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08-23-2005



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To the Honorable Commissioner of Patents

ached original documents or copy thereof.

1. Name of conveying party(ies):

Evit Labs, Inc. (California corporation)

dba: Evit Labs

dba: Evit Laboratories

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

Assignment

Merger

Security Agreement

Change of Name

Other

Execution Date: September 28, 2004

2. Name and address of receiving party(ies):

Name: Remington Partners, Inc.

Internal Address: \_\_\_\_\_

Street Address: 919 Sir Francis Drake Boulevard,

Suite 202

City: Kentfield State: CA ZIP: 94904

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

B. Patent No.(s)

6,742,721 B2

Additional numbers attached?  Yes  No

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

Name: Thomas W. Cook

Internal Address: \_\_\_\_\_

Street Address: P.O. Box 1989

3030 Bridgeway, Suite 425-430

City: Sausalito State: CA ZIP: 94965

6. Total number of applications and patents involved:  1

7. Total fee (37 CFR 3.41) \$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number: \_\_\_\_\_

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Thomas W. Cook

Signature

Date

August 16, 2005

08/22/2005 DATE 0000039 6742721

01 FC:0021

40.00

Total number of pages including cover sheet, attachments, and document:  7

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

# Security Agreement

**GRANTOR:** Evit Labs, Inc.

**Holder:** Remington Partners, Inc.

1. THIS SECURITY AGREEMENT is entered into between Evit Labs, Inc., a California corporation (referred to below as "Grantor"); and Remington Partners, Inc., a California corporation (referred to below as "Holder"). For valuable consideration, Grantor grants to Holder a security interest, which shall be in first position, in the Collateral to secure the Indebtedness and agrees that Holder shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Holder may have by law.
2. **DEFINITIONS.** The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the California Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.
  - (a) **Agreement.** The word "Agreement" means this Security Agreement, as may be modified from time to time, together with all exhibits and schedules attached to this Security Agreement from time to time.
  - (b) **Collateral.** The word "Collateral" means the following described property of Grantor, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:
    - (i) All presently existing, or hereinafter acquired or arising, accounts, accounts receivable, contract rights, chattel paper, documents, notes, drafts, instruments, reserves, reserve balance, contract rights and rights to payment of any kind, general intangibles, and without limitation thereof, tax refunds, money, deposit accounts and security agreements and debts secured thereby; as well as warehouse receipts, bills of lading or documents evidencing goods belonging to GRANTOR, and
    - (ii) All of GRANTOR's presently existing or hereinafter acquired goods, inventory and other personal property of GRANTOR in all stages of manufacture, process, or production; all of GRANTOR's presently existing or hereafter acquired equipment, machinery, furniture, furnishings, fixtures, tools, supplies and motor vehicles of every kind and description. Without limiting the generality of the foregoing, the property used by Grantor in the equipment repair, sales and service business of whatever type or distribution and/or related items wherever located, and
    - (iii) All of GRANTOR's presently existing and hereinafter acquired trademarks, trade names, trade styles, copyrights, patent rights, technical processes, plans, drawings, diagrams, schematics, assembly and display materials, electronic media, and the goodwill attendant thereto; specifically including Patent No. US 6,742,721 B2, and
    - (iv) All negotiable and non-negotiable documents of title now owned or hereafter acquired by GRANTOR, and
    - (v) All of GRANTOR's books and records (including but not limited to computer tapes, disks, programs and other things upon which or in which such books or records are stored or maintained) together with all equipment, machinery and inventory containing or used in connection with the use, preparation, or maintenance of such books and records; and
    - (vi) All substitutes, replacements, additions, accessions, proceeds and products of any of the foregoing, whether due to voluntary or involuntary disposition, including, but not limited to money, deposit accounts, goods, tax refunds, other tangible and intangible property, and insurance and the proceeds thereof covering any of the foregoing.
    - (vii) All investment property.
  - (c) **Event of Default.** The words "Event of Default" mean and include any of the Events of Default set forth below in the section titled "Events of Default."
  - (d) **Intentionally omitted**
  - (e) **Intentionally omitted**
  - (f) **Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Secured Promissory Note, including all principal and interest, or any undocumented additional advance, together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents
  - (g) **Intentionally omitted.**
  - (h) **Note.** The word "Note" means the Secured Promissory Note dated September 28, 2004, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, additions thereto, and substitutions therefor.
  - (i) **Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments and documents, whether now or hereafter existing, between Grantor and Holder.
3. **RIGHT OF SETOFF.** Grantor hereby grants Holder a contractual possessory security interest in and hereby assigns, conveys, delivers, pledges, and transfers all of Grantor's right, title and interest in and to Grantor's accounts with Holder (whether checking, savings, or some other account), including all accounts held jointly with someone else and all accounts Grantor may open in the future, excluding however all IRA, Keogh, and trust accounts. Grantor authorizes Holder, to the extent permitted by applicable law, to charge or setoff all Indebtedness against any and all such accounts.

## Security Agreement

### 4. OBLIGATIONS OF GRANTOR. Grantor warrants and covenants to Holder as follows:

- (a) **Organization. Grantor.** Grantor is a corporation which is duly organized, validly existing, and in good standing under the laws of the State of California.
- (b) **Authorization.** The execution, delivery, and performance of this Agreement by Grantor have been duly authorized by all necessary action by Grantor and do not conflict with, result in a violation of, or constitute a default under (a) any provision of its articles of incorporation or organization, or bylaws, or any agreement or other instrument binding upon Grantor or (b) any law, governmental regulation, court decree, or order applicable to Grantor.
- (c) **Perfection of Security Interest.** Grantor agrees to execute such financing statements and to take whatever other actions are requested by Holder to perfect and continue Holder's security interest in the Collateral. Upon request of Holder, Grantor will deliver to Holder any and all of the documents evidencing or constituting the Collateral, and Grantor will note Holder's interest upon any and all chattel paper if not delivered to Holder for possession by Holder. Grantor hereby appoints Holder as its irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted in this Agreement. Holder may at any time, and without further authorization from Grantor, file a carbon, photographic or other reproduction of any financing statement or of this Agreement for use as a financing statement. Grantor will reimburse Holder for all expenses for the perfection and the continuation of the perfection of Holder's security interest in the Collateral. Grantor promptly will notify Holder of any change in Grantor's name including any change to the assumed business names of Grantor.
- (d) **No Violation.** The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its certificate or articles of incorporation and bylaws do not prohibit any term or condition of this Agreement.
- (e) **Enforceability of Collateral.** To the extent the Collateral consists of accounts, contract rights, chattel paper, or general intangibles, the Collateral is enforceable in accordance with its terms, is genuine, and complies with applicable laws concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Holder, the account shall be a good and valid account representing an undisputed bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or theretofore shipped or delivered pursuant to a contract of sale, or for services theretofore performed by Grantor with or for the account debtor; there shall be no setoffs or counterclaims against any such account; and no agreement under which any deductions or discounts may be claimed shall have been made with the account debtor except those disclosed to Holder in writing.
- (f) **Location of the Collateral.** Grantor, upon request of Holder, will deliver to Holder in form satisfactory to Holder a schedule of real properties and Collateral locations relating to Grantor's operations, including without limitation the following: (a) all real property owned or being purchased by Grantor; (b) all real property being rented or leased by Grantor; (c) all storage facilities owned, rented, leased, or being used by Grantor; and (d) all other properties where Collateral is or may be located. Grantor promptly shall procure the execution, acknowledgment, and delivery by holders of any encumbrances upon or by owners of such lands where Collateral is or will be located to Holder's rights of access for cultivation of crops or care of livestock upon such terms as Holder may deem satisfactory. Except in the ordinary course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Holder.
- (g) **Removal of Collateral.** Grantor shall keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts, the records concerning the Collateral) at Grantor's address shown above, or at such other locations as are acceptable to Holder. Some or all of the Collateral may be located at the real property described above. Except in the ordinary course of its business and except for sales of inventory, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Holder.
- (h) **Transaction Involving Collateral.** Except for inventory sold or accounts collected in the ordinary course of Grantor's business, Grantor shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. While Grantor is not in default under this Agreement, Grantor may sell inventory, but only in the ordinary course of its business and only to buyers who qualify as a buyer in the ordinary course of business. A sale in the ordinary course of Grantor's business does not include a transfer in partial or total satisfaction of a debt or any bulk sale. Grantor shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement, without the prior written consent of Holder. This includes security interests even if junior in right to the security interests granted under this Agreement, provided however, that nothing stated herein shall prevent Grantor from entering into leases for new equipment which provide the lessor under such leases a priority security interest in such new equipment. Unless waived by Holder, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Holder and shall not be commingled with any other funds; provided however, this requirement shall not constitute consent by Holder to any sale or other disposition. Upon receipt, Grantor shall immediately deliver any such proceeds to Holder.
- (i) **Title.** Grantor represents and warrants to Holder that it holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement or to which Holder has specifically consented in writing. Grantor shall defend Holder's rights in the Collateral against the claims and demands of all other persons.

## Security Agreement

- (j) **Collateral Schedules and Locations.** As often as Holder shall require, and insofar as the Collateral consists of accounts and general intangibles, Grantor shall deliver to Holder schedules of such Collateral, including such information as Holder may require, including without limitation names and addresses of account debtors and agings of accounts and general intangibles. Insofar as the Collateral consists of inventory and equipment, Grantor shall deliver to Holder, as often as Holder shall require, such lists, descriptions, and designations of such Collateral as Holder may require to identify the nature, extent, and location of such Collateral. Such information shall be submitted for Grantor and each of its subsidiaries or related companies.
- (k) **Maintenance and Inspection of Collateral.** Grantor shall maintain all tangible Collateral in good condition and repair. Grantor will not commit or permit damage to or destruction of the Collateral or any part of the Collateral. Holder and its designated representatives and agents shall have the right at all reasonable times and upon reasonable notice to examine, inspect, and audit the Collateral wherever located. Grantor shall immediately notify Holder of all cases involving the return, rejection, repossession, loss or damage of or to any Collateral; of any request for credit or adjustment or of any other dispute arising with respect to the Collateral; and generally of all happenings and events affecting the Collateral or the value or the amount of the Collateral.
- (l) **Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Holder's interest in the Collateral is not jeopardized in Holder's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Holder cash, a sufficient corporate surety bond or other security satisfactory to Holder in an amount adequate to provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Holder and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Holder as an additional obligee under any surety bond furnished in the contest proceedings.
- (m) **Compliance With Governmental Requirement.** Grantor shall comply promptly with all laws, ordinances and regulations of all governmental authorities applicable to the production, disposition, or use of the Collateral. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Holder's interest in the Collateral, in Holder's opinion, is not jeopardized.
- (n) **Hazardous Substances.** Other than materials which may be used or stored in the ordinary course of business by Grantor in accordance with applicable State and Federal laws, Grantor represents and warrants that the Collateral never has been, and never will be so long as this Agreement remains a lien on the Collateral, used for the generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance, as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., Chapters 6.5 through 7.7 of Division 20 of the California Health and Safety Code, Section 25100, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Collateral for hazardous waste. Grantor hereby (a) releases and waives any future claims against Holder for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Holder against any and all claims and losses resulting from a breach of this provision of this Agreement. This obligation to indemnify shall survive the payment of the Indebtedness and the satisfaction of this Agreement.
- (o) **Maintenance of Casualty Insurance.** Grantor shall procure and maintain all risks insurance, including without limitation fire, theft and liability coverage together with such other insurance as Holder may require with respect to the Collateral, in form, amounts, coverages and basis reasonably acceptable to Holder and issued by a company or companies reasonably acceptable to Holder. Grantor, upon request of Holder, will deliver to Holder from time to time the policies or certificates of insurance in form satisfactory to Holder, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days' prior written notice to Holder. In connection with all policies covering assets in which Holder holds or is offered a security interest for the Loans, Grantor will provide Holder with such loss payable or other endorsements as Holder may require. If Grantor at any time fails to obtain or maintain any insurance as required under this Agreement, Holder may (but shall not be obligated to) obtain such insurance as Holder deems appropriate, including if it so chooses "single interest insurance," which will cover only Holder's interest in the Collateral.
- (p) **Application of Insurance Proceeds.** Grantor shall promptly notify Holder of any loss or damage to the Collateral. Holder may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. All proceeds of any insurance on the Collateral, including accrued proceeds thereon, shall be held by Holder as part of the Collateral. If Holder consents to repair or replacement of the damaged or destroyed Collateral, Holder shall, upon satisfactory proof of expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration. If Holder does not consent to repair or replacement of the Collateral, Holder shall retain a sufficient amount of the proceeds to pay all of the Indebtedness, and shall pay the balance to Grantor. Any proceeds which have not been disbursed within six (6) months after their receipt and which Grantor has not committed to the repair or restoration of the Collateral shall be used to prepay the Indebtedness.

## Security Agreement

5. **GRANTOR'S RIGHT TO POSSESSION AND TO COLLECT ACCOUNTS.** Until default and except as otherwise provided below with respect to accounts, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents, provided that Grantor's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Holder is required by law to perfect Holder's security interest in such Collateral. Until otherwise notified by Holder, Grantor may collect any of the Collateral consisting of accounts receivables. If Holder at any time has possession of any Collateral, whether before or after an Event of Default, Holder shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Holder takes such action for that purpose as Grantor shall request or as Holder, in Holder's sole discretion, shall deem appropriate under the circumstances, but failure to honor any request by Grantor shall not of itself be deemed to be a failure to exercise reasonable care. Holder shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Collateral.
6. **EXPENDITURES BY LENDER.** If not discharged or paid when due, Holder may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Grantor under this Agreement, including without limitation all taxes, liens, security interests, encumbrances, and other claims, at any time levied or placed on the Collateral. Holder also may (but shall not be obligated to) pay all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Holder for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Holder to the date of repayment by Grantor. All such expenses shall become a part of the Indebtedness and, at Holder's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Holder may be entitled upon the occurrence of an Event of Default.
7. **EVENTS OF DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:
  - (a) **Default on Indebtedness.** Failure of Grantor to make any payment on the Indebtedness within five days after the same becomes due.
  - (b) **Other Defaults.** Failure of Grantor to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or in any other agreement between Holder and Grantor. If any failure, other than a failure to pay money, is curable and if Grantor has not been given a prior notice of a breach of the same provision of this Agreement, it may be cured (and no Event of Default will have occurred) if Grantor, after Holder sends written notice demanding cure of such failure, (a) cures the failure within fifteen (15) days; or (b), if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.
  - (c) **False Statements.** Any warranty, representation or statement made or furnished to Holder by or on behalf of Grantor under this Agreement is false or misleading in any material respect, either now or at the time made or furnished.
  - (d) **Intentionally Omitted**
  - (e) **Insolvency.** The dissolution or termination of Grantor's existence as a going business, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.
  - (f) **Creditor Proceedings.** Commencement of foreclosure, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor against the Collateral or any other collateral securing the Indebtedness. This includes a garnishment of any of Grantor's deposit accounts with Holder. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor proceeding and if Grantor gives Holder written notice of the creditor proceeding and deposits with Holder monies or a surety bond for the creditor proceeding, in an amount determined by Holder, in its sole discretion, as being an adequate reserve or bond for the dispute.
  - (g) **Intentionally omitted**
  - (h) **Intentionally omitted**
8. **RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Agreement, at any time thereafter, Holder shall have all the rights of a secured party under the California Uniform Commercial Code. In addition and without limitation, Holder may exercise any one or more of the following rights and remedies:
  - (a) **Accelerate Indebtedness.** Holder may declare the entire Indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice.
  - (b) **Assemble Collateral.** Holder may require Grantor to deliver to Holder all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Holder may require Grantor to assemble the Collateral and make it available to Holder at a place to be designated by Holder. Holder also shall have full power to enter upon the property of Grantor to take possession of and remove the Collateral. If the Collateral contains other goods not covered by this Agreement at the time of repossession, Grantor agrees Holder may take such other goods, provided that Holder makes reasonable efforts to return them to Grantor after repossession.

## Security Agreement

- (c) **Sell the Collateral.** Holder shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in its own name or that of Grantor. Holder may sell the Collateral at public auction or private sale. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, Holder will give Grantor reasonable notice of the time after which any private sale or any other intended disposition of the Collateral is to be made. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the Note rate from date of expenditure until repaid.
- (d) **Appoint Receiver.** To the extent permitted by applicable law, Holder shall have the following rights and remedies regarding the appointment of a receiver- (a) Holder may have a receiver appointed as a matter of right, (b) The receiver may be an employee of Holder and may serve without bond, and (c) All fees of the receiver and his or her attorney shall become part of the Indebtedness secured by this Agreement.
- (e) **Collect Revenues, Apply Accounts.** Holder, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Holder may at any time in its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Holder may determine. Insofar as the Collateral consists of accounts, general intangibles, insurance policies, instruments, chattel paper, choice in action, or similar property, and Holder may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Holder may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Holder may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Holder may notify account debtors and obligors on any Collateral to make payments directly to Holder.
- (f) **Obtain Deficiency.** If Holder chooses to sell any or all of the Collateral, Holder may obtain a judgment against Grantor for any deficiency remaining on the Indebtedness due to Holder after application of all amounts received from the exercise of the rights provided in this Agreement. Grantor shall be liable for a deficiency even if the transaction described in this subsection is a sale of accounts or chattel paper.
- (g) **Other Rights and Remedies.** Holder shall have all the rights and remedies of a secured creditor under the provisions of the California Uniform Commercial Code, as may be amended from time to time. In addition, Holder shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.
- (h) **Cumulative Remedies.** All of Holder's rights and remedies, whether evidenced by this Agreement or the Related Documents or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Holder to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Holder's right to declare a default and to exercise its remedies.

### 9. MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law.** This Agreement has been delivered to Holder and accepted by Holder in the State of California. If there is a lawsuit, Grantor agrees upon Holder's request to submit to the jurisdiction of the courts of Marin County, State of California. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- (c) **GRANTOR AND HOLDER WAIVE ANY RIGHT TO A JURY TRIAL IN ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ARISING OUT OF TRANSACTIONS BETWEEN HOLDER AND GRANTOR.** GRANTOR's Initials [Signature] HOLDER's Initials [Signature]
- (d) **Attorneys' Fees; Expenses.** Grantor agrees to pay upon demand all of Holder's costs and expenses, including attorneys' fees and legal expenses, incurred in connection with the enforcement of this Agreement. Holder may pay someone else to help enforce this Agreement, and Grantor shall pay the costs and expenses of such enforcement. Costs and expenses include Holder's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.
- (f) **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change

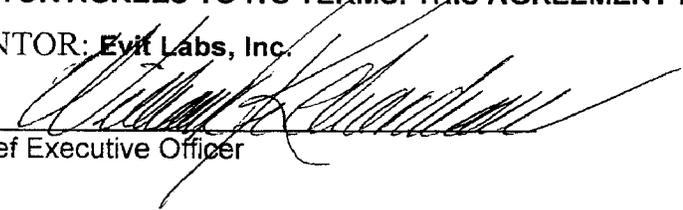
## Security Agreement

the party's address. To the extent permitted by applicable law, if there is more than one Grantor, notice to any Grantor will constitute notice to all Grantors. For notice purposes, Grantor agrees to keep Holder informed at all times of Grantor's current address(es) .

- (g) **Power of Attorney.** Effective upon the occurrence and continuance of an Event of Default, Grantor hereby appoints Holder as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following: (a) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter become due, owing or payable from the Collateral; (b) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (c) to settle or compromise any and all claims arising under the Collateral, and, in the place and stead of Grantor, to execute and deliver its release and settlement for the claim; and (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Grantor, or otherwise, which in the discretion of Holder may seem to be necessary or advisable. This power is given as security for the Indebtedness, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Holder.
- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Successor Interest.** Subject to the limitations set forth above on transfer of the Collateral, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- (j) **Waiver.** Holder shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Holder. No delay or omission on the part of Holder in exercising any right shall operate as a waiver of such right or any other right. A waiver by Holder of a provision of this Agreement shall not prejudice or constitute a waiver of Holder's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Holder, nor any course of dealing between Holder and Grantor, shall constitute a waiver of any of Holder's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Holder is required under this Agreement, the granting of such consent by Holder in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Holder.
- (k) **Other Payments.** So long as any indebtedness shall remain outstanding, Grantor shall make no principal payment to any other note or obligation holder, normal trade creditors excepted, or make a loan to any officer of Grantor without the prior written approval of Holder.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SECURITY AGREEMENT, AND GRANTOR AGREES TO ITS TERMS. THIS AGREEMENT DATE IS September 28, 2004 .**

GRANTOR: **Evit Labs, Inc.**

BY:   
Its Chief Executive Officer

HOLDER: **Remington Partners, Inc.**

BY:   
Its President