

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY AGREEMENT
CONVEYING PARTY DATA	
Name	Execution Date
Turkington Acquisition Company, LLC	09/03/2004
RECEIVING PARTY DATA	
Name:	North Carolina Economic Opportunities Fund, Limited Partnership
Street Address:	316 West Edenton Street, Suite 110
City:	Raleigh
State/Country:	NORTH CAROLINA
Postal Code:	27603
PROPERTY NUMBERS Total: 7	
Property Type	Number
Application Number:	10464101
Application Number:	10464103
Patent Number:	4997365
Patent Number:	5010808
Patent Number:	5070997
Patent Number:	6591968
Patent Number:	5040974
CORRESPONDENCE DATA	
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OP \$280.00 10464101

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Total Attachments: 20

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THE SECURITY INTERESTS GRANTED HEREIN ARE SUBJECT TO THE TERMS OF THE SUBORDINATION AGREEMENT DATED SEPTEMBER 3, 2004 BY AND AMONG THE BORROWER, THE LENDER, AND RBC CENTURA BANK.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement"), dated as of September 3, 2004, is made and entered into by and between **TURKINGTON ACQUISITION COMPANY, LLC**, a North Carolina limited liability company (the "Borrower"), and **NORTH CAROLINA ECONOMIC OPPORTUNITIES FUND, LIMITED PARTNERSHIP**, a North Carolina limited partnership (the "Lender"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Investment Agreement (as defined below).

WITNESSETH:

WHEREAS, pursuant to the terms of an Investment Agreement of even date herewith by and among the Borrower, the Lender, and Turkington Holdings USA, Inc. (the "Parent") as amended from time to time (the "Investment Agreement"), the Lender has agreed to purchase (i) Warrant (the "Warrant") entitling the holder thereof to purchase certain membership interests of the Borrower, and (ii) the Borrower's Senior Secured Subordinated Debenture (the "Debenture"); and

WHEREAS, as a condition to entering into the Investment Agreement the Lender has required that the Borrower secure the obligations under the Debenture and other Transaction Documents (as defined in the Investment Agreement) to which Borrower is a party pursuant to the terms of this Security Agreement;

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to enter into the Investment Agreement, the Borrower hereby agrees with the Lender as follows:

1. Grant of Security Interest. As collateral security for payment and satisfaction of its obligations under the Investment Agreement and the Debenture and the other Transaction Documents to which Borrower is a Party (the "Obligations"), Borrower hereby grants to Lender a continuing security interest in and to all of the following property of the Borrower, wheresoever located, whether now owned or existing or hereafter acquired or arising:

(A) All accounts, accounts receivable, general intangibles, chattel paper, instruments, cash and cash equivalents and documents owned or acquired by Borrower (the "Accounts");

(B) All intangible personal property of Borrower of every kind and nature (other than accounts, chattel paper, documents and instruments) including, without limitation, choses in action, causes of action, rights to payment for goods sold or services rendered which have not yet been billed or invoiced to any customer, corporate or other business records, inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, tax refund

claims, computer programs, and any guarantee claims, security interests or other security held by or granted to Borrower to secure payment by an Account Debtor (as hereinafter defined) of any of the Accounts, all interests in general and limited partnerships, limited liability companies, and other Persons not described in Section 1(E), all rights to indemnification and all other intangible personal property and intellectual property of every kind and nature ("General Intangibles");

(C) Any and all goods, merchandise, inventory and other personal property, including, without limitation, goods in transit, wheresoever located, owned or acquired by Borrower which are or may at any time be held for sale or lease, furnished under any contract of service or held as raw materials, work-in-process, or supplies or materials used or consumed in Borrower's business, including, without limitation, all such property the sale or other disposition of which has given rise to Accounts and which has been returned to or repossessed or stopped in transit by Borrower ("Inventory");

(D) All machinery, equipment, furniture, fixtures, chattels, building materials, motor vehicles, office furnishings, supplies, computer hardware and software and other tangible personal property (other than inventory) now or hereafter owned by Borrower ("Equipment");

(E) All monies, securities, residues and property of any kind of Borrower (including, without limitation, certificates of deposit) now or at any time or times hereafter of Borrower in the possession or under the control of the Lender or a bailee of Lender;

(F) All accessions to, substitutions for and all replacements, products and proceeds of the foregoing including, without limitation, proceeds of insurance policies insuring the Collateral (as hereinafter defined); and

(G) All books and records (including without limitation, computer programs, printouts, and other computer materials and records of Borrower pertaining to any of the foregoing) relating to the foregoing property.

All of the property and interests in property described in subsections (A) through (G) and all other property and interests in personal property which shall, from time to time, secure the Obligations are herein collectively referred to as the "Collateral". For purposes of this Agreement, "Account Debtor" means any Person (as defined in the Investment Agreement) who is or who may become obligated to Borrower under or on account of an Account.

2. **Financing Statements.** At the time of execution of this Agreement, the Borrower shall have furnished the Lender with financing statements as prescribed by the Uniform Commercial Code as presently in effect in the state where the Collateral is located, prepared and approved by the Lender in form and number sufficient for filing wherever required with respect to the Collateral, in order that the Lender shall have a duly perfected security interest of record in the Collateral following its filing of such financing statements with the appropriate local and state governmental authorities, subject only to liens, charges and encumbrances set forth in Exhibit A attached hereto and by reference made a part hereof (collectively referred to herein as

“Permitted Liens”), and the Borrower hereby authorizes the filing by the Lender of any additional financing statements or other documents to effect the same, together with any necessary continuation statements so long as this Agreement remains in effect, each required by the Lender. Lender is authorized by Borrower to file any financing statements deemed necessary by Lender.

Borrower does hereby irrevocably make, constitute and appoint the Lender and any of its properly designated officers, employees or agents as the true and lawful attorneys of Borrower with power to sign the name of Borrower on any financing statement, renewal financing statement, notice or any similar document which, in the Lender’s reasonable opinion, must be filed in order to perfect or continue the perfection of the security interests granted in the Collateral and with respect to which Borrower fails to execute or authorize after written request of the Lender. This power, being coupled with an interest, is irrevocable so long as the Debenture remains outstanding and until all Obligations are finally paid in full.

3. **Maintenance of Security Interest; No Removal of Collateral.** Borrower will, from time to time, upon the request of the Lender, deliver specific assignments of Collateral, together with such other instruments and documents, financing statements, amendments thereto, assignments or other writings as the Lender may reasonably request to carry out the terms of this Agreement or to protect or enforce the Lender’s security interest in the Collateral.

With respect to any and all Collateral to be secured and conveyed under this Agreement, Borrower agrees to do and cause to be done all things necessary to perfect and keep in full force the security interest granted in favor of the Lender, including, but not limited to, the prompt payment of all fees and expenses incurred in connection with any filings made to perfect a security interest in the Collateral in favor of the Lender.

Borrower agrees to make appropriate entries upon its financial statements and its books and records, disclosing the Lender’s security interest in the Collateral.

Borrower agrees not to move or transfer from the real property described in Exhibit B (the “Premises”) any of the Collateral that constitutes inventory, machinery, equipment, furniture, fixtures, chattels or other tangible personal property without the prior written consent of the Lender. Borrower shall be allowed to make those dispositions permitted by Section 6(K) hereof provided that any such replacement Collateral shall be located on the Premises.

Borrower shall pay any reasonable costs (including attorneys’ fees) incurred in subjecting to the liens of this Agreement any item of machinery, equipment and related property that under the provisions hereof are to become part of the Collateral.

4. **Receipt of Payment.** Borrower agrees that in the event it (or any of its affiliates, subsidiaries, partners, officers, employees or agents) shall receive any monies, checks, notes, drafts or any other items of payment relating to and/or proceeds of the Collateral following the occurrence of an Event of Default (as defined herein):

(A) Borrower shall hold all such items of payment in trust for Lender and as the property of Lender, separate from the funds of Borrower, and no later than the first

business day following the receipt thereof, Borrower shall cause the same to be forwarded to the Lender for application on account of the Obligations;

(B) Borrower shall forward to Lender, at intervals designated by Lender, deposit slips related to all such items of payment received by Borrower and, if requested by Lender, copies of such checks and other items, together with a statement showing the application of that portion of such items of payment relating to payment on Accounts to outstanding Accounts and a collection report with regard thereto in form and substance satisfactory to Lender;

(C) All such items of payment shall be the sole and exclusive property of Lender immediately upon the earlier of receipt of such items by Lender or the receipt of such items by Borrower; and

(D) No item described above received by Lender shall constitute payment to Lender unless such item is actually received by Lender. Notwithstanding anything to the contrary herein, each such item of payment shall, solely for purposes of determining the occurrence of an Event of Default, be deemed received upon actual receipt by Lender, unless the same is subsequently dishonored for any reason whatsoever.

5. **Collections; Lender's Right to Notify Account Debtors and to Endorse Borrower's Name.** Borrower hereby authorizes Lender (a) at any time after an Event of Default to collect any and all amounts due to Borrower from Account Debtors; (b) upon or after the occurrence of an Event of Default, to make such arrangements as Lender deems necessary to collect on the Accounts; (c) upon or after the occurrence of an Event of Default, to notify any or all Account Debtors that the Accounts have been assigned to Lender and that Lender has a security interest therein (provided that Lender may at any time give such notice to an Account Debtor that is a department, agency or authority of the United States government) and (d) upon or after occurrence of an Event of Default, to transmit to Account Debtors notice of Lender's interest therein, and to request from such Account Debtors at any time in Borrower's name or Lender's name, or that of Lender's designee, any information concerning the Accounts and the amounts owing thereon, and to notify Account Debtors that payment be made directly to Lender; to take or bring at Borrower's cost in Borrower's name or Lender's name all steps, actions and suits deemed by Lender necessary or desirable to effect collection of Accounts, including, to enforce payment of any Account assigned to Lender; to settle, compromise, or release in whole or in part, any amounts owing on Accounts; to prosecute any action or proceeding with respect to Accounts; to extend the time of payment of any and all Accounts; to make allowances and adjustments with respect thereto; to issue credit in Lender's name or Borrower's name, and to do all other things necessary to carry out this Agreement. Borrower irrevocably makes, constitutes and appoints Lender (and all Persons designated by Lender for that purpose) as its true and lawful attorney (and agent-in-fact) to endorse Borrower's name on any checks, notes, drafts or any other payment relating to and/or proceeds of the Collateral which come into Lender's possession or Lender's control, and deposit the same to the account of Lender on account of the Obligations. Lender shall promptly furnish Borrower with a copy of any such notice sent by Lender pursuant to this Section 5 and Borrower hereby agrees that any such notice, in Lender's sole discretion, may be sent on Borrower's stationery, in which event Borrower shall co-sign such notice with Lender.

6. **Collateral.** Borrower covenants with Lender that:

(A) **Inspection.** Lender (by any of its officers, employees and agents) shall have the right, at any time or times during Borrower's usual business hours, to inspect the Collateral, all records related thereto (and to make extracts or copies from such records), and the premises upon which any of the Collateral is located, to discuss Borrower's business with any Person and to verify the amount, quality, quantity, value and condition of, or any other matter relating to, the Collateral. Upon or after the occurrence of an Event of Default (whether or not any or all the Obligations are due and payable in consequence thereof), Lender may at any time and from time to time employ and maintain on Borrower's premises a custodian selected by Lender who shall have full authority to do all acts necessary to protect Lender's interest. All expenses incurred by Lender by reason of the employment of such custodian shall be paid by Borrower, added to the Obligations and secured by the Collateral.

(B) **Payment of Taxes and Assessments.** Borrower will promptly pay prior to delinquency all taxes or assessments levied against any of the Collateral; provided, however, Borrower shall not be required to pay or cause to be paid any such tax or assessment, so long as the validity thereof shall be actively contested in good faith by proper proceedings, any lien, except a Permitted Lien, arising in connection therewith shall be and remain in all respects inferior to the liens in favor of the Lender and, if requested by the Lender, reserves with respect thereto acceptable to the Lender shall be established and maintained; provided further, that any such tax or assessment shall be paid forthwith upon the commencement of proceedings to foreclose any lien securing the same.

(C) **Assignments, Records and Schedules of Accounts.** All records, ledger sheets, correspondence, invoices, documents and instruments relating to or evidencing Accounts with Borrower's customers, tenants or occupants (collectively, "Accounts Records") shall, until delivered to Lender or removed by Lender from Borrower's premises, be kept at the location set forth in Exhibit C, without cost to Lender. Borrower shall keep accurate and complete records of its Accounts with Borrower's customers and from time to time at intervals designated by Lender, Borrower shall provide Lender at Borrower's premises, at the location set forth in Exhibit C, with a schedule of Accounts in form and substance acceptable to the Lender describing all Accounts created or acquired by Borrower ("Schedule of Accounts") and shall execute and deliver written assignments of such Accounts to Lender; provided however, that Borrower's failure to execute and deliver any such Schedule of Accounts or assignments shall not affect or limit Lender's security interest or other rights in and to any Accounts. If requested by Lender, Borrower shall furnish Lender at Borrower's premises, at the location set forth in Exhibit C, with copies of proof of delivery and copies of the original copy of all documents, including, without limitation, repayment histories and present status reports, relating to the Accounts so scheduled (collectively, "Account Documents") and such other matters and information relating to the status of then existing Accounts as Lender shall reasonably request. Borrower shall not remove any Account Records or Account Documents from the location set forth in Exhibit C hereof without the prior written consent of Lender.

(D) Verification of Accounts and Unbilled Services. After an Event of Default has occurred, any of Lender's officers, employees, or agents shall have the right, at any time or times hereafter, to verify the validity, amount or any other matter relating to any Accounts or unbilled services by mail, telephone, telegraph or otherwise.

(E) Sale of Inventory. Until an Event of Default occurs, Borrower may sell its Inventory in the ordinary course of business (which does not include a transfer in partial or total satisfaction of Indebtedness (as defined in the Investment Agreement)).

(F) Safekeeping of Inventory. Borrower shall be responsible for the safekeeping of its Inventory, and in no event shall Lender have any responsibility for:

(i) Any loss or damage to Inventory or destruction thereof occurring or arising in any manner or fashion from any cause;

(ii) Any diminution in the value of Inventory; or

(iii) Any act or default of any carrier, warehouseman, bailee or forwarding agency thereof or other Person in any way dealing with or handling Inventory.

(G) Records and Schedules of Inventory. Borrower shall keep correct and accurate records, itemizing and describing the kind, type, location, quality and quantity of Inventory in the manner and to the extent of similar businesses, and upon request of Lender, shall furnish to Lender from time to time at reasonable intervals designated by Lender, a current schedule of Inventory ("Schedule of Inventory") based upon its most recent physical inventory. Borrower shall furnish to Lender such other documents and reports as Lender shall request with respect to the Inventory, including, without limitation, invoices relating to Borrower's purchase of Inventory.

(H) Protection of Lien on Inventory. Borrower shall perform any and all steps requested by Lender to perfect Lender's lien on the Inventory. Borrower will also advise Lender promptly, in sufficient detail, of any substantial change relating to the type, quantity or quality of the Inventory, or any event which would have a material effect on the value of the Inventory or on the lien and security interest granted to Lender herein.

(I) Evidence of Ownership of Equipment. Borrower, immediately on demand therefor by the Lender, shall deliver to the Lender at Borrower's premises, at 1200 West Ash Street, Goldsboro, NC 27533, any and all evidence of ownership of any of the Equipment (including, without limitation, certificates of title and applications for title).

(J) Records and Schedules of Equipment. Borrower shall maintain accurate, itemized records itemizing and describing the kind, type, quality, quantity and value of its Equipment and shall furnish Lender upon request with a current schedule containing the foregoing information ("Schedule of Equipment").

(K) Sale or Mortgage of Equipment. Borrower shall not sell, exchange, lease, mortgage, encumber, pledge or otherwise dispose of or transfer any of the Equipment or

any part thereof without the prior written consent of Lender; provided, however, that the foregoing restriction shall not apply, for so long as no Event of Default exists, to (i) dispositions of Equipment which, in the aggregate during any consecutive twelve-month period, have a fair market value or book value, whichever is less, of \$25,000 or less, provided that all proceeds thereof are turned over to Lender to be held by Lender as collateral security for the payment of the Obligations, or (ii) replacements of Equipment that is substantially worn, damaged or obsolete with equipment of like kind, function and value, provided that the replacement Equipment shall be acquired prior to or concurrently with any disposition of the Equipment that is to be replaced, the replacement Equipment shall be free and clear of liens and shall be subject to the lien of this Agreement and Borrower shall give Lender at least five (5) days prior written notice of such disposition.

(L) Maintenance of Equipment. Borrower shall keep and maintain the Equipment in good operating condition and repair and shall make all necessary replacements thereof so that the value and operating efficiency thereof shall at all times be maintained and preserved. Borrower shall not permit any such items to become a fixture to real estate or accessions to other personal property.

7. Warranties Regarding Collateral. Borrower warrants and represents that it is and will continue to be the owner of the Collateral, now owned and upon the acquisition of the same, free and clear of all encumbrances and security interest other than the security interest in favor of Lender hereunder and Permitted Liens, and that it will defend the Collateral and any products and proceeds thereof against all claims and demands of all persons at any time claiming the same or any interest therein adverse to Lender.

8. Account Warranties and Representations. With respect to its Accounts, Borrower warrants and represents to Lender that Lender may rely on all statements or representations made by Borrower on or with respect to any Schedule of Accounts prepared and delivered by Borrower and, unless otherwise indicated in writing by Borrower, that as of the date hereof:

(A) All Account Records and Account Documents are located and shall be kept only at Borrower's principal offices as set forth in Exhibit C;

(B) All Accounts are genuine, are in all respects what they purport to be, are not evidenced by a judgment instrument or document or, if evidenced by an instrument or document, are only evidenced by one original instrument or document, which, has been delivered to the Lender;

(C) All Accounts cover bona fide sales and deliveries of Inventory or other property usually dealt in by Borrower, or the rendition by Borrower of services, to an Account Debtor in the ordinary course of business or the leasing, licensing or otherwise permitting of occupancy of the retirement facilities owned or operated by Borrower;

(D) The amounts of the face value shown on any Schedule of Accounts provided to Lender, and/or all invoices and statements delivered to Lender with respect to any Account are actually and absolutely owing to Borrower and are not contingent for

any reason except for claims arising as a result of warranties made by Borrower in its ordinary course of business which do not in the aggregate materially affect the Borrower's business, prospects, profits or condition, financial and otherwise;

(E) There are no setoffs, discounts, allowances, claims, counterclaims or disputes of any kind or description existing or asserted with respect to any Accounts and Borrower has not made any agreement with any Account Debtor thereunder for any deduction therefrom, except as may be stated in the Schedule of Accounts and reflected in the calculation of the face value of each respective invoice related thereto;

(F) To the best of Borrower's knowledge, there are no facts, events, or occurrences which in any way impair the validity or enforcement of the Accounts or tend to reduce the amount payable thereunder from the amount of the invoice face value shown on any Schedule of Accounts, and on all contracts, invoices and statements delivered to Lender with respect thereto;

(G) To the best of Borrower's knowledge, all Account Debtors (i) had the capacity to contract at the time any contract or other document giving rise to the Account was executed and (ii) are able to pay all Accounts on which they are obligated in full when due;

(H) The goods or services giving rise thereto are not, and were not at the time of the sale or performance thereof, subject to any lien, claim, encumbrance or security interest, except those of Lender, those removed or terminated prior to the date hereof and those subordinated to the security interest of Lender hereunder in a manner satisfactory to Lender in form and substance;

(I) Borrower has no knowledge of any fact or circumstance which would impair the validity or collectibility of the Accounts;

(J) To the best of Borrower's knowledge, there are no proceedings or actions which are threatened or pending against any Account Debtor which might result in any material adverse change in its financial condition;

(K) No Accounts have been pledged to any Person other than to Lender under this Agreement and all Accounts will be owned by Borrower free and clear of any liens, claims or encumbrances except those in favor of Lender and Permitted Liens;

(L) Lender's security interest in Accounts will not be subject to any offset, deduction or counterclaim by Borrower or any lien or other adverse condition, other than Permitted Liens; and

(M) All Accounts will be for a liquidated amount maturing as stated in the Schedule of Accounts and in the invoice covering said sale.

9. **Inventory Warranties and Representations.** With respect to Inventory, Borrower warrants and represents to Lender that Lender may rely on all statements or representations made by Borrower on or with respect to any Schedule of Inventory prepared and

delivered by Borrower and, unless otherwise indicated in writing by Borrower, that as of the date hereof;

(A) All Inventory is located and shall be kept only at the Borrower's principal offices at 1200 West Ash Street, Goldsboro, NC 27533, the Borrower's facility at 112 Glenwood Drive, Pikeville, NC 27863 (Wayne Storage), the Borrower's facility at 4684 Highway 70 W., Kinston, NC 28504 (General Service Co.), or is Inventory in transit;

(B) No Inventory is or will be subject to any lien, claim, encumbrance or security interest whatsoever, except for the security interest of Lender hereunder or security interests or liens of landlord, warehousemen, carriers or mechanics which arise by operation of law and are subordinate to the security interest of the Lender; and

(C) If any Inventory is stored with a bailee, warehouseman, or similar party, Borrower shall concurrently therewith cause notice of such event to be delivered to Lender.

10. **Equipment Warranties and Representations.** With respect to Equipment, Borrower warrants and represents to Lender that as of the date hereof:

(A) All Equipment is located and, except for temporary removal for repair, shall be kept only at Borrower's facilities located at the premises set forth in Exhibit A;

(B) Borrower has and at all times will have good and marketable title to and ownership of the Equipment free and clear of any lien, claim, encumbrance, or security interest whatsoever, except for (i) the security interest of Lender created hereunder; or (ii) Permitted Liens and (iii) security interests or liens of landlords, warehousemen, carriers or mechanics which arise by operation of law and are subordinate to the security interests of the Lender.

11. **Casualty and Liability Insurance Required.**

(A) Borrower shall keep the Collateral continuously insured against such risks as are customarily insured against by businesses of like size and type engaged in the same or similar operations including, without limiting the generality of any other covenant herein contained:

(i) casualty insurance on the Collateral in an amount not less than the full replacement value thereof, against loss or damage by theft, fire and lightning and other hazards ordinarily included under uniform broad form standard extended coverage policies, limited only as may be provided in the standard broad form of extended coverage endorsement at the time in use in North Carolina;

(ii) general comprehensive liability insurance against claims for bodily injury, death or property damage occurring with or about the Collateral and the Premises in such amounts as shall be acceptable to Lender; and

(iii) liability insurance with respect to the operation of its facilities under the workers' compensation laws of North Carolina;

provided, however, that the insurance so required may be provided by blanket policies now or hereafter maintained by Borrower.

(B) Each insurance policy obtained in satisfaction of the requirements of Section 11(A) hereof:

(i) shall be by such insurer (or insurers) as shall be financially responsible, qualified to do business in North Carolina, of recognized standing and reasonably acceptable to Lender;

(ii) shall be in such form and have such provisions (including, without limitation, the loss payable clause, the waiver of subrogation clause, the deductible amount, if any, and the standard mortgagee endorsement clause), as are generally considered standard provisions for the type of insurance involved and are acceptable in all respects to Lender;

(iii) shall prohibit cancellation, termination or lapse in coverage by the insurer without at least 30 days' prior written notice to Lender;

(iv) shall provide that the interest of Lender shall not be impaired or invalidated by any act or neglect of the Borrower nor by the occupation of the premises wherein such Collateral is located for purposes more hazardous than are permitted by said policy;

(v) without limiting the generality of the foregoing, all insurance policies under Section 11(A)(i) carried on the Collateral shall name Lender as mortgagee, loss payee and a party insured thereunder.

(C) Prior to expiration of any such policy, the Borrower shall furnish Lender with evidence satisfactory to Lender that the policy or certificate has been renewed or replaced or is no longer required by this Agreement.

(D) Borrower hereby irrevocably makes, constitutes and appoints Lender (and all officers, employees or agents designated by Lender) as Borrower's true and lawful attorney (and agent-in-fact) for the purpose of making, settling and adjusting claims under such policies of insurance, endorsing the name of Borrower on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect to such policies of insurance.

(E) In the event Borrower shall fail to maintain, or cause to be maintained, the full insurance coverage required hereunder or shall fail to keep any Collateral in good repair and good operating condition, the Lender may (but shall be under no obligation to), without waiving or releasing any Obligations or Event of Default by Borrower hereunder, contract for the required policies of insurance and pay the premiums on the same or make any required repairs, renewals and replacements; and all sums so disbursed by Lender,

including reasonable attorneys' fees, court costs, expenses and other charges related thereto, shall be payable on demand by Borrower to Lender and shall be additional Obligations secured by the Collateral.

(F) Borrower agrees that to the extent that it shall fail to maintain, or cause to be maintained, the full insurance coverage required by Section 11(A) hereof, it shall pay promptly to Lender for application in accordance with the provisions of Section 11(H) hereof, such amount as would have been received as Net Proceeds (as hereinafter defined) by Lender under the provisions of Section 11(H) hereof had such insurance been carried to the extent required, but only to the extent necessary to repay the Obligations to Lender.

(G) The Net Proceeds of the insurance carried pursuant to the provisions of Sections 11(A)(ii) and 11(A)(iii) hereof shall be applied by Borrower toward extinguishment of the defect or claim or satisfaction of the liability with respect to which such insurance proceeds may be paid.

(H) Subject to the provisions of Section 11(G) hereof, the Net Proceeds of the insurance carried with respect to the Collateral pursuant to the provisions of Section 11(A)(i) hereof shall be paid to Lender and held by Lender in a separate account and applied as hereinafter provided. As long as no Default or Event of Default shall have occurred, (A) Borrower is hereby authorized and empowered to adjust or compromise any loss under any such insurance; provided, however, in no event shall Borrower settle any loss under such insurance policies without the Lender's prior written consent and (B) after any loss under any such insurance and payment of the proceeds of such insurance the Borrower shall have a period of 90 days after payment of the insurance proceeds with respect to such loss to elect (by written notice to Lender) to either (i) repair or replace the Collateral so damaged or (ii) apply such Net Proceeds to the payment of the balance of the Obligations outstanding. If no such election is made during such period, Lender may apply the Net Proceeds to payment as provided in clause (ii) of the immediately preceding sentence. If the Borrower elects to repair or replace the Collateral damaged, Borrower agrees the Collateral shall be repaired to a condition substantially similar to its condition prior to damage or replaced with Collateral in a condition substantially similar to the condition of the Collateral so replaced prior to damage. During any repair or replacement, Lender shall hold all Net Proceeds and disburse them only upon receipt of invoices acceptable to Lender indicating such repair or replacement. Lender shall remit to the Borrower any Net Proceeds remaining after all Obligations have been finally paid in full.

(I) "Net Proceeds" when used with respect to any insurance proceeds, shall mean the gross proceeds from such proceeds, award or other amount, less all expenses (including attorneys' fees) incurred in the realization thereof.

(J) In case of any material damage to or destruction of all or any part of the Collateral, the Borrower shall give prompt notice thereof to Lender. Each such notice shall describe generally the nature and extent of such damage, destruction, taking, loss, proceeding or negotiations.

(K) The provisions of this Section 11 shall be performed by Borrower notwithstanding anything to the contrary contained in the Investment Agreement.

12. **Events of Default.** It is understood and agreed that the occurrence of any Default shall entitle Lender to take such actions as are elsewhere provided in this Agreement. For purposes of this Agreement, the term "Default" shall mean any event which constitutes an Event of Default or other event which, but for the giving of notice, would constitute an Event of Default.

13. **Rights and Remedies Upon Default.** Upon and after an Event of Default, the Lender shall have the following rights and remedies, all of which may be exercised with or without notice to the Borrower;

(A) To exercise all rights and remedies provided to Lender under the Investment Agreement upon the occurrence of an "Event of Default" under the Investment Agreement, including the right to declare all the Obligations, and have the same become, immediately due and payable;

(B) All of the rights and remedies of a secured party under the Uniform Commercial Code of the state where such rights and remedies are asserted, or under other applicable law, all of which rights and remedies shall be cumulative, and none of which shall be exclusive in addition to any other rights and remedies contained in this Agreement, the Investment Agreement, the Transaction Documents or any other documents, certificates or agreements delivered by Borrower in connection with the Investment Agreement;

(C) The right to foreclose the liens and security interests created under this Agreement by any available judicial procedure or, to the extent permitted by law, without judicial process;

(D) The right (to the extent permitted by law) to (i) enter upon the premises of Borrower through self-help and without judicial process, without first obtaining a final judgment or giving Borrower notice and opportunity for a hearing on the validity of Lender's claim and without any obligation to pay rent to Borrower, or any other place or places where any Collateral is located and kept, and remove the Collateral therefrom to the premises of Lender or any agent of Lender, for such time as Lender may desire, in order to effectively collect or liquidate the Collateral, and/or (ii) require Borrower to assemble the Collateral and make it available to Lender at a place to be designated by Lender in its sole discretion; and

(E) The right to sell, assign, lease or to otherwise dispose of all or any Collateral in its then condition, at public or private sale or sales, with such notice as may be required by law, in lots or in bulk, for cash or on credit, with or without representations and warranties, all as Lender, in its sole discretion, may deem advisable. Lender shall have the right to conduct such sales on Borrower's premises or elsewhere and shall have the right to use Borrower's premises without charge for such sales for such time or times as Lender may see fit. Lender may, if it deems it reasonable, postpone or

adjourn any sale of the Collateral from time to time by an announcement at the time and place of such postponed or adjourned sale, without being required to give a new notice of sale. Borrower agrees that Lender has no obligation to preserve rights to the Collateral against prior parties or to marshal any Collateral for the benefit of any Person. To the extent it may do so under the agreement creating the same and if permitted by law, Lender is hereby granted a license or other right to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in advertising for sale and selling any Collateral and Borrower's rights under any license and any franchise agreement shall inure to Lender's benefit. In using Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names and advertising matter, Lender shall take steps reasonably necessary to preserve and protect Borrower's and any other person's proprietary interest therein. If any of the Collateral shall require repairs, maintenance, preparation or the like, Lender shall have the right, but shall not be obligated, to perform such repairs, maintenance or preparation, for the purpose of putting the same in such saleable form as Lender shall deem appropriate, but Lender shall have the right to sell or dispose of the Collateral without such processing. In addition, Borrower agrees that in the event notice is necessary under applicable law, written notice mailed to the Borrower in the manner specified in Section 19 hereof ten (10) days prior to the date of public sale of any of the Collateral or prior to the date after which any private sale or other disposition of the Collateral will be made shall constitute commercially reasonable notice to Borrower. Lender may purchase all or any part of the Collateral at public or, if permitted by law, private sale, free from any right of redemption which is hereby expressly waived by Borrower and, in lieu of actual payment of such purchase price, may set off the amount of such price against the Obligations. The net cash proceeds resulting from the collection, liquidation, sale, lease or other disposition of the Collateral shall be applied first to the expenses (including all attorneys' fees) of retaking, holding, storing, processing and preparing for sale, selling, collecting, liquidating and the like, and then to the satisfaction of all Obligations, application as to particular Obligations or against principal or interest to be in Lender's absolute discretion. The Borrower shall be liable to Lender and shall pay to Lender on demand any deficiency which may remain after such sale, disposition, collection or liquidation of the Collateral. Lender shall remit to the Borrower or the Person entitled thereto any surplus remaining after all Obligations have been paid in full.

14. **Anti-Marshalling Provisions.** The right is hereby given by the Borrower to Lender to make releases (whether in whole or in part) of all or any part of the Collateral agreeable to Lender without notice to, or the consent, approval or agreement of other parties and interests, including junior lienors, which releases shall not impair in any manner the validity of or priority of the liens and security interest in the remaining Collateral conferred under such documents, nor release the Borrower from personal liability for the indebtedness hereby secured. Notwithstanding the existence of any other security interest in the Collateral held by Lender, Lender shall have the right to determine the order in which any or all of the Collateral shall be subjected to the remedies provided in this Agreement. The proceeds realized upon the exercise of the remedies provided herein shall be applied by Lender in the manner herein provided. Borrower hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

15. **Appointment of Lender as Borrower's Lawful Attorney.** As set forth herein, Borrower has irrevocably designated, Lender (and all Persons designated by Lender) as Borrower's true and lawful attorney (and agent-in-fact) for the purposes specified herein. Lender or its designee shall not be liable for any acts of omission or commission nor for any error of judgment or mistake of fact or law other than as an result of willful misconduct or gross negligence by Lender or its designee. This power, being coupled with an interest, is irrevocable by the Borrower so long as the Debenture remains outstanding and until all Obligations are finally paid in full.

16. **Rights and Remedies Cumulative; Non-Waiver; Etc.** The enumeration of Lender's rights and remedies set forth in this Agreement is not intended to be exhaustive and the exercise by Lender of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder, or under any other agreement between Borrower or Lender or which may now or hereafter exist in law or in equity or by suit or otherwise. No delay or failure to take action on the part of Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then only to the extent specifically stated in such writing. No course of dealing between Borrower and Lender or Lender's agents or employees shall be effective to change, modify or discharge any provision of this Agreement or to constitute a waiver of any Event of Default. Lender shall not, under any circumstances or in any event whatsoever, have any liability for any error, omission or delay of any kind occurring in the liquidation of the Collateral or for any damages resulting therefrom, except due to gross negligence or willful misconduct of Lender.

17. **Supplemental Documentation.** At Lender's request, Borrower shall execute and deliver to Lender, at any time or times hereafter, all documents, instruments and other written matter that Lender may reasonably request to perfect and maintain perfected Lender's security interest in the Collateral in form and substance acceptable to Lender, and pay all charges, expenses and fees Lender may reasonably incur in filing any of such documents, and all taxes relating thereto. Borrower hereby irrevocably makes, constitutes and appoints Lender (and all persons designated by Lender for that purpose) as Borrower's true and lawful attorney (and agent-in-fact) to sign the name of Borrower on any of such documents and to deliver the same to such Persons as Lender, in its sole discretion, may elect. Borrower agrees that such power is irrevocable so long as the Debenture is outstanding and until all the Obligations are finally paid in full. Borrower agrees that a carbon, photographic, photostatic, or other reproduction of this Agreement or a financing statement is sufficient as a financing statement and may be filed by Lender in any filing office.

18. **Waivers.** In addition to the other waivers contained herein and in any other agreement between Borrower and Lender, Borrower hereby expressly waives, to the extent permitted by law, presentment for payment, demand, protest, notice of demand, notice of protest, notice of default or dishonor, notice of payments and nonpayments and all other notices and consents that Lender may release, compromise, settle, extend or renew any commercial paper, instruments or guaranties at any time held by Lender on which Borrower may in any way be

liable and notice of any action taken by Lender unless expressly required by this Agreement or by law.

19. **Notice.** Except as otherwise provided herein, all notices, requests and demands to or upon a party hereto to be effective shall be in writing (and, if sent by mail, shall be sent by certified or registered mail, return receipt requested) or by telegraph or telex and, unless otherwise expressly provided herein, shall be deemed to have been validly served, given or delivered when delivered against receipt or seventy-two (72) hours after deposit in the mail, postage prepaid, or, in the case of telegraphic notice, when delivered to the telegraph company, or, in the case of telex notice, when sent, answer back received, addressed as follows:

- (A) If to the Lender: North Carolina Economic Opportunity Fund,
Limited Partnership
316 West Edenton Street, Suite 110
Raleigh, NC 27603
Attn: Stephen W. Buchanan
- (B) If to Borrower: Turkington Acquisition Company, LLC
1200 West Ash Street
Goldsboro, NC 27533
Attn: _____

or to such other address as each party may designate for itself by like notice given in accordance with this Section 19.

20. **Definitions and Applicable Law.** All terms used herein shall be defined in accordance with the appropriate definitions appearing in the Uniform Commercial Code as in force in the State of North Carolina, and such definitions are hereby incorporated herein by reference and made a part hereof. This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of North Carolina, including without limitation the Uniform Commercial Code of the State of North Carolina.

21. **Entire Agreement.** This Agreement, together with the Investment Agreement, the Transaction Documents and the other documents executed in connection therewith, constitutes and expresses the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements, commitments and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof. Neither this Agreement nor any portion or provision hereof may be changed, altered, waived, modified, supplemented, discharged, canceled, terminated, or amended orally or in any manner other than by a prior written agreement signed by the parties hereto.

22. **Section Headings.** The Section headings in this Agreement are for convenience of reference only; they form no part of this Agreement and shall not affect its interpretation.

23. **Severability**. The provisions of this Agreement are independent of and separable from each other. If any provision hereof shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

24. **Successors and Assigns**. This Agreement shall be binding upon the successors and assigns of Borrower, and the right, remedies, powers, and privileges of Lender hereunder shall inure to the benefit of the successors and assigns of Lender. Lender may assign, or sell participations in, its right, title and interest herein, in any of the Obligations, in the Collateral, and in any agreements or instruments now or hereafter evidencing or securing any of the Obligations at any time or times without notice to or the consent of Borrower.


25. **Term of Agreement**. This Agreement shall continue in full force and effect so long as any principal or interest or other amounts under the Debenture are outstanding and until all the Obligations have been finally performed and paid in full.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by authority duly given as of the day and year first above written.

BORROWER:

**TURKINGTON ACQUISITION COMPANY,
LLC**

By: 
Name: _____
Title: _____

LENDER:

**NORTH CAROLINA ECONOMIC
OPPORTUNITIES FUND,
LIMITED PARTNERSHIP**

By: Carlisle, Smith & Buchanan, LLC

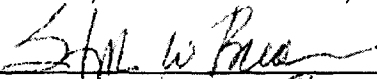
By: 
Name: STEPHEN W BUCHANAN
Title: VICE PRESIDENT

EXHIBIT A
Permitted Liens

EXHIBIT B

Description of Real Property

EXHIBIT C

Borrower's Principal Place of Business

1200 West Ash Street
Goldsboro, NC 27533