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TRADEMARKS ONE

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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office



To the Honorable Commissioner of Patents and Trademarks: Please record the attached original d

<p>1. Name of conveying party(ies): <u>Nonni's, Inc.</u></p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association  <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership  <input checked="" type="checkbox"/> Corporation - State  <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address <span style="float: right;">10-27-1998</span></p> <p style="text-align: right;"><small>U.S. Patent &amp; TMOc/TM Mail Rcpt Dt. #61</small></p> <p>Name: <u>Silverado Foods, Inc.</u></p> <p>Address: <u>6846 S. Canton, Suite 110</u> <u>Tulsa, Oklahoma 74136</u></p> <p><input type="checkbox"/> Individual(s) Citizenship _____  <input type="checkbox"/> Association _____  <input type="checkbox"/> General Partnership _____  <input type="checkbox"/> Limited Partnership _____  <input checked="" type="checkbox"/> Corporation - State <u>Oklahoma</u>  <input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No          (Designation must be a separate document from Assignment.)          Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger  <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name  <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>December 31, 1993</u></p>	
<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s)</p> <p>B. Trademark Registration No.(s) <u>1,727,905</u></p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Sheldon R. Meyer</u></p> <p>Address: <u>Fliesler, Dubb, Meyer &amp; Lovejoy LLP</u> <u>Four Embarcadero Center, Suite 400</u> <u>San Francisco, CA 94111</u></p> <p>Telephone: <u>(415) 362-3800</u></p>	<p>6. Total Number of applications and registrations involved: <u>1</u></p> <p>(\$40 first mark per document; \$25 second and subsequent marks in same document.)</p> <p>7. Total fee (37 CFR 3.41).....\$ <u>40.00</u></p> <p><input checked="" type="checkbox"/> Check Enclosed</p> <p>8. <input checked="" type="checkbox"/> Authorized to charge any additional fees or credit any overpayment to Deposit Account No. 06-1325. (A duplicate copy of this authorization is <u>not</u> enclosed.)</p>
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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.*

Sheldon R. Meyer \_\_\_\_\_  
 Attorney or Agent Signature  
 Reg. No. 27,660

October 20, 1998  
 Date

10. Total number of pages comprising cover sheet: 18

Attorney Docket No.: NONN 8000 SRM  
 srm/nonn/8000/8000.021

315.001:031196  
 10/20/98-10:18

12/03/1998 VIBOMH 0000035 187905 40.00 IP

TRADEMARK  
REEL: 1821 FRAME: 0776

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Registration	)	<u>TRADEMARK</u>
	)	
Registration No.:	)	1,727,905
	)	
Issued:	)	October 27, 1992
	)	
Mark:	)	NONNI'S
	)	
Class(es):	)	30
	)	
Registrant:	)	Silverado Foods, Inc.

**DECLARATION AND MEMORANDUM OF ASSIGNMENT  
OF TRADEMARK AND GOODWILL PURSUANT TO 37 C.F.R. §2.20  
RE DECLARATION UNDER SECTIONS 8 AND 15 OF TRADEMARK ACT  
(37 C.F.R. §§2.141, 2.167, 2.169; 15 U.S.C. §§1058, 1065)**

BOX POST REC  
FEE  
Assistant Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Sir:

The undersigned with knowledge of the obligation to make true statements declares:

That Nonni's, Inc. ("Assignor"), a California corporation, organized and existing under the laws of the State of California, having its principal place of business at 717 San Miguel Lane, Foster City, CA, as the owner of all right, title and interest in and to the above-identified trademark for the goods specified ("baked goods; namely, cookies, in International Class 30"), sold, transferred, conveyed and assigned its entire right, title and interest in and to the above-identified trademark and registration therefor, and the goodwill of the business in connection with said trademark, for the specified goods for the territory of the United States, to Silverado Foods, Inc. ("Assignee"), a Oklahoma corporation, having a business address of 6846 S. Canton, Suite 110, Tulsa, Oklahoma, through an Asset Purchase Agreement dated December 31, 1993, ("Agreement"), which Agreement is attached hereto and incorporated herein as Exhibit "1";

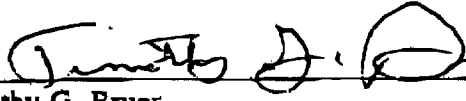
That the assignment of the above trademark, registration, and goodwill, is set out in Article 1.1(a) through (j), Article 4.13, and Exhibit 4.13 and the Agreement;

Attorney Docket No.: NONN 8000 SRM  
srn/nonn/8000/8000.024

310.001:121295  
10/18/98-11:37

That he is hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 United States Code, Section 1001; That such willful false statements may jeopardize the validity of this document and/or the registration; That he/she is properly authorized to execute this document on behalf of Registrant; and That all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Date: 10/12/98

  
Timothy G. Bruer  
Chief Executive Officer  
Silverado Foods, Inc.

Attorney Docket No.: NONN 8000 SRM  
srn/nonn/8000/8000.024

310.001:121295  
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10/19/98 MON 12:37 [TX/RX NO 5449]

TRADEMARK

REEL: 1821 FRAME: 0778

SILVERADO FOODS

10/19/98 MON 12:37 [TX/RX NO 5449]

# ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of the 31<sup>st</sup> day of December, 1993, is by and between SILVERADO FOODS, INC., an Oklahoma corporation ("Buyer"), as party of the first part, and NONNI'S INC., a California corporation ("Seller"), as party of the second part.

## Recitals

Seller desires to sell and transfer to Buyer and Buyer desires to purchase and acquire from Seller, on the terms and conditions hereinafter set forth, substantially all of the assets of Seller.

## Agreement

IN CONSIDERATION of the mutual promises and covenants herein contained, the parties agree as follows:

### 1. Purchase and Sale.

1.1 Purchase and Sale of the Assets. Subject to the terms and conditions herein set forth, upon the Closing Date (as hereinafter defined) Seller shall sell, assign, transfer and deliver to Buyer and Buyer shall purchase from Seller the following (the "Assets"):

(a) all of Seller's product lines, including without limitation the items described in Exhibit 1.1(a) attached hereto and made a part hereof;

(b) all of Seller's purchase orders, including without limitation the items described in Exhibit 1.1(b) attached hereto and made a part hereof (the "Purchase Orders");

(c) all of the accounts receivable of Seller, whether billed or unbilled, including without limitation the items described in Exhibit 1.1(c) attached hereto and made a part hereof (the "Accounts Receivable");

(d) all of Seller's right, title and interest under the contracts which are described on Exhibit 1.1(d) attached hereto and made a part hereof (the "Contracts");

(e) all of Seller's right, title and interest under the building, office and equipment leases described in Exhibit 1.1(e) attached hereto and made a part hereof (the "Leases");

(f) all of Seller's art work, plates, dies, customer lists, files, marketing information, sales literature, mailing lists, books relating to marketing and production and records relating to marketing and production;

(g) all right, title and interest of Seller in and to all trademarks and tradenames of Seller, including without limitation the trademark "Nonni's";

(h) all inventories of Seller's manufactured products and work-in-progress (the "Inventory");

(i) all of Seller's equipment, supplies, furniture, fixtures and displays, including without limitation the items described on Exhibit 1.1(i) attached hereto and made a part hereof (the "Equipment"); and

(j) all other assets of Seller, wherever located, with the exception of Excluded Assets (as hereinafter defined).

1.2 Excluded Assets. "Excluded Assets" shall mean and include only Seller's corporate minute books, stock books, income tax returns, financial records and the items of a personal nature listed on Exhibit 1.2 attached hereto and made a part hereof.

## 2. Consideration.

2.1 Payments and Other Deliveries. At the Closing (as hereinafter defined), Buyer agrees to (i) pay to Seller the sum of \$30,000 (the "Cash Purchase Price"), (ii) issue to Seller a promissory note (the "Note") in the principal amount of \$180,000 (such Note being more fully described in Section 2.3 below), ~~(iii)~~ pay to Imperial Bank on behalf of Seller the outstanding balance as of the Closing Date of Seller's line of credit with said lender (the "Line of Credit"); and ~~(iv)~~ pay to the shareholders of Seller (the "Shareholders") or members of the Shareholders' families on behalf of Seller the amount of the indebtedness described on Exhibit 2.1(iv) attached hereto and made a part hereof.

2.2 Assumption of Debt. At the Closing, Buyer shall assume the following liabilities of Seller (the "Assumed Liabilities") and shall agree to discharge and perform Seller's duties and obligations on account thereof.

- (a) the obligations of Seller under the Leases; and
- (b) the obligations of Seller under the accounts payable owed to trade creditors which are listed on Exhibit 2.2(b), together with other such accounts payable which are identified in writing by Seller to Buyer prior to the Closing (the "Trade Payables").

Buyer shall use its best efforts to obtain the release of Seller and the Shareholders from liability under the Leases as of the Closing Date. If Buyer is unable to obtain such release as of the Closing Date, Buyer shall provide to Seller and the Shareholders at the Closing the agreement of Lawrence D. Field to indemnify Seller and the Shareholders against any liability under the Leases occurring after the Closing Date. Buyer shall also provide to Seller and the Shareholders at the Closing the agreement of Lawrence D. Field to indemnify Seller and the Shareholders against any liability for the Trade Payables. The indemnification agreement of Lawrence D. Field shall be in substantially the form attached hereto as Exhibit 2.2 and made a part hereof.

2.3 Note. The Note shall bear interest at a rate of 10% per annum with the entire amount of principal and interest being due and payable upon the earlier of 30 days after the closing of an initial public offering of Buyer's common stock pursuant to a registration under the Securities Act of 1933, as amended, or six months after the Closing Date. The Note shall be in substantially the form attached hereto as Exhibit 2.3.

2.4 Cash Purchase Price Adjustment. The Cash Purchase Price shall be adjusted upward by the amount, if any, by which the amount of the Accounts Receivable and Inventory of Seller exceed the amount of the Trade Payables plus \$100,000. The Cash Purchase Price shall be adjusted downward by the amount, if any, by which the amount of the Trade Payables plus \$100,000 exceed the amount of the Accounts Receivable and Inventory of Seller. The amount of the Accounts Receivable and Inventory of Seller for the purpose of this calculation shall be determined as of December 31, 1993 (the "Effective Date"). For the purpose of the calculations required by this section, none of Seller's Accounts Receivable which are older than 120 days shall be counted. In the event any item which is counted among the Accounts Receivable for the purpose of these calculations fails to be collected by Buyer within 120 days of its origination, Seller shall reimburse Buyer for the amount of such item. If such item is subsequently collected by Buyer, Buyer shall repay to Seller the amount so collected by Buyer. Buyer shall also reimburse Seller for any Account Receivable which is not counted because it is over 120 days, but which is subsequently collected by Buyer.

2.5 Employment Agreements. At the Closing, Buyer and each Shareholder shall enter into an employment agreement (collectively, the "Employment Agreements") in substantially the forms attached as Exhibit <sup>2.5</sup> ~~7.6~~ hereto and made a part hereof, each of which shall be for a term of seven years following the Closing Date and shall provide for compensation as set forth therein, including the issuance of 6,668 shares of Buyer's common stock, par value \$0.01 per share, to Steve Sirianni, and 6,666 shares of Buyer's common stock, par value \$0.01 per share, to each of Tim Soldati and Rich Martin. The Employment Agreements are a material

part of the consideration to Seller hereunder, without which Seller would not have entered into this Agreement.

3. The Closing. The closing of the transactions (the "Closing") provided for in this Agreement shall take place at 10:00 a.m. at Seller's office in Hayward, California, on December 31, 1993, or at such other date, time or place as Buyer and Seller shall mutually agree upon. The date and time at which the Closing takes place is referred to herein as the "Closing Date."

4. Representations and Warranties of Seller. Seller represents, warrants and covenants to Buyer as follows:

4.1 Agreement Authorized, Validity. Seller's Board of Directors and the Shareholders have taken all actions necessary to approve the execution and delivery of this Agreement and to authorize the transactions contemplated hereby. This Agreement constitutes the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, and all instruments required hereunder to be executed by Seller and/or the Shareholders at the Closing shall constitute valid and binding agreements and instruments of Seller and/or the Shareholders, enforceable against Seller and/or the Shareholders in accordance with their terms.

4.2 Authority. Seller has good right and lawful authority to sell and assign the Assets to Buyer as contemplated by this Agreement. The execution and performance of the transactions contemplated by this Agreement and compliance with its provisions will not violate any provision of applicable law and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under Seller's articles/certificate of incorporation or bylaws or any indenture, lease, agreement or other instrument to which Seller is bound, or any decree, judgment, order, statute, rule or regulation applicable to Seller.

4.3 Organization. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of California. Seller is duly qualified and authorized to conduct business in each jurisdiction where the nature of its business requires such qualification and authorization and where the failure to do so would have a material adverse effect on the financial condition or business of Seller.

4.4 The Assets. Seller has good and marketable title to the Assets free and clear of all liens, security interests, encumbrances, restrictions, adverse claims and other burdens. Seller shall sell, assign, transfer and deliver the Assets to Buyer at the Closing free and clear of any liens, security interests, encumbrances, restrictions, adverse claims and other burdens.

4.5 Financial Statements - Liabilities. Seller's unaudited financial statements, consisting of a balance sheet and income statement, are attached hereto as Exhibit 4.5 and made a part hereof ("Seller's Financial Statements"). Seller's Financial Statements fairly present the financial condition and the results of operations of Seller for the period described therein.

Seller's Financial Statements have been prepared in conformity with generally accepted accounting principles consistently applied. Seller has no material liabilities or obligations, whether accrued, absolute, contingent or otherwise, which have not been reflected in Seller's Financial Statements or otherwise disclosed herein.

4.6 Accounts Receivable. The Accounts Receivable are good and collectible in the recorded amounts thereof.

4.7 Contracts; Purchase Orders; Leases. The Contracts, the Purchase Orders and the Leases are all in full force and effect and constitute the legal, valid and binding obligation of the respective parties thereto. Neither Seller nor any other party to the Contracts, the Purchase Orders or the Leases is in default thereunder.

4.8 Statutory Compliance. None of the Assets or the ownership, leasing, occupancy or operation thereof is in violation of any applicable law, code, rule, regulation, ordinance, license or permit, including but not limited to those relating to building, zoning and environmental matters, or employee health and safety, which violation, when considered in the aggregate with all other such violations, would have a material adverse effect on the financial condition or business of Seller, and no notice from any governmental body or other person has been served upon Seller or upon any property owned, leased, occupied or operated by Seller claiming any violation of any such law, code, rule, regulation, ordinance, license or permit, or requiring, or calling attention to the need for, any work, repairs, construction, alterations or installation on or in connection with such property which has not been complied with. Seller has the right to use its properties for all operations conducted by it.

4.9 Employment Agreements. Seller has no employment agreement with any employee not terminable at will. Seller has no employee benefit plan subject to the Employee Retirement Income Security Act of 1974, or any other profit sharing, pension, retirement or other plans or programs for the benefit of Seller's employees. Seller is not a party to any collective bargaining agreement or any other labor union contract.

4.10 Absence of Certain Changes or Events. Since the date of Seller's Financial Statements, Seller has not (i) incurred any obligation or liability (whether accrued, absolute, contingent or otherwise) except obligations in connection with this Agreement and except obligations incurred in the ordinary course of business, none of which is materially adverse, (ii) suffered any uninsured property damage or losses, exceeding in the aggregate \$1,000, (iii) sold, encumbered or disposed of any of the Assets other than inventory sold in the normal course of business, or (iv) suffered any material adverse change in its financial condition, properties or business.

4.11 Litigation. Except as set forth in Exhibit 4.11 attached hereto and made a part hereof, there is no claim, suit, action or legal, administrative, arbitration or other proceeding or governmental investigation pending or to the knowledge of Seller threatened against Seller. There is no decree or judgment of any kind in existence, or any action threatened



to the knowledge of Seller enjoining or restraining Seller or any of its officers, directors or stockholders, from taking any action relating to the business of Seller or from taking any action required or contemplated by this Agreement.

4.12 Books and Records. The books and records of Seller materially reflect all transactions to which Seller is or was a party or by which its properties are or were bound, and, to the extent applicable, such books and records are and have been properly kept and maintained in accordance with law and with generally accepted accounting principles consistently applied.

4.13 Patents, Trademarks, etc. Exhibit 4.13 attached hereto and made a part hereof correctly lists the patents, trade names, trademark registrations and applications and common law trademarks used in the business of Seller, and Exhibit 4.13 also lists steps taken to secure use of such patents, trade names and trademark registrations, together with any licensing agreements or other arrangements to which Seller is a party. Seller does not infringe or violate any of the patents, trademarks, service marks, trade names, copyrights, licenses, trade secrets or other proprietary rights of any person or entity. There is no pending claim or litigation against Seller to its right to use any of its trademarks or trade names or the validity of any of its patents or asserting the misuse thereof which could deprive it of its right to assert its rights thereunder. No Shareholder claims any rights in any of Seller's patents, trade names, trademarks or other proprietary rights.

4.14 Condition of the Assets. The Equipment is in reasonably good operating condition and repair and is adequate and sufficient for the present operations conducted by Seller, ordinary wear and tear excepted. All of the Inventory is in a good and saleable condition.

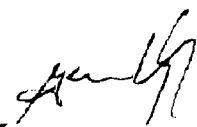
4.15 Shareholders. Steve Sirianni, Tim Soldati and Rich Martin own all of the outstanding capital stock of Seller in equal proportions.

4.16 Line of Credit. Seller's liabilities under the Line of Credit do not exceed \$150,000 (excluding accrued interest).

4.17 Disclosure. There is no fact known to Seller which materially adversely affects, or in the future may materially adversely affect, the condition, properties, assets, liabilities, business, operations or prospects of Seller.

5. Representations and Warranties of Buyer. Buyer represents, warrants and covenants to Seller as follows:

5.1 Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Oklahoma. Buyer is duly qualified and authorized to conduct business in each jurisdiction where the nature of its business requires such qualification and authorization and where failure to do so would have a material adverse effect on the financial condition or business of Buyer.



5.2 Capitalization. The authorized capital stock of Buyer consists of 4,000,000 shares of common stock, par value \$0.01 per share, of which 426,469 shares (not including the shares issuable by Buyer pursuant to the Employment Agreements) are presently issued and outstanding, 179,385 shares of Series A Convertible Participating Preferred Stock, of which no shares are issued and outstanding, 179,385 shares of Series B Convertible Preferred Stock, of which 179,385 shares are issued and outstanding, and 330,460 shares of Series C Convertible Preferred Stock, of which 330,457 shares are issued and outstanding.

5.3 Authorization of Agreement. Buyer's Board of Directors has taken such action as is required by applicable law to approve the execution and delivery of this Agreement, and to authorize the transactions contemplated hereby. This Agreement constitutes the valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, and all instruments required hereunder to be executed by Buyer at the Closing shall constitute valid and binding agreements and instruments of Buyer, enforceable against Buyer in accordance with their terms.

5.4 Financial Statements. Buyer has furnished to Seller (i) an unaudited balance sheet, and notes thereto, of Buyer, and (ii) an unaudited statement of income and expenses of Buyer, and (iii) an unaudited statement of cash flows, for the periods described therein, copies of which are attached hereto as Exhibit 5.4 (collectively "Buyer's Financial Statements"). Each of the Buyer's Financial Statements is true and correct, and fully and fairly sets forth the financial condition of Buyer as of the dates indicated and the results of its operations for the periods indicated in accordance with generally accepted accounting principles consistently applied, except as otherwise stated therein.

6. Access to Records. Seller shall afford to Buyer, its officers, authorized representatives, independent accountants and counsel, during regular business hours and upon reasonable notice, full access to all of the premises, property and books and records of Seller relating to the Assets and furnish Buyer with such financial and operating data and other information with respect to the Assets as Buyer shall from time to time reasonably request. Buyer shall be entitled to consult with representatives, officers and employees of Seller. Buyer shall furnish to Seller, the Shareholders and their authorized representatives, independent accountants and counsel, such financial and operating data and other information regarding Buyer as such parties shall reasonably request. Seller and the Shareholders shall also be entitled to consult with representatives, officers and employees of Buyer. Each party hereto will, until consummation of the transaction contemplated hereby, hold all information obtained in confidence, and if the transaction contemplated hereby is not consummated will return to the other party or parties all such data as shall have been obtained, shall hold all such data in confidence and shall not use any such data to the business detriment of such other party or parties.

7. Additional Agreements of the Parties.

7.1 Preservation of the Business of Seller. Between the date of this Agreement and the Closing Date, Seller shall preserve intact the business organization of Seller and in so doing shall exercise their best efforts to (i) continue Seller's business only in the ordinary and usual course; (ii) maintain and repair all of the Assets; (iii) keep on a current basis Seller's financial accounting, including, but not limited to, the accounting records; (iv) keep available to Buyer present key employees, clerical force, managers and other employees; (v) preserve Seller's relationship with suppliers, customers, brokers, agents and others; (vi) comply with all applicable laws, rules and regulations of each federal, state or municipal authority having jurisdiction over Seller; (vii) require Seller's books and records to fully disclose and represent Seller's financial condition; and (viii) maintain Seller's insurance program in conformity with past practice.

7.2 Bulk Sales Act. Seller hereby agrees to indemnify and hold Buyer harmless from any liability, loss, damage, cost, charge or expense of any kind or character as a result of the consummation of the transactions contemplated hereby without compliance with the bulk sales provisions of the Uniform Commercial Code or other statutes having a similar purpose.

7.3 Assumption of Certain Obligations. Buyer does not assume or agree to pay, satisfy, discharge or perform, and shall not be deemed by virtue of the execution and delivery of this Agreement, or of any instrument paper or document delivered by it pursuant to this Agreement, or as a result of the consummation of the transactions contemplated by this Agreement, to have assumed, or to have agreed to pay, satisfy, discharge or perform, any liability, obligation or indebtedness of Seller other than the Assumed Liabilities as set forth in this Agreement. Moreover, it is expressly agreed between the parties hereto that this Agreement is not intended to create any beneficial rights in any person not a party to this Agreement.

7.4 Indemnification of Buyer. Seller shall indemnify and hold Buyer harmless from, against and in respect of (i) all liabilities of Seller of any nature, whether accrued, absolute, contingent or otherwise; provided, however, Buyer will assume and discharge the Assumed Liabilities as set forth in this Agreement, (ii) all losses or deficiencies resulting from any misrepresentation, nonfulfillment, or breach by Seller of any representation or warranty contained in this Agreement or from any misrepresentation in or omission from a certificate or other instrument furnished to Buyer under this Agreement, or failure to observe any covenant of Seller contained in this Agreement, and (iii) all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including but not limited to reasonable attorney's fees, and all other damages, incident to any of the foregoing.

7.5 Indemnification of Seller. Buyer shall indemnify and hold Seller harmless from, against and in respect of (i) any loss, damage, cost, charge or expense resulting from Buyer's failure to discharge the Assumed Liabilities described in Section 2.2 hereof, (ii) all losses or deficiencies resulting from any misrepresentation, nonfulfillment, or breach by Buyer

of any representation or warranty contained in this Agreement or from any misrepresentation in or omission from a certificate or other instrument furnished to Seller under this Agreement, or failure to observe any covenant contained in this Agreement, and (iii) all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including but not limited to reasonable attorney's fees, and all other damages, incident to any of the foregoing.

7.6 Noncompetition Agreement. At the Closing, Seller and the Shareholders shall execute and deliver to Buyer a noncompetition agreement (the "Noncompetition Agreement") in substantially the form attached hereto as Exhibit 7.6 and made a part hereof.

7.7 Royalties.

(a) For the period of seven years following the Closing Date, Buyer shall pay to Seller a royalty of 6% of Buyer's gross sales, less returns, allowances and bad debts (i.e., debts which are uncollected after 120 days) attributable to such sales, of the products specified in Exhibit 1.1(a) hereto (the "Royalty Products"). Royalty shall be computed on a quarterly basis and shall be payable within 45 days after each calendar quarter; provided, however, notwithstanding anything contained herein to the contrary, that royalty shall not be payable hereunder unless Buyer's Gross Margin (as hereinafter defined) on sales of the Royalty Products has exceeded \$225,000 per calendar quarter on a cumulative basis for the calendar year through the calendar quarter in which royalty is computed. If royalty is not payable hereunder with respect to any calendar quarter because the minimum Gross Margin was not achieved, the unpaid royalty for such quarter shall be payable to Seller if, in any subsequent calendar quarters during the same calendar year, Buyer's Gross Margin exceeds \$225,000 per calendar quarter on a cumulative basis for the calendar year. For example, if Buyer's Gross Margin is \$200,000 for the first quarter of a calendar year and \$260,000 for the second quarter of the same calendar year, no royalty will be payable following the first quarter, but royalty will be payable following the second quarter with respect to sales occurring in the first and second quarters because Buyer's Gross Margin has exceeded \$450,000 (i.e., exceeded \$225,000 per calendar quarter on a cumulative basis for the calendar year). Royalty which is not payable hereunder because the minimum Gross Margin was not achieved shall not carry over and be payable as a result of Gross Margin occurring in a different calendar year.

(b) "Gross Margin", for the purposes of this section, shall be the amount of gross sales of Royalty Products by Buyer, less returns, allowances, bad debts and cost of goods sold of Royalty Products. "Cost of goods sold," for the purposes of this section, shall be defined as all direct costs associated with producing the Royalty Products, including without limitation costs of (i) raw materials, including without limitation ingredient food products, packaging and kitchen supplies, (ii) direct labor, including without limitation production employees, and (iii) direct shipping costs net of any shipping costs paid to Buyer by customers. All calculations required by this section, except to the extent the definitions herein require otherwise, shall be made in accordance

with generally accepted accounting principles consistently applied. Seller shall have the right, upon reasonable notice to Buyer and during regular business hours, to inspect Seller's books and records which relate to the calculations required by this section.

7.8 Access to Files. Following the Closing Seller shall provide Buyer with access to Seller's files and records relating to the Assets for the purpose of the preparation of Buyer's financial statements and tax returns.

8. Conditions Precedent to Obligations of Buyer. The obligations of Buyer to purchase the Assets hereunder shall be subject, at its option, to satisfaction of the following conditions:

8.1 Representations and Warranties of Seller True. All representations, warranties and other statements of Seller herein were true and correct when made and at and as of the Closing Date shall be true and correct as if made at and as of the Closing Date and Seller shall have performed all of its obligations hereunder to be performed at or prior to the Closing.

8.2 Third Party Consents. Seller shall have used its best efforts to obtain the consent to the transactions contemplated by this Agreement from all parties from whom such consent is requested by Buyer, including but not limited to the consent to the assignment of the office lease included among the Contracts from the lessor thereunder.

8.3 No Material Adverse Change. There shall not have occurred any material adverse change from the date hereof to the Closing Date in the business, properties, financial condition or prospects of Seller or any loss or damage to any of the Assets whether or not covered by insurance of Seller which would materially affect or impair the assets to be purchased under this Agreement or the ability of Seller to conduct its business at the Closing Date.

8.4 Certificates. Buyer shall have received a certificate dated the Closing Date, executed by a duly authorized officer of Seller, to the effect that the representations, warranties and statements made in Sections 4.1 through 4.18 are true and correct at and as of the Closing, and that all agreements of Seller hereunder to be performed at or before the Closing have been performed by Seller. Buyer shall have received a certificate dated the Closing Date, executed by a duly authorized officer of Seller, certifying corporate resolutions authorizing Seller's execution and delivery of this Agreement and consummation of the transactions contemplated hereby.

8.5 Payment of Liabilities. Seller shall have provided to Buyer evidence satisfactory to Buyer that all of the obligations and liabilities of Seller which are payable as of the Closing Date and not assumed by Buyer, including without limitation all trade payables and taxes, have been paid.

8.6 Delivery of Agreements. The Shareholders shall have executed and delivered the Employment Agreements as appropriate, Seller and the Shareholders shall have

*Handwritten signature and initials*

executed and delivered the Noncompetition Agreement, and the Shareholders shall have agreed to be bound by the Shareholder Agreement of Buyer.

8.7 Investor Approval. ML Oklahoma Venture Partners, Limited Partnership, CAPMAC Eighty-Two Limited Partnership and the holders of Buyer's 9% Senior Notes and 9% Convertible Subordinate Notes issued in connection with its 1993 debt offering shall have delivered to Buyer their written consent to the transaction contemplated hereby.

8.8 Certificate of Good Standing. Seller shall have delivered to Buyer a certificate of good standing issued by the Secretary of State of the State of California dated within 15 days of the Closing Date.

8.9 Indemnification Agreement. The Shareholders shall have executed and delivered to Buyer a Shareholder Indemnification Agreement in substantially the form attached hereto as Exhibit 8.9 and made a part hereof.

9. Conditions Precedent to Obligations of Seller. The obligations of Seller to sell the Assets hereunder shall be subject, at its option, to satisfaction of the following conditions:

9.1 Representations and Warranties of Buyer True. All representations, warranties and other statements of Buyer herein were true and correct when made and at and as of the Closing Date shall be true and correct as if made at and as of the Closing Date and Buyer shall have performed all of its obligations hereunder to be performed at or prior to the Closing.

9.2 Certificates. Seller shall have received a certificate dated the Closing Date, executed by a duly authorized officer of Buyer, to the effect that the representations, warranties and statements made in Sections 5.1 through 5.3 are true and correct at and as of the Closing, and that all agreements of Buyer hereunder to be performed at or before the Closing have been performed by Buyer.

9.3 Delivery of Employment Agreement. Buyer shall have executed and delivered the Employment Agreements to the Shareholders.

9.4 Security Agreement. Buyer shall have executed and delivered to Seller and the Shareholders a Security Agreement in substantially the form attached hereto as Exhibit 9.4 and made a part hereof.

10. Transactions at Closing; Procedure.

10.1 Closing Date Procedure. At or prior to the Closing, the appropriate parties shall exchange applicable documents required to be delivered at the Closing under the terms of this Agreement and shall cause all other acts to be done as may be required to make the sale of the Assets effective under applicable law.

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10.2 Closing Documents. At or before the Closing, each of the parties shall deliver to the other such instruments and documents as are necessary or desirable in order to carry out the purpose of this Agreement, such instruments and documents to be in form and substance reasonably satisfactory to counsel for the other. Seller will deliver or cause to be delivered to Buyer (i) a bill of sale and assignment sufficient to transfer title to the Assets to Buyer substantially in the form of Exhibit 10.2 attached hereto and made a part hereof, and (ii) such other assignments, bills of sale, termination statements, releases, endorsements and instruments as (in the reasonable opinion of Buyer's counsel) shall be necessary to vest in Buyer good and marketable title to the Assets. At the Closing, Buyer shall assume the Assumed Liabilities in accordance with Section 2.2 hereof.

11. Miscellaneous.

11.1 Survival of Representations, Warranties and Covenants. The representations, warranties, covenants and agreements of Seller and Buyer contained in this Agreement shall survive the Closing, except to the extent fully performed at or prior to the Closing.

11.2 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed sufficiently given if delivered personally or sent by certified mail, return receipt requested, postage prepaid, addressed as listed below or to such other address as the party concerned may substitute by notice to the other in accordance with the provisions of this paragraph.

If to Seller:

Nonni's Inc.  
28971 Hopkins Street  
Suite 5  
Hayward, California 94545  
Attention: President

If to Buyer:

Silverado Foods, Inc.  
7312 East 38th Street  
Tulsa, Oklahoma 74145  
Attention: Lawrence D. Field, President

11.3 Broker's Fees. Each of the parties hereto (a) represents and warrants that it has not taken and will not take any action that would cause any other party hereto to have any obligation or liability to any person for a finder's or broker's fee, and (b) agrees to indemnify the other parties hereto for breach of the foregoing representation and warranty, whether or not the Closing occurs.

11.4 Sales and Transfer Taxes. Any sales, use or other transfer tax due on the sale of the Assets shall be paid by Seller.

11.5 Entire Agreement. This Agreement sets forth the entire agreement and understanding of the parties with respect to the transactions contemplated hereby. No representation, promise, inducement or statement of intention has been made by Buyer or Seller which is not embodied in this Agreement, and neither of Buyer or Seller shall be bound by or liable for any alleged misrepresentation, promise, inducement or statement of intention not so set forth.

11.6 Headings. The descriptive headings of the several sections and paragraphs of this Agreement are inserted for convenience only.

11.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement.

11.8 Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to the conflict of laws provisions thereof.

11.9 Consent to Jurisdiction. The parties irrevocably consent to the jurisdiction of the courts of the State of California and of any federal court located in such state, with venue in each case in San Francisco, California, in connection with any action or proceeding arising out of or relating to this Agreement or any document or instrument delivered pursuant hereto.

11.10 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments thereto.

11.11 Binding Effect. The terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and permitted assigns.

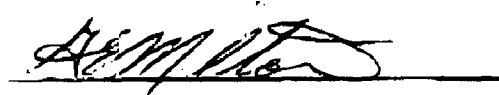
11.12 Attorneys' Fees. In the event of any litigation arising out of this Agreement, the party not prevailing in such proceedings shall pay the reasonable costs of the prevailing party in connection with such proceedings, including but not limited to attorneys' fees and expenses, witness fees and expenses and court costs.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

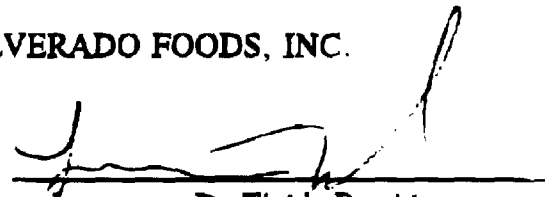
ATTEST:

SILVERADO FOODS, INC.



Secretary  
[SEAL]

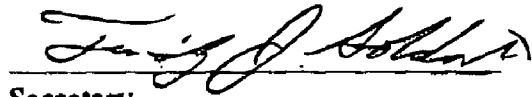
By:



Lawrence D. Field, President

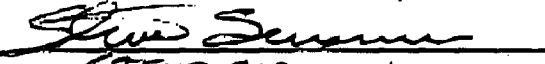
ATTEST:

NONNI'S INC.



Secretary  
[SEAL]

By:



Name: STEVE SIRANNI

Title: C.E.O. / President

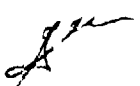
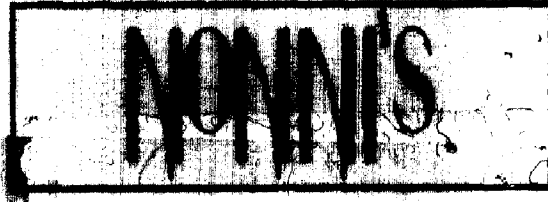


EXHIBIT 4.13

TRADEMARKS

"Nonni's" is trademarked

"Cafe Biscotti" trademark application has been filed and is awaiting approval



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*per*