

TRADEMARKS ONLY

05-29-1998

TRADEMARKS ONLY

MND  
5-7-98

To the  
Please

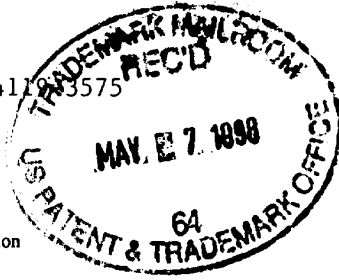


1. Name of Party(ies) conveying an interest:  
Societe Des  
Produits Nestle S.A.

Name: **100721878**  
Del Monte Corporation

Interest:

Address: One Market  
P.O. Box 193575  
San Francisco, CA 94119-3575



Entity:

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

Entity:

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

3. Interest Conveyed:

- Assignment       Change of Name
- Security Agreement       Merger
- Other

Citizenship

United States

If not domiciled in the United States, a domestic representative designation is attached:

- Yes
- No

(The attached document must not be an assignment)

4. Application number(s) or registration number(s). Additional sheet attached?       Yes       No

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

RN 1,601,219	RN 340,001	RN 848,258	RN 1,037,607
RN 550,380	RN 555,226	RN 855,195	RN 1,357,066
RN 124,957	RN 565,166	RN 876,144	RN 2,060,853

5. Please mail documents back to:

Pillsbury Madison & Sutro LLP  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3918

6. Number of applications and registrations involved: 12

7. Amount of fee enclosed: \$ 315.00

8. If above amount is missing or inadequate, charge deficiency to our Deposit Account No. 03-3975 under Order No. 00004 / 790-0008/RLK/CEP  
C#      M#

DO NOT USE THIS SPACE

05/28/1998 DCOATES 00000191 1601219

01 FC:481      40.00 OP  
02 FC:482      275.00 OP

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.

Signature

Total number of pages including cover sheet, attachments and document. (excluding duplicate cover sheet)

26

Attorney: Caroline E. Papas

Date: 05/07/98

Atty/Sec: \_\_\_\_\_

Tel: (415) 983-6187

Fax: (415) 983-1200

NO30 11/1996

File in DUPLICATE with post card receipt

DOCUMENT

TRADEMARK REEL: 1732 FRAME: 0001 *Duplicate*

## INTELLECTUAL PROPERTY PURCHASE AGREEMENT

AGREEMENT, as of November 12, 1997, by and between SOCIETE DES PRODUITS NESTLÉ S.A., a corporation organized under the laws of Switzerland ("Seller" or "SPN"), and Del Monte Corporation, a New York corporation ("Buyer").

WHEREAS, contemporaneously with the transaction contemplated by this Agreement, Buyer is acquiring certain assets pursuant to that certain Asset Purchase Agreement, dated as of November 12, 1997 (the "Asset Purchase Agreement"), by and between Buyer and Del Monte Foods Company, a Maryland corporation, on the one hand, and Contadina Services, Inc. ("Contadina") and Nestlé USA, Inc., each a Delaware corporation and an affiliate of Seller, on the other.

WHEREAS, pursuant to this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, certain Transferred Intellectual Property (as defined herein).

WHEREAS, contemporaneously with the transaction contemplated by this Agreement, Buyer is licensing to Seller, and Seller is licensing from Buyer, certain intellectual property rights pursuant to that certain Trademark License Agreement, to be dated as of the closing of the transactions contemplated by the Asset Purchase Agreement (the "Trademark License Agreement"), between Buyer and Seller, which license will be deemed to take effect immediately upon Buyer's acquisition of the Transferred Intellectual Property.

WHEREAS, the execution and delivery of this Agreement is a material condition to the consummation of the Asset Purchase Agreement.

NOW, THEREFORE, as a material inducement for Buyer to acquire the Purchased Assets (as defined in the Asset Purchase Agreement) in accordance with the terms and conditions of the Asset Purchase Agreement, subject to the mutual covenants contained herein, and for payment of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

(a) Unless otherwise provided herein, defined terms shall have the meaning given them in the Asset Purchase Agreement.

(b) The term "**Excluded Intellectual Property**" means all of Seller's or Seller's Affiliates' right, title and interest in and to (i) the trademarks listed on the attached Schedule B and (ii) any other registrations of such trademarks in any country; and the goodwill associated therewith including any related trademark registrations, trademark applications, trademarks, trade dress, service marks, registered designs, registered design applications, patents and patent applications, if any, trade secrets, technology, know-how, processes, formulae, product formulations, recipes, ingredients, specifications, copyrights, copyright registrations and

copyright applications; provided, however that Excluded Intellectual Property shall not include that portion of the combined mark listed in Item 1 of Schedule B consisting of the Contadina name and the Peasant Girl.

(c) The term "**Intellectual Property**" means all of Seller's or Seller's Affiliates' right, title and interest in and to (i) the trademarks "CONTADINA", "Peasant Girl" and "Pizza Squeeze" worldwide and in any country and the goodwill associated therewith, and (ii) all other trademarks, trade dress (except trade dress that includes (a) any depiction of a "casa," "villa," or any other dwelling and (b) the placement of a banner above the Peasant Girl (as such exception is depicted on the attached Schedule E)), trademark registrations and trademark applications (including, without limitation, all registrations and applications set forth on Schedule A), service marks, registered designs, registered design applications, patents and patent applications, if any, trade secrets, technology, know-how, processes, formulae, product formulations, recipes, ingredients, specifications, copyrights, copyright registrations and copyright applications owned or possessed by Seller and in the case of (ii) above, limited to the extent such items are used to conduct the Business as currently conducted.

(d) The term "**Seller's Knowledge**" means the actual knowledge of Patraea Heynike, Jim Dintaman, Glenn Patcha and Robert Sanders, as such knowledge may exist without inquiry into the matter.

(e) The term "**Transferred Intellectual Property**" means all of the Intellectual Property, other than Excluded Intellectual Property.

2. Sale. Seller hereby sells, conveys, assigns and transfers to Buyer all of Seller's rights, title and interest in and to the Transferred Intellectual Property and all associated goodwill. Seller shall deliver or cause to be delivered to Buyer at the Closing all appropriate instruments of assignment and any other documents of conveyance necessary to effectuate the transfer of title to the Transferred Intellectual Property to Buyer on and as of the Closing Date, including without limitation, the Assignment of Trademarks attached hereto as Exhibit A. Seller agrees to deliver or cause to be delivered to Buyer, on the Closing Date, documents and files, except for privileged documents and files (collectively, "Documents and Files"), located in the United States to the extent related to the Transferred Intellectual Property. Seller also agrees to deliver to Buyer, prior to the three-month anniversary of the Closing Date, Documents and Files located outside of the United States to the extent related to the Transferred Intellectual Property.

3. Purchase Price. At the Closing, Buyer shall deliver to Seller (or Seller's designee) by wire transfer of immediately available funds, the amount of Thirty Million Dollars (\$30,000,000) as the purchase price (the "IP Purchase Price") for the Transferred Intellectual Property.

4. Representations and Warranties of Seller.

Subject to Section 7.5, Seller represents and warrants to Buyer as of the date hereof that each of the following representations is true and correct:

(a) There are no Contracts with any third party currently in effect which limit or restrict the right of Seller to use or register any of the Transferred Intellectual Property in any manner, and Seller is not a defendant to any action, suit, investigation or proceeding relating to, or otherwise has been notified of, any claim that Seller's use of the Transferred Intellectual Property in connection with the Business infringes the proprietary rights of any third person. To Seller's Knowledge, there is no infringement by any third person of any Transferred Intellectual Property.

(b) Except as set forth in Schedule C, Seller has not licensed or in any other way authorized any third party to use in any manner any of the Transferred Intellectual Property, and to Seller's Knowledge, there is no unauthorized use thereof by any third party. Except as set forth in Schedule D, Seller owns or has a valid right to use, sell, license and dispose of each of the items of Transferred Intellectual Property.

(c) All registrations for the Transferred Intellectual Property are valid and in good standing and there are no pending or, to Seller's Knowledge, threatened oppositions, cancellation proceedings or litigation with respect thereto. Seller has taken reasonable and prudent steps to protect Seller's rights in and to the Transferred Intellectual Property. Except as set forth on Schedule C, to Seller's Knowledge, (i) no third person has any right to use any of the trademarks registered with the United States Patent and Trademark Office and included in the Transferred Intellectual Property on the goods set forth in Seller's registration either in identical form or in such near resemblance thereto as to be likely, when applied to the goods of any such person, to cause confusion as to the source of such goods, and (ii) the use of any of the trademarks registered with the United States Patent and Trademark Office and included in the Transferred Intellectual Property in connection with the goods set forth in Seller's registration does not constitute an infringement of, conflict with, or otherwise violate, the valid rights of any third party.

(d) Neither Seller nor any of its Affiliates has any commitment or legal obligation, absolute or contingent, to any person or entity other than Buyer to sell, assign, transfer or effect a sale of any of the Transferred Intellectual Property, or to enter into any Contract or cause the entering into of a Contract with respect to the foregoing. Neither Seller nor its Affiliates have pledged or granted a security interest to any third person in any of its interest in the Transferred Intellectual Property.

5. Buyer's Covenants. Except as expressly provided in the Transition Services Agreement, Buyer claims no right and shall not use or assert or claim any right with respect to the Excluded Intellectual Property. Buyer shall not challenge any use of the Excluded Intellectual Property by Seller, its Affiliates or any transferee in connection with the Excluded Intellectual Property on the grounds of confusion or otherwise and will provide Seller, any Affiliate of Seller, or any transferee thereof with any consent and consent agreements which may

now or in the future be reasonably required to provide Seller, any Affiliate of Seller or any transferee thereof the economic benefit of such Excluded Intellectual Property.

6. License. Buyer shall enter into a Trademark License Agreement, in the form attached hereto as Exhibit B, to grant to Seller a license to use certain trademarks on or in connection with the goods identified in the Trademark License Agreement, in the manner and for the time specified therein.

7. Indemnification and Survival of Representations, Warranties, Covenants and Indemnity Obligation.

7.1 Survival of Representations, Etc. All representations and warranties of Seller and Buyer contained herein shall survive the Closing Date and shall terminate eighteen (18) months after the Closing Date; provided, however, that the representations and warranties set forth in subparagraphs (a), (b) and (d) of Section 4 shall terminate upon the third anniversary of the Closing Date. Upon the termination of a representation or warranty in accordance with the foregoing, such representation or warranty shall have no further force or effect for any purpose under this Agreement, including Section 7.2 hereof, provided that, any representation or warranty in respect of which indemnity may be sought under Section 7.2, and the indemnity with respect thereto, shall survive the time at which it would otherwise terminate pursuant to this Section 7.1 if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought prior to such time. The election by any party to consummate the transactions contemplated by this Agreement, notwithstanding such party's actual knowledge of the inaccuracy of any representation or warranty contained herein, shall constitute a waiver by such party of any claim for indemnification arising out of the breach of such representation or warranty.

7.2 Indemnifications.

(a) By Seller. Seller shall indemnify Buyer and its Representatives and Affiliates, and hold each of them harmless from and against any and all Damages incurred by any of them in connection with, arising out of, or resulting from (i) any breach of any representation or warranty made by Seller in this Agreement; or (ii) any failure by Seller to perform in a timely manner any agreement, covenant or obligation of Seller pursuant to this Agreement.

(b) By Buyer. Buyer shall indemnify Seller and its Representatives and Affiliates, and hold each of them harmless from and against any and all Damages incurred by any of them in connection with, arising out of or resulting from (i) any breach or inaccuracy of any representation or warranty made by Buyer in this Agreement or (ii) any failure by Buyer to perform in a timely manner any agreement, covenant or obligation of Buyer pursuant to this Agreement.

(c) Defense of Claims. If a claim for Damages (a "Claim") is to be made by a party entitled to indemnification hereunder (the "Indemnified Party") against the party from whom indemnification is claimed (the "Indemnifying Party"), the Indemnified Party shall give written notice (a "Claim Notice") to the Indemnifying Party as soon as practicable after the

Indemnified Party becomes aware of any fact, condition or event which may give rise to Damages for which indemnification may be sought under this Section 7.2. If any lawsuit or enforcement action is filed against any party entitled to the benefit of indemnity hereunder, written notice thereof shall be given to the Indemnifying Party as promptly as practicable (and in any event within ten (10) business days after the service of the citation or summons). The failure of any Indemnified Party to give timely notice hereunder shall not affect rights to indemnification hereunder, except to the extent that the Indemnifying Party demonstrates actual damage caused by such failure. Notwithstanding the foregoing, a Claim Notice must be made within the survival period set forth in Section 7.1, whether or not the Indemnifying Party is prejudiced by any failure to give the Claim Notice. The Claim Notice shall describe in reasonable detail the nature of the Claim, including an estimate of the amount of Damages that have been or may be suffered or incurred by the Indemnified Party attributable to such Claim, the basis of the Indemnified Party's request for indemnification under the Agreement and all information in the Indemnified Party's possession relating to such Claim. After receipt of such Claim Notice, the Indemnifying Party shall be entitled, if it so elects, at its own cost, risk and expense, (i) to take control of the defense and investigation of such lawsuit or action and (ii) to employ and engage attorneys of its own choice to handle and defend the same. If the Indemnifying Party fails to assume the defense of such Claim within ten (10) business days after receipt of the Claim Notice, the Indemnified Party against which such Claim has been asserted will (upon delivering notice to such effect to the Indemnifying Party) have the right to undertake, at the Indemnifying Party's cost and expense, the defense, compromise or settlement of such Claim on behalf of and for the account and risk of the Indemnifying Party; provided, however, that such Claim shall not be compromised or settled without the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld. In the event the Indemnified Party assumes the defense of the Claim, the Indemnified Party will keep the Indemnifying Party reasonably informed of the progress of any such defense, compromise or settlement. Notwithstanding the foregoing, the Indemnified Party shall be entitled to conduct its own defense at the cost and expense of the Indemnifying Party if the Indemnified Party establishes that the conduct of its defense by the Indemnifying Party would reasonably be likely to prejudice materially the Indemnified Party due to a conflict of interest between the Indemnified Party and the Indemnifying Party; and *provided further* that in any event the Indemnified Party may participate in such defense at its own expense.

(d) Settlement. In the event that the Indemnified Party settles any Claim without the prior written consent of the Indemnifying Party, the Indemnifying Party shall have no further indemnification obligations under this Section 7.2 with respect to such Claim; *provided, however*, that if the Indemnifying Party refuses to defend or otherwise handle such Claim and it is subsequently determined that the Indemnifying Party is or was obligated to defend or indemnify the Indemnified Party with respect to such Claim, then the Indemnifying Party shall remain obligated with respect to such settlement amount. If the Indemnifying Party shall control the defense of any such Claim, the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld) before entering into any settlement of a Claim or ceasing to defend such Claim if, pursuant to or as a result of such settlement or cessation, injunctive or other equitable relief shall be imposed against the Indemnified Party or if such settlement or cessation does not expressly and unconditionally release the Indemnified Party from all liabilities and obligations with respect to such Claim, without prejudice. In the event that the Indemnifying Party proposes a settlement to any Claim

with respect to which the Indemnifying Party is or was entitled to defend, which settlement is satisfactory to the party instituting such Claim, and the Indemnified Party withholds its consent to such settlement, and thereafter a final judgment is entered against the Indemnifying Party or Indemnified Party pursuant to which Damages exceed the amount of the proposed settlement, then in such case the Indemnifying Party shall have no obligation to indemnify the Indemnified Party under this Section 7.2 against and in respect of the amount by which the Damages resulting from such final judgment exceed the amount of the proposed settlement.

(e) Mitigation. Each Indemnified Party shall have an obligation to mitigate Damages under this Agreement, and to that end each party shall use its reasonable efforts and shall consult and cooperate with each other with a view towards mitigating claims, losses, liabilities, Damages, deficiencies, costs and expenses that may give rise to claims for indemnification under this Section 7.2.

(f) Cooperation. In the event that any action, suit, proceeding or investigation relating hereto or to the transactions contemplated by this Agreement is commenced, whether before or after the Closing, the parties hereto agree to cooperate and use reasonable efforts to vigorously defend against and respond thereto and make available to each other such personnel, witnesses, books, records, documents or other information within its control that are necessary or appropriate for such defense (except for trade secrets and such items which may not be made available pursuant to a Court Order); *provided that*, subject to Section 7.2(c), the Indemnifying Party shall reimburse the Indemnified Party for its out-of-pocket expenses incurred in connection therewith.

(g) Limitations.

(i) Neither Buyer nor Seller shall be liable to the other under this Section 7.2 for any Damages due pursuant to Section 7.2(a)(i) or Section 7.2(b)(i) exclusively, unless and until (i) each individual amount otherwise due the Indemnified Party exceeds Seventy-Five Thousand Dollars (\$75,000) (excluding legal fees and expenses), and (ii) the aggregate amount of all such Damages under this Agreement and the Asset Purchase Agreement otherwise due the Indemnified Party (excluding Damages incurred in any individual claim of less than Seventy-Five Thousand Dollars (\$75,000)) exceeds an accumulated total of One Million Dollars (\$1,000,000), and thereafter the total amount of all such Damages in excess of Seventy-Five Thousand Dollars (\$75,000) per claim (excluding legal fees and expenses) actually incurred (excluding the first One Million Dollars (\$1,000,000)) shall be indemnifiable.

(ii) Neither (A) Seller's aggregate liability under (I) Section 7.2(a) of this Agreement and (II) Sections 10.2(a) and 10.3 of the Asset Purchase Agreement, for all claims for Damages incurred by Buyer (and its Representatives and Affiliates) nor (B) Buyer's aggregate liability under (I) Section 7.2(b) of this Agreement and (II) Sections 10.2(b) and 10.3 of the Asset Purchase Agreement, for all claims for Damages incurred by Seller (and its Representatives and Affiliates), shall in any event exceed, in either case (A) or (B), the Aggregate Amount.

(h) In no event shall any party be liable for any incidental, consequential, indirect or special losses or damages (including, without limitation, lost profits, lost revenues

and loss of business), whether foreseeable or not, whether occasioned by any failure to perform or the breach of any representation, warranty, covenant or other obligation under this Agreement for any cause whatsoever.

(i) Buyer agrees that all rights of indemnification and contribution, if any, existing in favor of the present or former officers, directors, employees, fiduciaries and agents of Seller as provided in Seller's corporate governance documents, as in effect as of the date hereof, with respect to matters occurring prior to the Closing Date, shall survive the Closing Date and shall continue in full force and effect for a period of not less than the applicable statute of limitations.

(j) Nothing herein shall relieve either party of any liability to make any payment expressly required to be made by such party pursuant to this Agreement.

(k) With regard to this Section 7.2, Buyer and Seller each acknowledge that it has read and is familiar with, and hereby waives the benefit of, the provisions of California Civil Code Section 1542, which is set forth below:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7.3 Insurance Proceeds. With respect to any Claim required to be indemnified pursuant to this Agreement, so long as the Indemnifying Party has complied with its indemnification obligations on such Claim, (i) to the extent available, the Indemnified Party shall assign to the Indemnifying Party any applicable proceeds under any insurance policy which covers the matter which is the subject of the indemnification and shall take reasonable steps to insure that the Indemnifying Party obtains the benefits of such policy, including providing any notices as required under such policy; and (ii) if the Indemnified Party receives insurance proceeds with respect to any Damages paid by the Indemnifying Party, then the Indemnified Party shall reimburse the Indemnifying Party in an amount equivalent to such proceeds up to the amount actually paid by the Indemnifying Party.

7.4 Exclusive Remedy. The rights of Buyer under Section 7.2 shall be the exclusive remedy of Buyer with respect to claims based upon a breach or alleged breach of the representations, warranties and covenants of Seller contained herein. The rights of Seller under Section 7.2 shall be the exclusive remedy of Seller with respect to claims based upon a breach or alleged breach of the representations, warranties and covenants of Buyer contained herein. Except as expressly set forth in this Agreement, neither Seller nor any of its Representatives or Affiliates makes or has made any representations or warranties, express or implied, in connection with the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, except as expressly set forth in this Agreement, the Transferred Intellectual Property shall be transferred to Buyer pursuant to this Agreement in their present condition, "AS IS" and without any warranty, express or implied.

7.5 Limitation. Each representation and warranty made in this Agreement is expressly limited solely to matters related to the Transferred Intellectual Property as it is used within the



United States and no representation or warranty, express or implied, is made as to any of the Transferred Intellectual Property in any jurisdiction other than the United States.

8. Miscellaneous.

(a) Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic or digital transmission method and accompanied by a confirmation of receipt; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to:

If to Seller:

Societe des Produits Nestlé S.A.  
CH-1800 Vevey,  
55, av. Nestlé  
Switzerland  
Tel: 011-41-21-924-2651  
Fax: 011-41-21-921-1885

c/o Nestlé USA, Inc.  
800 North Brand Boulevard  
Glendale, California 91203  
Attn: James H. Ball, Esq.  
Senior Vice President and General Counsel  
Tel: 818-549-7050  
Fax: 818-549-7015

With copies to:

Latham & Watkins  
633 West Fifth Street, Suite 4000  
Los Angeles, California 90071  
Attn: Mary Ellen Kanoff, Esq.  
Tel: 213-485-1234  
Fax: 213-891-8763

If to Buyer, addressed to:

Del Monte Corporation  
One Market  
P. O. Box 193575  
San Francisco, CA 94119-3575  
Attn: David L. Meyers  
Tel: 415-267-3300  
Fax: 415-267-3103

With copies to:

Del Monte Corporation  
One Market  
P. O. Box 193575  
San Francisco, CA 94119-3575  
Attn: William R. Sawyers, Esq.  
Tel: 415-247-3262  
Fax: 415-247-3263

Pillsbury Madison & Sutro LLP  
235 Montgomery Street  
San Francisco, CA 94104  
Attn: Gregg Vignos, Esq.  
Tel: 415-983-1649  
Fax: 415-983-1200

(b) Choice of Law. This Agreement shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of California (without reference to its choice of law provisions).

(c) Entire Agreement; Amendments and Waivers. This Agreement, together with all exhibits and schedules hereto, the Asset Purchase Agreement and the Trademark License Agreement constitute the entire agreement among the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

(d) Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(e) Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

(f) Titles; Gender. The titles, captions or headings of the Sections herein, and the use of a particular gender, are for convenience of reference only and are not intended to be a part of or to affect or restrict the meaning or interpretation of this Agreement.

(g) Jurisdiction. Each party hereto irrevocably and unconditionally solely as between the parties hereto with respect to the subject matter hereof (i) agrees that any suit, action or other legal proceeding directly arising out of this Agreement may be brought in the United States District Court for the Central District of California, or if such court does not have jurisdiction or will not accept jurisdiction, in any court of general jurisdiction in the State of California, County of Los Angeles; (ii) consents to the jurisdiction of any such court in any such suit, action or proceeding; and (iii) waives any objection which such party may have to the laying of venue of any such suit, action or proceeding in any such court.

(h) Waiver of Trial by Jury. Each party to this Agreement hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action arising under or in connection with this Agreement or the transaction contemplated hereby.

(i) Interpretation. The headings and captions contained in this Agreement and in the Schedules hereto are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(j) Further Assurances. Each of Seller and Buyer will use reasonable efforts to implement the provisions of this Agreement, including but not limited to the execution and delivery of such other documents (including any license, assignment or assumption agreement, official certificates of registration, renewals, transfers or other documents supporting ownership of trademarks) in addition to those required by this Agreement, in form and substance reasonably satisfactory to the other party, as may be reasonably deemed necessary to implement any provision of this Agreement.

(k) No Third-Party Beneficiary. The provisions of this Agreement are for the benefit only of the parties hereto, and no third party may seek to enforce, or benefit from, these provisions, including any provisions with respect to jurisdiction. The parties specifically disavow any desire or intention to create any third party beneficiary hereunder, and specifically declare that no person or entity, except for the parties and their successors, shall have any right hereunder nor any right of enforcement hereof.


SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Agreement has been signed on behalf of each of the parties hereto as the date first written above.

SOCIETE DES PRODUITS NESTLÉ S.A.

DEL MONTE CORPORATION

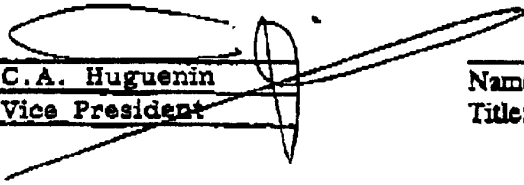
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

  
\_\_\_\_\_  
Name: Thomas C. Gibbons  
Title: Senior V.P. Treasurer

IN WITNESS WHEREOF, this Agreement has been signed on behalf of each of the parties hereto as the date first written above.

SOCIETE DES PRODUITS NESTLÉ S.A.

DEL MONTE CORPORATION

  
Name: C.A. Huguenin  
Title: Vice President

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

**SCHEDULE A**  
to the  
**Intellectual Property Purchase Agreement**

MARK	COUNTRY	GOODS	CLASS	OWNER	STATUS	NUMBER/ DATE	NEXT RENEWAL DATE
CONTADINA	U.S.	CANNED TOMATO SAUCE	INT'L 29	SPN	REGISTERED	124,957/ 4-1-1919	4-1-1999
CONTADINA	U.S.	TOMATO PASTE	INT'L 29	SPN	REGISTERED	340,001/ 10-27-1936	10-27-2006
CONTADINA	U.S.	FOOD PRODUCTS - NAMELY, CANNED FRUIT AND CANNED TOMATO SAUCE	INT'L 29	SPN	REGISTERED	555,226/ 2-26-1952	2-26-2002
CONTADINA	U.S.	CANNED FOOD PRODUCTS - NAMELY, TOMATO PASTE, TOMATO SAUCE, PEELED TOMATOES, SPAGHETTI	INT'L 30	SPN	REGISTERED	565,166/ 10-14-1952	10-14-2002
CONTADINA	U.S.	DRY BREAD CRUMBS & DRY MEAT LOAF MIX	INT'L 30	SPN	REGISTERED	848,258/ 4-30-1968	4-30-2008
CONTADINA	U.S.	CANNED PIZZA SAUCE	INT'L 30	SPN	REGISTERED	855,195/ 8-20-1968	8-20-2008
CONTADINA	U.S.	PIZZA SAUCE	INT'L 30	SPN	REGISTERED	876,144/ 9-2-1969	9-2-2009
CONTADINA	U.S.	SPAGHETTI SAUCE	INT'L 30	SPN	REGISTERED	1,037,607/ 4-6-1976	4-6-2006
CONTADINA	U.S.	SWEET & SOUR SAUCE	INT'L 30	SPN	REGISTERED	1,357,066/ 8-27-1985	8-27-2005
CONTADINA	U.S.	PASTA & PASTA SAUCES	INT'L 30	SPN	REGISTERED	2,060,853	5-13-2007
PIZZA SQUEEZE	U.S.	PIZZA SAUCE	INT'L	SPN	REGISTERED	1,601,219/ 6-12-1990	6-12-2000
PEASANT GIRL	U.S.	FOOD PRODUCTS - NAMELY, CANNED TOMATOES	INT'L 29	SPN	REGISTERED	550,380/ 11-6-1951	11-6-2001

SCHEDULE B  
to the  
Intellectual Property Purchase Agreement

(Excluded Intellectual Property)

Excluded Intellectual Property shall mean the following:

- 1) All marks and names and proprietary designations comprising or confusingly similar to the combined design of Dalla Casa Buitoni, the peasant girl & Contadina, registered in the United States of America, International Classes 29 and 30, Registration Number 1,971,087, Registration Date April 30, 1996, all copyrights thereof and all trademark applications and registrations containing the foregoing and all goodwill associated with the foregoing.
- 2) All marks and names and proprietary designations comprising or confusingly similar to "Buitoni", registered in the United States of America, International Class 20, Registration Number 740,130, Registration Date October 30, 1962, all copyrights thereof and all trademark applications and registrations containing the foregoing and all goodwill associated with the foregoing.
- 3) Any and all marks and names and proprietary designations comprising or confusingly similar to "Nestlé" or the Nestlé "Nest" (also known as the Nestlé Seal of Quality), all copyrights thereof and all trademark applications and registrations containing the foregoing and any and all goodwill associated with the foregoing.
- 4) All marks and names and proprietary designations comprising and confusingly similar to "Dalla Casa Buitoni," all copyrights thereof and all trademark applications and registrations containing the foregoing and any and all goodwill associated with the foregoing.

SCHEDULE C  
to the  
Intellectual Property Purchase Agreement

(Third Party Use)

- 1) Registration Number 1,451,200 for International Class 33, for wine, issued August 4, 1987 to Cantina Sociale Cooperativa di Locorotondo Societa for LOCOROTONDO CANTINA SOCIALE COOPERATIVA MOBILTA' CONTADINA.
- 2) Registration Number 363,333, for International Class 33, for wine, issued December 20, 1938, as assigned to Prosperity California Wines, Inc. for CONTADINA.



SCHEDULE D  
to the  
Intellectual Property Purchase Agreement

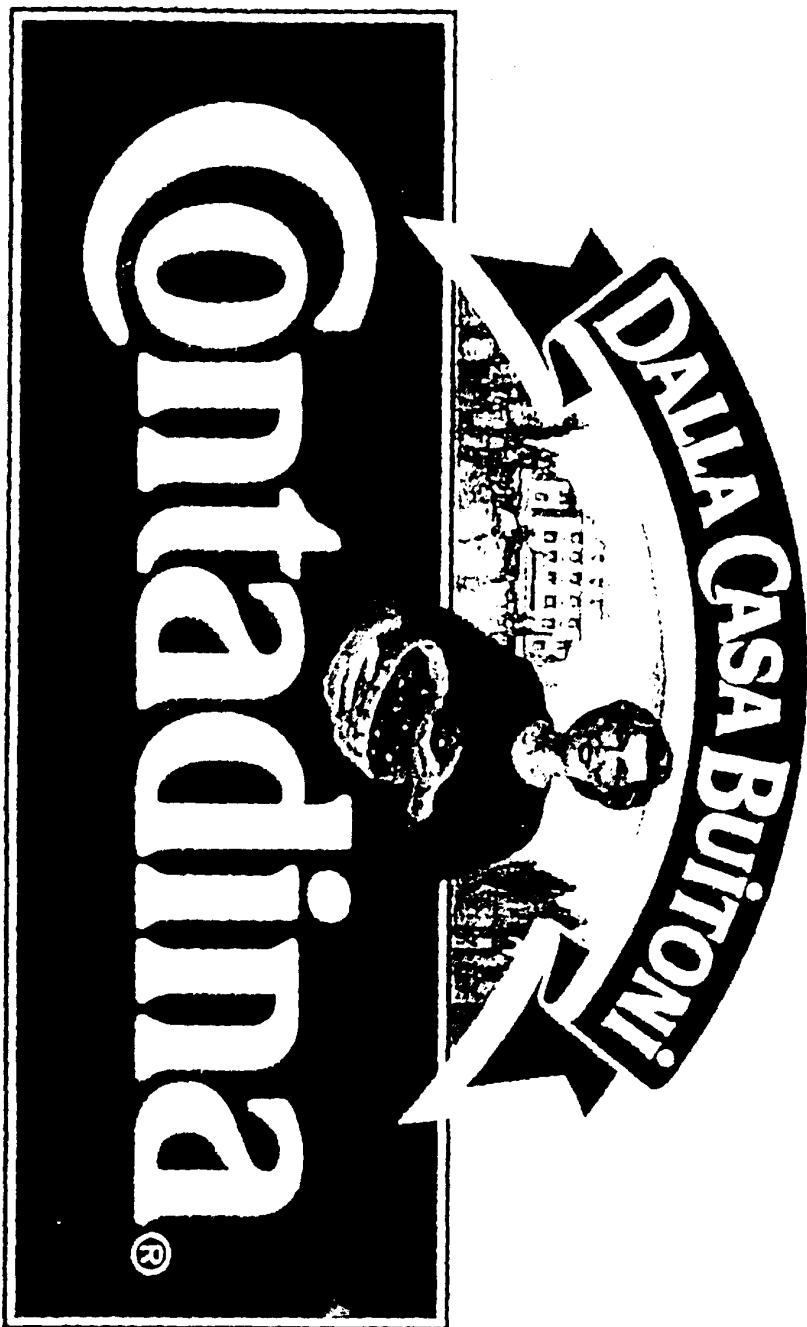
(Exceptions to Seller's Rights)

- 1) Registration Number 1,451,200 for International Class 33, for wine, issued August 4, 1987 to Cantina Sociale Cooperativa di Locorotondo Societa for LOCOROTONDO CANTINA SOCIALE COOPERATIVA MOBILTA' CONTADINA.
- 2) Registration Number 363,333, for International Class 33, for wine, issued December 20, 1938, as assigned to Prosperity California Wines, Inc. for CONTADINA.

SCHEDULE E  
to the  
Intellectual Property Purchase Agreement

(Exceptions to Trade Dress)

Attached



TRADEMARK  
REEL: 1732 FRAME: 0019

Exhibit A  
to the  
Intellectual Property Purchase Agreement

(Assignment of Trademarks)

**WHEREAS**, Societe des Produits Nestlé S.A., a corporation organized under the laws of Switzerland, with a principal place of business at c/o Nestlé USA, Inc., 800 North Brand Boulevard, Glendale, California 91203 ("Assignor"), has adopted, owns and is using the trademarks identified and set forth on Schedule A for which Assignor owns the federal Registrations identified and set forth on Schedule A on the Principal Register of the United States Patent and Trademark Office for the goods and/or services identified therein (the "Marks"):

**WHEREAS**, Del Monte Corporation, a New York corporation, with a principal place of business at One Market, San Francisco, California 94119 ("Assignee"), desires to acquire the Marks, the goodwill appurtenant thereto, and the above-referenced Registrations therefor pursuant to the Intellectual Property Purchase Agreement by and between Assignor and Assignee dated as of \_\_\_\_\_, 1997;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby assigns and transfers the Marks, together with the goodwill associated therewith, the above-described trademark Registrations, and all of Assignor's rights therein, to Assignee.

Dated effective as of: \_\_\_\_\_

SOCIETE DES PRODUITS NESTLÉ S.A.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SCHEDULE A  
to the  
Assignment of Trademarks

MARK	COUNTRY	GOODS	CLASS	OWNER	STATUS	NUMBER/ DATE	NEXT RENEWAL DATE
CONTADINA	U.S.	CANNED TOMATO SAUCE	INT'L 29	SPN	REGISTERED	124,957/ 4-1-1919	4-1-1999
CONTADINA	U.S.	TOMATO PASTE	INT'L 29	SPN	REGISTERED	340,001/ 10-27-1936	10-27-2006
CONTADINA	U.S.	FOOD PRODUCTS - NAMELY, CANNED FRUIT AND CANNED TOMATO SAUCE	INT'L 29	SPN	REGISTERED	555,226/ 2-26-1952	2-26-2002
CONTADINA	U.S.	CANNED FOOD PRODUCTS - NAMELY, TOMATO PASTE, TOMATO SAUCE, PEELED TOMATOES, SPAGHETTI	INT'L 30	SPN	REGISTERED	565,166/ 10-14-1952	10-14-2002
CONTADINA	U.S.	DRY BREAD CRUMBS & DRY MEAT LOAF MIX	INT'L 30	SPN	REGISTERED	848,258/ 4-30-1968	4-30-2008
CONTADINA	U.S.	CANNED PIZZA SAUCE	INT'L 30	SPN	REGISTERED	855,195/ 8-20-1968	8-20-2008
CONTADINA	U.S.	PIZZA SAUCE	INT'L 30	SPN	REGISTERED	876,144/ 9-2-1969	9-2-2009
CONTADINA	U.S.	SPAGHETTI SAUCE	INT'L 30	SPN	REGISTERED	1,037,607/ 4-6-1976	4-6-2006
CONTADINA	U.S.	SWEET & SOUR SAUCE	INT'L 30	SPN	REGISTERED	1,357,066/ 8-27-1985	8-27-2005
CONTADINA	U.S.	PASTA & PASTA SAUCES	INT'L 30	SPN	REGISTERED	2,060,853	5-13-2007
PIZZA SQUEEZE	U.S.	PIZZA SAUCE	INT'L	SPN	REGISTERED	1,601,219/ 6-12-1990	6-12-2000
PEASANT GIRL	U.S.	FOOD PRODUCTS - NAMELY, CANNED TOMATOES	INT'L 29	SPN	REGISTERED	550,380/ 11-6-1951	11-6-2001

Exhibit B  
to the  
Intellectual Property Purchase Agreement

(Trademark License Agreement)

Attached

## TRADEMARK LICENSE AGREEMENT

This Agreement is made as of this \_\_\_ day of \_\_\_\_\_, 1997, between Del Monte Corporation, a New York corporation ("Licensor"), and Societe des Produits Nestlé S.A., a corporation organized under the laws of Switzerland ("Licensee").

WHEREAS, Licensor and Del Monte Foods Company, a Maryland corporation, on the one hand, and Contadina Services, Inc., a Delaware corporation ("Contadina"), and Nestlé USA, Inc., a Delaware corporation, on the other, are parties to that certain Asset Purchase Agreement, dated as of November 12, 1997 (the "Asset Purchase Agreement"), pursuant to which Licensor acquired certain assets of Contadina and its affiliates;

WHEREAS, pursuant to the Asset Purchase Agreement, Licensor and Licensee are parties to that certain Intellectual Property Purchase Agreement, dated as of November 12, 1997 (the "IPPA"), pursuant to which Licensee sold, conveyed, assigned and transferred to Licensor all of Licensee's rights, title and interest in and to the Transferred Intellectual Property (as defined in the IPPA), including, without limitation, certain trademarks, including, without limitation, the trademarks listed on Schedule A to the IPPA (collectively, the "Marks");

WHEREAS, Licensor is the owner of all right, title and interest in and to the Marks; and

WHEREAS, Licensee desires the exclusive right to use the Marks in connection with the manufacturing, marketing and/or sales of Excluded Products (as defined below).

NOW, THEREFORE, for the payment of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor agrees to and hereby does license the Marks to Licensee as follows:

1. Licensor hereby grants to Licensee an exclusive license to use the Marks worldwide in connection with the manufacturing, marketing and/or sales of any products, including any new products developed by Licensee or its Affiliates (as defined in the Asset Purchase Agreement), within the categories of (i) shelf stable pasta, risotto, polenta and similar products (excluding canned products in such category), (ii) dehydrated pasta, polenta, risotto and similar products in any packaging, (iii) refrigerated products, (iv) frozen products, (v) jarred tomato based products and non-tomato based canned sauces, or products which are in the nature of a "line extension" within such categories (collectively, the "Excluded Products"), and Licensor hereby agrees not to use the Marks anywhere in the world in connection with the manufacturing, marketing and/or sales of any Excluded Products; *provided, however*, that Licensor may use the Marks in connection with the manufacturing, marketing and/or sales of any of the jarred tomato based products and non-tomato based canned sauces. The license granted herein shall not be used for any other purpose. All rights not expressly granted herein are retained by Licensor.

2. This Agreement shall become effective on the Closing Date (as defined in the Asset Purchase Agreement) immediately upon Licensee's conveyance of the Marks to Licensor pursuant to the IPPA, and shall continue in effect for a period of five (5) years; *provided, however*, that Licensee's license to use the Marks in connection with the manufacturing, marketing and sales of jarred tomato based products and non-tomato based canned sauces shall continue in effect for a period of one (1) year.

3. Licensee acknowledges that Licensor is the exclusive owner of the Marks set forth on Schedule A of the IPPA and all goodwill associated therewith, and agrees to do nothing inconsistent with such ownership. Licensee agrees that all uses of the Marks by Licensee and the goodwill associated therewith shall inure solely to the benefit of Licensor and shall not create any interest or right, express or implied, in Licensee except as set forth in this Agreement. At the termination of this Agreement, subject to Section 7, all of Licensee's rights to the Marks shall revert to Licensor.

4. This license is personal to Licensee and neither this Agreement nor any of the rights or obligations hereunder may be assigned by any party without the prior written consent of the other parties, which consent shall not be unreasonably withheld; *provided, however*, that Licensee shall be entitled to transfer or sublicense any of its rights or obligations hereunder, including, without limitation, the license, to one or more of its Affiliates without the consent of Licensor but with prior written notice. The foregoing notwithstanding, Licensee is authorized to have one or more third parties perform on such Licensee's behalf any activity that is permitted pursuant to Section 1. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit or obligation under this Agreement as a third party beneficiary or otherwise.

5. (a) Licensor and its authorized representatives shall have the right to inspect the manufacturing of Excluded Products to which the Marks are or will be affixed, at any reasonable time with prior written notice. If Licensor reasonably determines that any material aspect of the Excluded Products, or Licensee's use of the Marks in connection with the Excluded Products, does not comply with Licensor's quality standards or Licensor's requirements regarding the appearance of the Marks, then Licensor shall notify Licensee in writing specifying such deficiencies. If Licensee fails to correct all material deficiencies to Licensor's reasonable satisfaction within a reasonable time, but not more than ninety (90) days from receipt of notice of such deficiency, then Licensor may terminate this Agreement as provided in Section 7 hereof. Licensor acknowledges and agrees that the Excluded Products as currently manufactured, marketed and/or sold, and Licensee's current use of the Marks in connection therewith, complies with, and shall be deemed at all times to comply with, all quality standards and requirements of Licensor. Licensee agrees that the Excluded Products bearing the Marks shall be manufactured in compliance with the applicable quality standards and requirements of the Licensee.

(b) Licensor also acknowledges that Licensee intends to modify its use of the Marks during the term of the license to decrease the prominence of the Marks and to increase the prominence of trademarks owned by Licensee. Except for reducing the size of prominence



of the Marks and increasing the size and prominence of Licensee's marks and the consequences thereof, Licensee agrees that such modifications of the Marks shall not disparage the Marks in any material respect or diminish the value in any material respect.

(c) Licensee shall use its best efforts, and shall cause its Affiliates to use their best efforts, to deliver copies of such modifications to Licensor prior to Licensee's or Licensee's Affiliates first use of such modifications. Notwithstanding anything to the contrary in this Agreement, any failure to comply with the provisions of this paragraph shall not constitute a material breach of this Agreement for the purposes of Section 7 of this Agreement.

6. Licensee shall promptly notify Licensor of any actual or suspected infringement of the Marks of which Licensee has actual knowledge, any challenge to the validity of the Marks, or any challenge to Licensor's ownership of or Licensee's rights to use the Marks. Licensor shall, at its own expense, take all reasonable actions against any activities by others that may constitute infringement or dilution of the Marks within the United States. Licensee shall provide reasonable assistance and cooperation in connection with such actions by Licensor within the United States and Licensor shall reimburse Licensee for all reasonable out-of-pocket expenses incurred in connection with such cooperation. If Licensor refuses to take all reasonable actions against activities by others within the United States that may constitute infringement or dilution of the Marks, Licensee shall have the right, at Licensor's cost and expense, to take such actions. Licensor shall have the right to receive any and all proceeds of any such action, whether by settlement, award or judgment, provided that Licensor shall have obtained Licensee's written consent to any such settlement.

7. Licensor may terminate this Agreement upon thirty (30) days written notice if Licensee commits any material breach of this Agreement and fails to cure the breach within thirty (30) days after receipt of Licensor's written request to do so. After termination of the license pursuant to this Section 7, Licensee may sell and/or otherwise dispose of any remaining Excluded Products which are on hand or in process at the time notice of termination is received for a period of ninety (90) days after notice of termination.

8. Each party hereto irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the United States District Court for the Central District of California, or if such court does not have jurisdiction or will not accept jurisdiction, in any court of general jurisdiction in the State of California, County of Los Angeles; (ii) consents to the jurisdiction of any such court in any such suit, action or proceeding; and (iii) waives any objection which such party may have to the laying of venue of any such suit, action or proceeding in any such court.

9. This Agreement shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of California (without reference to its choice of law provisions).

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one Agreement.

11. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect.

SIGNATURE PAGE FOLLOWS