Party or otherwise, for the purposes of carrying out the terms of this Agreement, but at such Debtor's expense, to the extent permitted by law to exercise, at any time and from time to time after any Event of Default has occurred and is continuing or upon acceleration, any or all of the following powers with respect to any or all of the Collateral (which powers shall be in addition and supplemental to any powers, rights and remedies of the Secured Party described herein):

i. to demand, sue for and collect any and all moneys due or to become due upon or by virtue thereof; and

ii. to receive, take, endorse, assign and deliver any and all checks, notes, drafts, documents and other negotiable and non-negotiable instruments and chattel paper taken or received by the Secured Party in connection therewith; and

iii. to settle, compromise, discharge, extend, compound, prosecute or defend any action or proceeding with respect thereto; and

iv. to sell, transfer, assign or otherwise deal in or with same, or the proceeds thereof, as fully and effectually as if the Secured Party were the absolute owner thereof; and

v. to extend the time of payment of any or all thereof and to make any allowance and other adjustments with reference thereto; and

vi. to discharge any taxes, liens, security interests or other encumbrances at any time placed thereon; provided, that the Secured Party shall give the Debtor not less than thirty (30) days' prior written notice of the time and place of any sale or other intended disposition of any of the Collateral. The Secured Party and the Debtors hereby agree that such notice constitutes "reasonable notification" within the meaning of Section 9-504(3) of the Uniform Commercial Code, as adopted in the State of Minnesota (the "Code").

Secured Party and Debtor acknowledge (i) the existence of the obligations of the Debtor under the Senior Credit Agreement, and (ii) agree that the foregoing grant of authority may be in addition to a similar grant of authority to the Senior Creditor thereunder. The existence of the Senior Credit Agreement, the obligations thereunder and any such grant of authority shall not alter or impair the foregoing grant of general authority by the Debtor to the Secured Party, and the Debtor agrees that the relative rights and obligations of the Secured Party and the Senior Creditor shall be governed solely by the terms of the Intercreditor Agreement.

Section 10. Remedies Upon Event of Default. Subject to the terms of the Intercreditor Agreement, if any Event of Default shall have occurred and is continuing, the Secured Party may exercise all of the rights and remedies of a secured party under the Code (whether or not the Code is in effect in the jurisdiction where such rights and remedies are exercised) and, in addition, the Secured Party may, without being required to give any notice, except as herein provided or as may be required by mandatory provisions of law, (a) apply the cash, if any, then held by it as Collateral in the manner specified in Section 11 hereof, and (b) if there shall be no such cash or if such cash shall be insufficient to pay all of the Obligations in full, sell the Collateral, or any part thereof, at public or private sale, for cash, upon credit or for future delivery, and at such price or prices as the Secured Party may deem satisfactory. The Secured Party may require each Debtor to assemble all or any part of the Collateral (or tangible documents, plans, etc., representing any Collateral which is intangible) and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to such Debtor and the Secured Party. Any holder of a Note may be the purchaser of any or all of the Collateral so sold at any public sale (or, if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, at any private sale) and thereafter hold same, absolutely free from any right or claim of whatsoever kind. Upon any such sale, the Secured Party shall have the right to deliver, assign and transfer to the purchaser thereof the Collateral so sold. Each purchaser at any such sale shall hold the Collateral so sold absolutely free from any claim or right of whatsoever kind, including any equity or right of redemption of any Debtor. To the extent permitted by law, each Debtor hereby specifically waives all rights of redemption, stay or appraisal which it has or may have under any rule of law or statute now existing or hereafter adopted. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Secured Party may fix in the notice of such sale. At any such sale, the Collateral may be sold in one lot as an entirety or in separate parcels, as the Secured Party may determine. The Secured Party shall not be obligated to make such sale pursuant to any such notice. The Secured Party may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the same may be adjourned. In case of any sale of all or any part of the Collateral on

credit or for future delivery, the Collateral so sold may be retained by the Secured Party until the selling price is paid by the purchaser thereof, but the Secured Party shall not incur any liability in the case of the failure of such purchaser to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may again be sold upon like notice. The Secured Party, instead of exercising the power of sale herein conferred upon it, may proceed by a suit or suits at law or in equity to foreclose the Security Interests and sell the Collateral, or any portion thereof, under a judgment or decree of a court of competent jurisdiction.

Section 11. Application of Collateral and Proceeds. The proceeds of any sale of, or other realization upon, all or any part of the Collateral shall be applied in the following order of priorities:

- a. first, to pay the expenses of such sale or other realization, and all expenses, liabilities and advances incurred or made by the Secured Party in connection therewith, and any other unreimbursed expenses for which the Secured Party is to be reimbursed pursuant to Section 12 hereof;
- b. second, to the payment of the Obligations in such order or manner as the Secured Party, in its sole discretion, shall determine; and
- c. finally, to pay to the Debtors, or their successors or assigns, or as a court of competent jurisdiction may direct, any surplus then remaining from such proceeds.

Section 12. Expenses. The Debtors shall forthwith upon demand pay to the Secured Party:

- a. the amount of any taxes or other charges which the Secured Party may have been required to pay by reason of the Security Interests (including any applicable transfer taxes) or to free any of the Collateral from any lien thereon; and
- b. the amount of any and all reasonable out-of-pocket expenses, including the reasonable fees and disbursements of its counsel and of any agents not regularly in its employ, which the Secured Party may incur in connection with (i) the collection, sale or other disposition of any of the Collateral, (ii) the exercise by the Secured Party of any of the powers conferred upon it hereunder, and/or (iii) any default on any Debtor's part hereunder.

Section 13. Termination of Security Interests; Release of Collateral. Upon the repayment and performance in full of all of the Obligations, the Security Interests shall terminate and all rights in the Collateral shall revert to the Debtors. Upon any such termination of the Security Interests or release of Collateral, the Secured Party will, at

the Debtors' expense, to the extent permitted by law, execute and deliver to the Debtors such documents as the Debtors shall reasonably request to evidence the termination of the Security Interests or the release of such Collateral, as the case may be. Said execution and delivery shall include an instrument in form recordable in the United States Patent and Trademark Office or the United States Copyright Office, as the case may be, by which the Secured Party shall terminate, release and without representation, recourse or warranty, reassign to the Debtor all rights to the extent applicable in each Patent, Patent License, Trademark, Trademark License, Copyright and Copyright License including each registration thereof and application therefor, conveyed and transferred to the Secured Party pursuant to this Agreement.

Section 14. Right of Set-Off. In furtherance and not in limitation of any provisions herein contained, each Debtor hereby agrees that any and all deposits or other sums at any time claimed by or due from the Secured Party to such Debtor shall at all times constitute security for the Obligations, and the Secured Party may exercise any right of set-off against such deposits or other sums as may accrue or exist hereunder and/or under applicable law.

Section 15. Miscellaneous.

a. **Changes in Writing.** Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally but only by a statement in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

b. **Waivers; Non-Exclusive Remedies; Joint and Several Liability.** No failure on the part of the Secured Party to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power or remedy under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise by the Secured Party of any right, power or remedy under this Agreement operate as a waiver thereof; nor shall any single or partial exercise by the Secured Party of any right, power or remedy under this Agreement preclude any exercise of any other right, power or remedy. The remedies in this Agreement are cumulative and are not exclusive of any other remedies provided by law, in equity or otherwise. Each Debtor waives trial by jury in any action brought on or with respect to this Agreement. The liability of the Debtors under this Agreement shall be joint and several.

c. **Assignment.** This Agreement may not be assigned by any Debtor without the Secured Party's prior written consent, but shall otherwise be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

d. Notices. Section 10.05 of the Note Purchase Agreement, as amended from time to time, is incorporated herein by reference and shall apply to all notices required hereunder as if fully set forth herein.

e. Severability. If any provision hereof is held invalid or unenforceable in any jurisdiction, such provision shall (for purposes of enforcement in such jurisdiction only) be reduced in scope and effect to the extent necessary to render same enforceable, and the other provisions hereof shall remain in full force and effect.

f. Governing Law. This Agreement shall (irrespective of where it is executed, delivered and/or performed) be governed by and construed in accordance with the laws of the State of Minnesota (without giving effect to principles of conflicts of law), except as otherwise required by mandatory provisions of law and except to the extent that remedies provided by the laws of any State other than Minnesota are governed by the laws of said State. All terms used herein which are defined in the Code (as in effect and interpreted in Minnesota) have the meanings therein provided.

g. Jurisdiction and Venue. The Debtors hereby submit to the non-exclusive jurisdiction and venue of the United States District Court for the District of Minnesota or the Hennepin County District Court, State of Minnesota for the purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby.

h. Section Headings. The headings in this Agreement are for convenience of reference only, and shall not limit or otherwise affect the meaning or interpretation of any provision hereof.

i. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement-Intellectual Property to be executed as of the day and year first above written.

CHURCHILL CAPITAL PARTNERS II
By Churchill Capital, Inc.,
Its General Partner

By [Signature]
Its Principal

MARIETTA CORPORATION

By [Signature]
Its President

Dec-16-04

21:12

From-Swidler Berlin Shereff & Friedman

2024247647

T-800 P.022

F-181

DEC-01-2004 16:55

WORLD PATENT SERVICES, INC

703 418 3848 P.18/20



MARIETTA AMERICAN, INC.

By _____
Its _____

A handwritten signature in black ink, appearing to be 'S. J. ...', written over a horizontal line.

2152-4 - 01890-9 - 03/08/96 - 07:30 AM

15

TRADEMARK
REEL: 1493 FRAME: 0050

TRADEMARK
REEL: 002994 FRAME: 0683

Dec-16-04

21:13

From-Swidler Berlin Shereff & Friedman

2024247647

T-800 P.023

F-181

DEC-01-2004 16:55

WORLD PATENT SERVICES, INC

703 418 3848

P.19/20

SCHEDULE A
TO SECURITY AGREEMENT
RE: INTELLECTUAL PROPERTY

(See Attached)

7153-4 - 01090-9 - 02/08/96 - 07.30 AM

TRADEMARK
REEL: 1493 FRAME: 0951

TRADEMARK
REEL: 002994 FRAME: 0684

REGISTERED TRADEMARKS

<u>Trademark</u>	<u>Registration Date</u>	<u>Registration No.</u>
Design Only	6/6/95	1,897,256
Sun & Sand	6/13/95	1,898,492
Design Only	2/8/94	1,819,633
The Amenities Choice for the 90's	9/10/91	1,656,995
Fresh 'N' Minty	7/21/92	1,701,293
Lord & Mayfair	10/8/91	1,659,351
The Amenities Source and Design	12/20/83	1,261,916

PENDING TRADEMARKS

<u>Trademark</u>	<u>Filing Date</u>	<u>Serial No.</u>
Cruizin' Kids	7/21/95	74-704,151
Brookhaven	4/20/95	74-664,106
Tamarack	4/20/95	74-664,105
Windscape	4/20/95	74-664,104
Cambria & Taylor	12/16/94	74-611,747
Lord & Mayfair	11/30/94	74-604,725
Fleur de Lis	4/25/94	74-517,006

RECORDED: 05/13/1996

TRADEMARK
REEL: 1493 FRAME: 0952

TOTAL P.20

RECORDED: 12/16/2004

TRADEMARK
REEL: 002994 FRAME: 0685