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Form PTO-1594
(Rev. 10/02)
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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

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

1. Name of conveying party(ies):

CHUNG'S FOODS, INC.

- [ ] Individual(s)
- [ ] Association
- [ ] General Partnership
- [ ] Limited Partnership
- [x] Corporation-State
- [ ] Other

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

2. Name and address of receiving party(ies)

Name: BANK OF AMERICA, N.A.

Internal Address:

Street Address: 700 LOUISIANA, 7TH FLOOR

City: HOUSTON State: TX Zip: 77002

- [ ] Individual(s) citizenship
- [x] Association
- [ ] General Partnership
- [ ] Limited Partnership
- [ ] Corporation-State
- [ ] Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: [ ] Yes [ ] No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? [ ] Yes [x] No

3. Nature of conveyance:

- [ ] Assignment
- [ ] Merger
- [x] Security Agreement
- [ ] Change of Name
- [ ] Other

Execution Date: 12-20-02

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

A. Trademark Application No.(s)
SEE SCHEDULE I ATTACHED

B. Trademark Registration No.(s)
SEE SCHEDULE I ATTACHED

Additional number(s) attached [x] Yes [ ] No

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

Name: WAYNE YAFFEE

Internal Address:

C/O GARDERE WYNNE SEWELL LLP

Street Address: 1000 LOUISIANA

SUITE 3400

City: HOUSTON State: TX Zip: 77002

6. Total number of applications and registrations involved: ..... 17

7. Total fee (37 CFR 3.41).....$ 440.00

- [x] Enclosed
- [ ] Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Adam Rose
Name of Person Signing

Signature

December 20, 2002
Date

Total number of pages including cover sheet, attachments, and document: 20

01/06/2003 DRYRNE 00000173 1844570
01 FC:8521 40.00 OP
02 FC:8522 400.00 OP

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

## SCHEDULE I

## INTELLECTUAL PROPERTY

### TRADEMARKS

| MARK | REG/APP NO. | STATUS |
|---|---|---|
| Chung's & design I | 1,844,570 | Registered |
| Chung's & design II | 1,835,571 | Registered |
| Chung's Delight | 1,825,293 | Registered |
| China Town & design | 1,837,983 | Registered |
| China Garden & design | 1,818,067 | Registered |
| Dino's Primo & design | 2,002,766 | Registered* |
| Chung's China Garden & design | 2,146,670 | Registered |
| Breakfast Made Easy | 75/079,806 | Abandoned |
| Breakfast Made Easy | 78/038,218 | Pending |
| Breakfast Made Easy & design | 75/079,805 | Abandoned |
| Breakfast Made Easy & design | 78/078,603 | Pending |
| Chung's & design (for restaurant services) | 2,406,532 | Registered |
| Chung's Express (for restaurant services) | 75/119,065 | Abandoned |
| Chung's Express (for restaurant services) | 78/038,221 | Pending |
| Chung's Express (for food products) | 2,141,058 | Registered |
| China Gourmet & design | 2,502,288 | Registered |
| China Express & design | 78/042,097 | Pending |

* Marked for abandonment on 3/2003

# SECURITY AGREEMENT

THIS SECURITY AGREEMENT is made and entered into as of the 20th day of December, 2002, by CHUNG'S FOODS, INC., a Texas corporation ("**Debtor**"), whose address is 3907 Dennis Street, Houston, Texas 77004, in favor of BANK OF AMERICA, N.A., a national banking association, ("**Secured Party**"), whose address is 700 Louisiana, P.O. Box 2518, Houston, Harris County, Texas 77252-2518.

## W I T N E S S E T H:

WHEREAS, in accordance with the terms and provisions of the Amended and Restated Loan Agreement (as may be amended, modified, restated and supplemented (the "**Loan Agreement**") of even date herewith, Debtor executed (i) a Promissory Note (Acquisition Note) of even date herewith in favor of Secured Party in the principal amount of $7,500,000.00 and (ii) a Promissory Note (Revolving Note) of even date herewith in favor of Secured Party in the principal amount of $2,500,000.00; (collectively, as they may be renewed, modified, extended, increased, restated, replaced, substituted, and rearranged, the "**Notes**"); and

WHEREAS, Secured Party has conditioned its funding of the Notes, upon, among other things, the execution and delivery by Debtor of this Security Agreement, and Debtor has agreed to enter into this Security Agreement.

NOW, THEREFORE, for and in consideration of the premises and the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees with Secured Party as follows:

1. **Definitions**.

1.1 General. All capitalized terms used herein without definitions shall have the respective meanings provided therefor in the Loan Agreement. The term "**State**", as used herein, means the State of Texas. All terms defined in the UCC and used herein shall have the same definitions herein as specified therein; provided, however, that the term "instrument" shall have the same definition herein as defined in Article 9 of the UCC.

1.2 Terms Defined Above. As used in this Security Agreement, the terms "**Loan Agreement**," "**Debtor**," "**Secured Party**," "**Security Agreement**," and "**Notes**" shall have the respective meanings indicated above.

1.3 Certain Definitions. As used in this Security Agreement, the following terms shall have the following meanings unless the context otherwise requires:

"**Accounts**" shall mean all accounts under and as defined in the UCC, including, without limitation, all accounts receivable, book debts, notes, drafts, instruments, documents, acceptances, and other forms of obligations now owned or hereafter received or acquired by or belonging or owing to the Debtor (including, without limitation, under any trade names, styles, or divisions thereof), whether arising from the sale or lease of goods or the rendition of services or any other transaction (including, without limitation, any such obligation which might be characterized as an account, general intangible, other than contract rights under contracts containing prohibitions against assignment of or the granting of a security interest in the rights of a party thereunder, or chattel paper under the UCC in effect in any jurisdiction), and all rights of the Debtor in, to, and under all purchase orders now owned or hereafter received or acquired by it for goods or services, and all rights of the Debtor to any goods the sale or lease of which gave rise to any of the foregoing (including, without limitation, returned or repossessed goods and rights of unpaid sellers), and all moneys due or to become due to the Debtor under all contracts for the sale or lease of goods or the performance of services (whether or not earned by performance) or in connection with any other transaction, now in existence or hereafter arising, including, without limitation, all collateral security and guarantees of any kind given by any Person with respect to any of the foregoing and proceeds of all indemnity agreements benefiting Debtor.

"**Chattel Paper**" shall mean all chattel paper (as such term is defined in the UCC) of Debtor, including, without limitation, equipment leases and conditional sales agreements.

"**Collateral**" shall have the meaning set forth in Section 2 hereof.

"**Deposit Accounts**" shall mean all deposit accounts (as such term is defined in the UCC) of Debtor.

"**Documents**" shall mean all documents (as such term is defined in the UCC) of Debtor, including, without limitation, documents of title, warehouse receipts, and bills of lading.

"**Equipment**" shall mean all (a) goods classified as "equipment," in the UCC, (b) vehicles, and (c) rolling stock of the Debtor, now owned or hereafter acquired and wherever located, together with all accessions, improvements, attachments, and other additions thereto and substitutes and replacements therefor, and all tools, parts, and appurtenances now or at any time hereafter used in connection therewith.

"**Event of Default**" shall have the meaning assigned to such term in the Loan Agreement.

"**General Intangibles**" shall mean all general intangibles (as such term is defined in the UCC) of Debtor, including, without limitation, rights to the payment of money, payment intangibles, trademarks (including, without limitation, the trademarks listed in Schedule I attached hereto), copyrights, patents (including, without limitation, the patents listed in Schedule I attached hereto), contracts, licenses, and franchises (excluding contracts, licenses, and franchises which prohibit the assignment or grant of a security interest by Debtor), limited and general partnership interests and joint venture interests, federal income tax refunds, trade names, distributions on certificated securities and uncertificated securities, computer programs and other computer software, inventions, designs, trade secrets, goodwill, proprietary rights, customer lists, supplier contracts, sale orders, correspondence, advertising materials, payments due in connection with any requisition, confiscation, condemnation, seizure or forfeiture of any property, reversionary interests in pension and profit-sharing plans, and reversionary, beneficial, and residual interests in trusts, credits with and other claims against any person, together with any collateral for any of the foregoing and the rights under any security agreement granting a security interest in such collateral.

"**Instruments**" shall mean all instruments (as such term is defined in the UCC as provided for in Section 1.1) of Debtor.

"**Intellectual Property**" shall have the meaning assigned to such term in the Loan Agreement.

"**Inventory**" shall mean all of Debtor's inventory (as that term is defined in the UCC) whether now owned or hereafter acquired and wherever located, including, but not limited to, all goods intended for sale or lease by Debtor, or for display or demonstration; all work in process, all raw materials and other materials and supplies of every nature and description used or which might be used in connection

with the manufacture, printing, packing, shipping, advertising, selling, leasing or furnishing of such goods or otherwise used or consumed in Debtor's business; and all documents evidencing and general intangibles relating to any of the foregoing.

"**Obligations**" shall have the meaning assigned to that term in the Loan Agreement.

"**Permitted Lien**" shall have the meaning assigned to that term in the Loan Agreement.

"**Related Rights**" shall mean all Chattel Paper, Documents, and/or Instruments relating to the Accounts, Inventory, Equipment, and Deposit Accounts, and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to the Accounts, Inventory, Equipment, and Deposit Accounts, or any such Chattel Papers, Documents, General Intangibles, and/or Instruments.

"**Supporting Obligations**" shall have the meaning set forth in the UCC.

"**UCC**" shall mean the Uniform Commercial Code in effect from time to time in the State of Texas.

2. **Grant of Security Interest**. The Debtor hereby grants to the Secured Party, to secure the payment and performance in full of all of the Notes and other Obligations, a security interest in the following properties, assets and rights of the Debtor, wherever located, whether now owned or hereafter acquired (all of the same being hereinafter collectively called the "**Collateral**"):

(a) all of Debtor's Accounts, Inventory, Equipment, Deposit Accounts, General Intangibles, and all Related Rights; and

(b) all Supporting Obligations and proceeds, cash proceeds, cash equivalents, products, replacements, additions and improvements to, substitutions for, and accessions of any and all property described in Subsection (a) of this Section 2.

(c) Notwithstanding anything herein to the contrary, in no event shall the Collateral include, and shall Debtor be deemed to have granted a security interest in (i) any personal and real property, fixtures and interests of Debtor which are not assignable or are incapable of being encumbered as a matter of law, or (ii) Debtor's rights or interests in any license, contract or agreement to which



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Debtor is a party or any of its rights or interests thereunder to the extent, but only to the extent, that such a grant would, under the terms of such license, contract or agreement or otherwise, result in a breach of the terms of, or constitute a default under any license, contract or agreement to which Debtor is a party; provided, upon the ineffectiveness, lapse, or termination of any such provision, the Collateral shall include, and Debtor shall be deemed to have granted a security interest in, all such rights and interests as if such provision had never been in effect. In addition, the Collateral shall exclude any rights to any Intellectual Property which would be rendered invalid or unenforceable by the grant of a security interest created pursuant to the terms of this Agreement, for as long as such prohibition or reason for invalidity exists.

3. **Authorization to File Financing Statements**. The Debtor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto, without the necessity of execution by the Debtor where permitted by law, that (a) indicate the Collateral as all assets of the Debtor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the State or such jurisdiction, and (b) contain any other information required by part 5 of Article 9 of the UCC of the State for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Debtor is an organization, the type of organization and any organization identification number issued to the Debtor and, (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. The Debtor agrees to furnish any such information to the Secured Party promptly upon request.

4. **Other Actions**. Further to insure the attachment, perfection and first priority of, and the ability of the Secured Party to enforce, the Secured Party's security interest in the Collateral, the Debtor agrees, in each case at the Debtor's own expense, to take the following actions with respect to the following Collateral:

4.1 **Promissory Note and Tangible Chattel Paper**. If the Debtor shall at any time hold or acquire any promissory note or tangible chattel paper, the Debtor shall forthwith endorse, assign and deliver the same to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify in writing.

4.2 **Deposit Accounts**. For each deposit account that the Debtor at any time opens or maintains, the Debtor shall, at the Secured Party's



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reasonable request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Secured Party, either (a) cause the depositary bank to agree to comply at any time with instructions from the Secured Party to such depositary bank directing the disposition of funds from time to time credited to such deposit account, or (b) arrange for the Secured Party to become the customer of the depositary bank with respect to the deposit account, with the Debtor being permitted, only with the consent of the Secured Party, to exercise rights to withdraw funds from such deposit account. The provisions of this paragraph shall not apply to (i) any deposit account for which the Debtor, the depositary bank and the Secured Party have entered into a cash collateral agreement specially negotiated among the Debtor, the depositary bank and the Secured Party for the specific purpose set forth therein, (ii) deposit accounts for which the Secured Party is the depositary, (iii) petty cash accounts, and (iv) deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of the Debtor's salaried employees.

4.3 **Collateral in the Possession of a Bailee**. If any material portion of the Collateral is at any time in the possession of a bailee or warehouseman, or are located at a leased location, the Debtor shall promptly notify the Secured Party thereof and, if requested by the Secured Party shall promptly obtain an acknowledgement from the bailee, warehouseman, or landlord, in form and substance satisfactory to the Secured Party, that the bailee holds such Collateral for the benefit of the Secured Party and shall act upon the instructions of the Secured Party.

4.4 **Other Actions as to any and all Collateral**. The Debtor further agrees to take any other action reasonably requested in writing by the Secured Party to insure the attachment, perfection and first priority of, and the ability of the Secured Party to enforce, the Secured Party's security interest in any and all of the Collateral including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC, to the extent, if any, that the Debtor's signature thereon is required therefor, (b) causing the Secured Party's name to be noted as secured party on any certificate of title for all rolling stock and any other titled good if such notation is a condition to attachment, perfection or priority of, or ability of the Secured Party to enforce, the Secured Party's security interest in such Collateral, and (c) taking all actions required by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.



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5. **Relation to Other Security Documents**. The provisions of this Agreement supplement the provisions of the Loan Agreement or in any other agreement or instrument pertaining to or securing the Obligations. Nothing contained in the Loan Agreement or in any other agreement or instrument pertaining to or securing the Obligations shall limit any of the rights or remedies of the Secured Party hereunder.

6. **Representations and Warranties Concerning Company's Legal Status**. The Debtor represents and warrants to the Secured Party as of the date hereof as follows: (a) the Debtor's legal name is that indicated on the signature page hereof, and (b) the Debtor is an organization of the type and organized in the jurisdiction set forth in the opening paragraph of this Security Agreement.

7. **Covenants Concerning Company's Legal Status**. The Debtor covenants with the Secured Party as follows: (a) without providing at least 30 days prior written notice to the Secured Party, the Debtor will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, and (b) without providing at least 30 days prior written notice to the Secured Party, the Debtor will not change its type of organization, jurisdiction of organization or other legal structure.

8. **Representations and Warranties Concerning Collateral, Etc**. The Debtor further represents and warrants as of the date hereof to the Secured Party as follows: (a) the Debtor is the owner of the Collateral, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Agreement and Permitted Liens, (b) none of the Collateral constitutes, or is the proceeds of, "farm products" as defined in §9-102(a)(34) of the Uniform Commercial Code of the State, (c) to the knowledge of the Debtor, none of the account debtors other than with respect to certain military contracts or other persons obligated on any of the Collateral is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral, and (d) the Debtor holds no commercial tort claim.

9. **Covenants Concerning Collateral, Etc**. The Debtor further covenants with the Secured Party as follows: (a) the Collateral (other than Collateral in the possession of the Secured Party and cash on deposit in Permitted Deposit Accounts) will be kept at those locations disclosed to Secured Party in writing prior to the date of this Agreement and the Debtor will not remove the Collateral from such locations, without providing at least 30 days prior written notice to the Secured Party, (b) the Debtor shall at the Secured Party's written request, use its commercially reasonably efforts to defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to the Secured Party, (c) the Debtor shall not pledge, mortgage or create, or suffer to



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exist a security interest in the Collateral in favor of any person other than the Secured Party or in connection with a Permitted Lien, (d) the Debtor will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon, and (e) the Debtor will pay when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of such Collateral or incurred in connection with this Agreement.

10. **Insurance Proceeds**. The proceeds of any casualty insurance in respect of any casualty loss of any of the Collateral shall, subject to the rights, if any, of other parties with a prior interest in the property covered thereby, (i) so long as no Event of Default has occurred and is continuing and to the extent that the amount of such proceeds is less than $100,000.00, be disbursed to the Debtor for direct application by the Debtor solely to the repair or replacement of the Debtor's property so damaged or destroyed and (ii) in all other circumstances, be held by the Secured Party as cash collateral for the Obligations. The Secured Party may, at its sole option, disburse from time to time all or any part of such proceeds so held as cash collateral, upon such terms and conditions as the Secured Party may reasonably prescribe, for direct application by the Debtor solely to the repair or replacement of the Debtor's property so damaged or destroyed, or the Secured Party may apply all or any part of such proceeds to the Obligations.

11. **Collateral Protection Expenses: Preservation of Collateral**.

11.1 **Expenses Incurred by Secured Party**. In its discretion, with written notice to Debtor, the Secured Party may discharge taxes and other encumbrances at any time levied or placed on any of the Collateral, make repairs thereto and pay any necessary filing fees. The Debtor agrees to reimburse the Secured Party on written demand for any and all reasonable expenditures so made. The Secured Party shall have no obligation to the Debtor to make any such expenditures, nor shall the making thereof relieve the Debtor of any default.

11.2 **Secured Party's Obligations and Duties**. Subject to Section 2, the Debtor shall remain liable under each contract or agreement comprised in the Collateral to be observed or performed by the Debtor thereunder. The Secured Party shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Agreement or the receipt by the Secured Party of any payment relating to any of the Collateral, nor shall the Secured Party be obligated in any manner to perform any of the obligations of the Debtor under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by the Secured Party in respect of the Collateral or as to the sufficiency of any performance by any party under any such contract or



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agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to the Secured Party or to which the Secured Party may be entitled at any time or times. The Secured Party's sole duty with respect to the custody, safe keeping and physical preservation of the Collateral in its possession, under §9-207 of the UCC or otherwise, shall be to deal with such Collateral in the same manner as the Secured Party deals with similar property for its own account.

12. **Deposits**. The Secured Party may following and during the continuance of an Event of Default, cause any deposits or other sums at any time credited by or due from the Secured Party to the Debtor to be applied to or set off against any of the Obligations.

13. **Power of Attorney**.

13.1 **Appointment and Powers of Secured Party**. Upon the occurrence and during the continuance of an Event of Default, the Debtor hereby irrevocably constitutes and appoints the Secured Party and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Debtor or in the Secured Party's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives said attorneys the power and right, on behalf of the Debtor, without notice to or assent by the Debtor, to do the following:

(a) upon the occurrence and during the continuance of an Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the Uniform Commercial Code of the State and as fully and completely as though the Secured Party were the absolute owner thereof for all purposes, and to do at the Debtor's expense, at any time, or from time to time, all acts and things which the Secured Party deems reasonably necessary to protect, preserve or realize upon the Collateral and the Secured Party's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as the Debtor might do, including, without limitation, (i) the filing and prosecuting of registration and transfer applications with the appropriate federal or local agencies or authorities with respect to trademarks, copyrights and patentable inventions and processes, (ii) upon written notice to



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the Debtor, the exercise of voting rights with respect to voting securities, which rights may be exercised, if the Secured Party so elects, with a view to causing the liquidation in a commercially reasonable manner of assets of the issuer of any such securities and (iii) the execution, delivery and recording, in connection with any sale or other disposition of any Collateral, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Collateral; and

(b) to file any financing statement with respect hereto, with the Debtor's signature, or a photocopy of this Agreement in substitution for a financing statement, as the Secured Party may deem appropriate and to execute in the Debtor's name such financing statements and amendments thereto and continuation statements which may require the Debtor's signature.

13.2 **Ratification by Company**. To the extent permitted by law, the Debtor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

13.3 **No Duty on Secured Party**. The powers conferred on the Secured Party hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. The Secured Party shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any act or failure to act, except for the Secured Party's own gross negligence or willful misconduct. Debtor agrees that Debtor has the risk of loss with respect to the Collateral, and the Secured Party has no duty to collect any income accruing on the Collateral or to preserve any rights relating to the Collateral.

14. **Remedies**. If an Event of Default shall have occurred and be continuing, the Secured Party may, without notice to or demand upon the Debtor, declare this Agreement to be in default, and the Secured Party shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the UCC or of any jurisdiction in which Collateral is located, including, without limitation, the right to take possession of the Collateral and for that purpose the Secured Party may, so far as the Debtor can give authority therefor, enter upon any premises on which the Collateral may be situated and remove the same therefrom. The Secured Party may in its reasonable discretion require the Debtor to assemble all or any part of the Collateral at such location or locations within the jurisdiction(s) of



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the Debtor's principal office(s) or at such other locations as the Secured Party may reasonably designate which are reasonably convenient to Debtor and the Secured Party. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Secured Party shall give to the Debtor at least 10 Business Days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. The Debtor hereby acknowledges that 10 Business Days prior written notice of such sale or sales shall be reasonable notice. In addition, to the extent permitted by law, the Debtor waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of the Secured Party's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto.

15. **Standards for Exercising Remedies**. To the extent that applicable law imposes duties on the Secured Party to exercise remedies in a commercially reasonable manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for the Secured Party (a) to fail to incur expenses reasonably deemed significant by the Secured Party to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (d) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as the Debtor, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets,(i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure the Secured Party against risks of loss, collection or disposition of Collateral or to provide to the Secured Party a guaranteed return from the collection or disposition of Collateral, or (1) to the extent deemed appropriate by the Secured Party, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Secured Party in the collection or disposition of any of the Collateral. The



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Debtor acknowledges that the purpose of this Section 15 is to provide non-exhaustive indications of what actions or omissions by the Secured Party would not be commercially unreasonable in the Secured Party's exercise of remedies against the Collateral and that other actions or omissions by the Secured Party shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 15. Without limitation upon the foregoing, nothing contained in this Section15 shall be construed to grant any rights to the Debtor or to impose any duties on the Secured Party that would not have been granted or imposed by this Agreement or by applicable law in the absence of this Section 15. Secured Party may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

16. **No Waiver by Secured Party, etc**. The Secured Party shall not be deemed to have waived any of its rights upon or under the Obligations or the Collateral unless such waiver shall be in writing and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future similar occasion. All rights and remedies of the Secured Party with respect to the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly, alternatively, successively or concurrently at such time or at such times as the Secured Party deems expedient.

17. **Suretyship Waivers by Company**. The Debtor waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon. With respect to both the Obligations and the Collateral, the Debtor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Secured Party may deem advisable. The Secured Party shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof as set forth in Section 11.2. The Debtor further waives any and all other suretyship defenses.

18. **Marshalling**. The Secured Party shall not be required to marshal any present or future collateral security (including, but not limited to, this Agreement and the Collateral) for, or other assurances of payment of the Obligations or any of



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them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Debtor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Secured Party's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, the Debtor hereby irrevocably waives the benefits of all such laws.

19. **Proceeds of Dispositions; Expenses**. The Debtor shall pay to the Secured Party on written demand any and all reasonable expenses, including reasonable attorneys' fees and disbursements, incurred or paid by the Secured Party in protecting, preserving or enforcing the Secured Party's rights under or in respect of any of the Obligations or any of the Collateral. After deducting all of said expenses, the residue of any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as provided in the Loan Agreement and provision being made for any Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations and after making any payments required by Sections 9-608(a)(1)(C) or 9-615(a)(3) of the Uniform Commercial Code of the State, any excess shall be returned to the Debtor, and the Debtor shall remain liable for any deficiency in the payment of the Obligations.

20. **Governing Law: Consent to Jurisdiction**. THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE. The Debtor agrees that any suit for the enforcement of this Agreement may be brought in the courts of the State or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Debtor by mail at the address of the Debtor set forth in the Loan Agreement. The Debtor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

21. **Entire Agreement**. **THIS SECURITY AGREEMENT AND THE OTHER WRITTEN LOAN DOCUMENTS REPRESENT, COLLECTIVELY, THE FINAL AGREEMENT AMONG THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**



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22. **Miscellaneous**. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Debtor and its respective successors and assigns, and shall inure to the benefit of the Secured Party and its successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall 'in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Debtor acknowledges receipt of a copy of this Agreement.

23. **ARBITRATION AND WAIVER OF JURY TRIAL.**

(a) **THIS SECTION CONCERNS THE RESOLUTION OF ANY CONTROVERSIES OR CLAIMS BETWEEN THE DEBTOR AND THE SECURED PARTY, WHETHER ARISING IN CONTRACT, TORT OR BY STATUTE, INCLUDING BUT NOT LIMITED TO CONTROVERSIES OR CLAIMS THAT ARISE OUT OF OR RELATE TO: (i) THIS SECURITY AGREEMENT (INCLUDING ANY RENEWALS, EXTENSIONS OR MODIFICATIONS); OR (ii) ANY DOCUMENT RELATED TO THIS SECURITY AGREEMENT (COLLECTIVELY A "CLAIM").**

(b) **AT THE REQUEST OF THE DEBTOR OR SECURED PARTY, ANY CLAIM SHALL BE RESOLVED BY BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT (TITLE 9, U. S. CODE) (THE "ACT"). THE ACT WILL APPLY EVEN THOUGH THIS SECURITY AGREEMENT PROVIDES THAT IT IS GOVERNED BY THE LAW OF A SPECIFIED STATE.**

(c) **ARBITRATION PROCEEDINGS WILL BE DETERMINED IN ACCORDANCE WITH THE ACT, THE APPLICABLE RULES AND PROCEDURES FOR THE ARBITRATION OF DISPUTES OF JAMS OR ANY SUCCESSOR THEREOF ("JAMS"), AND THE TERMS OF THIS PARAGRAPH. IN THE EVENT OF ANY INCONSISTENCY, THE TERMS OF THIS PARAGRAPH SHALL CONTROL.**

(d) **THE ARBITRATION SHALL BE ADMINISTERED BY JAMS AND CONDUCTED IN ANY U. S. STATE WHERE REAL OR TANGIBLE PERSONAL PROPERTY COLLATERAL FOR THIS CREDIT IS LOCATED OR IF THERE IS NO SUCH COLLATERAL, IN TEXAS. ALL CLAIMS SHALL BE DETERMINED BY ONE ARBITRATOR; HOWEVER, IF CLAIMS EXCEED $5,000,000, UPON THE REQUEST OF ANY PARTY, THE CLAIMS SHALL BE DECIDED BY THREE ARBITRATORS. ALL ARBITRATION HEARINGS SHALL COMMENCE WITHIN 90 DAYS OF THE DEMAND FOR ARBITRATION AND CLOSE WITHIN 90 DAYS OF COMMENCEMENT AND THE AWARD OF THE ARBITRATOR(S)**

**SHALL BE ISSUED WITHIN 30 DAYS OF THE CLOSE OF THE HEARING. HOWEVER, THE ARBITRATOR(S), UPON A SHOWING OF GOOD CAUSE, MAY EXTEND THE COMMENCEMENT OF THE HEARING FOR UP TO AN ADDITIONAL 60 DAYS. THE ARBITRATOR(S) SHALL PROVIDE A CONCISE WRITTEN STATEMENT OF REASONS FOR THE AWARD. THE ARBITRATION AWARD MAY BE SUBMITTED TO ANY COURT HAVING JURISDICTION TO BE CONFIRMED AND ENFORCED.**

(e) **THE ARBITRATOR(S) WILL HAVE THE AUTHORITY TO DECIDE WHETHER ANY CLAIM IS BARRED BY THE STATUTE OF LIMITATIONS AND, IF SO, TO DISMISS THE ARBITRATION ON THAT BASIS. FOR PURPOSES OF THE APPLICATION OF THE STATUTE OF LIMITATIONS, THE SERVICE ON JAMS UNDER APPLICABLE JAMS RULES OF A NOTICE OF CLAIM IS THE EQUIVALENT OF THE FILING OF A LAWSUIT. ANY DISPUTE CONCERNING THIS ARBITRATION PROVISION OR WHETHER A CLAIM IS ARBITRABLE SHALL BE DETERMINED BY THE ARBITRATOR(S). THE ARBITRATOR(S) SHALL HAVE THE POWER TO AWARD LEGAL FEES PURSUANT TO THE TERMS OF THIS SECURITY AGREEMENT.**

(f) **THIS SECTION DOES NOT LIMIT THE RIGHT OF THE DEBTOR OR THE SECURED PARTY TO: (i) EXERCISE SELF-HELP REMEDIES, SUCH AS BUT NOT LIMITED TO, SETOFF; (ii) INITIATE JUDICIAL OR NONJUDICIAL FORECLOSURE AGAINST ANY REAL OR PERSONAL PROPERTY COLLATERAL; (iii) EXERCISE ANY JUDICIAL OR POWER OF SALE RIGHTS, OR (iv) ACT IN A COURT OF LAW TO OBTAIN AN INTERIM REMEDY, SUCH AS BUT NOT LIMITED TO, INJUNCTIVE RELIEF, WRIT OF POSSESSION OR APPOINTMENT OF A RECEIVER, OR ADDITIONAL OR SUPPLEMENTARY REMEDIES.**

(g) **BY AGREEING TO BINDING ARBITRATION, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM. FURTHERMORE, WITHOUT INTENDING IN ANY WAY TO LIMIT THIS AGREEMENT TO ARBITRATE, TO THE EXTENT ANY CLAIM IS NOT ARBITRATED, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH CLAIM. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.**

24. Amendment. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in

writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

25. Counterparts. This Agreement may be executed in two or more counterparts, and it shall not be necessary that any one counterpart be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

This Security Agreement shall modify, replace, renew, extend, and restate in its entirety the Security Agreement dated March 26, 1999, from Debtor to Secured Party, as amended from time to time.

IN WITNESS WHEREOF, intending to be legally bound, the Debtor has caused this Agreement to be duly executed as of the date first above written.

CHUNG'S FOODS, INC.

By:_____
David Fernandez,
President

Accepted:

BANK OF AMERICA, N.A.

By:_____
Adam Rose,
Vice President



TRADEMARK
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STATE OF Texas §
§
COUNTY OF Harris §

This instrument was acknowledged before me on Dec. 19, 2002, by David Fernandez, President of CHUNG'S FOODS, INC., a Texas corporation, on behalf of said corporation.

Terri Boles
Notary Public, State of Texas

TERRI L. BOLES
Notary Public, State of Texas
Commission Expires 08-31-2006

STATE OF Texas §
§
COUNTY OF Harris §

This instrument was acknowledged before me on Dec. 19, 2002, by Adam Rose, Vice President of BANK OF AMERICA, N.A., a national banking association, on behalf of said banking association.

Terri Boles
Notary Public, State of _____

TERRI L. BOLES
Notary Public, State of Texas
Commission Expires 08-31-2006



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## SCHEDULE I

## INTELLECTUAL PROPERTY

### TRADEMARKS

| MARK | REG/APP NO. | STATUS |
|---|---|---|
| Chung's & design I | 1,844,570 | Registered |
| Chung's & design II | 1,835,571 | Registered |
| Chung's Delight | 1,825,293 | Registered |
| China Town & design | 1,837,983 | Registered |
| China Garden & design | 1,818,067 | Registered |
| Dino's Primo & design | 2,002,766 | Registered* |
| Chung's China Garden & design | 2,146,670 | Registered |
| Breakfast Made Easy | 75/079,806 | Abandoned |
| Breakfast Made Easy | 78/038,218 | Pending |
| Breakfast Made Easy & design | 75/079,805 | Abandoned |
| Breakfast Made Easy & design | 78/078,603 | Pending |
| Chung's & design (for restaurant services) | 2,406,532 | Registered |
| Chung's Express (for restaurant services) | 75/119,065 | Abandoned |
| Chung's Express (for restaurant services) | 78/038,221 | Pending |
| Chung's Express (for food products) | 2,141,058 | Registered |
| China Gourmet & design | 2,502,288 | Registered |
| China Express & design | 78/042,097 | Pending |

* Marked for abandonment on 3/2003

### PATENTS

| PATENT NO. | TITLE | STATUS |
|---|---|---|
| 5,741,534 | Packaged food product using partitioned receptacles with removable thin partition walls and method of making it | Gifted to the Chung's Foods, Inc. nunc pro tunc effective April 1, 1999; being recorded |