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FORM PTO-1618A  
Expires 06/30/99  
OMB 0651-0027

04-20-2000

U.S. Patent & Trademark Office

U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

05-15-2000



RECOR  
TR

101355222

4-20-00

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

**Conveyance Type**

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment
- Merger
- Change of Name
- Other \_\_\_\_\_

Effective Date  
Month Day Year  
03 31 2000

**Conveying Party**

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name 241 Pizza (1997) Inc.

03 31 2000

Formerly \_\_\_\_\_

- Individual  General Partnership  Limited Partnership  Corporation  Association

Other \_\_\_\_\_

Citizenship/State of Incorporation/Organization Ontario, Canada

**Receiving Party**

Mark if additional names of receiving parties attached

Name Rabobank Canada

DBA/AKA/TA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 77 King Street West

Address (line 2) Royal Trust Tower, T-D Centre, Suite 2300

Address (line 3) Toronto

Ontario, Canada

M5K 1E7

City

State/Country

Zip Code

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other Bank incorporated under Bank Act

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization Canada

05/15/2000 BCDATES 00000019 1891453

FOR OFFICE USE ONLY

01 FC:481

40.00 OP

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

**TRADEMARK**  
REEL: 002071 FRAME: 0332

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

(416) 981-9449

Name

Valerie G. Edward

Address (line 1)

c/o Morris/Rose/Ledgett LLP

Address (line 2)

Suite 2700, 161 Bay Street

Address (line 3)

Toronto, Ontario

Address (line 4)

M5J 2S1

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

#

10

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

1891453	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Number of Properties**

Enter the total number of properties involved.

#

1

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

40.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

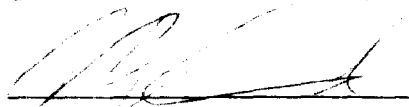
No

**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. Charges to deposit account are authorized, as indicated herein.

VALERIE G. EDWARD

Name of Person Signing



Signature

April 18, 2000

Date Signed

# SECURITY AGREEMENT (INTELLECTUAL PROPERTY)

BETWEEN:

241 PIZZA (1997) INC.  
(hereinafter called the "Debtor")

-and-

Rabobank Canada in its own right and as agent on behalf of Credit Union Central of Ontario Limited and HEPCOE Credit Union Limited (collectively, the "Lenders")

## Article 1 OBLIGATIONS SECURED

1.1 The Debtor, a company incorporated under the laws of the Province of Ontario, hereby enters into this Security Agreement with the Lenders for valuable consideration and as security for the payment and discharge of any and all present and future liabilities and obligations, direct or indirect, absolute or contingent, joint or several, of the Debtor to the Lenders whether as principal or surety pursuant to a credit agreement dated March 31, 2000 as amended, restated or replaced from time to time (the "Credit Agreement") between, *inter alia*, Afton Food Group Ltd., as borrower, the Lenders and the Debtor, as guarantor (all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the "Obligations"). Insofar as it affects personal property located in Ontario, this Security Agreement is governed by the *Personal Property Security Act* (Ontario) (the "Act").

## Article 2 GRANT OF MORTGAGES, CHARGES AND SECURITY INTERESTS

2.1 As security for the payment and performance of the Obligations, the Debtor hereby:

- (1) assigns, transfers and conveys to the Lenders and grants to the Lenders a security interest in all of its present and future intellectual property including without limitation, (i) copyrights, (ii) patents, (iii) trade-marks, trade names, business names, trade styles, logos and all other forms of business identifiers, and (iv) trade secrets and other confidential information and data in any form or format, including without limitation, all know-how obtained, developed or used in or contemplated at any time for use in the business, affairs, undertaking and operations of the Debtor now or hereafter owned, generated or acquired, including in each instance all related additions, improvements and accessories thereto and replacements thereof (hereinafter referred to as the "Intellectual Property Collateral") (whether registered or unregistered) including without limitation the intellectual property described in Exhibit "A" hereto; and

- (2) assigns, mortgages and charges in favour of the Lenders and grants to the Lenders a security interest in the proceeds arising from any of the assets referred to in clause 2.1(a) hereof.

For the purposes of this Security Agreement, the Intellectual Property Collateral, proceeds and all other property and assets of the Debtor referred to in this Article 2 are hereinafter collectively called the "**Collateral**". For greater certainty, the Collateral is hereby assigned, transferred and conveyed by the Debtor in favour of the Lenders as security only, and not absolutely.

### Article 3 AGREEMENTS OF THE DEBTOR

3.1 The Debtor and the Lenders agree that they have not agreed to postpone the time for attachment of the security interests granted hereby with respect to presently existing Collateral of the Debtor and that such security interests shall attach to the Collateral acquired after the date hereof as soon as the Debtor has rights in such Collateral.

3.2 The Debtor agrees with the Lenders that, until the Obligations have been satisfied or paid in full:

- (1) it will not, without the prior written consent of the Lenders create or suffer to exist any liens upon or assign or transfer as security or pledge or hypothecate any of the Collateral except to the Lenders;

- (2) it will:

- (1) hold the proceeds received from any direct or indirect dealing out of the ordinary course of business with the Collateral in trust for the Lenders save and except any proceeds arising from any dealing by the Debtor for which the Debtor has received the Lenders' prior written consent to such dealing;

- (2) refrain from using the Collateral or permitting the Collateral to be used (i) in association with any business or undertaking other than in the ordinary course of the Debtor's business; or (ii) in any improper manner; or (iii) generally in any manner that diminishes the value of the Collateral, and the Lenders may, whenever they deem necessary, during regular business hours, either in person or by agent, enter upon the property of the Debtor and inspect the Collateral and the right, title and interest of the Debtor in and to the Intellectual Property Collateral;

- (3) make all necessary filings, registrations and other recordations to protect the interest of the Debtor in the Collateral, including without limitation recordations of all its interests in all patents, trade-marks, and copyrights comprised in the Intellectual Property Collateral;

- (4) perform all covenants required under any third party agreement, including, *inter alia*, promptly paying all required fees, royalties and taxes, to maintain

each and every item of Intellectual Property Collateral in full force and effect throughout as applicable;

- (5) maintain all necessary filings, registrations and other recordations relating to any of the Intellectual Property Collateral, including without limitation, timely payment of any renewal and/or maintenance fees;
- (6) in a commercially reasonable manner protect, preserve and maintain all of the right, title and interest of the Debtor in the Intellectual Property Collateral, including without limitation, the duty to prosecute and/or defend against any and all suits concerning validity, infringement, enforceability, ownership or other aspects affecting any of the Intellectual Property Collateral (any expenses incurred in protecting, preserving and maintaining any of the Intellectual Property Collateral shall be borne by the Debtor);
- (7) upon written request by the Lenders, execute and deliver any and all agreements, instruments, documents and papers as the Lenders may reasonably request to evidence the security interest of the Lenders in the Collateral, including without limiting the foregoing, the Intellectual Property Collateral;
- (8) refrain from selling, assigning, disposing, licensing or otherwise transferring to any third party any of the right, title or interest of the Debtor in any of the Collateral, including without limitation, the Intellectual Property Collateral other than in the normal course of the business of the Debtor;
- (9) refrain from either directly or indirectly filing any application for registration affecting any of the Intellectual Property Collateral without the prior written consent of the Lenders, except in the ordinary course of the Debtor's business;
- (10) strictly comply with every covenant and undertaking given by it to the Lenders; and
- (11) comply with valid requirements of any governmental authority pertaining to the operation by the Debtor of its business.

3.3 The Debtor hereby represents and warrants to the Lenders (which representations and warranties shall survive until the Obligations have been completely performed and discharged) that:

- (1) all registrations and applications for registration in respect of the Intellectual Property Collateral including all relevant renewals have been duly and properly made, are in full force and effect and are not subject to any material dispute by any governmental

authority or agency and all material leases, licenses, and other agreements affecting any of the right, title or interest of the Debtor in any of the Intellectual Property Collateral (collectively "**Third Party Agreements**") are in good standing;

- (2) the Debtor owns directly or is entitled to use by license or otherwise all patents, trade-marks, trade secrets, copyrights, licenses, technology, know-how, processes and other information and rights with respect to the Collateral, including the Intellectual Property Collateral in Canada and United States;
- (3) the Debtor has made all commercially reasonable filings, registrations and recordations to protect all of its right, title and interest in the Intellectual Property Collateral, including without limitation, recordations of all such rights, title and interest in related patents, trade-marks and copyrights;
- (4) to the best of knowledge of the Debtor, no material litigation is pending or threatened which contains allegations respecting the validity, enforceability, infringement or ownership of any of the Intellectual Property Collateral, including without limitation, any of right, title or interest of the Debtor in the Intellectual Property Collateral;
- (5) Exhibit "A" lists all of the registered present intellectual property of the Debtor, including without limitation, all registered patents, trademarks and copyrights of the Debtor in Canada and United States; and
- (6) none of the Obligations nor the granting of the security interest by the Debtor in favour of the Lenders constitutes a breach under any third party agreement.

3.4 The Debtor hereby agrees that it will at all times, both before and after the occurrence of an Event of Default, do or cause to be done such additional things and execute and deliver or cause to be executed and delivered all such further acts and documents as the Lenders may reasonably require for the better mortgaging, charging, transferring, assigning, confirming and granting of security interests in the present or future Collateral to the Lenders.

#### Article 4 DEFAULT

4.1 The Obligations shall, at the option of the Lenders, become payable and the security granted pursuant to this Security Agreement shall become enforceable upon the occurrence of an "**Event of Default**" as defined in the Credit Agreement.

4.2 The Lenders may in writing (and not otherwise) waive any breach by the Debtor of any of the provisions contained in this Security Agreement or any default by the Debtor in the observance or performance of any provision of this Security Agreement; provided always that no waiver by the Lenders shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default, whether of the same or a different nature, or the rights resulting therefrom.

5.1 Whenever the security granted pursuant to this Security Agreement shall have become enforceable, and so long as it shall remain enforceable, the Lenders may proceed to realize such security and to enforce their rights by:

- (1) the appointment by instrument in writing of a receiver or receivers of the Collateral or any part thereof (which receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Lenders or not and the Lenders may remove any receiver or receivers so appointed and appoint another or others in his or their stead);
- (2) proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the Collateral or any part thereof;
- (3) any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity;
- (4) exercising all of the Debtor's rights under all licenses, contracts, agreements or other instruments in writing, including without limitation the Credit Agreement, relating to the Collateral as fully and effectually as if the Lenders were the absolute owner thereof;
- (5) commencing legal proceedings for and on behalf of and in the name of the Lenders and at the expense of the Debtor in order to enforce the rights of the Debtor under any licenses, contracts, agreements, or other instruments in writing which may relate to the Collateral.

5.2 In addition, the Lenders may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Debtor.

5.3 Any receiver or receivers so appointed shall have power to:

- (1) take possession of and to use the Collateral or any part thereof;
- (2) borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor;
- (3) further charge the Collateral in priority to the security interests of this Security Agreement as security for money so borrowed; and

- (4) sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as the receiver shall determine.

The Lenders shall not be responsible for any actions or errors of omission by the receiver or receivers in exercising any such powers.

- 5.4 On the occurrence of an Event of Default, the Lenders may use and possess the Collateral or any part thereof, free from all encumbrances, liens and charges without hindrance, interruption or denial of the same by the Debtor or by any other person or persons and may lease or sell the whole or any part or parts of the Collateral. Any sale under this section may be made by public auction, by public tender or by private contract, without notice to the Debtor and with or without advertising and without any other formality (except as required by law), all of which are hereby waived by the Debtor to the fullest extent permitted by applicable law. Such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as the Lenders in their sole discretion may seem advantageous. Such sale may take place whether or not the Lenders have taken possession of the Collateral.
- 5.5 The Debtor agrees to pay to the Lenders forthwith on demand all reasonable expenses incurred by the Lenders in the preparation, perfection, administration and enforcement of this Security Agreement (including without limitation reasonable expenses incurred in considering and protecting or improving the position of the Lenders, whether before or after the occurrence of an Event of Default), all amounts borrowed by the receiver from the Lenders as hereinbefore provided and all reasonable costs, charges, expenses and fees (including, without limiting the generality of the foregoing, the fees and expenses of any receiver and legal fees on a solicitor and client basis) of or incurred by the Lenders and by any receiver or receivers or agent or agents appointed by the Lenders in connection with the recovery or enforcing of payment of any moneys owing hereunder, whether by realization, by taking possession or otherwise. All such sums, together with interest thereon at the rate applicable to the Obligations, shall form part of the Obligations and shall be secured by the security interests granted herein.
- 5.6 No remedy for the realization of the security interests granted herein or for the enforcement of the rights of the Lenders shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination. The term "receiver" as used in this Security Agreement includes a receiver and manager.
- 5.7 Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Lenders may see fit, and the Lenders shall at all times and from time to time have the right to change any appropriation as the Lenders may see fit.



- 6.1 The Lenders may pay and satisfy the whole or any part of any liens, taxes, rates, charges or encumbrances now or hereafter existing in respect of any of the Collateral and such payments together with all reasonable costs, charges and expenses which may be incurred in connection with making such payments shall form part of the Obligations and shall be secured by the security interests granted herein. In the event of the Lenders satisfying any such lien, charge or encumbrance, they shall be entitled to all the equities and securities of the person or persons so paid and are hereby authorized to obtain any discharge thereof and hold such discharge without registration for so long as they may deem advisable to do so.
- 6.2 The Debtor grants to the Lenders the right to set off against any and all accounts, credits or balances maintained by it with the Lenders, the aggregate amount of any of the Obligations.
- 6.3 The Lenders, without exonerating in whole or in part the Debtor, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Debtor and all other persons and securities as the Lenders may see fit.
- 6.4 The Debtor hereby irrevocably constitutes and appoints the Lenders and each of their directors, officers, employees, agents and representatives as the true and lawful attorney of the Debtor with power of substitution in the name of the Debtor, upon the occurrence of an Event of Default hereunder, to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lenders, in their sole discretion, considers necessary or desirable to carry out the provisions and purposes of this agreement, or to exercise any of its rights and remedies hereunder, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorney taken or done in accordance with this section.

- 7.1 If one or more of the provisions contained herein shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 7.2 Upon payment by the Debtor, its successors or permitted assigns, and the fulfilment of all the Obligations and provided that the Lenders are then under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Debtor, the Lenders shall, upon request in writing by the Debtor, delivered to the Lenders at Rabobank Canada's principal office in Toronto, Ontario, Canada and at the Debtor's expense, discharge and release this Security Agreement and any and all interests it may have arising from this Security Agreement.

- 7.3 This Security Agreement shall be construed in accordance with and be governed by the laws of the Province of Ontario. For the purpose of legal proceedings, this Security Agreement shall be deemed to have been made in the said Province and to be performed therein and the courts of that Province shall have jurisdiction over all disputes which may arise under this Security Agreement. Nothing herein contained shall prevent the Lenders from proceeding at their election against the Debtor in the courts of any other province, country or jurisdiction.
- 7.4 The headings in this Security Agreement are included for convenience of reference only, and shall not constitute a part of this Security Agreement for any other purpose.
- 7.5 This Security Agreement is in addition to and not in substitution for any other security now or hereafter held by the Lenders and shall be general and continuing security notwithstanding that the Obligations shall be at any time or from time to time fully satisfied or paid.
- 7.6 This Security Agreement and all its provisions shall enure to the benefit of the Lenders, their successors and assigns, and shall be binding on the Debtor, its successors and permitted assigns.
- 7.7 Any notice hereunder required or permitted to be given by the Lenders to the Debtor shall be deemed to have been received by the Debtor (i) if sent by prepaid private courier, on the Banking Day following the Banking Day of the sending thereof, or (ii) if sent by fax, upon the Banking Day of sending thereof if such fax was sent on or before 5:00 p.m. on such Banking Day, and otherwise on the following Banking Day, addressed as follows:

AFTON FOOD GROUP LTD.  
3380 South Service Road  
Burlington, Ontario  
L7N 3J5

Attention: President

Fax no. (905) 637-7745

As used herein, the term "**Banking Day**" means a day (other than a Saturday, Sunday or statutory holidays in the Province of Ontario) on which the Lenders are open for business in Toronto, Ontario.

7.8 In construing this Security Agreement, terms herein shall have the same meaning as defined in the Act, unless the context otherwise requires. The personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation.

IN WITNESS WHEREOF this Security Agreement has been executed by the Debtor this 31<sup>st</sup>  
day of March, 2000.

241 PIZZA (1997) INC.

Per: \_\_\_\_\_ c/s  
Name: Robert Macdonald  
Title: President

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

I/We have authority to bind the corporation.

EXHIBIT "A"

Certain Intellectual Property Assets  
(Security Agreement, subclause 2(a))

1. REGISTERED OWNER: 241 PIZZA (1997) INC.

Canada

<i>Mark</i>	<i>Registration/ Application Number</i>	<i>Registration/ Application Date</i>
0241	TMA415,799	August 20, 1993
241 CLASSICS	TMA517,534	October 4, 1999
241 CLASSICS WORD AND DESIGN MARK	TMA517,532	October 4, 1999
241 PIZZA	TMA517,528	October 4, 1999
241 PIZZA & Design (logo)	TMA333,302	October 23, 1987
241-0-241	TMA333,303	October 23, 1987
ALWAYS GET ONE FREE	TMA452,062	December 22, 1995
BUY ONE, ALWAYS GET ONE FREE	1,021,853 (First Report)	Filed July 12, 1999
NONE OF OUR PRODUCTS ARE MADE TO LAST	1,022,159 (Formalized)	Filed July 14, 1999
WE'RE ONE BETTER	TMA333,301	October 23, 1987

United States

0241 1891453 April 25, 1995

SECURITY AGREEMENT (INTELLECTUAL PROPI

DUPLICATE  
COPY

DATE: 2/1/00  
BY: [Signature]

BETWEEN:

241 PIZZA (1997) INC.  
(hereinafter called the "Debtor")

-and-

Rabobank Canada in its own right and as agent on behalf of Credit Union Central of Ontario Limited and HEPCOE Credit Union Limited (collectively, the "Lenders")

Article 1 OBLIGATIONS SECURED

1.1 The Debtor, a company incorporated under the laws of the Province of Ontario, hereby enters into this Security Agreement with the Lenders for valuable consideration and as security for the payment and discharge of any and all present and future liabilities and obligations, direct or indirect, absolute or contingent, joint or several, of the Debtor to the Lenders whether as principal or surety pursuant to a credit agreement dated March 31, 2000 as amended, restated or replaced from time to time (the "Credit Agreement") between, *inter alia*, Afton Food Group Ltd., as borrower, the Lenders and the Debtor, as guarantor (all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the "Obligations"). Insofar as it affects personal property located in Ontario, this Security Agreement is governed by the *Personal Property Security Act* (Ontario) (the "Act").

Article 2 GRANT OF MORTGAGES, CHARGES AND SECURITY INTERESTS

2.1 As security for the payment and performance of the Obligations, the Debtor hereby:

- (1) assigns, transfers and conveys to the Lenders and grants to the Lenders a security interest in all of its present and future intellectual property including without limitation, (i) copyrights, (ii) patents, (iii) trade-marks, trade names, business names, trade styles, logos and all other forms of business identifiers, and (iv) trade secrets and other confidential information and data in any form or format, including without limitation, all know-how obtained, developed or used in or contemplated at any time for use in the business, affairs, undertaking and operations of the Debtor now or hereafter owned, generated or acquired, including in each instance all related additions, improvements and accessories thereto and replacements thereof (hereinafter referred to as the "Intellectual Property Collateral") (whether registered or unregistered) including without limitation the intellectual property described in Exhibit "A" hereto; and

- (2) assigns, mortgages and charges in favour of the Lenders and grants to the Lenders a security interest in the proceeds arising from any of the assets referred to in clause 2.1(a) hereof.

For the purposes of this Security Agreement, the Intellectual Property Collateral, proceeds and all other property and assets of the Debtor referred to in this Article 2 are hereinafter collectively called the "**Collateral**". For greater certainty, the Collateral is hereby assigned, transferred and conveyed by the Debtor in favour of the Lenders as security only, and not absolutely.

### Article 3 AGREEMENTS OF THE DEBTOR

3.1 The Debtor and the Lenders agree that they have not agreed to postpone the time for attachment of the security interests granted hereby with respect to presently existing Collateral of the Debtor and that such security interests shall attach to the Collateral acquired after the date hereof as soon as the Debtor has rights in such Collateral.

3.2 The Debtor agrees with the Lenders that, until the Obligations have been satisfied or paid in full:

- (1) it will not, without the prior written consent of the Lenders create or suffer to exist any liens upon or assign or transfer as security or pledge or hypothecate any of the Collateral except to the Lenders;
- (2) it will:
  - (1) hold the proceeds received from any direct or indirect dealing out of the ordinary course of business with the Collateral in trust for the Lenders save and except any proceeds arising from any dealing by the Debtor for which the Debtor has received the Lenders' prior written consent to such dealing;
  - (2) refrain from using the Collateral or permitting the Collateral to be used (i) in association with any business or undertaking other than in the ordinary course of the Debtor's business; or (ii) in any improper manner; or (iii) generally in any manner that diminishes the value of the Collateral, and the Lenders may, whenever they deem necessary, during regular business hours, either in person or by agent, enter upon the property of the Debtor and inspect the Collateral and the right, title and interest of the Debtor in and to the Intellectual Property Collateral;
  - (3) make all necessary filings, registrations and other recordations to protect the interest of the Debtor in the Collateral, including without limitation recordations of all its interests in all patents, trade-marks, and copyrights comprised in the Intellectual Property Collateral;
  - (4) perform all covenants required under any third party agreement, including, *inter alia*, promptly paying all required fees, royalties and taxes, to maintain

each and every item of Intellectual Property Collateral in full force and effect throughout as applicable;

- (5) maintain all necessary filings, registrations and other recordations relating to any of the Intellectual Property Collateral, including without limitation, timely payment of any renewal and/or maintenance fees;
- (6) in a commercially reasonable manner protect, preserve and maintain all of the right, title and interest of the Debtor in the Intellectual Property Collateral, including without limitation, the duty to prosecute and/or defend against any and all suits concerning validity, infringement, enforceability, ownership or other aspects affecting any of the Intellectual Property Collateral (any expenses incurred in protecting, preserving and maintaining any of the Intellectual Property Collateral shall be borne by the Debtor);
- (7) upon written request by the Lenders, execute and deliver any and all agreements, instruments, documents and papers as the Lenders may reasonably request to evidence the security interest of the Lenders in the Collateral, including without limiting the foregoing, the Intellectual Property Collateral;
- (8) refrain from selling, assigning, disposing, licensing or otherwise transferring to any third party any of the right, title or interest of the Debtor in any of the Collateral, including without limitation, the Intellectual Property Collateral other than in the normal course of the business of the Debtor;
- (9) refrain from either directly or indirectly filing any application for registration affecting any of the Intellectual Property Collateral without the prior written consent of the Lenders, except in the ordinary course of the Debtor's business;
- (10) strictly comply with every covenant and undertaking given by it to the Lenders; and
- (11) comply with valid requirements of any governmental authority pertaining to the operation by the Debtor of its business.

3.3 The Debtor hereby represents and warrants to the Lenders (which representations and warranties shall survive until the Obligations have been completely performed and discharged) that:

- (1) all registrations and applications for registration in respect of the Intellectual Property Collateral including all relevant renewals have been duly and properly made, are in full force and effect and are not subject to any material dispute by any governmental

authority or agency and all material leases, licenses, and other agreements affecting any of the right, title or interest of the Debtor in any of the Intellectual Property Collateral (collectively "**Third Party Agreements**") are in good standing;

- (2) the Debtor owns directly or is entitled to use by license or otherwise all patents, trade-marks, trade secrets, copyrights, licenses, technology, know-how, processes and other information and rights with respect to the Collateral, including the Intellectual Property Collateral in Canada and United States;
- (3) the Debtor has made all commercially reasonable filings, registrations and recordations to protect all of its right, title and interest in the Intellectual Property Collateral, including without limitation, recordations of all such rights, title and interest in related patents, trade-marks and copyrights;
- (4) to the best of knowledge of the Debtor, no material litigation is pending or threatened which contains allegations respecting the validity, enforceability, infringement or ownership of any of the Intellectual Property Collateral, including without limitation, any of right, title or interest of the Debtor in the Intellectual Property Collateral;
- (5) Exhibit "A" lists all of the registered present intellectual property of the Debtor, including without limitation, all registered patents, trademarks and copyrights of the Debtor in Canada and United States; and
- (6) none of the Obligations nor the granting of the security interest by the Debtor in favour of the Lenders constitutes a breach under any third party agreement.

3.4 The Debtor hereby agrees that it will at all times, both before and after the occurrence of an Event of Default, do or cause to be done such additional things and execute and deliver or cause to be executed and delivered all such further acts and documents as the Lenders may reasonably require for the better mortgaging, charging, transferring, assigning, confirming and granting of security interests in the present or future Collateral to the Lenders.

#### Article 4 DEFAULT

4.1 The Obligations shall, at the option of the Lenders, become payable and the security granted pursuant to this Security Agreement shall become enforceable upon the occurrence of an "**Event of Default**" as defined in the Credit Agreement.

4.2 The Lenders may in writing (and not otherwise) waive any breach by the Debtor of any of the provisions contained in this Security Agreement or any default by the Debtor in the observance or performance of any provision of this Security Agreement; provided always that no waiver by the Lenders shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default, whether of the same or a different nature, or the rights resulting therefrom.



5.1 Whenever the security granted pursuant to this Security Agreement shall have become enforceable, and so long as it shall remain enforceable, the Lenders may proceed to realize such security and to enforce their rights by:

- (1) the appointment by instrument in writing of a receiver or receivers of the Collateral or any part thereof (which receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Lenders or not and the Lenders may remove any receiver or receivers so appointed and appoint another or others in his or their stead);
- (2) proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the Collateral or any part thereof;
- (3) any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity;
- (4) exercising all of the Debtor's rights under all licenses, contracts, agreements or other instruments in writing, including without limitation the Credit Agreement, relating to the Collateral as fully and effectually as if the Lenders were the absolute owner thereof;
- (5) commencing legal proceedings for and on behalf of and in the name of the Lenders and at the expense of the Debtor in order to enforce the rights of the Debtor under any licenses, contracts, agreements, or other instruments in writing which may relate to the Collateral.

5.2 In addition, the Lenders may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Debtor.

5.3 Any receiver or receivers so appointed shall have power to:

- (1) take possession of and to use the Collateral or any part thereof;
- (2) borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor;
- (3) further charge the Collateral in priority to the security interests of this Security Agreement as security for money so borrowed; and

- (4) sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as the receiver shall determine.

The Lenders shall not be responsible for any actions or errors of omission by the receiver or receivers in exercising any such powers.

- 5.4 On the occurrence of an Event of Default, the Lenders may use and possess the Collateral or any part thereof, free from all encumbrances, liens and charges without hindrance, interruption or denial of the same by the Debtor or by any other person or persons and may lease or sell the whole or any part or parts of the Collateral. Any sale under this section may be made by public auction, by public tender or by private contract, without notice to the Debtor and with or without advertising and without any other formality (except as required by law), all of which are hereby waived by the Debtor to the fullest extent permitted by applicable law. Such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as the Lenders in their sole discretion may seem advantageous. Such sale may take place whether or not the Lenders have taken possession of the Collateral.
- 5.5 The Debtor agrees to pay to the Lenders forthwith on demand all reasonable expenses incurred by the Lenders in the preparation, perfection, administration and enforcement of this Security Agreement (including without limitation reasonable expenses incurred in considering and protecting or improving the position of the Lenders, whether before or after the occurrence of an Event of Default), all amounts borrowed by the receiver from the Lenders as hereinbefore provided and all reasonable costs, charges, expenses and fees (including, without limiting the generality of the foregoing, the fees and expenses of any receiver and legal fees on a solicitor and client basis) of or incurred by the Lenders and by any receiver or receivers or agent or agents appointed by the Lenders in connection with the recovery or enforcing of payment of any moneys owing hereunder, whether by realization, by taking possession or otherwise. All such sums, together with interest thereon at the rate applicable to the Obligations, shall form part of the Obligations and shall be secured by the security interests granted herein.
- 5.6 No remedy for the realization of the security interests granted herein or for the enforcement of the rights of the Lenders shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination. The term "receiver" as used in this Security Agreement includes a receiver and manager.
- 5.7 Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Lenders may see fit, and the Lenders shall at all times and from time to time have the right to change any appropriation as the Lenders may see fit.

Article 6 RIGHTS OF THE LENDERS

- 6.1 The Lenders may pay and satisfy the whole or any part of any liens, taxes, rates, charges or encumbrances now or hereafter existing in respect of any of the Collateral and such payments together with all reasonable costs, charges and expenses which may be incurred in connection with making such payments shall form part of the Obligations and shall be secured by the security interests granted herein. In the event of the Lenders satisfying any such lien, charge or encumbrance, they shall be entitled to all the equities and securities of the person or persons so paid and are hereby authorized to obtain any discharge thereof and hold such discharge without registration for so long as they may deem advisable to do so.
- 6.2 The Debtor grants to the Lenders the right to set off against any and all accounts, credits or balances maintained by it with the Lenders, the aggregate amount of any of the Obligations.
- 6.3 The Lenders, without exonerating in whole or in part the Debtor, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Debtor and all other persons and securities as the Lenders may see fit.
- 6.4 The Debtor hereby irrevocably constitutes and appoints the Lenders and each of their directors, officers, employees, agents and representatives as the true and lawful attorney of the Debtor with power of substitution in the name of the Debtor, upon the occurrence of an Event of Default hereunder, to do any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Lenders, in their sole discretion, considers necessary or desirable to carry out the provisions and purposes of this agreement, or to exercise any of its rights and remedies hereunder, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorney taken or done in accordance with this section.

Article 7 MISCELLANEOUS

- 7.1 If one or more of the provisions contained herein shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 7.2 Upon payment by the Debtor, its successors or permitted assigns, and the fulfilment of all the Obligations and provided that the Lenders are then under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Debtor, the Lenders shall, upon request in writing by the Debtor, delivered to the Lenders at Rabobank Canada's principal office in Toronto, Ontario, Canada and at the Debtor's expense, discharge and release this Security Agreement and any and all interests it may have arising from this Security Agreement.

- 7.3 This Security Agreement shall be construed in accordance with and be governed by the laws of the Province of Ontario. For the purpose of legal proceedings, this Security Agreement shall be deemed to have been made in the said Province and to be performed therein and the courts of that Province shall have jurisdiction over all disputes which may arise under this Security Agreement. Nothing herein contained shall prevent the Lenders from proceeding at their election against the Debtor in the courts of any other province, country or jurisdiction.
- 7.4 The headings in this Security Agreement are included for convenience of reference only, and shall not constitute a part of this Security Agreement for any other purpose.
- 7.5 This Security Agreement is in addition to and not in substitution for any other security now or hereafter held by the Lenders and shall be general and continuing security notwithstanding that the Obligations shall be at any time or from time to time fully satisfied or paid.
- 7.6 This Security Agreement and all its provisions shall enure to the benefit of the Lenders, their successors and assigns, and shall be binding on the Debtor, its successors and permitted assigns.
- 7.7 Any notice hereunder required or permitted to be given by the Lenders to the Debtor shall be deemed to have been received by the Debtor (i) if sent by prepaid private courier, on the Banking Day following the Banking Day of the sending thereof, or (ii) if sent by fax, upon the Banking Day of sending thereof if such fax was sent on or before 5:00 p.m. on such Banking Day, and otherwise on the following Banking Day, addressed as follows:

AFTON FOOD GROUP LTD.  
3380 South Service Road  
Burlington, Ontario  
L7N 3J5

Attention: President

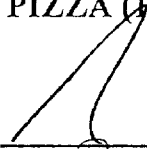
Fax no. (905) 637-7745

As used herein, the term "**Banking Day**" means a day (other than a Saturday, Sunday or statutory holidays in the Province of Ontario) on which the Lenders are open for business in Toronto, Ontario.

7.8 In construing this Security Agreement, terms herein shall have the same meaning as defined in the Act, unless the context otherwise requires. The personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation.

IN WITNESS WHEREOF this Security Agreement has been executed by the Debtor this 31<sup>st</sup>  
day of March, 2000.

241 PIZZA (1997) INC.

Per:  \_\_\_\_\_ c/s  
Name: Robert Macdonald  
Title: President

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

I/We have authority to bind the corporation.

EXHIBIT "A"

**Certain Intellectual Property Assets**  
(Security Agreement, subclause 2(a))

1. **REGISTERED OWNER: 241 PIZZA (1997) INC.**

**Canada**

<i>Mark</i>	<i>Registration/ Application Number</i>	<i>Registration/ Application Date</i>
0241	TMA415,799	August 20, 1993
241 CLASSICS	TMA517,534	October 4, 1999
241 CLASSICS WORD AND DESIGN MARK	TMA517,532	October 4, 1999
241 PIZZA	TMA517,528	October 4, 1999
241 PIZZA & Design (logo)	TMA333,302	October 23, 1987
241-0-241	TMA333,303	October 23, 1987
ALWAYS GET ONE FREE	TMA452,062	December 22, 1995
BUY ONE, ALWAYS GET ONE FREE	1,021,853 (First Report)	Filed July 12, 1999
NONE OF OUR PRODUCTS ARE MADE TO LAST	1,022,159 (Formalized)	Filed July 14, 1999
WE'RE ONE BETTER	TMA333,301	October 23, 1987

**United States**

0241 1891453 April 25, 1995