

04-21-1999



1/ER SHEET
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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Honorable Commissioner

ached original documents or copy thereof.

101015858

1. Name of conveying party(ies):

The Frozfruit Company

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

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

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

Name: Fleet Capital Corporation

Internal Address: _____

Street Address: 200 Glastonbury Blvd.

City: Glastonbury State: CT ZIP: 06033

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State Rhode Island
- Other _____

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

3. Nature of conveyance:

- Assignment
- Merger
- Amendment to Trademark Security Agreement
- Other _____

Execution Date: December 8, 1998

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

See "Tabbed" Exhibit 1 to Amendment to Trademark Security Agreement

Additional numbers attached Yes No

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

Name: Robert Stein

Internal Address: Wolf, Block, Schorr and Solis-Cohen LLP

Street Address: 250 Park Avenue, Room 1000

City: New York State: NY ZIP: 10177

6. Total number of applications and registrations involved:..... 15

7. Total fee (37 CFR 3.41).....\$ 390.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

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

12/31/1998 TTIM11 00000015 1191202

01 FD-481 40.00 OP
02 FD-482 350.00 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.

Peter T. Wakiyama
Name of Person Signing

12/22/98
Signature Date

Total number of pages including cover sheet, attachments, and document: 58

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

TRADEMARK
REEL: 1886 FRAME: 0001

Exhibit 1

Additional Trademarks

US Trademarks Registered with U.S. Patent and Trademark Office

	<u>Mark</u>	<u>Registration Number</u>	<u>Date Registered</u>	<u>Date Filed</u>	<u>Date of First Use</u>
1.	Nectar Pie	1,191,282	05/02/82		
2.	Simply Slim	1,936,180	11/14/95		
3.	Banana Bites	2,074,679	06/24/97		
4.	The Back Porch & Des.	1,196,488	05/25/82		
5.	The Back Porch	1,505,305	09/20/88		
6.	The Back Porch & Des.	1,508,634	10/11/88		
7.	Lemon Chill & Des.	1,606,621	07/17/90	08/28/89	01/89
8.	Cherry Chill & Des.	1,798,016	10/13/93	05/12/92	01/91
9.	Raspberry Chill (words only)	2,051,103	04/08/97	02/04/94	4/16/96
10.	Strawberry Chill & Des.	1,844,606	07/12/94	08/13/91	05/04/92
11.	Lime Chill (words only)	1,921,095	09/19/95	02/04/94	01/01/94
12.	Orange Chill (words only)	2,032,504	01/21/97	02/04/94	05/24/94
13.	Lemon Chill (words only)	1,945,098	01/02/96	06/13/94	01/89
14.	Strawberry Chill (words only)	2,063,895	05/20/97	06/20/95	04/30/92
15.	Chill (words only)	2,114,408	11/18/97	06/13/94	01/01/94

International Trademarks

“LEMON CHILL”

Canada	451,207	December 1, 1995	Filed 06/14/94 First use 5/13/94
Mexico	503,506	September 12, 1995	Filed 06/14/94

AMENDMENT TO TRADEMARK SECURITY AGREEMENT

THIS AMENDMENT, dated as of December 8, 1998 (this "Amendment") to the Trademark Security Agreement dated as of January 30, 1998, between the parties hereto (the "Trademark Security Agreement"), is executed by **THE FROZFRUIT COMPANY**, a Delaware corporation, having an address at 100 Willowbrook Road, Building 1, Freehold, NJ 07728 (the "Borrower"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender"). Terms which are capitalized herein and not otherwise defined shall have the meanings given to such terms in the Trademark Security Agreement.

WHEREAS, the Lender has made a loan to the Borrower in the original principal amount of \$6,000,000 (the "Demand Loan") and has made available to the Borrower a revolving line of credit (the "Line of Credit") in the original principal amount of \$3,500,000; and

WHEREAS, the Borrower has requested the Lender to provide acquisition financing for the Borrower to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cook Snacks LLC, as seller, Bruce Massman, its sole member, and the Borrower, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and the Borrower, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"); and

WHEREAS, the Lender has agreed to (x) make an additional loan to the Borrower ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding loans (the "Revolving Credit Loans") made pursuant to the Line of Credit into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A, collectively, the "New Loan") upon the fulfillment of certain terms and conditions; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the New Loan and the remaining principal balance of the Demand Loan, an Amended, Restated and Consolidated Demand Promissory Note in the aggregate principal amount of \$10,600,000, dated as of December 9, 1998 (as the same may be amended, modified, supplemented or restated from time to time, the "Amended, Restated and Consolidated Demand Promissory Note"); and

WHEREAS the Lender has requested, as a condition precedent to the making of the New Loan, that the Borrower execute and deliver this Amendment;

NOW, THEREFORE, in consideration of the premises and to induce the Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower hereby agrees with the Lender as follows:

SECTION 1. Confirmation and Reaffirmation of Liability.

The Borrower hereby confirms (a) that the new intellectual property interests being acquired by the Borrower on the date hereof after giving effect to the consummation of the transactions contemplated by the Purchase Agreements and listed on Exhibit 1 attached hereto shall secure all of the Revolving Loans and the New Loan under the terms of the Trademark Security Agreement, and (b) reaffirms its continuing obligations under the Trademark Security Agreement.

SECTION 2. Amendment.

Schedule A of the Trademark Security Agreement is hereby amended to include additional trademarks by deleting such Schedule A in its entirety and substituting therefor Schedule A attached hereto. The term "Loan", as used in the Trademark Security Agreement, shall be deemed to mean and refer to all of the Revolving Loans and the New Loan.

SECTION 3. Miscellaneous.

a. Status of the Trademark Security Agreement. Except as otherwise expressly provided herein, all terms and conditions of the Trademark Security agreement shall remain unchanged and continue in full force and effect. Each reference in the Loan Documents to the "Trademark Security Agreement", and any references in the Trademark Security Agreement to "this Agreement," "hereunder" or "herein" or words of similar import shall be deemed a reference to the Trademark Security Agreement, as amended hereby.

b. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

c. Governing Law. This Amendment is being delivered in and is intended to be performed in the State of New York and shall be construed and enforceable in accordance with, and be governed by, the internal laws of the State of New York without regard to principles of conflict of laws.

d. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions of this Amendment or affecting the validity, enforceability or authorization of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Borrower has caused this Amendment to be executed by its duly authorized officer as of the date first above written.

THE FROZFRUIT COMPANY

By: Robert Geiger
Name: ROBERT GEIGER
Title: VICE PRESIDENT

Accepted:

FLEET CAPITAL CORPORATION

By: Walter Schuppe
Name: WALTER SCHUPPE
Title: VP



As of December 8, 1998

The Frozfruit Company
100 Willowbrook Road
Building 1
Freehold, NJ 07728

Gentlemen:

Reference is made to the following: (i) the loan in the original principal amount of \$6,000,000 (the "Demand Loan") made by Fleet Capital Corporation ("FCC" or "us") to The Frozfruit Company (the "Borrower" or "you") on January 30, 1998, as evidenced by the Demand Promissory Note in such amount, dated as of January 30, 1998, executed by you and payable to the order of FCC (the "Demand Promissory Note") and (ii) the revolving loans in the aggregate principal amount of up to \$3,500,000 (the "Revolving Credit Loans") made by us to you, as evidenced by the Demand Line of Credit Note in such amount, dated as of January 30, 1998, executed by you and payable to the order of FCC (the "Demand Line of Credit Note").

You have advised us of your intention to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cool Snacks LLC, as seller, Bruce Massman, its sole member, and you, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and you, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"). In connection with the foregoing, you have requested us to consider providing acquisition financing to you, all of the proceeds of which would be used by you in the consummation of the transactions contemplated to occur under the Purchase Agreements.

We have considered your request, and we hereby agree to (x) make an additional loan to you ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding Revolving Credit Loans into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A,

DSN:34573.6

*Fleet Capital Corporation
60 East 42nd Street
New York, NY 10017
Tel 212 885-8800
A Member of Fleet Financial Group*

**TRADEMARK
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collectively, the "New Loan") upon the fulfillment of each of the following conditions (the "Closing Conditions"):

1. We shall have received executed originals or counterparts of each of the following documents or agreements:

- (a) an amended, restated and consolidated demand promissory note ("Amended and Restated Demand Promissory Note") in the principal amount of \$10,600,000, in the form of Exhibit A hereto, which shall amend and restate in its entirety the Demand Promissory Note;
- (b) an amendment, in the form of Exhibit B hereto, to the General Security Agreement dated as of January 30, 1998, executed by you in favor of FCC (the "General Security Agreement");
- (c) an amendment, in the form of Exhibit C hereto, to the Trademark Security Agreement dated as of January 30, 1998, executed by you in favor of FCC (the "Trademark Security Agreement");
- (d) an amendment, in the form of Exhibit D hereto, to the guaranty dated as of January 30, 1998, executed in favor of FCC by Stolberg, Meehan & Scano L.P. (the "Investor");
- (e) an reaffirmation, in the form of Exhibit E hereto, with respect to the Subordination Agreement dated as of January 30, 1998, executed in favor of FCC by the Investor; and
- (f) each other instrument, document, agreement, opinion and certificate listed in Schedule A annexed hereto.

2. There shall have been no material adverse change in the business, financial condition, assets, liabilities or collateral of (x) the Borrower since the date of the financial statements of the Borrower most recently received by us or (y) Moore since September 30, 1998.

3. There shall exist no default in any of the Borrower's obligations or in the Borrower's compliance with any applicable legal requirement.

4. The capital structure of the Borrower shall be in form and substance satisfactory to us and the Borrower shall have received from the Investor, or its affiliates, a capital contribution, in cash, in an aggregate amount not less than \$4,100,000, on terms and conditions satisfactory to us. To the extent that any portion of such capital contribution constitutes indebtedness, such indebtedness must be unsecured and non-amortizing, with interest payable only in kind, and must be subordinated in right of payment to the prior payment in full of all obligations, liabilities and indebtedness owing to FCC by the Borrower, on terms and conditions satisfactory to us.

5. We shall have been paid or reimbursed for all out-of-pocket costs and expenses paid or incurred by us in connection with the New Loan, including without limitation all of the reasonable fees and disbursements of our legal counsel, and all filing fees, recording fees, search fees, taxes and other similar fees, charges and disbursements.

6. The Purchase Agreements, and all instruments, documents, and agreements to be executed or delivered in connection therewith, shall have been executed or delivered by the parties thereto, the transactions contemplated to have occurred thereunder shall have been consummated, each condition precedent to each party's obligations thereunder shall have occurred and not been waived, and the corporate merger of Moore with and into the Borrower shall have become effective.

7. After giving effect to (i) the consummation of the New Loan, the equity contribution to the Borrower, as described in paragraph 4 hereof, and the consummation of the transactions contemplated to occur under each of the Purchase Agreements and (ii) the payment of all fees, costs and expenses to be paid by the Borrower in connection with the transactions described in clause (i) hereof, the Borrower's pro forma balance sheet shall reflect at least \$3,250,000 of unrestricted cash, in the aggregate, which, for purposes hereof, shall be calculated by inclusion of the undrawn principal amount of the Demand Line of Credit Note, as of the close of business on the date hereof.

8. We shall have received and reviewed to our satisfaction all appropriate tax, lien and judgment searches conducted in all requisite jurisdictions, as well as certificates of good standing and qualification for the Borrower and Moore in all appropriate jurisdictions.

Waiver. Effective upon the satisfaction of all of the Closing Conditions, FCC hereby waives the Borrower's compliance with the terms of Section 7.2.1 of the Demand Line of Credit Note, to the extent such terms would otherwise prohibit the Borrower's acquisition of the

"Assets", as defined in the Asset Purchase Agreement, or the "Shares" as defined in the Stock Purchase Agreement, or the corporate merger of Moore with and into the Borrower.

Reaffirmation of Indebtedness. The Borrower hereby confirms that the Demand Line of Credit Note continues to be valid and binding against it and enforceable against it in accordance with its terms. The Borrower confirms that, after FCC funds New Demand Loan A and converts and consolidates \$2,600,000 of the outstanding Revolving Credit Loans into New Demand Loan B, there is outstanding, due and payable to FCC under (i) the Amended and Restated Demand Promissory Note the unpaid principal amount of \$10,600,000, with accrued and unpaid interest thereon as at December 7, 1998, in the amount of \$8,667.83, and (ii) the Demand Line of Credit Note the unpaid principal amount of \$2,807,913.94, with accrued and unpaid interest thereon as at December 7, 1998, in the amount of \$4,065.93.

Confirmation of Security Interest; Grant of Security Interest. The Borrower confirms and reaffirms the grant to FCC of a continuing perfected lien on and security interest in (i) the Collateral, as defined in the General Security Agreement and (ii) the Trademarks and Trademark Licenses, as defined in the Trademark Security Agreement, and agrees that (x) the Collateral shall include, and FCC's lien and security interest shall extend to, all of the Assets acquired pursuant to the Asset Purchase Agreement and all of the assets and properties of Moore and (y) the Trademarks and Trademark Licenses shall include, and FCC's lien and security interest shall extend to, all of the intellectual property rights acquired pursuant to the Purchase Agreements, including without limitation, those set forth on Exhibits F hereto. Without limiting or modifying the foregoing, the Borrower hereby pledges, assigns and grants to FCC a continuing perfected lien on and security interest in all of the Borrower's right, title and interest in and to the Collateral, the Trademarks and the Trademark Licenses in order to secure the payment and performance of the Obligations, as defined in the General Security Agreement and the Trademark Security Agreement, each as amended.

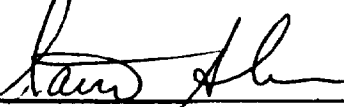
Post-Closing Obligations. Borrower agrees to deliver to the Lender as soon as possible, and in any event within 30 days from the date hereof, (i) a good standing certificate of the Borrower from the State of New Jersey, and (ii) UCC-3 termination statements, presentable for recordation in all appropriate jurisdictions, executed by Comerica Bank, releasing its security interest in and to all of the Assets. Failure by Borrower to deliver the foregoing documents and instruments within the 30-day period shall be an Event of Default under the Amended and Restated Demand Promissory Note and the Demand Line of Credit Note.

The Frozfruit Company
As of December 8, 1998
Page 5

This letter agreement shall be governed by and construed in accordance with the substantive laws of the State of New York, without regard to its conflicts of law principles. If the foregoing is acceptable to you and is in accordance with your understanding, kindly sign in the space below to so indicate.

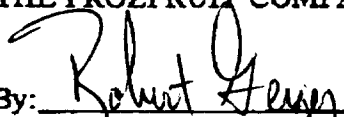
Very truly yours,

FLEET CAPITAL CORPORATION

By: 
Name: WALTER SCHUPPE
Title: VP

Read and Agreed to:

THE FROZFRUIT COMPANY

By: 
Name: ROBERT GEIGER
Title: VICE PRESIDENT

DSN:34573.5

** TOTAL PAGE.06 **

TRADEMARK
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SCHEDULE A

CLOSING DOCUMENT CHECKLIST

<u>Item No.</u>	<u>Document Description</u>	<u>Responsibility</u>
I.	DOCUMENTS RELATING TO CREDIT FACILITY	
1.	Letter Agreement between Lender and Borrower with respect to conditions precedent to funding and related issues, together with Exhibits	Wolf, Block, Schorr & Solis-Cohen ("WB")
2.	Demand Note for \$10,600,000	WB
3.	Notice of Borrowing on Closing Date, together with Schedule of payees and wiring instructions	WB/Borrower
4.	Amendment of General Security Agreement	WB
5.	Amendment of Trademark Security Agreement	WB
6.	Amendment of Guaranty of Stolberg, Meehan & Scano II, L.P. (the "Investor")	WB
7.	Security Interests	WB

UCC-1 financing statements to be filed in NJ, and UCC-3 amendments, covering all personal property of Borrower, together with Schedule of Collateral, to be filed in the following jurisdictions:

Secretary of State of California
Secretary of State of Florida
Secretary of State of New Mexico
Secretary of State of New York
Kings County, New York
Richmond County, New York
New York County, New York
Secretary of State of Pennsylvania
Montgomery County, Pennsylvania
Secretary of State of Texas
Secretary of State of Vermont

- | | |
|---|----------|
| 8. Statement of Capital Structure | Borrower |
| 9. Pro Forma Opening Balance Sheet | Borrower |
| 10. Statement of Sources and Uses of Cash | Borrower |
| 11. Insurance Documents | Borrower |

II. CAPITALIZATION DOCUMENTS

- | | |
|--|----------|
| 12. 33,500 Shares of Convertible Preferred Stock | Borrower |
| 13. Reaffirmation of Subordination Agreement with Investor | WB |

III. CORPORATE DOCUMENTS

- | | |
|--|----------|
| 14. Updated Certificates of Good Standing and/or authority to do business from Secretaries of State, with respect to Borrower in the following jurisdictions:

a. Delaware
b. California
c. Texas
d. New Jersey (post closing) | Borrower |
| 15. Certificate of Authorized Officer of Borrower, attaching (i) Certificate of Incorporation and By-Laws, (ii) resolutions authorizing the asset and stock acquisitions and the loan transaction, (iii) incumbency of officers and (iv) authenticity of signatures. | Borrower |
| 16. Certificate of Officer of Borrower certifying consummation of Purchase Agreements and the capital infusion. | Borrower |

IV. LEGAL OPINION(S)

- | | |
|--|----------|
| 17. General Corporate, Enforceability and Perfection in New York (Reboul, MacMurray) | Borrower |
|--|----------|

V. DOCUMENTS RELATING TO THE ACQUISITION

Borrower

18. Asset Purchase Agreement dated as of December 8, 1998 among M&B Cook Snacks LLC, Bruce Massman and The Frozfruit Company, together with all Amendments thereto, Schedules and Exhibits
19. Stock Purchase Agreement dated as of December 8, 1998 between Charles E. Moore III and The Frozfruit Company, together with all Amendments thereto, Schedules and Exhibits
20. Copy of Seller's Counsel's Opinion; Reliance Letter

VI. UCC MATTERS, TAX LIEN, TITLE AND JUDGMENT SEARCHES

Borrower

21. Pre-closing UCC, tax lien and judgment searches conducted centrally and locally with respect to sellers in each of the following jurisdictions:
 - a. Secretary of State of California
 - b. Los Angeles County, California
 - c. Secretary of State of Texas
 - d. Tarrant County, Texas

VII. DISCHARGE OF EXISTING INDEBTEDNESS

Borrower

22. Asset Acquisition
 - a. UCC-3 termination statements from Comerica Bank
23. Stock Acquisition
 - a. UCC-3 termination statements from Texas Bank

EXHIBIT A

**AMENDED, RESTATED AND CONSOLIDATED
DEMAND PROMISSORY NOTE**

	Date of Demand Promissory Note:	As of January 30, 1998
\$10,600,000	Effective Date of Amendment and Restatement of Demand Promissory Note:	As of December 8, 1998

FOR VALUE RECEIVED, THE FROZFRUIT COMPANY, a Delaware corporation (the "Borrower") having its principal office at 100 Willowbrook Road, Building 1, Freehold, NJ 07728, hereby promises to pay to the order of FLEET CAPITAL CORPORATION (the "Lender"), at its office located at 200 Glastonbury Blvd., Glastonbury, CT 06033, in immediately available funds, UPON THE LENDER'S DEMAND, the principal sum of TEN MILLION SIX HUNDRED THOUSAND DOLLARS and no cents (\$10,600,000), and to pay interest on the unpaid principal balance of this Amended, Restated and Consolidated Demand Promissory Note (the "Note") outstanding from time to time from the date hereof until payment in full at the interest rate, at the times and in the manner provided for herein. Terms which are capitalized herein shall have the meanings ascribed to them in Section One of this Note.

Section 1. Definitions.

As used herein, the following terms shall have the following meanings:

Additional Loan shall mean the \$2,000,000 loan made on December 8, 1998, by the Lender to the Borrower, the indebtedness in respect of which is evidenced by this Note.

Base Rate shall mean the rate of interest announced or quoted by Fleet National Bank from time to time as its prime rate or base rate for commercial loans, whether or not such rate is the lowest rate charged by such Bank to its most preferred borrowers, and if such rate for commercial loans is discontinued by such Bank as a standard, a comparable reference rate designated by such Bank as a substitute therefor shall be the Base Rate.

Base Rate Loan shall mean each Loan which bears interest based on the Base Rate.

Business Day shall mean a day other than a Saturday, Sunday or other day on which commercial banks in the State of Connecticut are authorized or required by law to close. When used in connection with any LIBOR Rate Loan, this definition shall also exclude any day on which commercial banks are not open for dealing in U.S. dollar deposits in the London, England interbank market.

Closing Date shall mean the date of execution and delivery of this Note.

Continuation shall have the meaning set forth in Section 5 of this Note.

Conversion shall have the meaning set forth in Section 5 of this Note.

Default shall mean the occurrence of any event which, with notice, lapse of time or both, would become an Event of Default.

Events of Default shall have the meaning set forth in Section 8 of this Note.

GAAP shall mean generally accepted accounting principles and procedures in effect in the United States of America.

Guarantor shall mean Stolberg, Meehan & Scano II, L.P., a Delaware limited partnership.

Interest Period shall mean, for any LIBOR Rate Loan, the period commencing on the date of the borrowing thereof and ending on the last day of the period selected by the Borrower pursuant to the provisions contained in Section 5 of this Note. The duration of each such Interest Period shall be for 30, 60, 90 or 180 days, in each case as the Borrower may select, pursuant to an appropriate notice of Continuation or notice of Conversion, except as otherwise provided in Section 5 of this Note. Whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended so as to occur on the next succeeding Business Day; provided, however, if such extension would cause the last day of such Interest Period to occur during the next following calendar month, the last day of such Interest Period shall occur on the next preceding Business Day.

Lending Office shall mean the Lender's office located at 200 Glastonbury Boulevard, Glastonbury, Connecticut 06033, or such other office as the Lender may designate in writing from time to time to the Borrower.

LIBOR Rate shall mean, with respect to the Interest Period applicable to the borrowing of a LIBOR Rate Loan, the rate obtained (rounded upwards to the nearest 1/100 of 1%) by dividing (i) the rate of interest per annum offered to Fleet National Bank in the London interbank foreign currency deposits market as of approximately 12:00 noon (New York City time) two (2) Business Days prior to the commencement of such Interest Period for U.S. dollar deposits

of amounts in immediately available funds comparable to the principal amount of the LIBOR Rate Loan for which the LIBOR Rate is being determined with maturities comparable to the Interest Period for which such LIBOR Rate will apply, by (ii) an amount equal to 1 minus the stated reserve (expressed as a decimal), if any, required to be maintained against "Eurocurrency liabilities" as specified in Regulation D of the Board of Governors of the Federal Reserve System as from time to time shall be in effect (or against any other category of liabilities, which includes deposits, by reference to which the interest rate on LIBOR Rate Loans is determined or any category of extensions of credit on other assets, which includes loans by a non-U.S. office of Fleet National Bank or the Lender to U.S. residents). In the absence of manifest error, each determination by the Lender of the applicable LIBOR Rate shall be deemed conclusive.

LIBOR Rate Loan shall mean each Loan which bears interest based on the LIBOR Rate.

Line of Credit Note shall mean the Demand Line of Credit Note in the original principal amount of \$3,500,000 dated as of January 30, 1998, executed by the Borrower and payable to the Lender.

Loan or Loans shall mean all, or any portion of, the \$10,600,000 loan from the Lender to the Borrower, made pursuant to and evidenced by this Note, made either as Base Rate Loans or LIBOR Rate Loans.

Loan Documents shall mean this Note, the Line of Credit Note, the General Security Agreement between the Borrower and the Lender, the Trademark Security Agreement between the Borrower and the Lender, the Guaranty and the Subordination Agreement, each executed in favor of the Lender by the Guarantor, and each other instrument, document and agreement executed or delivered by the Borrower or the Guarantor in connection with this Note, each, with the exception of this Note, dated as of January 30, 1998, as each may be hereafter amended, modified, supplemented or restated from time to time.

Obligations shall mean the principal of, all interest accrued on, and the premium, if any, payable in respect of, the Loan, and all other indebtedness, liabilities, obligations, covenants and duties, together with all interest, fees and other charges thereon, owing, arising, due or payable from the Borrower to the Lender of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, whether arising under this Note, the Line of Credit Note or any of the other Loan Documents, whether direct or indirect (including those acquired by assignment), absolute or contingent, primary or secondary, due or to become due, now existing or hereafter arising and however acquired.

Original Note shall mean the Demand Promissory Note dated as of January 30, 1998, in the original principal amount of \$6,000,000 executed by the Borrower in favor of the Lender.

Person shall mean an individual, partnership, corporation, limited liability company, joint stock company, land trust, business trust, or unincorporated organization, or a government or agency or political subdivision thereof.

Purchase Agreements shall mean the Asset Purchase Agreement dated as of December 8, 1998, among M&B Cool Snacks LLC, Bruce Massman and Borrower, and the Stock Purchase Agreement dated as of December 8, 1998, between Charles E. Moore III and Borrower.

Type shall mean, with respect to any Loan, whether such Loan is a Base Rate Loan or a LIBOR Rate Loan.

Section 2. Interest.

2.1 Rates of Interest. At the Borrower's election, interest shall accrue on the unpaid principal balance of the Loans evidenced by this Note, outstanding at the end of each day, at (i) a fluctuating rate per annum equal to the Base Rate or (ii) a fixed rate per annum equal to the LIBOR Rate plus an interest rate margin of two and one-half per cent (2.50%). The rate of interest shall increase or decrease by an amount equal to any increase or decrease in the Base Rate, effective as of the opening of business on the day that any such change in the Base Rate occurs.

2.2 Default Rate of Interest. Upon and after the occurrence of an Event of Default, and during the continuation thereof, interest shall accrue on the unpaid principal balance of this Note, and on all overdue interest payable hereunder, at a rate per annum equal to two per cent (2%) plus the Base Rate.

2.3 Maximum Interest. In no event whatsoever shall the aggregate of all amounts deemed interest hereunder and charged or collected pursuant to the terms of this Note exceed the highest rate permissible under any law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. If any provisions of this Note are in contravention of any such law, such provisions shall be deemed amended to conform thereto.

2.4 Computation and Payment of Interest. Interest charged hereunder shall be calculated daily and shall be computed on the actual number of days elapsed over a year of 360 days. Interest shall be due and payable monthly, in arrears, and shall be paid by the Borrower to the Lender on the first day of each month. The Borrower hereby authorizes the Lender to charge when due the Borrower's account established in connection with the Line of Credit Note with all payments of interest, fees and other Obligations payable under this Note.

Section 3. Payment of this Note Prior to Demand. Subject to the terms of Section 4 of this Note, the Borrower may pay the outstanding principal balance of this Note, in whole or in part, without penalty or premium, in minimum increments of \$100,000 each. Any amounts paid hereunder may not be reborrowed thereafter. The Borrower shall give the Lender at least two Business Days' irrevocable notice of any such payment, specifying the date and amount of

such payment. The payment amount specified in such notice shall be due and payable on the date specified, together with accrued interest to such date on the amount so paid. All items of payment received by the Lender by 1:00 P.M., New York City time, on any Business Day shall be deemed received on that Business Day. All items of payment received after 1:00 P.M., New York City time, on any Business Day shall be deemed received on the following Business Day.

Section 4. Charges and Expenses.

4.1 Reimbursement of Expenses. If, at any time or times, regardless of whether or not an Event of Default then exists, the Lender incurs reasonable legal or reasonable accounting expenses or any other reasonable costs or reasonable out-of-pocket expenses in connection with (i) the negotiation and preparation of this Note or any of the other Loan Documents, any amendment of or modification of this Note or any of the other Loan Documents; (ii) the administration of the Loans evidenced by this Note or any of the other Loan Documents and the transactions contemplated hereby and thereby (exclusive of expenses consisting of overhead and salaries); (iii) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Lender, the Borrower or any other Person) in any way relating to any collateral, this Note or any of the other Loan Documents or the Borrower's affairs; (iv) any attempt to enforce any rights of the Lender against the Borrower or any other Person which may be obligated to the Lender by virtue of this Note or any of the other Loan Documents, including, without limitation, any account debtor of the Borrower; or (v) any attempt to inspect, verify, protect, preserve, restore, collect, sell, liquidate or otherwise dispose of or realize upon any collateral; then all such legal and accounting expenses, other costs and out of pocket expenses of the Lender shall be payable by the Borrower, and chargeable to its account with the Lender. All amounts chargeable to the Borrower under this Section 4.1 shall be Obligations secured by all of the collateral for this Note, shall be payable on demand to the Lender and shall bear interest from the date such demand is made until paid in full at the Base Rate as in effect from time to time. The Borrower agrees to reimburse the Lender for reasonable expenses incurred by the Lender in its administration of the collateral for the Loans.

4.2 Bank Charges. The Borrower agrees to pay to the Lender, on demand, any and all fees, costs or expenses which the Lender pays to a bank or other similar institution arising out of or in connection with (i) the forwarding to the Borrower or any other Person on behalf of the Borrower, by the Lender, of proceeds of Loans and (ii) the depositing for collection, by the Lender of any check or item of payment received or delivered to the Lender on account of the Obligations.

4.3 Change of Law. Notwithstanding any other provision herein, if any change in any "Requirement of Law" or in the interpretation or application thereof shall make it unlawful for the Lender to make or maintain LIBOR Rate Loans as contemplated by this Note, then (i) the obligation of the Lender to make LIBOR Rate Loans, continue LIBOR Rate Loans as such and convert Base Rate Loans to LIBOR Rate Loans forthwith shall be cancelled and (ii) any Loans then outstanding as LIBOR Rate Loans automatically shall be converted to Base Rate Loans on the

respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a LIBOR Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to the Lender such amounts, if any, as may be required pursuant to Section 5 of this Note. As used herein, the term "Requirement of Law" shall mean as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other governmental authority, in each case applicable to or binding upon such Person or any of its property or pursuant to which such Person or any of its property is subject.

4.4 Capital Adequacy Charge. If the Lender shall have reasonably determined that the adoption of any law, rule or regulation regarding capital adequacy, or any change therein or in the interpretation or application thereof, or required compliance by the Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any central bank or governmental authority, does or shall have the effect of reducing the rate of return on the Lender's capital as a consequence of its obligations hereunder to a level below that which the Lender could have achieved but for such adoption, change or compliance (taking into consideration the Lender's policies with respect to capital adequacy) by a material amount, then from time to time, after submission by the Lender to the Borrower of a written demand therefor, the Borrower agrees to pay to the Lender such additional amount or amounts as will compensate the Lender for such reduction. A certificate of the Lender claiming entitlement to payment as set forth above shall be delivered to the Borrower and shall be conclusive in the absence of manifest error. Such certificate shall set forth the nature of the occurrence giving rise to such reduction, the additional amount or amounts to be paid to the Lender, and the method by which such amounts were determined. In determining such amount, the Lender may use any reasonable averaging and attribution method.

Section 5. Special Provisions Relating to LIBOR Rate Loans.

5.1 Notice of Continuation and Notice of Conversion.

(A) Subject to the provisions of paragraph (C) hereof, the Borrower may elect to maintain any borrowing consisting of LIBOR Rate Loans, or any portion thereof, as a LIBOR Rate Loan by selecting a new Interest Period for such borrowing, which new Interest Period shall commence on the last day of the then existing Interest Period, provided that no Default or Event of Default shall have occurred and be continuing on the date upon which notice of a proposed Continuation (as hereafter defined) is given. Each selection of a new Interest Period (a "Continuation") shall be made on three (3) Business Days' prior notice, given by the Borrower to the Lender not later than 12:00 noon (New York City time) on the third Business Day preceding the date of any proposed Continuation. If the Borrower shall fail to select a new Interest

Period for any borrowing consisting of LIBOR Rate Loans in accordance with this paragraph (A), each such LIBOR Rate Loan shall automatically convert into a Base Rate Loan.

(B) Subject to the provisions of paragraph (C) hereof, the Borrower may convert the entire amount of or a portion of all Loans of the same Type into Loans of the other Type (a "Conversion"), provided, that (i) no Default or Event of Default shall have occurred and be continuing, (ii) any Conversion of Base Rate Loans into LIBOR Rate Loans such may only be made upon three (3) Business Days' prior notice given to the Lender, and (iii) any Conversion of any LIBOR Rate Loans into Base Rate Loans may only be made on the last day of the Interest Period for such LIBOR Rate Loans, and upon Conversion of any Base Rate Loans into LIBOR Rate Loans, the Borrower shall pay accrued interest to the date of Conversion on the principal amount converted on the first day of the following month. Each such notice of Conversion of a Base Rate Loan to a LIBOR Rate Loan shall be given not later than 12:00 noon (New York City time) on the third Business Day preceding the date of any proposed Conversion. Each Conversion of Base Rate Loans into LIBOR Rate Loans shall be in an aggregate amount of not less than \$100,000. The Borrower may elect to convert the entire amount of or a portion of all Loans of the same Type comprising more than one borrowing into Loans of the other Type by combining such borrowings into one borrowing consisting of Loans of such other Type; provided, however, that if the borrowings so combined consist of LIBOR Rate Loans, such LIBOR Rate Loans shall have Interest Periods ending on the same date.

(C) Notwithstanding anything contained in paragraphs (A) and (B) above to the contrary:

- (i) if the Lender reasonably determines that adequate and fair means do not otherwise exist for ascertaining the LIBOR Rate for LIBOR Rate Loans comprising any requested borrowing, Continuation or Conversion, the right of the Borrower to select or maintain LIBOR Rate Loans for such borrowing or any subsequent borrowing shall be suspended until the Lender shall notify the Borrower that the circumstances causing such suspension no longer exist, and each Loan comprising such requested borrowing, Continuation or Conversion shall be automatically converted into a Base Rate Loan;

- (ii) if at any time the Lender shall notify the Borrower in good faith that the LIBOR Rate for Loans comprising such borrowing will not adequately reflect the cost to the Lender of making such Loans, the right of the Borrower to select, maintain, continue or convert to LIBOR Rate Loans for any borrowing shall be suspended until the Lender shall notify the Borrower that the circumstances causing such suspension no longer exist, and each Loan comprising such borrowing shall be automatically converted into a Base Rate Loan; and
- (iii) there shall not be outstanding at any one time, under both this Note and the Line of Credit Note, more than five (5) Loans, in the aggregate, bearing interest based on the LIBOR Rate.

(D) Each notice of Continuation or Conversion shall be irrevocable and binding on the Borrower. In the case of (i) any borrowing of a Loan, Continuation or Conversion that the related notice of borrowing, notice of Continuation or notice of Conversion specifies is to be comprised of LIBOR Rate Loans or (ii) any payment of principal of, or Conversion or Continuation of, any LIBOR Rate Loan made other than on the last day of the Interest Period for such Loan as a result of a payment, prepayment, Conversion or Continuation of such Loan or demand by the Lender for payment of the Obligations, or for any other reason, then in any such case, upon the Lender's demand, the Borrower shall pay to the Lender and indemnify the Lender from and against (a) any cost or expense incurred by the Lender as a result of any failure to fulfill, on or before the date for such borrowing, Continuation or Conversion, and (b) any additional costs or expenses which the Lender may reasonably incur as a result of such payment, including, without limitation in each such case, any cost or expense incurred by reason of the liquidation or redeployment of deposits or other funds acquired by the Lender to fund the LIBOR Rate Loans requested by the Borrower to be made as part of such borrowing, Continuation or Conversion.

Section 6. Representations and Warranties. To induce the Lender to make the Loan evidenced by this Note, the Borrower makes the representations and warranties to the Lender set forth below. All such representations and warranties shall survive the execution, delivery and acceptance of this Note by the Lender and the closing of the transactions related thereto.

6.1 Organization and Qualification. The Borrower is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware. The Borrower is in good standing in all states and jurisdictions where failure to be so qualified would have a material adverse effect on the business or financial condition of the Borrower.

6.2 Corporate Power and Authority. The Borrower is duly authorized and empowered to execute, deliver and perform its obligations under this Note and each of the other Loan Documents to which it is a party. The execution, delivery and performance of this Note and each of the other Loan Documents to which the Borrower is a party have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of the shareholders of the Borrower; (ii) contravene the Borrower's charter, articles or certificate of incorporation or by-laws; (iii) violate, or cause the Borrower to be in default under, any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award in effect having applicability to the Borrower; (iv) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which the Borrower is a party or by which it or its properties may be bound or affected; or (v) result in, or require, the creation or imposition of any lien upon or with respect to any of the properties now owned or hereafter acquired by the Borrower, except in favor of the Lender.

6.3 Legally Enforceable Promissory Note. This Note is, and each of the other Loan Documents to which the Borrower is a party, when delivered by the Borrower, will be, a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its respective terms.

6.4 Full Disclosure. The financial information pertaining to the Guarantor and to the Borrower, and, to the best of the knowledge of the Borrower, the financial information pertaining to M&B Cool Snacks LLC, a California limited liability company, and to Moore Enterprises, Inc., a Texas corporation, previously delivered by the Borrower or the Guarantor to the Lender, does not contain, nor does any other written statement of the Borrower or the Guarantor to the Lender contain, any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein not misleading. There is no fact which the Borrower has failed to disclose to the Lender in writing which materially affects adversely or, so far as the Borrower can now foresee, will materially affect adversely, the business, prospects, profits or condition (financial or otherwise) of the Borrower or the ability of the Borrower to perform its obligations under this Note or the other Loan Documents.

6.5 Solvent Financial Condition. The Borrower is now and, after giving effect to the Loan to be made pursuant to this Note at all times will be, solvent.

6.6 Governmental Consents. The Borrower has, and is in good standing with respect to, all material governmental consents, approvals, licenses, authorizations, permits, certificates, inspections and franchises necessary to continue to conduct its business as heretofore or

proposed to be conducted by it and to own or lease and operate its property as now owned or leased by it.

6.7 Compliance with Laws. The Borrower has duly complied with, and its property, business operations and leaseholds are in compliance in all material respects with, the provisions of all federal, state and local laws, rules and regulations applicable to the Borrower, its property or the conduct of its business and there have been no citations, notices or orders of noncompliance issued to the Borrower under any such law, rule or regulation. No inventory has been produced in violation of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), as amended.

6.8 Restrictions. The Borrower is not a party or subject to any contract, agreement, or charter or other corporate restriction, which materially and adversely affects its business or the use or ownership of any of its property. The Borrower is not a party or subject to any contract or agreement which restricts its right or ability to incur indebtedness, other than this Note.

6.9 Litigation. There are no actions, suits, proceedings or investigations pending, or to the knowledge of the Borrower, threatened, against or affecting the Borrower, or the business, operations, property, prospects, profits or condition of the Borrower. The Borrower is not in default with respect to any order, writ, injunction, judgment, decree or rule of any court, governmental authority or arbitration board or tribunal.

6.10 No Defaults. No event has occurred and no condition exists which would, upon or after the execution and delivery of this Note or the Borrower's performance hereunder, constitute a Default or an Event of Default. The Borrower is not in default, and no event has occurred and no condition exists which constitutes, or which with the passage of time or the giving of notice or both would constitute, a default in the payment of any indebtedness to any Person for money borrowed.

6.11 Minimum Liquidity. On the Closing Date, after giving effect to (i) the consummation of the Additional Loan, the capital contribution made by the Guarantor to the Borrower and the consummation of the transactions contemplated to occur under the Purchase Agreements and (ii) the payment of all fees, costs and expenses to be paid by the Borrower in connection with the transactions described in clause (i) hereof, the Borrower's pro forma balance sheet shall reflect at least \$3,250,000 of "unrestricted cash", in the aggregate, which, for purposes hereof, shall be calculated by inclusion of the undrawn principal amount of the Line of Credit Note as of the close of business on the Closing Date.

Section 7. Covenants.

7.1 Affirmative Covenants. The Borrower covenants that until such time as all Obligations are paid and satisfied in full, unless otherwise consented to by the Lender in writing, the Borrower shall:

7.1.1 Visits and Inspections. Permit representatives of the Lender, from time to time, as often as may be reasonably requested, but only during normal business hours, to visit and inspect the property of the Borrower, inspect, audit and make extracts from its books and records, and discuss with its officers, its employees and its independent accountants, the Borrower's business, assets, liabilities, financial condition, business prospects and results of operations.

7.1.2 Notices. Promptly notify the Lender in writing of the occurrence of any event or the existence of any fact which renders any representation or warranty in this Note or in any of the other Loan Documents inaccurate, incomplete or misleading.

7.1.3 Financial Statements. Keep adequate records and books of account with respect to its business activities in which proper entries are made in accordance with GAAP reflecting all its financial transactions, and cause to be prepared and furnished to the Lender (a) not later than 20 days after the end of each month hereafter, unaudited interim financial statements of the Borrower as of the end of such month and of the portion of the Borrower's fiscal year then elapsed, certified by the chief financial officer of the Borrower as prepared in accordance with GAAP and fairly presenting the financial position, results of operations and statement of cash flows of the Borrower for such month and period subject only to changes from audit and year-end adjustments and except that such statements need not contain notes (all to be prepared in accordance with GAAP applied on a consistent basis, unless the Borrower's certified public accountants concur in any change therein and such change is disclosed to the Lender and is consistent with GAAP) and (b) such other data and information (financial and otherwise) as the Lender, from time to time, may reasonably request, bearing upon or related to the Borrower's financial condition or results of operations.

7.2 Negative Covenants. The Borrower covenants that until such time as all Obligations are paid and satisfied in full, unless the Lender has first consented thereto in writing, the Borrower shall not:

7.2.1 Mergers; Consolidations; Acquisitions. Merge or consolidate with any Person, nor acquire all or any substantial part of the properties of any Person.

7.2.2 Loans. Make any loans or other advances of money (other than for salary, travel advances, advances against commissions and other similar advances in the ordinary course of business) to any Person.

7.2.3 Total Indebtedness. Create, incur, assume, or suffer to exist, any indebtedness, except:

- (i) Obligations owing to the Lender;
- (ii) subordinated indebtedness in the principal amount of \$5,000,000, plus accrued interest thereon, owing by the Borrower to the Guarantor;

(iii) indebtedness in the principal amount of up to \$750,000 owing by the Borrower to Moore Enterprises, Inc., a Texas corporation;

(iv) accounts payable to trade creditors and current operating expenses which are not aged more than 120 days from billing date or more than 30 days from the due date, in each case incurred in the ordinary course of business and paid within such time period, unless the same are being actively contested in good faith and by appropriate and lawful proceedings; and the Borrower shall have set aside such reserves, if any, with respect thereto as are required by GAAP and deemed adequate by the Borrower and its independent accountants; and

(v) contingent liabilities arising out of endorsements of checks and other negotiable instruments for deposit or collection in the ordinary course of business.

7.2.4 Affiliate Transactions. Enter into, or be a party to, any transaction with any affiliate or stockholder of the Borrower, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's business and upon fair and reasonable terms which are fully disclosed to the Lender and are no less favorable to the Borrower than would obtain in a comparable arm's length transaction with a Person not an affiliate or stockholder of the Borrower.

7.2.5 Distributions. Declare or make (i) any payment of any dividends or other distributions on capital stock of the Borrower or (ii) redeem or acquire shares of such stock.

7.2.6 Investments. Make or have any investment in cash or by delivery of property to any Person, whether by acquisition of stock, indebtedness or other obligation, or by loan, advance, capital contributions or otherwise.

Section 8. Events of Default. Each of the following shall constitute an Event of Default under this Note:

(a) The Borrower shall fail to pay when due any installment of principal of or interest on this Note.

(b) The Borrower shall fail to pay any of the Obligations that are not evidenced by this Note on the due date thereof (whether due at stated maturity, on demand, upon acceleration or otherwise).

(c) Any representation, warranty or other statement made or furnished to the Lender by or on behalf of the Borrower, in this Note, any of the other Loan Documents or any instrument, certificate or financial statement furnished in compliance with or in reference thereto proves to have been false or misleading in any material respect when made or furnished.

(d) The Borrower shall fail or neglect to perform, keep or observe any covenant contained in this Note (other than a covenant which is dealt with specifically elsewhere in this Section) and the breach of such other covenant is not cured to the Lender's satisfaction within 15 days after the sooner to occur of the Borrower's receipt of notice of such breach from the Lender or the date on which such failure or neglect first becomes known to any officer of the Borrower.

(e) Any event of default shall occur under, or the Borrower shall default in the performance or observance of any term, covenant, condition or agreement contained in, any of the other Loan Documents and such default shall continue beyond any applicable grace period.

(f) There shall occur any default or event of default on the part of the Borrower under any agreement, document or instrument to which the Borrower is a party or by which the Borrower or any of its property is bound, creating or relating to any indebtedness (other than the Obligations) if the payment or maturity of such indebtedness is accelerated in consequence of such event of default or demand for payment of such indebtedness is made.

(g) The Borrower or the Guarantor shall cease to do business, take steps to wind-up or dissolve or shall cease to be solvent or shall suffer the appointment of a receiver, trustee, custodian or similar fiduciary, or shall make an assignment for the benefit of creditors, or any petition for an order for relief shall be filed by or against the Borrower or the Guarantor under the U.S. Bankruptcy Code (if against the Borrower or the Guarantor, the continuation of such proceeding for more than 30 days), or the Borrower or the Guarantor shall make any offer of settlement, extension or composition to their respective unsecured creditors generally.

(h) The Guarantor shall cease to own and control, beneficially and of record, at least seventy-five percent (75%) of the issued and outstanding capital stock of the Borrower.

(i) The Guarantor shall revoke or attempt to revoke the instrument of guaranty signed by the Guarantor, in favor of the Lender, dated as of even date herewith, or shall repudiate its liability thereunder or shall be in default under the terms thereof.

Upon the occurrence and during the continuance of an Event of Default described in paragraph (g) above, the then outstanding principal balance of this Note, and all accrued and unpaid interest thereon, shall automatically and immediately become due and payable, without notice, protest, or demand of any kind. Upon the occurrence and during the continuance of any other Event of Default, the Lender, in its sole and absolute discretion may declare the then outstanding principal balance of this Note, and all accrued and unpaid interest thereon, to be due and payable in full, whereupon the outstanding principal balance of this Note, and all such accrued and unpaid interest, shall be immediately due and payable in full, without notice, protest or demand of any kind.

Section 9. Miscellaneous.

(a) This Note shall be binding on the Borrower, its successors and assigns and shall inure to the benefit of the Lender, its successors and assigns. Both principal and interest on this Note are payable to the Lender at its Lending Office in lawful money of the United States in immediately available funds, and may be charged to any account maintained by the Borrower with the Lender as and when due and payable. No amendment or modification or waiver of any provision of this Note shall be effective unless it is in writing and signed by the Lender and the Borrower.

(b) Unless otherwise indicated, all notices and other communications in connection with this Note shall be in writing and delivered or mailed, first class mail, postage prepaid, if to the Borrower at the address appearing in the first paragraph of this Note, and if to the Lender at its address appearing in the first paragraph of this Note.

(c) no provision of this Note may be waived or discharged orally, by course of dealing or otherwise, except in writing duly executed by the holder hereof.

(c) This Note constitutes an amendment to and restatement of the Original Note under which there is outstanding as the date hereof a principal amount of \$6,000,000, plus accrued interest. This Note also evidences a consolidation of the outstanding indebtedness under the Original Note, the indebtedness arising from the making of the Additional Loan, and \$2,600,000 of the indebtedness arising under the Line of Credit Note. In no way shall this Note evidence or be deemed to evidence a discharge, repayment or extinguishment of the Original Note or the indebtedness or any portion thereof evidenced thereby to the extent that such indebtedness remains outstanding and unpaid as of the date hereof. This Note constitutes an amendment to the Original Note to the extent set forth herein and a restatement in full of the Original Note. From and after the date hereof, all references to the Demand Promissory Note in the Loan Documents shall be deemed to mean this Note, and this Note shall be subject to all of the provisions of the Loan Documents applicable to the Original Note.

(e) FOR PURPOSES OF ANY ACTION, SUIT OR PROCEEDING IN CONNECTION WITH THIS NOTE, THE BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF COURTS OF THE STATE OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND IRREVOCABLY AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT BY THE LENDER IN ANY SUCH STATE OR FEDERAL COURT AND THAT SERVICE OF PROCESS MAY BE MADE UPON THE BORROWER BY MAILING A COPY OF THE SUMMONS TO THE BORROWER, BY REGISTERED OR CERTIFIED MAIL, AT ITS ADDRESS SPECIFIED FOR THE GIVING OF NOTICES TO IT HEREUNDER. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE LENDER TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE

BORROWER IN ANY OTHER JURISDICTION OR TO SERVE PROCESS IN ANY MANNER PERMITTED BY APPLICABLE LAW. IN ANY SUCH ACTION, SUIT OR PROCEEDING THE BORROWER AND THE LENDER (BY ITS ACCEPTANCE OF THIS NOTE) MUTUALLY WAIVE TRIAL BY JURY, AND THE BORROWER WAIVES ANY OBJECTION THAT ANY SUCH STATE OR FEDERAL COURT IS AN INCONVENIENT FORUM.

(f) THE BORROWER ACKNOWLEDGES AND AGREES THAT THIS NOTE IS PAYABLE ON DEMAND, THAT NO PROVISION HEREOF OR OF ANY OTHER AGREEMENT BETWEEN THE BORROWER AND THE LENDER IS INTENDED TO OR SHALL IN ANY WAY LIMIT, PREJUDICE OR OTHERWISE AFFECT THE DEMAND NATURE OF THIS NOTE, AND THAT THE LENDER SHALL HAVE THE ABSOLUTE RIGHT TO DEMAND PAYMENT OF THIS NOTE IN ITS DISCRETION, REGARDLESS OF THE EXISTENCE OF ANY PROVISION HEREOF OR ANY COMPLIANCE OR NON-COMPLIANCE BY THE BORROWER WITH ANY SUCH PROVISION.

(g) THE BORROWER WAIVES ANY REQUIREMENT OF PRESENTMENT, PROTEST, NOTICE OF DISHONOR OR FURTHER NOTICE OF ANY KIND IN CONNECTION WITH THE ENFORCEMENT OF THIS NOTE AND AGREES TO PAY ALL COSTS OF ENFORCEMENT HEREOF (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES).

(h) THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT REFERENCE TO CHOICE OR CONFLICT OF LAWS RULES THAT WOULD OTHERWISE APPLY.

THE FROZFRUIT COMPANY

By: _____
Name:
Title:

EXHIBIT B

FORM OF AMENDMENT TO GENERAL SECURITY AGREEMENT

THIS AMENDMENT, dated as of December 8, 1998 (this "Amendment") to the General Security Agreement dated as of January 30, 1998, between the parties hereto (the "General Security Agreement"), is executed by **THE FROZFRUIT COMPANY**, a Delaware corporation, having an address at 100 Willowbrook Road, Building 1, Freehold, NJ 07728 (the "Borrower"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender"). Terms which are capitalized herein and not otherwise defined shall have the meanings given to such terms in the General Security Agreement.

WHEREAS, the Lender has made a loan to the Borrower in the original principal amount of \$6,000,000 (the "Demand Loan") and has made available to the Borrower a revolving line of credit (the "Line of Credit") in the original principal amount of \$3,500,000; and

WHEREAS, the Borrower has requested the Lender to provide acquisition financing for the Borrower to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cook Snacks LLC, as seller, Bruce Massman, its sole member, and the Borrower, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and the Borrower, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"); and

WHEREAS, the Lender has agreed to (x) make an additional loan to the Borrower ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding loans (the "Revolving Credit Loans") made pursuant to the Line of Credit into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A, collectively, the "New Loan") upon the fulfillment of certain terms and conditions; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the New Loan and the remaining principal balance of the Demand Loan, an Amended, Restated and Consolidated Demand Promissory Note in the aggregate principal amount of \$10,600,000, dated as of December 8, 1998 (as the same may be amended, modified, supplemented or restated from time to time, the "Amended, Restated and Consolidated Demand Promissory Note"); and

WHEREAS the Lender has requested, as a condition precedent to the making of the New Loan, that the Borrower execute and deliver this Amendment;

NOW, THEREFORE, in consideration of the premises and to induce the Lender to make the New Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower hereby agrees with the Lender as follows:

SECTION 1. Confirmation of Security Intent.

The Borrower hereby confirms that all of the assets and properties and interests in assets and properties being acquired by the Borrower on the date hereof, after giving effect to consummation of the transactions contemplated by the Purchase Agreements, constitute Collateral, and the Lender's lien thereon and security interest therein shall secure all of the Revolving Loans and the New Loan under the terms of the General Security Agreement.

SECTION 2. Amendment.

Exhibit A to the General Security Agreement (Chief Executive Office, Other Places of Business, Collateral Locations) is hereby amended to include additional locations of collateral by deleting Exhibit A in its entirety and substituting therefor Exhibit A attached hereto. The General Security Agreement is further amended to provide that the term Obligations shall be deemed to mean, and include, all obligations, liabilities and indebtedness arising from or relating to the Revolving Loans and the New Loan, howsoever evidenced.

SECTION 3. Miscellaneous.

a. Status of the General Security Agreement. Except as otherwise expressly provided herein, all terms and conditions of the General Security agreement shall remain unchanged and continue in full force and effect. Each reference in the Loan Documents to the "General Security Agreement", and any references in the General Security Agreement to "this Agreement," "hereunder" or "herein" or words of similar import shall be deemed a reference to the General Security Agreement, as amended hereby.

b. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

c. Governing Law. This Amendment is being delivered in and is intended to be performed in the State of New York and shall be construed and enforceable in accordance with, and be governed by, the internal laws of the State of New York without regard to principles of conflict of laws.

d. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining

provisions of this Amendment or affecting the validity, enforceability or authorization of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Borrower has caused this Amendment to be executed by its duly authorized officer as of the date first above written.

THE FROZFRUIT COMPANY

By: _____

Name:

Title:

Accepted:

FLEET CAPITAL CORPORATION

By: _____

Name:

Title:

EXHIBIT A
[to be supplied by Borrower]

DSN:34956.1

TRADEMARK
REEL: 1886 FRAME: 0032

EXHIBIT C

FORM OF AMENDMENT TO TRADEMARK SECURITY AGREEMENT

THIS AMENDMENT, dated as of December 8, 1998 (this "Amendment") to the Trademark Security Agreement dated as of January 30, 1998, between the parties hereto (the "Trademark Security Agreement"), is executed by **THE FROZFRUIT COMPANY**, a Delaware corporation, having an address at 100 Willowbrook Road, Building 1, Freehold, NJ 07728 (the "Borrower"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender"). Terms which are capitalized herein and not otherwise defined shall have the meanings given to such terms in the Trademark Security Agreement.

WHEREAS, the Lender has made a loan to the Borrower in the original principal amount of \$6,000,000 (the "Demand Loan") and has made available to the Borrower a revolving line of credit (the "Line of Credit") in the original principal amount of \$3,500,000; and

WHEREAS, the Borrower has requested the Lender to provide acquisition financing for the Borrower to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cook Snacks LLC, as seller, Bruce Massman, its sole member, and the Borrower, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and the Borrower, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"); and

WHEREAS, the Lender has agreed to (x) make an additional loan to the Borrower ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding loans (the "Revolving Credit Loans") made pursuant to the Line of Credit into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A, collectively, the "New Loan") upon the fulfillment of certain terms and conditions; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the New Loan and the remaining principal balance of the Demand Loan, an Amended, Restated and Consolidated Demand Promissory Note in the aggregate principal amount of \$10,600,000, dated as of December 8, 1998 (as the same may be amended, modified, supplemented or restated from time to time, the "Amended, Restated and Consolidated Demand Promissory Note"); and

WHEREAS the Lender has requested, as a condition precedent to the making of the New Loan, that the Borrower execute and deliver this Amendment;

NOW, THEREFORE, in consideration of the premises and to induce the Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower hereby agrees with the Lender as follows:

SECTION 1. Confirmation and Reaffirmation of Liability.

The Borrower hereby confirms (a) that the new intellectual property interests being acquired by the Borrower on the date hereof after giving effect to the consummation of the transactions contemplated by the Purchase Agreements and listed on Exhibit 1 attached hereto shall secure all of the Revolving Loans and the New Loan under the terms of the Trademark Security Agreement, and (b) reaffirms its continuing obligations under the Trademark Security Agreement.

SECTION 2. Amendment.

Schedule A of the Trademark Security Agreement is hereby amended to include additional trademarks by deleting such Schedule A in its entirety and substituting therefor Schedule A attached hereto. The term "Loan", as used in the Trademark Security Agreement, shall be deemed to mean and refer to all of the Revolving Loans and the New Loan.

SECTION 3. Miscellaneous.

a. **Status of the Trademark Security Agreement.** Except as otherwise expressly provided herein, all terms and conditions of the Trademark Security agreement shall remain unchanged and continue in full force and effect. Each reference in the Loan Documents to the "Trademark Security Agreement", and any references in the Trademark Security Agreement to "this Agreement," "hereunder" or "herein" or words of similar import shall be deemed a reference to the Trademark Security Agreement, as amended hereby.

b. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

c. **Governing Law.** This Amendment is being delivered in and is intended to be performed in the State of New York and shall be construed and enforceable in accordance with, and be governed by, the internal laws of the State of New York without regard to principles of conflict of laws.

d. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions of this Amendment or affecting the validity, enforceability or authorization of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Borrower has caused this Amendment to be executed by its duly authorized officer as of the date first above written.

THE FROZFRUIT COMPANY

By: _____
Name:
Title:

Accepted:

FLEET CAPITAL CORPORATION

By: _____
Name:
Title:

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT ("Agreement") is made as of January 30, 1998 by **THE FROZFRUIT COMPANY**, a Delaware corporation (the "Borrower"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender").

W I T N E S S E T H :

WHEREAS, the Lender has agreed to make a loan and a line of credit available to the Borrower in the original aggregate principal amount of Nine Million Five Hundred Thousand Dollars (\$9,500,000) (collectively the "Loan"), the proceeds of which will be used by the Borrower in part to acquire certain assets, as set forth in the Asset Purchase Agreement, as hereinafter defined and to refinance certain indebtedness, and thereafter to finance the Borrower's working capital and general business needs; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the indebtedness incurred by it pursuant to the Loan, a Demand Promissory Note in the original principal amount of Six Million Dollars (\$6,000,000), and a Demand Line of Credit Note in the original principal amount of Three Million Five Hundred Thousand Dollars (\$3,500,000), each dated as of January 30, 1998 (as the same may be amended, modified, supplemented or restated from time to time, collectively, the "Note"); and

WHEREAS, the Lender has required, as a condition precedent to the making of the Loan to the Borrower, that the Borrower (i) grant to the Lender a security interest in and to the Collateral (as hereinafter defined) and (ii) execute and deliver this Agreement in order to secure the payment and performance by the Borrower of the Obligations (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to make the Loan, the Borrower hereby agrees as follows:

1. Defined Terms

(a) Unless otherwise defined herein, each capitalized term used herein that is not otherwise defined shall have the meaning ascribed to such term in the General Security Agreement between the Borrower and the Lender, dated as of even date herewith (as the same may be amended, modified, supplemented or restated from time to time, the "General Security Agreement").

(b) The words "hereof", "herein", and hereunder and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any

particular provision of this Agreement, and paragraph references are to this Agreement unless otherwise specified.

(c) All terms defined in this Agreement in the singular shall have comparable meanings when used in the plural and vice versa, unless otherwise specified.

2. Incorporation of Recitals. The recitals above are incorporated into this Agreement by this reference thereto and are made a part hereof.

3. Security Interest in Trademarks and Trademark Licenses, etc. To secure the complete and timely payment and performance when due of all of the Obligations, including without limitation any Obligations arising under or relating to any loan or credit agreement which the Borrower and Lender may enter into after the date of this Agreement (a "Loan Agreement"), the Borrower hereby grants to the Lender a first priority and perfected security interest, with power of sale to the extent permitted by applicable law, in all of the Borrower's now owned or existing and hereafter acquired or arising:

(a) trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks and service mark applications, including, without limitation, the trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks, service mark applications, corporate names, company names, business names, fictitious business names, trade styles, certification marks, logos, other source of business identifiers and prints and labels on which any of the foregoing have appeared or appear, each of which is listed on Schedule A attached hereto and made a part hereof, and (i) all renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof, (iii) the right to sue for past, present and future infringements and dilutions thereof, (iv) the goodwill of the Borrower's business symbolized by the foregoing and connected therewith, and (v) all of the Borrower's rights corresponding thereto throughout the world (all of the foregoing trademarks, registered trademarks and trademark applications, trade names, and service marks, registered service marks and service mark applications, together with the items described in clauses (i)-(v) in this paragraph 3(a), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks"); and

(b) rights under or interest in any trademark license agreements or service mark license agreements with any other party, whether the Borrower is a licensee or licensor under any such license agreement, including, without limitation, those trademark license agreements and service mark license agreements listed on Schedule B attached hereto and made part hereof, together with any goodwill connected with and symbolized by any such trademark license agreements or service mark license agreements, and the right to prepare for sale and sell any and all assets now or hereafter owned by the Borrower and now or hereafter covered by such licenses (all of the foregoing are hereinafter referred to collectively as the "Trademark Licenses").

Notwithstanding the foregoing, the Borrower makes no representation or warranty to the Lender that any security interest granted to the Lender in any (i) trademark, registered trademark,

trademark application, trade name, service mark, registered service mark or service mark application issued pursuant to, or governed by the laws of, any jurisdiction other than (A) the United States or any of its territories or possessions, (B) any of the 50 states comprising the United States or (C) the District of Columbia ("foreign law") or (ii) license agreement with respect to any trademark or service mark governed by any foreign law, is either perfected or has a first priority.

4. Restrictions on Future Agreements. The Borrower will not, without the Lender's prior written consent, enter into any agreement, including, without limitation, any license agreement, which is inconsistent with this Agreement, and the Borrower further agrees that it will not take any action, and will use its best efforts not to permit any action to be taken by others, including, without limitation, licensees, or fail to take any action, which would in any respect affect the validity or enforcement of the rights transferred to the Lender under this Agreement or the rights associated with the Trademarks or Trademark Licenses.

5. New Trademarks and Trademark Licenses. The Borrower represents and warrants that, from and after the date hereof, (a) the Trademarks listed on Schedule A include all of the trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks and service mark applications now owned or held by the Borrower, (b) the Trademark Licenses listed on Schedule B include all of the trademark license agreements and service mark license agreements under which the Borrower is the licensee or licensor, and (c) no liens, claims or security interests in such Trademarks and Trademark Licenses have been granted by the Borrower to any Person other than the Lender. If, prior to the termination of this Agreement, the Borrower shall (i) obtain rights to any new trademarks, registered trademarks, trademark applications, tradenames, service marks, registered service marks or service mark applications, (ii) become entitled to the benefit of any trademarks, registered trademarks, trademark applications, trade names, trademark licenses, trademark license renewals, service marks, registered service marks, service mark applications, service mark licenses or service mark license renewals, whether as licensee or licensor, or (iii) enter into any new trademark license agreement or service mark license agreement, the provisions of paragraph 3 above shall automatically apply thereto. The Borrower shall give to the Lender written notice of each event described in clause (i), (ii) and (iii) of the preceding sentence promptly after the occurrence thereof, but in any event not less frequently than on an annual basis. The Borrower hereby authorizes the Lender to modify this Agreement unilaterally (i) by amending Schedule A to include any future trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks and service mark applications and by amending Schedule B to include any future trademark license agreement and service mark license agreements, which are Trademarks or Trademark Licenses under paragraph 3 above or under this paragraph 5, and (ii) by filing, in addition to and not in substitution for this Agreement, a duplicate original of this Agreement containing on Schedule A or B thereto, as the case may be, such future trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks and service mark applications, and trademark license agreements and service mark license agreements.

6. Royalties. The Borrower hereby agrees that the Lender's rights to use the Trademarks and Trademark Licenses as authorized hereunder in connection with the Lender's exercise of its rights and remedies under the Note, the General Security Agreement, the Loan

Agreement or paragraph 14 hereof shall be coextensive with the Borrower's rights with respect thereto and except as may be expressly agreed to by the Lender, the Lender shall not have any liability to Borrower for royalties or other related charges on account of any such use in connection with the Lender's exercise of its rights or remedies under the Note, the General Security Agreement, the Loan Agreement or paragraph 14 hereof.

7. Right to Inspect; Further Assignments and Security Interests. The Lender may at all reasonable times (and at any time after the occurrence and during the continuation of an Event of Default) have access to, examine, audit, make copies, at the Borrower's expense, and extracts from and inspect the Borrower's premises and examine the Borrower's books, records and operations relating to the Trademarks and Trademark Licenses; provided, however, that in conducting such inspections and examinations, the Lender shall use reasonable efforts not to disturb unnecessarily the conduct of the Borrower's ordinary business operations. From and after the date the Lender shall declare the Obligations to be due and payable, the Borrower agrees that the Lender, or a conservator appointed by the Lender, shall have the right to establish such reasonable additional product quality controls as the Lender or such conservator, in its sole and absolute judgment, may deem necessary to assure maintenance of the quality of products sold or services rendered by the Borrower under the Trademarks and the Trademark Licenses or in connection with which such Trademarks and Trademark Licenses are used. The Borrower agrees (a) not to sell or assign its respective interests in any Trademarks or Trademark Licenses without the prior and express written consent of the Lender and (b) to maintain the quality of such products as of the date hereof.

8. Nature and Continuation of the Lender's Security Interest; Termination of the Lender's Security Interest. This Agreement is made for collateral security purposes only. This Agreement shall create a continuing security interest in the Trademarks and Trademark Licenses and shall terminate only when the Obligations have been paid in full in cash. When this Agreement has terminated, the Lender shall promptly execute and deliver to the Borrower, at the Borrower's expense, all termination statements and other instruments as may be necessary or proper to terminate the Lender's security interest in the Trademarks and the Trademark Licenses, subject to any disposition thereof which may have been made by the Lender pursuant to this Agreement or the General Security Agreement.

9. Duties of the Borrower. The Borrower shall have the duty to: (a) prosecute diligently, in accordance with sound business judgment and practice, any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement, and (b) make application for material trademarks or material service marks. The Borrower further agrees (a) not to abandon any material Trademark or material Trademark License which is used in its business without the prior written consent of the Lender, and (b) to use its reasonable efforts to maintain in full force and effect the Trademarks and Trademark Licenses that are used in the operation of the Borrower's business. Any expenses incurred in connection with the foregoing shall be borne by the Borrower. The Lender shall not have any duty with respect to the Trademarks and Trademark Licenses. Without limiting the generality of the foregoing, the Lender shall not be under any obligation to take any steps necessary to preserve rights in the Trademarks or Trademark Licenses against any other parties, but the Lender may do so at its option after the occurrence and during the continuance of an Event of Default, and all reasonable expenses

incurred in connection therewith shall be for the sole account of the Borrower and shall be added to the Obligations secured hereby.

10. The Lender's Right to Sue. From and after the occurrence and during the continuation of an Event of Default, the Lender shall have the right, but shall not be obligated, to bring suit in its own name to enforce the Trademarks and the Trademark Licenses, and, if the Lender shall commence any such suit, the Borrower shall, at the reasonable request of the Lender, do any and all lawful acts and execute any and all proper documents required by the Lender in aid of such enforcement. The Borrower shall, upon demand, promptly reimburse the Lender for all reasonable costs and expenses incurred by it in the exercise of its rights under this paragraph 10 (including, without limitation, reasonable fees and expenses of attorneys for the Lender). In the event the Lender shall commence any such enforcement action, the Lender shall use its reasonable efforts to provide the Borrower with ten (10) days prior written notice thereof, and shall provide the Borrower with an opportunity to participate in any such action, at the Borrower's expense.

11. Waivers. The Lender's failure, at any time or times hereafter, to require strict performance by the Borrower of any provisions of this Agreement shall not waive, affect or diminish any right of the Lender thereafter to demand strict compliance and performance therewith nor shall any course of dealing between the Borrower and the Lender have such effect. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. None of the undertakings, agreements, warranties, covenants and representations of the Borrower contained in this Agreement shall be deemed to have been suspended or waived by the Lender unless such suspension or waiver is in writing signed by an officer of the Lender and directed to the Borrower specifying such suspension or waiver.

12. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but the provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

13. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in paragraphs 3 and 5 hereof or by a writing signed by the parties hereto.

14. Power of Attorney; Cumulative Remedies. (a) The Borrower hereby irrevocably designates, constitutes and appoints the Lender as the Borrower's true and lawful attorney-in-fact, and authorizes the Lender, in the Borrower's or the Lender's name, from and after the occurrence and during the continuance of an Event of Default, to (i) endorse the Borrower's name on all applications, documents, papers and instruments necessary or desirable for the Lender in the use of the Trademarks or the Trademark Licenses, (ii) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks or the Trademark Licenses to anyone on commercially reasonable terms, (iii) grant or issue any exclusive or nonexclusive

license under the Trademarks or, to the extent permitted, under the Trademark Licenses, to anyone on commercially reasonable terms, and (iv) take any other actions with respect to the Trademarks or the Trademark Licenses as the Lender reasonably deems in its own best interest to preserve and protect its Collateral. The Borrower acknowledges that the Lender may appoint or designate other Persons to act on the Lender's behalf in taking the actions referred to herein. The Borrower 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 Obligations shall have been paid in full. The Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of the Lender under the General Security Agreement, but rather is intended to facilitate the exercise of such rights and remedies. The Lender agrees that the proceeds received by Lender as a result of the exercise of any of its remedies specified herein shall be immediately used to pay down the Obligations.

(b) The Lender 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 or the Trademark Licenses may be located or deemed located. Upon the occurrence and during the continuation of an Event of Default, the Borrower agrees to assign, convey and otherwise transfer title in and to the Trademarks and the Trademark Licenses to the Lender or any transferee of the Lender and to execute and deliver to the Lender or any such transferee all such agreements, documents and instruments as may be necessary, in the exercise of the Lender's commercially reasonable judgment, to effect such assignment, conveyance and transfer. All of the Lender's rights and remedies with respect to the Trademarks and the Trademark Licenses, whether established hereby, by the General Security Agreement, by any other agreements or by law, shall be cumulative and may be exercised separately or concurrently.

15. Successors and Assigns. This Agreement shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of the Lender, the Lenders and their respective nominees, successors and assigns. The Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for the Borrower; provided, however, that the Borrower shall not voluntarily assign or transfer its rights or obligations hereunder without the Lender's prior written consent.

16. Governing Law. THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS AND DECISIONS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES THEREOF REGARDING CONFLICT OF LAWS, AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.

17. Notices. All notices or other communications hereunder shall be given in the manner and delivered to the addresses set forth in the General Security Agreement.

18. Paragraph Titles. The paragraph titles herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

19. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

20. Recordation of Agreement. The Lender intends to record this Agreement with the United States Patent and Trademark Office.

IN WITNESS WHEREOF, the Borrower has duly executed this Agreement as of the day and year first above written.

THE FROZFRUIT COMPANY

By: Donald W. MacIntyre
Name: DONALD W. MACINTYRE
Title: CEO

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:


On the 30th day of January, 1998, before me personally came Donald W. MacIntyre, to me known, who being by me duly sworn, did depose and say that he is a Vice President of **THE FROZFRUIT COMPANY**, the corporation described in and which accepted and agreed to the foregoing instrument; and that he signed his name thereto by authority of the board of directors of said corporation.

Teresa S. Moebes
Notary Public

TERESA S. MOEBES
NOTARY PUBLIC, State of New York
No. 01MO4957925
Qualified in Suffolk County
Commission Expires October 23, 1999

By its acceptance hereof as of the day and year first above written, the Lender agrees to be bound by the provisions hereof.

FLEET CAPITAL CORPORATION

By: 

Charles Garokjanian,
Senior Vice President

**Schedule A
to
Trademark Security Agreement**

US Trademarks

"FROZFRUIT"

U.S. Patent and Trademark Office

Reg. No. 1,331,109

April 16, 1995

"SUMMER NATURALS"

U.S. Patent and Trademark Office

Reg. No. 2,027,763

December 31, 1996

International Trademarks

"FROZFRUIT"

<u>Country</u>	<u>Reg. No.</u>	<u>Date</u>
Canada	368,081	April 27, 1990
Benelux	573078	May 10, 1995
Spain	1.965.254(2)	May 16, 1995
Japan	2077033	September 30, 1988
France	93474198	December 10, 1993
Mexico	472364	July 13, 1992
Israel	102387	December 15, 1995
Denmark	01.429 1988	April 5, 1988
United Kingdom	1525315	January 28, 1993
Germany	395 20 466	May 15, 1995

Schedule B
to
Trademark General Security Agreement

1. Trademark license agreement with Paleta International Corporation ("Paleta") under which Paleta is a licensee of The Frozfruit Company trademarks.
2. Trademark license agreement with Frozfruit Delite under which Frozfruit Delite is a licensee of The Frozfruit Company trademarks.
3. Trademark license agreement with Frozfruit of Alabama under which Frozfruit of Alabama is a licensee of The Frozfruit Company trademarks.
4. Trademark license agreement with Blair's Frozfruit under which Blair's Frozfruit is a licensee of The Frozfruit Company trademarks.

Exhibit 1

Additional Trademarks

US Trademarks Registered with U.S. Patent and Trademark Office

<u>Mark</u>	<u>Registration Number</u>	<u>Date Registered</u>	<u>Date Filed</u>	<u>Date of First Use</u>
Nectar Pie	1,191,282	05/02/82		
Simply Slim	1,936,180	11/14/95		
Banana Bites	2,074,679	06/24/97		
The Back Porch & Des.	1,196,488	05/25/82		
The Back Porch	1,505,305	09/20/88		
The Back Porch & Des.	1,508,634	10/11/88		
Lemon Chill & Des.	1,606,621	07/17/90	08/28/89	01/89
Cherry Chill & Des.	1,798,016	10/13/93	05/12/92	01/91
Raspberry Chill (words only)	2,051,103	04/08/97	02/04/94	4/16/96
Strawberry Chill & Des.	1,844,606	07/12/94	08/13/91	05/04/92
Lime Chill (words only)	1,921,095	09/19/95	02/04/94	01/01/94
Orange Chill (words only)	2,032,504	01/21/97	02/04/94	05/24/94
Lemon Chill (words only)	1,945,098	01/02/96	06/13/94	01/89
Strawberry Chill (words only)	2,063,895	05/20/97	06/20/95	04/30/92
Chill (words only)	2,114,408	11/18/97	06/13/94	01/01/94

International Trademarks

“LEMON CHILL”

Canada	451,207	December 1, 1995	Filed 06/14/94 First use 5/13/94
Mexico	503,506	September 12, 1995	Filed 06/14/94

**Schedule A
to
Trademark Security Agreement**

US Trademarks Registered with U.S. Patent and Trademark Office

<u>Mark</u>	<u>Registration Number</u>	<u>Date Registered</u>	<u>Date Filed</u>	<u>Date of First Use</u>
Frozfruit	1,331,109	04/16/95		
Summer Naturals	2,027,763	12/31/96		
Nectar Pie	1,191,282	05/02/82		
Simply Slim	1,936,180	11/14/95		
Banana Bites	2,074,679	06/24/97		
The Back Porch & Des.	1,196,488	05/25/82		
The Back Porch	1,505,305	09/20/88		
The Back Porch & Des.	1,508,634	10/11/88		
Lemon Chill & Des.	1,606,621	07/17/90	08/28/89	01/89
Cherry Chill & Des.	1,798,016	10/13/93	05/12/92	01/91
Raspberry Chill (words only)	2,051,103	04/08/97	02/04/94	4/16/96
Strawberry Chill & Des.	1,844,606	07/12/94	08/13/91	05/04/92
Lime Chill (words only)	1,921,095	09/19/95	02/04/94	01/01/94
Orange Chill (words only)	2,032,504	01/21/97	02/04/94	05/24/94
Lemon Chill (words only)	1,945,098	01/02/96	06/13/94	01/89
Strawberry Chill (words only)	2,063,895	05/20/97	06/20/95	04/30/92
Chill (words only)	2,114,408	11/18/97	06/13/94	01/01/94

International Trademarks

"FROZFRUIT"

<u>Country</u>	<u>Reg. No.</u>	<u>Date Registered</u>
Canada	368,081	April 27, 1990
Benelux	573078	May 10, 1995
Spain	1.965.254(2)	May 16, 1995
Japan	2077033	September 30, 1988
France	93474198	December 10, 1993
Mexico	472364	July 13, 1992
Israel	102387	December 15, 1995
Denmark	01.429 1988	April 5, 1988
United Kingdom	1525315	January 28, 1993
Germany	395 20 466	May 15, 1995

"LEMON CHILL"

Canada	451,207	December 1, 1995	Filed 06/14/94 First use 5/13/94
Mexico	503,506	September 12, 1995	Filed 06/14/94

EXHIBIT D

FORM OF AMENDMENT TO GUARANTY

THIS AMENDMENT, dated as of December 8, 1998 (this "Amendment") to the Guaranty, dated as of January 30, 1998, between the parties hereto (the "Guaranty"), is executed by **STOLBERG, MEEHAN & SCANO II, L.P.**, a Delaware limited partnership, having an address at 767 Third Avenue, New York, New York 10017 (the "Guarantor"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender"). Terms which are capitalized herein and not otherwise defined shall have the meanings given to such terms in the Guaranty.

WHEREAS, the Lender has made a loan to The Frozfruit Company, a Delaware corporation (the "Borrower") in the original principal amount of \$6,000,000 (the "Demand Loan") and has made available to the Borrower a revolving line of credit (the "Line of Credit") in the original principal amount of \$3,500,000; and

WHEREAS, the Borrower has requested the Lender to provide acquisition financing for the Borrower to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cook Snacks LLC, as seller, Bruce Massman, its sole member, and the Borrower, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and the Borrower, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"); and

WHEREAS, the Lender has agreed to (x) make an additional loan to the Borrower ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding loans (the "Revolving Credit Loans") made pursuant to the Line of Credit into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A, collectively, the "New Loan") upon the fulfillment of certain terms and conditions; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the New Loan and the remaining principal balance of the Demand Loan, an Amended, Restated and Consolidated Demand Promissory Note in the aggregate principal amount of \$10,600,000, dated as of December 8, 1998 (as the same may be amended, modified, supplemented or restated from time to time, the "Amended, Restated and Consolidated Demand Promissory Note"); and

WHEREAS, the Guarantor is the owner, beneficially and of record, of in excess of seventy percent (70%) of the issued and outstanding shares of capital stock of the Borrower and has

received and will continue to receive certain benefits from the credit accommodations hereinabove described and in order to enhance and protect its investment in the Borrower has guaranteed and is willing to continue to guaranty the prompt payment and performance of the Obligations, on the terms set forth in the Guaranty and assume additional financial risk in its role as shareholder by issuing this Amendment; and

WHEREAS, it is a condition precedent to the extension of the additional funds evidenced by the Amended, Restated and Consolidated Demand Promissory Note that the Guarantor shall have executed this Amendment in favor of the Lender;

NOW, THEREFORE, in consideration of the premises and to induce the Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees with the Lender as follows:

SECTION 1. Amendment to Guaranty.

a. The Guarantor hereby confirms that the terms and conditions of the Guaranty are applicable to all of the Obligations, including without limitation the New Loan. Accordingly, the Guaranty is hereby amended to provide that (i) the term "Note" contained therein shall be deemed to mean, collectively, the Amended, Restated and Consolidated Demand Promissory Note and the Demand Line of Credit Note, (ii) the term "Loan" contained therein shall be deemed to mean, collectively, all Revolving Credit Loans and the New Loan, and (iii) the term "Obligations" contained therein shall be deemed to mean, and include, all obligations, liabilities and indebtedness arising from or relating to the Note, the Revolving Credit Loans and the New Loan.

b. Paragraph (l) of Section 6 (Capitalization) is hereby amended by deleting the amounts \$9,966,714, \$90,033,286, \$-0- and \$10,000,000 set forth therein by substituting in lieu thereof, respectively, \$16,500,000, \$83,500,000, \$2,600,000 and \$15,600,000.

SECTION 2. Miscellaneous.

a. Status of the Guaranty. Except as otherwise expressly provided herein, all terms and conditions of the Guaranty shall remain unchanged and continue in full force and effect. Each reference in the Loan Documents to the "Guaranty", and any references in the Guaranty to "this Agreement", "hereunder" or "herein" or words of similar import shall be deemed a reference to the Guaranty, as hereby amended.

b. Reaffirmation of Liability. The Guarantor hereby confirms that the Guaranty continues to be valid and binding on the Guarantor, enforceable against the Guarantor in accordance with its terms, and the Guarantor reaffirms its continuing liability under the Guaranty.

c. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

d. Governing Law. This Amendment is being delivered in and is intended to be performed in the State of New York and shall be construed and enforceable in accordance with, and be governed by, the internal laws of the State of New York without regard to principles of conflict of laws.

e. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions of this Amendment or affecting the validity, enforceability or authorization of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Guarantor has caused this Amendment to be executed by its duly authorized officer as of the date first above written.

STOLBERG MEEHAN & SCANO II, L.P.,
a Delaware limited partnership

By: Stolberg Meehan & Scano, L.L.C., its
general partner

By: _____
Name:
Title:

Accepted:

FLEET CAPITAL CORPORATION

By: _____
Name:
Title:

EXHIBIT E

FORM OF REAFFIRMATION TO SUBORDINATION AGREEMENT

THIS REAFFIRMATION, dated as of December 8, 1998 (this "Amendment") to the Subordination Agreement dated as of January 30, 1998 (the "Subordination Agreement"), executed by **STOLBERG, MEEHAN & SCANO II, L.P.**, a Delaware limited partnership, having an address at 767 Third Avenue, New York, New York 10017 (the "Junior Creditor"), in favor of **FLEET CAPITAL CORPORATION**, a Rhode Island corporation (the "Lender"). Terms which are capitalized herein and not otherwise defined shall have the meanings given to such terms in the Subordination Agreement.

WHEREAS, the Lender has made a loan to The Frozfruit Company, a Delaware corporation (the "Borrower") in the original principal amount of \$6,000,000 (the "Demand Loan") and has made available to the Borrower a revolving line of credit (the "Line of Credit") in the original principal amount of \$3,500,000; and

WHEREAS, the Borrower has requested the Lender to provide acquisition financing for the Borrower to purchase the "Assets", as defined in that certain Asset Purchase Agreement dated as of even date herewith among M&B Cook Snacks LLC, as seller, Bruce Massman, its sole member, and the Borrower, as buyer (the "Asset Purchase Agreement") and all of the issued and outstanding shares of capital stock of Moore Enterprises, Inc., a Texas corporation ("Moore"), pursuant to that certain Stock Purchase Agreement dated as of even date herewith among Charles E. Moore II, as seller and the Borrower, as buyer (the "Stock Purchase Agreement", and together with the Asset Purchase Agreement, collectively, the "Purchase Agreements"); and

WHEREAS, the Lender has agreed to (x) make an additional loan to the Borrower ("New Demand Loan A") in the principal amount of \$2,000,000, and (y) convert and consolidate up to \$2,600,000 of the outstanding loans (the "Revolving Credit Loans") made pursuant to the Line of Credit into a single loan (as so converted and consolidated, "New Demand Loan B", and together with New Demand Loan A, collectively, the "New Loan") upon the fulfillment of certain terms and conditions; and

WHEREAS, the Borrower has agreed to execute in favor of the Lender, as evidence of the New Loan and the remaining principal balance of the Demand Loan, an Amended, Restated and Consolidated Demand Promissory Note in the aggregate principal amount of \$10,600,000, dated as of December 8, 1998 (as the same may be amended, modified, supplemented or restated from time to time, the "Amended, Restated and Consolidated Demand Promissory Note"); and

WHEREAS, the Junior Lender is the owner, beneficially and of record, of in excess of seventy percent (70%) of the issued and outstanding shares of capital stock of the Borrower and has received and will continue to receive certain benefits from the credit accommodations hereinabove described; and

WHEREAS, the Borrower is indebted to the Junior Creditor in the principal amount of \$5,000,000 plus accrued interest thereon, and shall remain so upon consummation of the transactions contemplated in the Purchase Agreements; and

WHEREAS, it is a condition precedent to the extension of the additional funds evidenced by the Amended, Restated and Consolidated Demand Promissory Note that the Junior Creditor shall have executed this Amendment in favor of the Lender;

NOW, THEREFORE, in consideration of the premises and to induce the Lender to make the New Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Junior Creditor hereby agrees with the Lender as follows:

SECTION 1. Acknowledgment; Confirmation of and Amendment to Subordination Agreement.

The Junior Creditor hereby (a) acknowledges and agrees that the principal amount of indebtedness owed to it by the Borrower on the date hereof after giving effect to the consummation of the transactions contemplated to occur under the Purchase Agreements is \$5,000,000, plus accrued interest thereon; and (b) confirms that the Obligations include all Revolving Loans and the New Loan, and that the indebtedness owed to it by the Borrower is fully subordinated to the Obligations and is subject to all of the terms and conditions of the Subordination Agreement.

SECTION 2. Miscellaneous.

a. **Status of the Subordination Agreement.** Except as otherwise expressly provided herein, all terms and conditions of the Subordination Agreement shall remain unchanged and continue in full force and effect. Each reference in the Loan Documents to the "Subordination Agreement", and any references in the Subordination Agreement to "this Agreement", "hereunder" or "herein" or words of similar import shall be deemed a reference to the Subordination Agreement as hereby amended.

b. **Reaffirmation of Liability.** The Junior Creditor hereby reaffirms its continuing obligations under the Subordination Agreement.

c. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

d. **Governing Law.** This Amendment is being delivered in and is intended to be performed in the State of New York and shall be construed and enforceable in accordance with, and be governed by, the internal laws of the State of New York without regard to principles of conflict of laws.

e. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions of this Amendment or affecting the validity, enforceability or authorization of such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Junior Creditor has caused this Reaffirmation to be executed by its duly authorized officer as of the date first above written.

STOLBERG MEEHAN & SCANO II, L.P.,
a Delaware limited partnership

By: Stolberg Meehan & Scano, L.L.C., its
general partner

By: _____
Name:
Title:

Accepted:

FLEET CAPITAL CORPORATION

By: _____
Name:
Title:

Exhibit F

Additional Trademarks

US Trademarks Registered with U.S. Patent and Trademark Office

<u>Mark</u>	<u>Registration Number</u>	<u>Date Registered</u>	<u>Date Filed</u>	<u>Date of First Use</u>
Nectar Pie	1,191,282	05/02/82		
Simply Slim	1,936,180	11/14/95		
Banana Bites	2,074,679	06/24/97		
The Back Porch & Des.	1,196,488	05/25/82		
The Back Porch	1,505,305	09/20/88		
The Back Porch & Des.	1,508,634	10/11/88		
Lemon Chill & Des.	1,606,621	07/17/90	08/28/89	01/89
Cherry Chill & Des.	1,798,016	10/13/93	05/12/92	01/91
Raspberry Chill (words only)	2,051,103	04/08/97	02/04/94	4/16/96
Strawberry Chill & Des.	1,844,606	07/12/94	08/13/91	05/04/92
Lime Chill (words only)	1,921,095	09/19/95	02/04/94	01/01/94
Orange Chill (words only)	2,032,504	01/21/97	02/04/94	05/24/94
Lemon Chill (words only)	1,945,098	01/02/96	06/13/94	01/89
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Chill (words only)	2,114,408	11/18/97	06/13/94	01/01/94

International Trademarks

“LEMON CHILL”

Canada	451,207	December 1, 1995	Filed 06/14/94 First use 5/13/94
Mexico	503,506	September 12, 1995	Filed 06/14/94

DSN:35306.1

**TRADEMARK
REEL: 1886 FRAME: 0056**

**Schedule A
to
Trademark Security Agreement**

US Trademarks Registered with U.S. Patent and Trademark Office

<u>Mark</u>	<u>Registration Number</u>	<u>Date Registered</u>	<u>Date Filed</u>	<u>Date of First Use</u>
Frozfruit	1,331,109	04/16/95		
Summer Naturals	2,027,763	12/31/96		
Nectar Pie	1,191,282	05/02/82		
Simply Slim	1,936,180	11/14/95		
Banana Bites	2,074,679	06/24/97		
The Back Porch & Des.	1,196,488	05/25/82		
The Back Porch	1,505,305	09/20/88		
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"LEMON CHILL"

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