

02-24-1999

R SHEET
LYU.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

100970553

Tab settings □ □ □ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Tone Brothers, Inc.

08-19-1998

U.S. Patent & TMO/TM Mail Rpt Dt. #39

☐ Individual(s)☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State☐ OtherAdditional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

8-19-98

☐ Assignment☐ Merger☒ Security Agreement☐ Change of Name☐ Other

Execution Date: July 28, 1998

Name and address of receiving party(ies)

Name: The Chase Manhattan Bank

Internal Address: International/Project Fiance
Dept.

Street Address: 450 West 33rd St., 15th floor

City: New York State: NY ZIP: 10001

☐ Individual(s) citizenship☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State New York☐ OtherIf assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No

(Designations must be a separate document from assignment)

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

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

A. Trademark Application No.(s)

See attached Schedule

B. Trademark Registration No.(s)

See attached Schedule

Additional numbers attached? ☒ Yes ☐ No

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

Name: The Chase Manhattan Bank

Internal Address: International/Project Fiance

Department

15th floor

Street Address: 450 West 33rd Street

City: New York State: NY ZIP: 10001

09/08/1998 BMEUYEN 00000070 74311122

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41): 65.00

☐ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

1065E

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

01 FC:481
02 FC:48240.00 OP
1025.00 OP

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.

William E. Kelly

Name of Person Signing

Signature

8/17/98

Date

Total number of pages including cover sheet, attachments, and document: 2

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents & Trademarks, Box Assignments

Washington, D.C. 20231

TRADEMARK

REEL: 1859 FRAME: 0746

SCHEDULE A

**U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)**

APPL. NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
74/311,122 9/4/92	1,777,524 6/15/93	CANADA'S FAVOURITE	130	Food Seasonings.
74/147,953 3/15/91	1,831,740 4/19/94	CHEF'S TASTE	130	Spices, Processed Herbs, Seasonings, and Seasoning Salt.
			131	Unprocessed Herbs.
74/311,063 9/4/92	1,792,804 9/14/03	CRAZY DAVE'S	130	Salt, Pepper, Spices and Seasonings.
74/161,193 4/26/91	1,749,528 1/26/93	CRYO-SPICE	130	Spices, Herbs and Food Seasonings.
242,936 12/14/79	1,184,011 12/29/81	CUPBOARD GARDEN PICK & Design	129	Soup Mixture Composed of Dehydrated Vegetables, Noodles and Herbs.
74/327,206 11/2/92	1,818,080 1/25/94	GARLIC BREAD SUPREME & Design	130	Sprinkle for Flavoring Foods.
75/028,488 12/6/95	2,075,113 7/1/97	HEART-LOC	130	Spices and processed herbs; sauces, gravies and blended seasoning mixes.
524,197 2/26/85	1,361,952 9/24/85	HEART-LOC & Design	120	Seal for Container Opening, to Prevent Entry of Air and to Serve as Evidence of Tampering.
477,039 4/24/84	1,333,482 4/30/85	HEART-LOC & Design	130	Spices.
74/527,295 5/23/94	1,891,271 4/25/95	IT'S GREEK TO ME	130	Seasoning.

U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)

APPL NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
657,214 4/24/87	1,487,683 5/10/88	LEPAK (Stylized)	130	Seasonings, Namely, Flour-Based Batter for Coating Chicken and Fish; and Sauce Mixes Excluding Applesauce and Cranberry Sauce.
715,562 3/8/88	1,515,086 12/6/88	LISA ROSS	130	Potpourri Fragrances and Simmers.
74/417,517 7/27/93	1,835,601 5/10/94	LIVING RIGHT & EATING LIGHT	130	Food Seasonings.
61095 8/22/75	1,047,338 8/31/76	MERRY TOPPINS (Stylized)	130	Toppings for Cakes, Cupcakes, Cookies, Fr. Toast, Cereals, Ice Cream and the Like, Namely, Candy Flavor Topping, Chocolate Flavor Topping and Coconut Flavor Toppings.
38404 1/29/74	1,026,324 6/29/74	MR. PEPPER	130	Ground Pepper Product.
74/352,475 1/26/93	1,838,790 06/7/94	MRS. TONE	130	Food Flavorings; Namely, Buttery Flavor, Butter Flavor Seasoning.
714,811 3/04/88	1,515,68 12/06/88	OTOP'N	129	Dairy Based Toppings and Snack Food Dips.
408,224 1/04/83	1,273,782 5/10/84	PERC	130	Food Seasonings.
	1,843,095 7/5/94	PERC & Design	130	Food Seasonings.
98352 8/30/76	1,101,078 8/29/78	PRESTI'S	130	Seasonings for Pizza and Pasta.

Schedule A-2

U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)

APPL. NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
510,109 11/23/84	1,351,974 7/30/85	PRESTI'S	130	Food Seasonings.
74/582,110 10/4/94	1,989,521 7/30/96	AUTHENTIC PRESTI'S & Design	130	Pizza Seasoning, Garlic Bread Sprinkled W/Cheese, Spaghetti Seasoning, Salad Seasoning W/Romano Cheese and Seasoned Croutons.
362,470 4/30/82	1,273,759 4/10/82	REAL STUFF	130	Food Seasonings.
74/554,461	1,905,813 7/18/95	ROTISSER-EASE	130	Seasonings.
75/084,258 4/5/96		SECRETS OF INDIA	130	Mixture of rice and seasonings.
410,384 1/21/83	1,280,078 5/29/84	SO-FREE	130	Food Seasonings, Namely Salt Replacement.
713,017 2/23/88	1,563,584 10/31/88	SPICE ADVICE	130	Spices, Processed Herbs, Food Seasonings and Flavorings, Minced Dried Vegetables for Seasonings, Meat Tenderizers, Edible Cake Decorations, Almond Extracts, Anise Extract, Banana Extract, Vanilla Extract, Imitation Vanilla Extract, Liquid Food Flavorings in the Nature of Onion Juice and Garlic, Baking Powder, Baking Soda, Corn Meal, Bread Crumbs, Rolled Oats, Powdered Sugar. Popping Corn.

Schedule A-3

U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)

APPL. NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
461,095 3/22/83	1,297,291 9/18/84	SPICE ADVICE & Design	1 42	Providing Information on Cooking and Home Economics by Means of the Telephone.
418,320 3/22/83	1,304,973 11/13/84	SPICE ADVICE & Design	1 16	Newsletter Dealing With Cooking.
75/049/803 1/25/96		TASTE PLUS & Design	1 30	Spices, herbs and seasonings.
74/090,143 8/21/90	1,790,015 8/31/93	TERRACE HILL	1 02 1 30	Colorants for Use in Food. Extracts Used as Flavoring.
74/090,143 8/21/90	1,750,680 7/02/93	TERRACE HILL	1 30 1 31	Spices, Processed Herbs and Seasonings. Unprocessed Herbs.
74/554,460 7/28/94	1,905,812 7/18/84	THAI CAFE	1 30	Seasonings.
374,832 7/16/82	1,263,714 01/10/84	THE DIPPY GANG	1 29	Mixes for Making Snack Dips.

Schedule A-4

U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)

APPL. NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
162,371 2/08/63	773,259 7/14/64	TONE'S	130	Spices, Tea, Coffee, Food Colors, Pure Food Flavors (Extracts), Imitation Flavors and Cake Decorations; Bay Leaves, Parsley Flakes, Popcorn Seasoning, Popping Corn, Sesame Seeds, Corn Starch, Baking Soda and Corn Meal.
162,370 2/8/63	772,909 7/7/64	TONE'S Inside Flower Design	102 130	Foods Colors, Pure Food Flavors (Extracts), and Imitation Flavors. Spices, Tea, Coffee, and Cake Decorations.
74/582848 10/6/94	1,975,869 5/28/96	TONE'S QUALITY SINCE 1873 & Design	130	Ground Cinnamon, Garlic and Parsley, Green Peppercorns, Herbs de Provence, Imitation Bacon Bits, Whole Cumin Seed, Curry Powder, Granulated Garlic, Onion Powder, Oregano Leaf, Whole Black pepper, Cayenne pepper, Red Crushed Pepper, Whole White Pepper, Rosemary Leaf, Lemon Pepper, Chocolate Decors, Rainbow Decors, Brown Gravy Mix, Spaghetti Sauce Mix, Meat Tenderizing Seasoning, Ground Pepper, Whole Poppy Seed, Vanilla Extract, Chopped Onion, Italian Seasoning, Chili Powder, Garlic Salt, Onion Salt, Seasoning Salt, Baking Soda, Pearl Barley, Saffron, Ground Chili Pepper, BBQ Spice, Cinnamon Sticks, Whole Dill Seed, Whole Fennel Seeds, Mint Leaves, Ground Mustard, Pork Sausage Seasoning, Tarragon Leaf, Thyme Leaf, Seafood Seasoning, Minced Garlic.

Schedule A-5

**U.S. TRADEMARK PROPERTIES OWNED BY TONE BROTHERS, INC.
(INCLUDES PENDING AND REGISTERED MARKS)**

APPL. NO., DATE	REG. NO., DATE	MARK	CLASS	GOODS / SERVICES
74/582853 10/6/94	1,975,870 5/28/96	TONE'S QUALITY SINCE 1873 & Design	130	Spices, Seasonings, Food Colors, Pure Food Flavor Extracts, Imitation Flavors, Cake Decorations, Kitchen Ingredients, Sauce and Gravy Mixes, Dehydrated Vegetables and Salad Toppings.
73/831,136 10/13/89	1,596,405 5/15/90	TRANSPACKER	116	Cardboard Shipping Cartons.
74/533,188 6/3/94	1,913,595 8/22/95	VIADA	130	Seasonings and Marinades.
522,936 2/15/85	1,371,588 11/19/85	WE SEAL IT FRESH FOR YOU (Stylized)	130	Spices, Minced Dried Vegetables for Seasonings, Herbs, Food Seasonings and Flavorings, Meat Tenderizers and Edible Cake Decorations.
659,614 5/8/87	1,467,876 12/8/87	YOU CAN'T BEAT THE SYSTEM	102 130	Food Colorings for Domestic and Commercial Use. Spices, Minced Dried Vegetables for Seasonings, Herbs, Food Seasonings and Flavorings, Meat Tenderizers and Edible Cake Decorations, Bread Crumbs and Rolled Oats.

Schedule A-6

TONE BROTHERS, INC.

TRADEMARK SECURITY AGREEMENT

DATED AS OF JULY 28, 1998

TRADEMARK SECURITY AGREEMENT

TRADEMARK SECURITY AGREEMENT (as may be amended, restated or modified from time to time, this "Agreement"), dated as of July 28, 1998, between **TONE BROTHERS, INC.**, an Iowa corporation (the "**Obligor**"), **THE CHASE MANHATTAN BANK** ("**Chase**"), as co-trustee under a certain Security Trust Deed (as may be amended, restated or otherwise modified from time to time, the "**Security Trust**"), dated the date hereof, among Burns Philp & Company Limited (the "**Parent**"), Chase Securities Australia Ltd. and Chase (Chase in its capacity as such co-trustee, and together with any successor that becomes such in accordance with the provisions of the Security Trust, referred to herein as the "**Trustee**").

PRELIMINARY STATEMENTS OF THE OBLIGOR:

A. Certain of the Subject Financiers have made available loans, overdrafts and other credit facilities to, purchased debt securities issued by, or provided credit and other financial accommodation to, or under the guarantee of, the Obligor.

B. The Subject Financiers propose to enter into the Override Agreement with the Obligor and the other BPCL Entities whereby the Subject Financiers provide for certain override arrangements relating to the Subject Facilities, on the condition, among other things, that the Obligor and the other BPCL Entities shall have granted to the Trustee, for the equal and ratable benefit of the Debenture Stockholders, a security interest in, and Lien on, all of its right, title and interest in its presently-owned or hereafter acquired tangible and intangible property, including but not limited to, trademarks and tradenames and other collateral more particularly set forth in this Agreement and the other Transaction Documents.

C. The Trustee shall act as the trustee on behalf of the Debenture Stockholders in accordance with the terms of the Security Trust.

D. All acts and proceedings required by the articles or certificate of incorporation and bylaws of the Obligor necessary to constitute this Agreement a valid and binding agreement for the uses and purposes set forth herein, in accordance with its terms, have been done and taken, and the execution and delivery hereof has been in all respects duly authorized.

AGREEMENT:

NOW THEREFORE, in order to induce the Subject Financiers to enter into the Override Agreement, and in consideration of financial accommodations granted by the Subject Financiers, and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid to the Obligor (the receipt and sufficiency of which is hereby acknowledged), the Obligor hereby agrees with the Trustee as follows:

SECTION 1. INTERPRETATION OF THIS AGREEMENT

1.1 *Terms Defined.*

As used in this Agreement, the following terms have the respective meanings set forth below or provided for in the section or other part of this Agreement referred to immediately following such term (such definitions to be equally applicable to both the singular and plural forms of the terms defined).

Agreement, this -- introductory sentence.

BPCL Entity -- has the meaning specified in the Security Trust.

Code -- means the Uniform Commercial Code as in effect from time to time in any specified or applicable jurisdiction.

Debenture Stockholders -- has the meaning specified in the Security Trust.

Event of Default -- has the meaning assigned to such term in the Security Agreement.

Lien -- has the meaning assigned to such term in the Security Agreement.

Obligor -- introductory sentence.

Override Agreement -- means that certain Override Agreement dated on or about August 3, 1998, among the Parent, the Obligor, the other BPCL Entities, certain Debenture Stockholders and certain other parties.

Parent -- introductory sentence.

Person -- means an individual, a partnership, a corporation, a trust, a limited liability company, an unincorporated organization, or a government or agency or political subdivision thereof.

Secured Obligations -- means all amounts at any time owing (i) to the Debenture Stockholders pursuant to any one or more of the Subject Facilities, the Headroom Facilities, the Shareholder Debt, the Shortfall Indemnity (all as defined in the Override Agreement) and the Deed of Guarantee and Indemnity, dated July 28, 1998, between the guarantors named therein (including the Obligor) and the Trustee for the benefit of the Debenture Stockholders, and (ii) to the Trustee or the Paying Agent pursuant to the Override Agreement or the Security Trust.

Secured Property -- means the Trademarks.

Security Agreement -- means the Security Agreement, of even date herewith, entered into by the Trustee with the Obligor, Burns Philp Inc., and Burns Philp Food Inc.

Security Trust -- has the meaning specified in the introductory sentence hereof.

Subject Facilities -- has the meaning assigned to such term in the Override Agreement.

Subject Financiers -- has the meaning assigned to such term in the Override Agreement.

Transaction Documents -- has the meaning specified in the Security Trust, and includes, without limitation, this Agreement and the Security Agreement.

Trustee -- introductory sentence.

Trademarks -- means the trademarks, trademark applications, registrations and renewals listed on Schedule A hereto and (as further provided in Section 3.3 hereof) all other trademarks, trademark applications, registrations and renewals in which the Obligor shall now or hereafter have any right, title or interest; all rights associated with the foregoing; all goodwill associated with the foregoing and the business of the Obligor to which the foregoing relate; the right to sue for past, present and future infringements; and all proceeds attributable to the foregoing (including, without limitation, license royalties and proceeds of infringement suits)

1.2 Headings; Independent Construction.

The titles of the Sections appear as a matter of convenience only, do not constitute a part hereof and shall not affect the construction hereof. Each covenant contained herein shall be construed (absent an express contrary provision herein) as being independent of each other covenant contained herein, and compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with one or more other covenants.

1.3 Governing Law, etc.

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, INTERNAL NEW YORK LAW. THE OBLIGOR IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE OBLIGOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT. NONE OF THE OBLIGOR, THE TRUSTEE OR ANY HOLDER OF SECURED OBLIGATIONS SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF OR OTHERWISE RELATED TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THE OBLIGOR, THE TRUSTEE AND THE HOLDERS OF SECURED OBLIGATIONS HEREBY WAIVE ANY AND ALL RIGHT TO ANY SUCH JURY TRIAL AND ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF *FORUM NON CONVENIENS* OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 1.3.

1.4 Directly or Indirectly.

Where any provision in this Agreement refers to action to be taken by any Person, or that such Person is prohibited from taking, such provision shall be applicable whether such action

is taken directly or indirectly by such Person, including actions taken by or on behalf of any partnership in which such Person is a general partner.

1.5 Partial Invalidity.

The unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions contained in this Agreement unenforceable or invalid.

SECTION 2. GRANT OF SECURITY INTEREST

As security for the payment of the Secured Obligations and the performance by the Obligor of its obligations and undertakings under this Agreement and under the other Transaction Documents, the Obligor does hereby grant a continuing security interest to the Trustee in all of the Obligor's right, title and interest in and to the Trademarks.

SECTION 3. REPRESENTATIONS, WARRANTIES AND COVENANTS CONCERNING TRADEMARKS

3.1 Trademarks.

The Obligor represents, warrants and covenants that:

(a) to Obligor's knowledge, Schedule A hereto lists all of the trademarks, trademark applications and registrations in which the Obligor has any right, title or interest as of the date of the Obligor's execution and delivery of this Agreement;

(b) the Trademarks listed on Schedule A are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(c) to Obligor's knowledge, each of the Trademarks is valid and enforceable;

(d) the Obligor is owner of the right, title and interest in and to each of the Trademarks listed on Schedule A, free and clear of any Liens, charges and encumbrances, other than Permitted Liens;

(e) to Obligor's knowledge, no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person;

(f) the Obligor has the right to enter into this Agreement and perform its terms;

(g) the Obligor will use its best efforts to maintain in full force and effect the Trademarks that are or shall, in the Obligor's reasonable business judgment, be necessary or economically desirable in the operation of the Obligor's business; and

(h) the Obligor has used and will continue to use, for the duration of this Agreement, its best efforts to maintain standards of quality in its manufacture of products sold under the Trademarks, consistent with the standards which it has used prior to the date of this Agreement.

3.2 No Inconsistent Agreements.

Until all of the Secured Obligations shall have been satisfied in full, the Obligor will not, without the Trustee's prior written consent, enter into any agreement (including, without limitation, a license agreement) that is inconsistent with the Obligor's obligations under this Agreement.

3.3 After-Acquired Trademarks Subject to this Agreement.

(a) If, after the date of this Agreement while any Secured Obligation is outstanding, the Obligor shall obtain rights to any new Trademarks, or become entitled to the benefit of any rights to any Trademark, the same shall automatically be deemed subject to this Agreement and included within the definition "**Trademark**" herein, and the Obligor shall give to the Trustee prompt notice thereof in writing.

(b) The Obligor grants the Trustee the right, irrevocable so long as any Secured Obligations remain outstanding, to modify this Agreement from time to time by amending Schedule A (without requirement of any consent or further action on the part of the Obligor) to include any future trademarks, trademark applications and registrations that are Trademarks under the definition of such term in Section 1.1 or under Section 3.3(a).

3.4 Trademark Applications.

Until the Secured Obligations shall have been paid in full, the Obligor shall, where appropriate in its reasonable business judgment, prosecute any trademark application pending as of the date of this Agreement or thereafter and preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with such an application shall be borne by the Obligor. The Obligor may abandon the right to file a trademark application, any pending trademark application, any trademark and any trademark registration without the consent of the Trustee if the Obligor determines, in its good faith and sound business judgment, that such right, application, trademark or registration is no longer material or necessary to its business. The Obligor shall take such measures, as in its reasonable business judgment are necessary to ensure that the Obligor shall have and enjoy all rights to apply for, register and use, subject to Section 3.3 of this Agreement, trademarks designed or created by its employees in the ordinary course of their employment.

3.5 Further Assurances.

So long as any of the Secured Obligations shall be outstanding, the Obligor, at its expense, will timely execute, acknowledge, deliver, file and record, or will cause to be executed, acknowledged, delivered, filed or recorded, all such further instruments, agreements, assignments and assurances as may be necessary or appropriate in its reasonable business judgment (and, in any event, as may be reasonably requested by the Trustee):

(a) to preserve and continue in force each of the trademark applications (subject to the Obligor's right to abandon such trademark applications pursuant to Section 3.4), trademark registrations and trademarks contained in the Trademarks and to pay any and all fees and out of pocket expenses in connection therewith (including,

without limitation, payment of such maintenance fees, if any, as may be imposed by the United States Patent and Trademark Office); and

(b) to subject to this Agreement, and to preserve, continue and protect the Lien of this Agreement on, and the rights of the Trustee in and to, the Trademarks (subject to the Obligor's right to abandon trademark applications pursuant to Section 3.4), including, without limitation, any Trademarks acquired after the date of this Agreement (as set forth in Section 3.3 of this Agreement).

SECTION 4. DEFAULTS -- REMEDIES

4.1 Default Remedies.

(a) All of the Trustee's rights and remedies with respect to the Trademarks, whether established hereby or by the Security Agreement, or by any other agreement or by law, shall be cumulative and may be exercised singularly or concurrently. Without limiting the foregoing, this Agreement is executed in furtherance of, and supplementary to, the provisions of the Security Agreement, the terms and conditions of which are incorporated hereby as if set forth in full herein. In the event any provision of the Security Agreement conflicts with any provision of this Agreement, the provisions of the Security Agreement shall prevail and this Agreement shall be deemed to have been modified to the extent necessary to conform to the provisions of the Security Agreement.

(b) If an Event of Default exists, the Trustee may exercise all of the rights and remedies of a secured party under the Code and all of the rights and remedies conferred in this Agreement, in the Security Agreement or in any other Transaction Document, it being expressly understood that no such remedy is intended to be exclusive of any other remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given in this Agreement, in the Security Agreement or in any other Transaction Document or now or hereafter existing at law or in equity or by statute, and may be exercised from time to time as often as may be deemed expedient by the Trustee. Without limiting the generality of the foregoing, the Obligor further authorizes the Trustee and hereby irrevocably makes, constitutes and appoints the Trustee and any officer or agent thereof, with full power of substitution, as the Obligor's true and lawful attorney-in-fact with full power, in its own name or in the name of the Debenture Stockholders, upon the occurrence and continuance of an Event of Default, to

(i) immediately take ownership of the Trademarks and exercise all rights associated with the ownership of the Trademarks;

(ii) pay or discharge any taxes, liens, security interests or other encumbrances in respect of the Trademarks;

(iii) receive payment of, receipt for, settle, compromise or adjust and give discharges and releases for or in respect of any and all moneys, claims and other amounts due and to become due at any time under or in respect of the Trademarks; and

(iv) without demand of performance and without other notice (except as set forth next below), or demand whatsoever to the Obligor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in New York or elsewhere, the whole or from time to time any part of the Trademarks, or any interest that the Obligor may have therein.

(c) The Obligor and the Trustee agree that ten (10) days' notice to the Obligor of any public or private sale or other disposition of the Trademarks shall be reasonable notice thereof, and such sale shall be at such locations as the Trustee shall designate in such notice. Any other requirement of notice, demand or advertisement for sale is, to the extent permitted by law, waived by the Obligor. Proceeds arising from any such sale shall be applied in the manner set forth in Section 4.4 of the Security Trust.

(d) If any Event of Default exists, the Trustee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and any license thereunder, in which event the Obligor shall at the request of the Trustee do any and all lawful acts and execute any and all proper documents reasonably required by the Trustee in aid of such enforcement, and the Obligor shall promptly, upon demand, reimburse and indemnify the Trustee for all reasonable out of pocket costs and expenses incurred by the Trustee in the exercise of its rights under this Section 4.1(d).

(e) If any Event of Default exists, the Trustee may at all reasonable times, have access to, examine, audit, make copies (at the Obligor's expense) and extracts from and inspect the Obligor's premises and examine its books, records and operations relating to the Trademarks, including, without limitation, the Obligor's quality control processes; provided that, in conducting such inspections and examinations, the Trustee shall use reasonable efforts not to unnecessarily disturb the conduct of the Obligor's ordinary business operations. From and after the occurrence of any Event of Default, the Obligor agrees that the Trustee, or a conservator appointed by the Trustee, shall have the right to establish such reasonable additional product quality controls as the Trustee or such conservator, in its sole and absolute judgment, may deem necessary to assure maintenance of the quality of products sold by the Obligor under the Trademarks.

(f) The Obligor will pay to the Trustee, its agents, attorneys and counsel all of their respective reasonable out of pocket expenses (including court costs and reasonable attorneys' fees and expenses) of, or incident to, the enforcement of any of the provisions of this Agreement and all other charges due against the Trademarks including, without limitation, taxes, assessments, security interests, Liens or encumbrances upon the Trademarks and any expenses, including transfer or other taxes, arising in connection with any sale, transfer or other disposition of the Trademarks.

4.2 Other Enforcement Rights.

The Trustee may proceed to protect and enforce

(a) this Agreement by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement in this Agreement contained or in execution or aid of any power in this Agreement granted,

or for foreclosure under this Agreement, or for the appointment of a receiver or receivers for the Trademarks or any part thereof, for the recovery of judgment for the obligations secured by this Agreement or for the enforcement of any other proper, legal or equitable remedy available under applicable law; and

(b) the Trademarks by suits or proceedings in equity, at law or in bankruptcy and, if Trustee shall commence any such suit, the Obligor shall, at the request of the Trustee, take any and all lawful action and execute any and all proper documents required by the Trustee in aid of such protection or enforcement.

The Obligor shall, upon demand, promptly reimburse the Trustee for all reasonable costs and expenses incurred by the Trustee, its agents, attorneys and counsel in the exercise of its rights under this paragraph 4 (including, without limitation, reasonable fees and expenses of attorneys for the Trustee).

4.3 Application of Proceeds.

The proceeds of any exercise of rights with respect to the Trademarks, or any part thereof, and the proceeds and the avails of any remedy under this Agreement shall be paid to the Trustee and applied in accordance with the provisions of the Security Trust. If there is a deficiency, the Obligor shall remain liable therefor and shall forthwith pay the amount of any such deficiency to the Trustee.

SECTION 5. CUMULATIVE REMEDIES; POWER OF ATTORNEY

All of the Trustee's rights and remedies with respect to the Trademarks, whether established hereby, by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently. After the occurrence and during the continuance of an Event of Default, the Obligor hereby irrevocably designates, constitutes and appoints the Trustee (and all persons designated by the Trustee in its sole and absolute discretion) as the Obligor's true and lawful attorney-in-fact, and authorizes the Trustee and any of the Trustee's designees, in the Obligor's or the Trustee's name, to

(a) endorse the Obligor's names on all applications, documents, papers and instruments deemed necessary or desirable by the Trustee in the use of the Trademarks,

(b) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone on commercially reasonable terms,

(c) grant or issue any exclusive or nonexclusive license under the Trademarks or, to the extent permitted, under the Licenses, to anyone on commercially reasonable terms, and

(d) take any other actions with respect to the Trademarks as the Trustee deems in its best interest.

The Trustee shall take no action pursuant to subparagraphs (a), (b), (c) or (d) of this Section 5 without taking like action with respect to the entire goodwill of the Obligor's business connected

with the use of, and symbolized by, such Trademarks. The Obligor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until all of the Secured Obligations shall have been paid in full. The Obligor acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Trustee under the Security Trust, but rather is intended to facilitate the exercise of such rights and remedies. The Trustee shall have, in addition to all other rights and remedies given it by the terms of this Agreement, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located or deemed located.

SECTION 6. MISCELLANEOUS

6.1 *Communications.*

All communications under this Agreement shall be in writing and shall be made (i) to the Trustee at the address and in the manner provided in the Security Agreement and (ii) to the Obligor, by overnight courier as follows:

Tone Brothers, Inc.
2301 S.E. Tone's Drive
Ankeny, Iowa 50021

6.2 *Successors and Assigns.*

Whenever any of the parties to this Agreement is referred to, such reference shall be deemed to include the successors and assigns of such party, and all the covenants, promises and agreements in this Agreement shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

6.3 *Survival.*

All warranties, representations and covenants made by the Obligor in this Agreement and in the other Transaction Documents or in any certificate or other document or instrument delivered by it or on behalf of it under this Agreement or any other Transaction Document shall be considered to have been relied upon by the Trustee and each holder of the Secured Obligations and shall survive the delivery to each holder of Secured Obligations of any instrument or other document evidencing the same. This Agreement shall be binding upon the Obligor and inure to the benefit of and be enforceable by the Trustee for the benefit of itself and the Debenture Stockholders.

6.4 *Waiver and Amendment.*

No provision of this Agreement shall be waived, amended, modified or supplemented except by a written instrument executed by the Obligor and the Trustee.

6.5 *Partial Invalidity.*

The unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions contained in this Agreement unenforceable or invalid.

6.6 *Subject to Security Trust.*

Any and all rights granted to the Trustee under this Agreement are to be held and exercised by the Trustee, pursuant to the provisions of the Security Trust. Any and all obligations under this Agreement of the parties to this Agreement, and the rights and indemnities granted to the Trustee under this Agreement, are created and granted in furtherance (and not in limitation) of, the terms of the Security Trust and the rights and indemnities of the Trustee contained therein shall apply equally to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any Person other than the Obligor, the Trustee and the Debenture Stockholders any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or provision herein contained, and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Obligor and the Trustee for the benefit itself and of the Debenture Stockholders. Notwithstanding anything herein to the contrary, the Trustee shall exercise its rights and powers only as directed by the Majority Financiers as provided in the Security Trust.

6.7 *Duplicate Originals; Execution in Counterpart.*

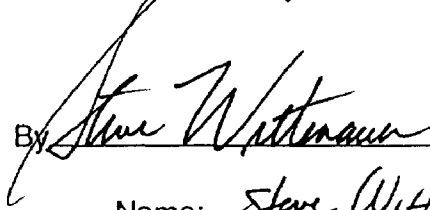
Two or more duplicate originals of this Agreement may be signed by the parties, each of which shall be an original but all of which together shall constitute one and the same instrument. This Agreement may be executed in one or more counterparts and shall be effective when at least one counterpart shall have been executed by each party to this Agreement, and each set of counterparts which, collectively, show execution by each party to this Agreement shall constitute one duplicate original.

[Remainder of page blank. Next page is signature page.]

IN WITNESS WHEREOF, the Obligor has caused this Agreement to be executed by an authorized officer, and Chase, as Co-Trustee, has caused this Agreement to be executed by an authorized officer, all as of the day and year first above written.

STONE BROTHERS, INC.

By



Name: Steve Wittenauer

Title: Vice President

THE CHASE MANHATTAN BANK,
as Co-Trustee

By

Name:

Title:

IN WITNESS WHEREOF, the Obligor has caused this Agreement to be executed by an authorized officer, and Chase, as Co-Trustee, has caused this Agreement to be executed by an authorized officer, all as of the day and year first above written.


TONE BROTHERS, INC.

By _____

Name:

Title:

**THE CHASE MANHATTAN BANK,
as Co-Trustee**

By  _____

Name:

Title:

Annette M. Marsula
Assistant Vice President