

PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

Purchase and Assignment Agreement

CONVEYING PARTY DATA

Name	Execution Date
Congress Financial Corporation (Southern)	04/16/2004

RECEIVING PARTY DATA

Name:	Wurth Group of North America Inc.
Street Address:	93 Grant Street
City:	Ramsey
State/Country:	NEW JERSEY
Postal Code:	07446

PROPERTY NUMBERS Total: 57

Property Type	Number
Patent Number:	5175908
Patent Number:	5257861
Patent Number:	5387033
Patent Number:	5383255
Patent Number:	5353476
Patent Number:	5414896
Patent Number:	5359752
Patent Number:	5349723
Patent Number:	5549376
Patent Number:	5485656
Patent Number:	5490724
Patent Number:	5584550
Patent Number:	5597220
Patent Number:	5562333
Patent Number:	5617800

PATENT

500025703

REEL: 015841 FRAME: 0876

CH \$2280.00 5175908

Patent Number:	5636820
Patent Number:	5725342
Patent Number:	5781967
Patent Number:	5722749
Patent Number:	5746490
Patent Number:	5743608
Patent Number:	5681101
Patent Number:	5920958
Patent Number:	5823648
Patent Number:	5826305
Patent Number:	5884364
Patent Number:	5876103
Patent Number:	5873642
Patent Number:	6027193
Patent Number:	6170121
Patent Number:	6125510
Patent Number:	6167590
Patent Number:	6240599
Patent Number:	6302502
Patent Number:	6249934
Patent Number:	6378967
Patent Number:	6481812
Patent Number:	6470531
Patent Number:	6460219
Patent Number:	RE34995
Patent Number:	D451000
Application Number:	07929754
Application Number:	08515487
Application Number:	09531770
Application Number:	09575380
Application Number:	09740554
Application Number:	10010861
Application Number:	10186444
Application Number:	10186803
Application Number:	10222502

Application Number:	29165791
Application Number:	10287284
Application Number:	60459437
Application Number:	08720620
Application Number:	08797754
Application Number:	09420345
Application Number:	09690344

# CORRESPONDENCE DATA

Fax Number: (202)861-1783  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
Phone: 202-861-1500  
Email: trademarks@bakerlaw.com  
Correspondent Name: Christoph Lange  
Address Line 1: 1050 Connecticut Avenue, N.W.  
Address Line 2: Washington Square, Suite 1100  
Address Line 4: Washington, DISTRICT OF COLUMBIA 20036-5304

NAME OF SUBMITTER:	M. Scott Alprin
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# Total Attachments: 14

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**PURCHASE AND ASSIGNMENT AGREEMENT**

**Dated April 16, 2004**

**Between**

**CONGRESS FINANCIAL CORPORATION (SOUTHERN)**

**as Seller,**

**and**

**WURTH GROUP OF NORTH AMERICA INC.**

**as Purchaser,**

**relating to loans to**

**GRASS AMERICA, INC.**

## **PURCHASE AND ASSIGNMENT AGREEMENT**

THIS PURCHASE AND ASSIGNMENT AGREEMENT is made and entered into on April 16, 2004, between **CONGRESS FINANCIAL CORPORATION (SOUTHERN)** ("Seller") and **WURTH GROUP OF NORTH AMERICA INC.** ("Purchaser").

### **Recitals:**

Seller is a party to a Loan and Security Agreement dated June 11, 2003 (as at any time amended, the "Loan Agreement") with Grass America, Inc., a North Carolina corporation ("Borrower"). Capitalized terms used in these Recitals and elsewhere in this Agreement, but not otherwise defined, shall have the meanings set forth in the Loan Agreement.

Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, all of Seller's right, title and interest in, to and under (i) the Assigned Loan Documents (as defined below), (ii) the Assigned Obligations (as defined below), and (iii) the Assigned Collateral (as defined below) (all such right, title and interests of Seller in the foregoing property being called the "Purchased Assets").

### **Agreements:**

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements of the parties contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

#### **1. Sale and Assumption.**

(a) **Sale of Purchased Assets.** Upon the terms and subject to the conditions set forth in this Agreement, Seller hereby sells and transfers to Purchaser, and Purchaser hereby purchases from Seller, all of the Purchased Assets. This Agreement is intended to and shall effect a true sale of the Purchased Assets to Purchaser. The sale of the Purchased Assets shall be effective on the date (the "Effective Date") that the conditions precedent in paragraph (d) below of this Section 1 are satisfied. Purchaser acknowledges and agrees that the Purchased Assets do not include any obligation of Borrower to indemnify or hold Seller harmless from any liability, cost or expense relating to any act, transaction, event or occurrence that transpires before the Effective Date (all such obligations to indemnify being collectively referred to as the "Pre-Sale Indemnity Obligations"); and that Seller is not and does not purport to be the owner of any of the Assigned Collateral, but merely asserts that it has a consensual security interest in the types and items of property of Borrower which are described in the Assigned Loan Documents (the "Assigned Collateral") as security for the Obligations and in which a security interest may be granted under the Uniform Commercial Code as in effect in the State of Georgia.

(b) **Purchase Price.** In consideration of the sale of the Purchased Assets by Seller, Purchaser hereby agrees to pay to Seller [REDACTED] (the "Purchase Price"), in immediately available federal funds, pursuant to the wiring instructions set forth below, subject to all of the terms and conditions of this Agreement.

(c) Closing. The closing of the transactions contemplated by this Agreement shall occur on April 16, 2004, no later than 5:00 p.m. (Atlanta, Georgia time), subject to satisfaction of the condition precedent in paragraph (d) of this Section 1 (the "Closing").

(d) Conditions Precedent to Seller's Obligations. Seller's obligation to sell the Purchased Assets to Purchaser shall be conditioned upon Seller's receipt of the Purchase Price, in immediately available funds before 5:00 p.m. (Atlanta, Georgia time) on April 16, 2004. If the foregoing condition precedent is not satisfied before 5:00 p.m. (Atlanta, Georgia time) on April 16, 2004 (or such later date or time as Seller may agree in its sole discretion), then Seller may cancel this Agreement, whereupon this Agreement shall be null and void. Seller may, in its sole and absolute discretion, waive the satisfaction of the foregoing condition and may, in its sole and absolute discretion, extend the time for delivery of the Purchase Price, but any such agreement shall not be enforceable against Seller unless agreed to by Seller in writing.

(e) Limited Warranties and Recourse; Disclaimers. Except as expressly stated in Section 3 hereof, Seller makes no representations or warranties regarding any of the Purchased Assets. Without limiting the generality of the foregoing, Seller does not make, and specifically disclaims, any and all warranties or representations concerning the validity, legality or enforceability of any of the Assigned Loan Documents; the validity, perfection, priority or extent of any Liens in favor of Lender with respect to any of the Assigned Collateral; the existence, location, quantity or value of any of the Assigned Collateral; the solvency, financial condition or business prospects of Borrower; or the collectibility of any of the Assigned Obligations. This sale of the Purchased Assets shall be without recourse to Seller, except for any actual damages proximately caused by Seller's breach of any of these specific representations and warranties of Seller set forth in Section 3 hereof.

(f) Wiring Instructions. The Purchase Price shall be wire transferred to Seller pursuant to the following wiring instructions:

Wachovia Bank, N.A.  
Charlotte, North Carolina 28288  
ABA No.: 053000219  
For credit to Congress Financial Corporation (Southern)  
Account No.: [REDACTED]  
Re: Grass America, Inc.

## 2. Post-Sale Obligations.

(a) Proceeds of Collateral. If after the Effective Date, Seller receives any proceeds of any of the Assigned Collateral, including, without limitation, any checks or other items of payment from account obligors of Borrower, Seller shall promptly turn the same over to Purchaser, in the form received, with the addition of any necessary endorsement (which endorsement shall in all events be without recourse to or warranty by Seller).

(b) Further Assurances. After the Effective Date, Seller agrees to execute such instruments and agreements as may be reasonably necessary to give effect to the provisions of this Agreement, including, without limitation, instruments of assignment, provided that all

such instruments shall expressly state that they do not create any liability on the part of Seller and shall be prepared (and, if any are to be filed, shall be filed) at the sole cost and expense of Purchaser. Upon the Effective Date, Seller also authorizes Purchaser to file any assignments of any UCC-1 financing statements related to the Assigned Collateral. Neither Purchaser nor Seller shall be required to pay the other for the attorneys' fees or costs associated with the consummation of any of the transactions contemplated by this Agreement, including, without limitation, the preparation, execution or delivery of any such additional documents. In no event shall Seller be obligated to make any representations or warranties in any such instruments or agreements that Seller is requested by Purchaser to execute to give effect to the terms of this Agreement if such representations or warranties are broader in scope or different in substance than, or inconsistent with, any of the representations or warranties of Seller contained in Section 3.

(c) Delivery of Documents. Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser copies of the Assigned Loan Documents and, within 21 days after the Effective Date, Seller shall deliver to Purchaser the originals of the Assigned Loan Documents that have been executed by Borrower (excluding any Assigned Loan Documents the originals of which have been recorded in public recording offices).

3. Seller's Representations and Warranties. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller's Good Standing and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia, and has all requisite power and authority to execute and deliver this Agreement and consummate the transactions contemplated hereby, and has obtained all consents and approvals required to be obtained by Seller in connection herewith.

(b) Validity. This Agreement is binding upon and is enforceable against Seller in accordance with its terms.

(c) Title. Seller has good title to and is the sole owner of the Purchased Assets, free and clear of any Liens created by, through or under Seller; and the Purchased Assets will not be subject to any prior assignment, conveyance, transfer or participation or any agreement to assign, convey, transfer or participate, in whole or in part.

(d) Assigned Loan Documents. The "Assigned Loan Documents" shall mean and include the instruments and agreements that are described in Exhibit A annexed hereto.

(e) Assigned Obligations.

(i) The term "Assigned Obligations" means and includes all of the Obligations other than the Seller's Legal Expenses (as defined below) and the Pre-Sale Indemnity Obligations. Seller represents and warrants that the Purchase Price includes (i) the principal balance of the Loans as of the Effective Date of [REDACTED] (ii) the accrued interest on the Loans as of the Effective Date of [REDACTED] (iii) wire charges of [REDACTED], (iv) unused line fees of [REDACTED]; (v) early termination fees of [REDACTED] and (vi) an

expense reserve of \$50,000.

(ii) On the Effective Date, an expense reserve in the amount of [REDACTED] shall be paid by Purchaser to Seller (which amount has been included in the Purchase Price). Seller shall provide to Purchaser an accounting within thirty (30) days after the Effective Date regarding the costs paid by Seller from such expense reserve, and Seller shall remit any remaining balance of the expense reserve to Purchaser within forty-five (45) days after the Effective Date.

(iii) For purposes hereof, "Seller's Legal Expenses" means legal fees and expenses of Seller's legal counsel. Seller acknowledges that such legal fees and expenses incurred on or prior to the Effective Date are to be deducted from the expense reserved referenced in clause (ii) above. Any legal bills of Seller's counsel shall not be deemed to be a part of the Assigned Loan Documents, and Purchaser acknowledges that any such bills shall remain privileged and confidential unless otherwise agreed to by Seller in writing.

(iv) Nothing herein shall constitute a representation or warranty by Seller that (x) any interest, fees, or other charges are recoverable or owing in the event of any bankruptcy of Borrower, whether under Section 506(b) of the Bankruptcy Code or otherwise or (y) all or any part of the Assigned Obligations constitute or are entitled to be treated as secured claims under Section 506(a) of the Bankruptcy Code or otherwise.

#### **4. Purchaser's Representations and Warranties.**

Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser's Good Standing and Authority. Purchaser is duly organized, validly existing and in good standing under the laws of the state of its organization, and has all requisite power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, and has obtained all consents and approvals, and made all registrations, required to be made or obtained by Purchaser in connection herewith.

(b) No Contravention. The execution, delivery and performance of this Agreement and all other instruments and documents executed and delivered by Purchaser in connection herewith do not violate (i) any law, rule, regulation, order, writ, judgment, injunction, decree, or determination presently in effect having applicability to Purchaser, (ii) any contract, indenture, mortgage, loan agreement, note, lease or other instrument by which Purchaser may be bound or to which any of the assets of Purchaser is subject or (iii) any provision of Purchaser's charter or by-laws.

(c) Validity. This Agreement is binding upon and is enforceable against Purchaser in accordance with its terms.

(d) Non-Reliance. Purchaser acknowledges that Seller has not given to Purchaser any investment advice or credit information or rendered any opinion as to whether the purchase of the Purchased Assets is prudent, and Purchaser has not relied upon any



representations, warranties, statements, information or documents provided by Seller to Purchaser except for the representations and warranties contained in Section 3.

(e) Purchase for Investment. Without creating any implication that any of the Purchased Assets are securities, Purchaser (i) is an "accredited investor" within the meaning of Section 2(15) of the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations of the Securities and Exchange Commission thereunder, and (ii) is not purchasing the Purchased Assets with a view towards the sale or distribution thereof in violation of the Securities Act.

(f) ERISA. Purchaser is not purchasing the Purchased Assets with proceeds which, directly or indirectly, constitute "plan assets", as defined in the Employee Retirement Income Security Act of 1974, as amended.

(g) Superior Knowledge. Purchaser acknowledges that Seller may be in possession of material non-public information regarding the Purchased Assets and Borrower and that such information may not be known to Purchaser, and Purchaser covenants not to sue Seller due to Purchaser's lack of such information, provided that such information does not contradict any of the representations made by Seller in Section 3.

(h) Sophisticated Purchaser. Purchaser is a sophisticated buyer with respect to the Purchased Assets, has adequate information concerning the business and financial condition of Borrower to make informed decisions regarding the purchase of the Purchased Assets and has independently and without reliance upon Seller, and based upon such information as Purchaser has deemed appropriate, made its own independent decision to enter into this Agreement and to conclude the transactions contemplated hereby.

## 5. Indemnities; Limitation on Damages.

### (a) Purchaser's Indemnities.

(i) Purchaser hereby agrees to indemnify and hold Seller, and its agents, affiliates and controlling persons, and each of their respective officers, partners, directors and employees (collectively, the "Seller Indemnities") harmless from and against any and all expenses (including, without limitation, reasonable attorneys' fees and disbursements), losses, claims, damages or liabilities which are incurred by Seller Indemnities or any of them and are caused by, or in any way resulting from or relating to, Purchaser's breach of any of the representations, warranties, covenants or agreements of Purchaser set forth in this Agreement or the transactions evidenced by this Agreement.

(ii) Purchaser agrees to indemnify Seller from, and hold Seller harmless against, all loss, cost, damage or expense (including attorneys' fees) which the Seller may suffer or incur at any time as a result of any non-payment, claim, refund or dishonor of any checks or other items which have been credited by Seller to the account of Borrower, together with any expenses or other charges incident thereto. The amount of any such loss, cost, damage or expense indemnified hereunder shall be paid to Seller promptly by Purchaser upon the

Seller's demand therefor, sent in writing at any time within sixty (60) days after the date hereof, and the amount of the demand shall be conclusive upon Purchaser. Without limitation, it is understood that the obligation of Purchaser to make such payments for the amounts indemnified hereunder shall not be conditioned upon any prior demand by Seller upon Borrower.

(b) Limitation on Damages. No party shall be authorized to recover from the other any special, consequential, exemplary or punitive damages on account of any breach of this Agreement.

6. Successors and Assigns. This Agreement, including, without limitation, the representations, warranties, covenants and agreements contained herein, shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns. No Person shall be deemed a permitted assign of Purchaser other than as expressly agreed to in writing by Seller in its sole discretion; provided, however, that irrespective of any such assignment, Purchaser shall remain bound and obligated to Seller in accordance with the terms of this Agreement.

7. Notices. All notices between parties shall be in writing. Notices delivered personally or by telecopier shall be deemed received on the same Business Day if delivered personally or by telecopier before 4:00 p.m. (Atlanta, Georgia time) on such day, and otherwise on the next Business Day. Notices deposited with an overnight courier service prior to its deadline on any Business Day shall be deemed received on the next Business Day. Notices deposited in the mail, postage prepaid, on any Business Day shall be deemed received on the third Business Day following such deposit.

All notices to Seller shall be given to:

Congress Financial Corporation (Southern)  
200 Galleria Parkway, Suite 1500  
Atlanta, Georgia 30339  
Attention: Loan Administration  
Telecopy No.: (770) 956-8120

With a copy to:

Parker, Hudson, Rainer & Dobbs LLP  
1500 Marquis Two Tower  
285 Peachtree Center Avenue, N.E.  
Atlanta, Georgia 30303  
Attention: C. Edward Dobbs, Esq.  
Telecopy No.: (404) 522-8409

All notices to Purchaser shall be given to:

Wurth Group of North America Inc.  
93 Grant Street  
Ramsey, New Jersey 07446  
Attention: President

8. **Final Integration.** This Agreement shall serve as a final integration and expression of all agreements between Seller and Purchaser with respect to the subject matter hereof, and any previous agreement representation or warranty, whether oral or written, shall have no force and effect.

9. **Confidentiality.** Each party hereto agrees that, except as it may be compelled by legal process or by an order, judgment or decree of a court or governmental authority of competent jurisdiction, it shall not disclose the Purchase Price or the basis on which it was calculated to any Person other than to its accountants and attorneys.

10. **Choice of Law.** This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Georgia without reference to conflict of law principles.

11. **Survival of Provisions.** All representations, warranties, covenants, disclaimers, acknowledgments and agreements made by the parties hereto shall be considered to have been relied upon by the parties hereto, shall be true and correct as of the Effective Date and shall survive the execution, performance and delivery of this Agreement and all other documents contemplated herein.

12. **Amendments and Waivers.** No amendment of any provision of this Agreement shall be effective unless it is in writing and signed by Seller and Purchaser, and no waiver of any provision of this Agreement nor consent to any departure by Seller or Purchaser therefrom, shall be effective unless it is in writing and signed by the other parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

13. **Headings.** The headings of the Sections and subsections of this Agreement are for convenience of reference only, do not constitute a part of this Agreement and shall not affect the interpretation hereof.

14. **Counterparts.** This Agreement may be executed in counterparts each of which when so executed shall be original but all such counterparts shall together constitute but one and the same instrument. Any executed counterpart to this Agreement delivered by a party hereto by facsimile transmission shall be deemed an original counterpart hereto (but such party promptly shall deliver the original counterpart to the other party hereto).

15. **Time of Essence.** Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement on the date first above written.

**Seller:**

**CONGRESS FINANCIAL CORPORATION  
(SOUTHERN)**

By: Barry M. Dolin  
Name: Barry M. Dolin  
Title: VICE PRESIDENT

**Purchaser:**

**WURTH GROUP OF NORTH AMERICA INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement on the date first above written.

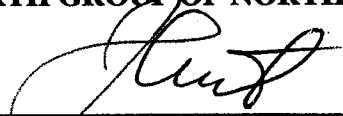
**Seller:**

**CONGRESS FINANCIAL CORPORATION  
(SOUTHERN)**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Purchaser:**

**WURTH GROUP OF NORTH AMERICA INC.**

By:   
Name: JURG MICHEL  
Title: PRESIDENT

## **EXHIBIT A**

### **Listing of Assigned Loan Documents**

<b><u>Item</u></b>	<b><u>Document</u></b>
--------------------	------------------------

- |     |  |
|-----|--|
| 1.  | Certificate of Good Standing (North Carolina)  |
| 2.  | Consent of Shareholders  |
| 3.  | Certified Board Resolutions  |
| 4.  | Closing and Incumbency Certificate<br>Exhibit A - Articles of Incorporation<br>Exhibit B - By-Laws |
| 5.  | Loan and Security Agreement  |
| 6.  | Patent Security Agreement  |
| 7.  | Trademark Security Agreement   |
| 8.  | Collateral Assignment of Rights Under Business Interruption Insurance Policy                       |
| 9.  | Collateral Assignment of Rights Under Credit Insurance and Collateral Benefit "A" Rider            |
| 10. | Accountant's Letter  |
| 11. | Trade Style Letter   |
| 12. | Telephone Instruction Letter   |
| 13. | Certificate Regarding Equipment  |
| 14. | Certificate Regarding Environmental Matters  |
| 15. | Evidence of Casualty Insurance and Loss Payable Endorsement  |
| 16. | Deposit Account Control Agreement  |
| 17. | Disbursement Letters   |
| 18. | UCC Pre-Filing Authorization Letter  |
| 19. | UCC Financing Statement  |

#### **REAL ESTATE DOCUMENTS**

- |     |  |
|-----|--|
| 20. | North Carolina Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing |
| 21. | Owner's Affidavit  |

**Item Document**

- 22. Certificate of Non-Alien Status
- 23. Survey
- 24. Title Insurance Commitment with Endorsements and Affirmative Coverages
- 25. Title Insurance Policy with Endorsements

**CONSIGNMENT AGREEMENTS**

- 26. Consignment Agreements
  - (a) Copies of Consignment Agreements between Borrower and Consignee
  - (b) Consignee Agreements among Borrower, Consignee and Lender
  - (c) Lien Searches Against Consignees
  - (d) UCC Financing Statements (Borrower - Secured Party; Lender - Assignee; Consignee - Debtor)

**INTERCREDITOR AGREEMENTS**

- 27. Debt Subordination Agreement
- 28. Non-Offset Agreement
- 29. Intercreditor Agreement
- 30. Appointment of Agent for Service of Process

**LIEN SEARCHES, TERMINATIONS AND SATISFACTIONS**

- 31. Lien Searches
- 32. UCC Termination
- 33. Satisfaction of Deed of Trust

**OPINION OF COUNSEL**

- 34. Opinion Letter by Borrower's Counsel to Lender

**MISCELLANEOUS DOCUMENTS**

- 35. Lock Box Agreement
- 36. Certificate Regarding Term Loan Documents
- 37. Certificate Regarding GmbH Loan Documents
- 38. Payoff Letter

**Item   Document**

- 39.   **Default – Reservation of Rights Letter dated November 19, 2003**
- 40.   **Default Rate of Interest Letter dated January 29, 2004**
- 41.   **Standstill Letter to Grass GmbH dated March 18, 2004**
- 42.   **Inventory Advance Rate Reduction Letter dated March 18, 2004**
- 43.   **Inventory Advance Rate Reduction Letter dated March 19, 2004**



## ACKNOWLEDGMENT AND AGREEMENT

The undersigned, Grass America, Inc. ("Borrower"), does hereby (i) acknowledge receipt of a copy of the within and foregoing Purchase and Assignment Agreement (capitalized terms used in this Acknowledgement and Agreement, unless otherwise defined, shall have the meanings given to them in the Purchase and Assignment Agreement); (ii) consent to the terms of and all transactions described in the Purchase and Assignment Agreement; (iii) acknowledge that, as a consequence of the Purchase and Assignment Agreement, Purchaser is substituted for and is the successor to Seller as "Lender" under (and is defined in) the Loan Agreement and all of the Assigned Loan Documents shall be deemed amended, on and as of the Effective Date (if it occurs), to reflect Purchaser as the "Lender" thereunder; (iv) acknowledge that all the Financing Agreements (as defined in the Loan Agreement) are legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with the terms thereof; (v) acknowledge that Events of Default under (as defined in) the Loan Agreement exist, as a consequence of which the Lender is authorized to exercise all rights and remedies available to it under the Loan Agreement, the Financing Agreements (as defined in the Loan Agreement) and applicable law; (vi) acknowledge that the outstanding amount of the Assigned Obligations is as set forth in the Purchase and Assignment Agreement and Borrower is liable for the payment of all of the Assigned Obligations without defense, offset or counterclaim; (vii) agree that all indemnities in the Financing Agreements (as defined in the Loan Agreement) shall continue to inure to the benefit of Seller after the Effective Date with respect to acts, transactions and occurrences that transpired on or before the Effective Date; and (viii) release Seller and its respective officers, directors, agents, attorneys, successors and assigns, from any and all liabilities, claims, demands reckonings, or obligations (whether absolute or conditional, due or become due, known or unknown, or disputed or undisputed) that arise out of or relate to any of the Financing Agreements (as defined in the Loan Agreement) or any transactions, events, acts or failures to act by Seller under any of such Financing Agreements.

Borrower further acknowledges and agrees that Seller and Purchaser may amend, modify, or waive any of the provisions of the Purchase and Assignment Agreement without prior notice to or the consent of Borrower.

SIGNED, SEALED AND DELIVERED, this 16 day of April, 2004.

GRASS AMERICA, INC.

By: Kenneth H. Boyles  
Title: VICE PRESIDENT