

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	SECURITY INTEREST
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CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Foodcomm International		10/13/2004	CORPORATION: CALIFORNIA

RECEIVING PARTY DATA	
Name:	Comerica Bank
Street Address:	333 W. Santa Clara Street
City:	San Jose
State/Country:	CALIFORNIA
Postal Code:	95113
Entity Type:	Bank:

PROPERTY NUMBERS Total: 4		
Property Type	Number	Word Mark
Serial Number:	78309965	NATURE'S RESERVE
Serial Number:	78309940	NATURE'S RESERVE
Registration Number:	2371232	DESERT RANCH
Registration Number:	2619081	AUSSIE PREMIUM

CORRESPONDENCE DATA	
Fax Number:	(415)951-3699
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	4156932487
Email:	mcass@cooley.com
Correspondent Name:	Melanie Cass
Address Line 1:	One Maritime Plaza, 20th Floor
Address Line 4:	San Francisco, CALIFORNIA 94111

ATTORNEY DOCKET NUMBER:	036703-1085
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NAME OF SUBMITTER:	Melanie Cass
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Total Attachments: 8

CH \$115.00 78309965

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT ("*Agreement*") is made as of October 13, 2004, by and between FOODCOMM INTERNATIONAL, a California corporation ("*Grantor*"), and COMERICA BANK ("*Lender*").

RECITALS

A. Pursuant to that certain Senior Secured Credit Agreement, dated as of even date herewith (as the same may be amended, modified, supplemented or restated from time to time, the "*Credit Agreement*"), by and between Grantor and Lender, Lender has agreed to make certain advances of money and to extend certain financial accommodations to Grantor in the amounts and manner set forth in the Credit Agreement (collectively, the "*Loans*").

B. Pursuant to the terms of that certain Security Agreement, dated of even date herewith (as the same may be amended, modified, supplemented or restated from time to time, the "*Security Agreement*") by and between Grantor and Lender, Grantor has granted to Lender a security interest in all of Grantor's right, title and interest in, to or under all of the Grantor's assets.

C. In connection with the Security Agreement and order to induce Lender to make the Loans to Grantor, Grantor has agreed to assign certain intangible property to Lender for purposes of securing the obligations of Grantor to Lender.

NOW, THEREFORE, the parties hereto agree as follows:

1. **DEFINITIONS.** All capitalized terms used but not otherwise defined herein shall have the respective meanings assigned to them in the Security Agreement.

2. **GRANT OF SECURITY INTEREST.** As collateral security for the full, prompt and complete and final payment and performance when due (whether at stated maturity, by acceleration or otherwise) of all the Secured Obligations and in order to induce Lender to cause the Loans to be made, Grantor hereby assigns, conveys, mortgages, pledges, hypothecates and transfers to Lender, and hereby grants to Lender, a security interest in all of Grantor's right, title and interest in, to and under the following, whether now owned or hereafter acquired (all of which being collectively referred to herein as the "*Intellectual Property Collateral*");

(a) Any and all Copyrights and Copyright Licenses, including, without limitation, those set forth on **Exhibit A** attached hereto and incorporated herein by this reference;

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products;

(c) Any and all design rights which may be available to Grantor;

(d) Any and all Patents and Patent Licenses, including, without limitation, those set forth on **Exhibit B** attached hereto and incorporated herein by this reference;

(e) Any and all Trademarks and Trademark Licenses, and the entire goodwill of the business of Grantor connected with and symbolized by all such Trademarks, including, without limitation, those set forth on **Exhibit C** attached hereto and incorporated herein by this reference;

(f) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(g) All other licenses or other rights to use any of the Intellectual Property, and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(h) All amendments, renewals and extensions of any of the Intellectual Property; and

(i) All proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

The security interest granted hereunder is granted in conjunction with the security interests granted to Lender under the Security Agreement. The rights and remedies of Lender with respect to the security interest granted hereby are in addition to those set forth in the Security Agreement, the Credit Agreement and the other Loan Documents, and those which are now or hereafter available to Lender as a matter of law or equity. Each right, power and remedy of Lender provided for herein or in the Security Agreement, the Credit Agreement or any of the other Loan Documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Lender of any one or more of the rights, powers or remedies provided for in this Agreement, the Security Agreement, the Credit Agreement or any of the other Loan Documents, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by any Person, including Lender, of any or all other rights, powers or remedies.

3. AUTHORIZATION AND REQUEST. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this security interest.

4. COVENANTS AND WARRANTIES. Grantor represents, warrants, covenants and agrees as follows, which shall be in addition to those covenants and warranties set forth in the Security Agreement:

(a) This Agreement, creates, and in the case of after-acquired Intellectual Property Collateral, will create at the time Grantor first has rights in such after-acquired Intellectual Property Collateral, in favor of Lender, a valid and perfected, first priority security interest in the Intellectual Property Collateral securing the payment and performance of the Secured Obligations, upon making the filings referred to in **Section 4(b)** below, subject only to Permitted Liens; and

(b) Except for, and upon, the filings with, as applicable, (1) the United States Patent and Trademark Office, (2) the Register of Copyrights and (3) the UCC Division of the applicable office of the Secretary of State, necessary to perfect the security interests created hereunder, and except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any United States governmental authority or United States regulatory body is required either (a) for the grant by Grantor of the security interest granted hereby or for the execution, delivery or performance of this Agreement by Grantor or (b) for perfection in the United States or the exercise by Lender of its rights and remedies hereunder

5. LENDER'S RIGHTS. Lender shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this Agreement to take but which Grantor fails to take. Grantor shall reimburse and indemnify Lender for all costs and reasonable expenses incurred in the exercise of its rights under this **Section 5**.

6. FURTHER ASSURANCES; ATTORNEY IN FACT.

(a) On a continuing basis, Grantor will make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and the Register of Copyrights, and take all such action as may be requested by Lender, to perfect Lender's security interest in all Intellectual Property, and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to Lender the grant or perfection of a security interest in all Intellectual Property Collateral.

(b) Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time to time in Lender's discretion, to take any action and to execute any instrument which may be necessary or advisable to accomplish the purposes of this Agreement, including (i) to modify, in its discretion, this Agreement without first obtaining Grantor's approval of or signature to such modification by amending **Exhibit A, Exhibit B or Exhibit C** hereof, as appropriate, to include reference to any material right, title or interest in any Intellectual Property acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property in which Grantor no longer has or claims any right, title or interest, (ii) to file, in its discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law, and (iii) to transfer the Intellectual Property Collateral into the name of Lender or a third party to the extent permitted under the UCC; *provided*, that Lender agrees that it shall not exercise its powers as attorney-in-fact under this **Section 6(b)(iii)** except upon the occurrence and during the continuance of an Event of Default.

7. EVENTS OF DEFAULT. The occurrence of any "Event of Default" as defined in the Credit Agreement shall constitute an "*Event of Default*" under this Agreement.

8. REMEDIES. After any Event of Default shall have occurred and while such Event of Default is continuing, Lender may exercise in addition to all other rights and remedies granted to it under this Agreement, the Security Agreement, the Credit Agreement and under any other instrument or agreement securing, evidencing or relating to the Secured Obligations, all rights and remedies of a secured party under the UCC, including, without limitation, the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Lender has a security interest and to make it available to Lender at a place designated by Lender. Lender shall have a nonexclusive, royalty free license or other right, solely pursuant to the provisions of this **Section 8**, to use, without charge, the Intellectual Property and any property of a similar nature as it pertains to the Intellectual Property Collateral, to the extent necessary to permit Lender to exercise its rights and remedies pursuant to this **Section 8**, including, without limitation, the completion of production, advertising for sale and the sale of any Intellectual Property Collateral and, in connection with Lender's exercise of its rights hereunder, Grantor's rights under all licenses and all franchise agreements shall inure to the benefit of Lender. Grantor will pay any expenses (including reasonable attorneys' fees) incurred by Lender in connection with the exercise of any of Lender's rights under this Agreement, including, without limitation, any expense incurred in disposing of the Intellectual Property Collateral. All of Lender's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.

9. INDEMNITY. Grantor agrees to defend, indemnify and hold harmless Lender and each of its officers, employees, and agents against: (a) all obligations, demands, claims and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement and (b) all losses or expenses in any way suffered, incurred, or paid by Lender as a result of or in any way arising out of, following or consequential to transactions between Lender and Grantor, whether under this Agreement or

otherwise (including, without limitation, reasonable attorneys' fees and expenses), except for losses arising from or out of Lender's gross negligence or willful misconduct.

10. SUCCESSORS AND ASSIGNS. This Agreement and all obligations of Grantor hereunder shall be binding upon the successors and assigns of Grantor, and shall, together with the rights and remedies of Lender hereunder, inure to the benefit of Lender, any future holder(s) of any Notes and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Secured Obligations or any portion thereof or interest therein shall in any manner affect the security interest created herein and granted to Lender hereunder.

11. REINSTATEMENT. This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's property and assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

12. TERMINATION OF THIS AGREEMENT. Subject to **Section 11** above, this Agreement shall terminate upon the indefeasible payment and performance in full of the Secured Obligations.

13. NO FAILURE OR DELAY. No failure or delay on the part of Lender in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof.

14. AMENDMENTS. Except as otherwise provided herein, this Agreement may be amended only by a written instrument signed by both parties hereto.

15. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so delivered shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

16. GOVERNING LAW. In all respects, including all matters of construction, validity and performance, this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California applicable to contracts made and performed in such state, without regard to the principles thereof regarding conflict of laws, except to the extent that the UCC provides for the application of another jurisdiction.

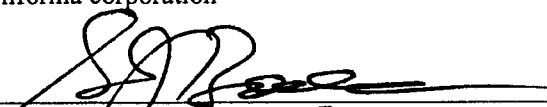
17. CONFLICT. In the event of a conflict between any term and/or provision contained in this Agreement with any term and/or provision contained in the Security Agreement, the term and/or provision of this Agreement shall govern.

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

GRANTOR:

FOODCOMM INTERNATIONAL,
a California corporation


By 
Printed Name: GREGORY BOURKE
Title: PRESIDENT

Address of Grantor:

4260 El Camino Real
Palo Alto, CA 94306
Attn: Tom Grandsaert, CFO
Tel: (650) 813-1300
Fax: (650) 813-1500

LENDER

COMERICA BANK

By 
Printed Name: Katherine G. Lauerman
Title: Corporate Banking Officer

Address of Lender:

250 Lytton Ave., 2nd Floor
Palo Alto, CA 94301
Attn: Katherine G. Lauerman
Tel: (650) 462-6154
Fax: (650) 462-6191

[INTELLECTUAL PROPERTY SECURITY AGREEMENT]

EXHIBIT A
COPYRIGHTS

1. **REGISTERED:** List titles below or indicate "None"

COPYRIGHT	REGISTRATION DATE
None	

2. **UNREGISTERED:** List titles below or indicate "None"

None

3. **APPLICATIONS IN PROCESS:** List titles, applicable dates, application numbers, etc. below or indicate "None"

None

EXHIBIT B

U.S. PATENTS AND PATENT APPLICATIONS

PATENT	PATENT NUMBER	ISSUE DATE
None		

2. **UNREGISTERED:** List titles below or indicate "None"

None

3. **APPLICATIONS IN PROCESS:** List titles, applicable dates, application numbers, etc. below or indicate "None"

None

EXHIBIT C

U.S. TRADEMARKS AND TRADEMARK APPLICATIONS

Trademark	Registration No.	Application No.	Registration Date	Renewal Date
Desert Ranch	2,371,232	75/809,148	July 25, 2000	
Aussie Premium	2,619,081	75/727,517	September 10, 2002	
Nature's Reserve (Image)		78/309,965	October 6, 2003	
Nature's Reserve (Image)		78/309,940	October 6, 2003	

2. **UNREGISTERED:** List titles below or indicate "None"

None

3. **APPLICATIONS IN PROCESS:** List titles, applicable dates, application numbers, etc. below or indicate "None"

None