

FORM PTO-1395

RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE

1/31/02

TRADEMARKS ONLY

Patent and Trademark Office

To the Director of Patents and Trademarks: Please Record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Certi-Fresh Foods, Inc.

Entity: Delaware Corporation

Additional name(s) of conveying party(ies) attached?

Yes No

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

Name: Merrill Lynch Business Financial Services Inc.

Internal Address: 222 North LaSalle Street

Chicago, IL 60601

Entity: Delaware Corporation

Additional Name(s) & Address(es) attached Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date December 20, 2004

4. Application or registration number(s):

A. Trademark Application No.(s)

76/494802

B. Trademark Registration No. (s)

2,862,294; 2,876,562; 1,817,006 1,817,004

Additional numbers attached? Yes No

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

Please send the recorded assignment back by fax to 312-258-5600 to the attention of:

SCHIFF HARDIN LLP
Chris Bollinger, Attorney
 P.O. Box 06079
 Chicago, IL 60606-0079
 Telephone: (312) 258-5500
Customer Number: 27010-0024

6. Total number of trademarks involved

5

7. Total Fee (37 CFR 3.41

\$140.00

Authorization is given to charge the deposit account for the above fee and any additional fees required or to credit any overpayment.

8. Deposit Account Number:

19-0409

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

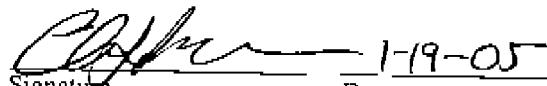
DO NOT USE THIS SPACE

9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Chris Bollinger

Name of Person Signing


Signature

1-19-05
Date

Total number of pages including cover sheet and attached documents 16:

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

By Fax: 703/306-5995
 Commissioner of Patents and Trademarks
 Box Assignments
 Washington, D.C. 20231

CH \$140.00 190409 76494802

**Merrill Lynch****PATENT, COPYRIGHT, LICENSE AND TRADEMARK SECURITY AGREEMENT**

THIS PATENT, COPYRIGHT, LICENSE AND TRADEMARK SECURITY AGREEMENT ("Agreement") is made as of December 20, 2004 by **Certi-Fresh Foods, Inc.**, a corporation organized and existing under the laws of the State of Delaware ("Customer"), to **Merrill Lynch Business Financial Services Inc.**, a corporation organized and existing under the laws of the State of Delaware ("MLBFS").

WITNESSETH:

WHEREAS, Customer and MLBFS have entered into (i) that certain Term Loan and Security Agreement dated as of December 20, 2004, and (ii) that certain WCMA Loan and Security Agreement No. 250-07329 dated as of December 20, 2004 (collectively, as amended, restated, supplemented or otherwise modified, the "Loan Agreements"); and

WHEREAS, it is a condition to the effectiveness of the Loan Agreements that, among other things, Customer execute and deliver to MLBFS this Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Customer agrees as follows:

1. **Incorporation of Loan Agreements.** The Loan Agreements and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. Terms used herein which are not defined herein but are defined in the Loan Agreements shall have the meanings ascribed to them therein.

2. **Grant of Security Interest, Etc.** To secure the complete and timely satisfaction of all of Customer's Obligations:

(A) Customer hereby grants to the MLBFS a security interest in and to all of Customer's right, title and interest in, to and under all of the following, whether now existing or hereafter arising:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents and patent applications listed on Schedule A attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a) through (d), inclusive, in which Customer now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the "Patents");

(ii) all copyrights, copyright registrations and copyright applications including, without limitation, the copyrights and applications listed on Schedule B attached hereto and made a part hereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or

payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing copyrights, copyright registrations and copyright applications, together with the items described in clauses (a) through (d), inclusive, in which Customer now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the "Copyrights");

(iii) all Customer's rights and obligations pursuant to its license agreements with any other Person or Persons with respect to any Patents and Copyrights, whether Customer is a licensor or licensee under any such license agreements, including, without limitation, the licenses listed on Schedule C attached hereto and made a part hereof, and, subject to the terms of such licenses, the right to prepare for sale, sell and advertise for sale, all Inventory now or hereafter owned by Customer and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "Patent and Copyright Licenses");

(iv) all service marks, trademarks, trademark or service mark registrations, trademark or service mark applications and trade names including, without limitation, the trademarks and service marks listed on Schedule D attached hereto and made a part hereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all the foregoing service marks, trademarks, registrations, applications and trade names, together with the items described in clauses (a) through (d), inclusive, with respect thereto in which Customer now or hereafter has any right, title or interest are sometimes hereinafter and/or collectively referred to as the "Marks");

(v) all Customer's rights and obligations pursuant to its license agreements with any other Person or Persons with respect to any Marks, whether Customer is a licensor or licensee under any such license agreements, including, without limitation, the licenses listed on Schedule E attached hereto and made a part hereof, and, subject to the terms of such licenses, the right to prepare for sale, sell and advertise for sale, all Inventory now or hereafter owned by Customer and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to as "Trademark Licenses"; Patent and Copyright Licenses and Trademark Licenses are hereinafter referred to collectively as "Licenses"); and

(vi) the goodwill of Customer's business connected with and symbolized by the Marks;

provided, however, that there shall be excluded from the foregoing grant of security interest any of the existing Licenses to which Customer is a licensee (and any Patents, Marks and Copyrights currently licensed by others to Customer pursuant to such Licenses) in each case to the extent (but only to the extent) that the applicable License lawfully prohibits such grant; provided further, however, that, upon MLBFS's request, Customer will use its good faith reasonable efforts to obtain any consent needed to subject any such property to this grant of security interest.

3. **Restrictions on Future Agreements.** Customer agrees and covenants that until the Obligations shall have been satisfied in full and the Loan Agreements shall have been terminated, Customer will not, without MLBFS's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned), take any action or enter into any agreement, including, without limitation

entering into any license agreement, which is inconsistent with Customer's obligations under this Agreement, and Customer further agrees and covenants that, without MLBFS's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned), it will not take any action, or permit any action to be taken by others subject to its control, including its licensees, or fail to take any action which would affect the validity or enforcement or nature of the rights transferred to MLBFS under this Agreement unless and to the extent that Customer has concluded in the exercise of reasonable commercial judgment that any such rights are no longer of material importance to the business of Customer. Customer agrees and covenants not to sell or assign its interest in, or grant any license under, the Patents, Marks, Copyrights or Licenses, without receiving the prior written consent of MLBFS thereto.

4. **Certain Covenants, Representations and Warranties of Customer.** Customer covenants, represents and warrants (to the best of Customer's knowledge with respect to any Patents, Marks and Copyrights which are licensed by third parties to Customer) that: (i) the Patents, Marks, Copyrights and Licenses are subsisting, have not been adjudged invalid or unenforceable in whole or in part, and are not currently being challenged in any way; (ii) none of the Patents, Marks, Copyrights and Licenses have lapsed or expired or have been abandoned, whether due to any failure to pay any maintenance or other fees or make any filing or otherwise; (iii) each of the Patents, Marks, Copyrights and Licenses is valid and enforceable and Customer is unaware of any invalidating prior art (including public uses and sales) relative to the Patents, and is unaware of any impairments to the Patents, Marks, Copyrights or Licenses which would have a material adverse effect on the validity and/or enforceability of the Patents, Marks, Copyrights or Licenses; (iv) to the best of Customer's knowledge, no claim has been made that the use of any of the Patents, Marks, Copyrights or Licenses constitutes an infringement; (v) Customer owns the entire right, title and interest in and to each of the Patents, Marks and Copyrights (other than those being licensed to Customer pursuant to the Licenses) free and clear of any Liens and encumbrances of every kind and nature, and the Licenses are valid and subsisting licenses with respect to the Patents, Marks, Copyrights described therein, free and clear of any Liens and encumbrances of every kind and nature arising by, through or under Customer, in each case except for (A) rights granted by Customer pursuant to the applicable licenses listed on Schedules C and E, and (B) Liens and encumbrances in favor of MLBFS pursuant to this Agreement or the other Loan Documents; (vi) the Patents, Marks and Copyrights and Licenses listed on Schedules A, B, C, D and E constitute all such items in which Customer has any right, title or interest; (vii) Customer has the unqualified right to enter into this Agreement and perform its terms; (viii) Customer will continue to use proper statutory notice in connection with its use of the Patents, Marks and Copyrights (except as to any thereof which is no longer material to Customer's business); and (ix) Customer will use standards of quality in its manufacture of products sold under the Marks consistent with those currently employed by it.

5. **New Patents, Marks, Copyrights and Licenses.** If, before the Obligations shall have been satisfied in full and the Loan Agreements shall have been terminated, Customer shall (i) obtain rights to any new patentable inventions, trademarks, service marks, trademark or service mark registrations, copyrights, copyright registrations, trade names or licenses, or (ii) become entitled to the benefit of any patent, trademark or service mark application, trademark, service mark, trademark or service mark registration, copyrights, copyright registrations, license or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of Section 2 above shall automatically apply thereto and Customer shall give to MLBFS prompt written notice thereof. Customer hereby authorizes MLBFS to modify this Agreement by noting any future acquired Patents, Marks, Copyrights on Schedule A, B or D and any Licenses and licensed Patents, Marks or Copyrights on Schedules C or E, as applicable; provided, however, that the

failure of MLBFS to make any such notation shall not limit or affect the obligations of Customer or rights of MLBFS hereunder.

6. **Royalties; Terms.** Customer hereby agrees that the security interest of MLBFS in all Patents, Marks, Copyrights and Licenses as described above shall be worldwide (or in the case of the Patents, Marks and Copyrights licensed to Customer such smaller geographic location if any is specified for Customer's use in the applicable License) and, without any liability for royalties or other related charges from MLBFS to Customer. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Marks, Copyrights and Licenses assigned hereunder, or (ii) satisfaction in full of the Obligations and termination of the Loan Agreements.

7. **Inspection.** MLBFS shall have the right, upon reasonable prior written notice to Customer, to inspect Customer's premises and to examine Customer's books, records and operations, including, without limitation, Customer's quality control processes. From and after the occurrence and during the continuance of a Default and notice by MLBFS to Customer of MLBFS's intention to enforce its rights and claims against any of the Patents, Marks, Copyrights and Licenses, Customer agrees that MLBFS, or a conservator appointed by MLBFS, shall have the right to establish such additional product quality controls as MLBFS or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Customer under the Marks consistent with the quality of products now manufactured by Customer.

8. **Termination of Customer's Interest.** This Agreement is made for collateral purposes only. Upon satisfaction in full of the Obligations and termination of the Loan Agreements, subject to any disposition thereof which may have been made by MLBFS pursuant hereto or pursuant to any of the other Loan Documents, the security interest granted hereunder shall automatically be extinguished. MLBFS shall, at Customer's reasonable expense, execute and deliver to Customer, all termination statements and other instruments as may be necessary or proper to evidence the termination of MLBFS's security interest granted to MLBFS pursuant to this Agreement, subject to any disposition thereof which may have been made by MLBFS pursuant hereto or pursuant to any of the other Loan Documents. Any such termination statements and instruments shall be without recourse upon or warranty by MLBFS.

9. **Duties of Customer.** Except to the extent the same is no longer material to Customer's business, Customer shall have the duty (i) to prosecute diligently any patent application of the Patents, any application respecting the Marks, and any copyright application of the Copyrights pending as of the date hereof or thereafter, (ii) to make application on unpatented but patentable inventions and on registerable but unregistered trademarks, service marks and copyrights, and (iii) to preserve, maintain and enforce against infringement all rights in patent applications and patents constituting the Patents, in trademark or service mark applications, trademarks, service marks, and trademark or service mark registrations constituting the Marks, and in copyright applications, copyrights and copyright registrations constituting the Copyrights. Any expenses incurred in connection with the foregoing (including, but not limited to, maintenance or renewal fees) shall be borne by Customer. Except to the extent the same is no longer material to Customer's business, Customer shall not abandon any pending patent application, trademark application, copyright application, service mark application, patent, trademark, service mark or copyright without the written consent of MLBFS.

10. **MLBFS's Right to Sue.** From and after the occurrence and during the continuance of a Default, MLBFS shall have the right, but shall in no way be obligated, to bring suit in its own name to

enforce the Patents, the Marks, the Copyrights and the Licenses, and any licenses thereunder, and, if MLBFS shall commence any such suit, Customer shall, at the request of MLBFS, do any and all lawful acts and execute any and all proper documents reasonably required by MLBFS in aid of such enforcement, and Customer shall promptly, upon demand, reimburse and indemnify MLBFS for all reasonable costs and expenses incurred by MLBFS in the exercise of its rights under this Section 10.

11. Waivers. No course of dealing between Customer and MLBFS, nor any failure to exercise, nor any delay in exercising, on the part of MLBFS, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

12. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

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

14. Further Assurances. Customer shall execute and deliver to MLBFS, at any time or times hereafter at the request of MLBFS, all papers (including, without limitation, any as may be deemed desirable by MLBFS for filing or recording with any Patent and Trademark Office, and any successor thereto) and take all such actions (including, without limitation, paying the cost of filing or recording any of the foregoing in all public offices reasonably deemed desirable by MLBFS), as MLBFS may request, to evidence MLBFS's interest in the Patents, Marks, Copyrights and Licenses and the goodwill associated therewith and enforce MLBFS's rights under this Agreement.

15. Cumulative Remedies; Power of Attorney; Effect on Loan Documents. All of MLBFS's rights and remedies with respect to the Patents, Marks, Copyrights and Licenses, whether established hereby, by any of the Loan Documents or otherwise, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Customer hereby constitutes and appoints MLBFS as Customer's true and lawful attorney-in-fact, with full power of substitution in the premises, with power at any time after the occurrence and during the continuance of a Default, to (i) endorse Customer's name on all applications, documents, papers and instruments determined by MLBFS in its sole discretion as necessary or desirable for MLBFS in the use of the Patents, Marks, Copyrights and Licenses, (ii) take any other actions with respect to the Patents, Marks, Copyrights and Licenses as MLBFS deems in good faith to be in the best interest of MLBFS, (iii) grant or issue any exclusive or non-exclusive license under the Patents, Marks or Copyrights to any Person, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Marks, Copyrights or Licenses to any Person. Customer hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Obligations shall have been satisfied in full and the Loan Agreements shall have been terminated. Customer acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of MLBFS under the Loan Agreements or any of the Loan Documents but rather is intended to facilitate the exercise of such rights and remedies. MLBFS shall have, in addition to all other rights and remedies given it by the terms of this Agreement, all rights and remedies

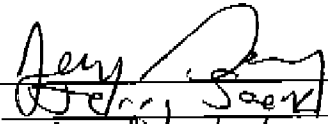
allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Marks, Copyrights or Licenses may be enforced. Customer hereby releases the MLBFS from any and all claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by the MLBFS under the powers of attorney granted herein.

16. **Binding Effect; Benefits.** This Agreement shall be binding upon Customer and its respective successors and assigns and shall inure to the benefit of MLBFS and its respective successors, assigns and nominees.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered in Chicago, Illinois, and shall be governed by and construed in accordance with the internal laws (as opposed to conflicts of law provisions) of Illinois.

IN WITNESS WHEREOF, the parties hereto have entered into this Patent, Copyright, License and Trademark Security Agreement as of the date first above written.

CERTI-FRESH FOODS, INC.

By: 
Name: Jerry Saerl
Title: Vice President

The undersigned accepts and agrees to the foregoing Patent, Copyright, License and Trademark Security Agreement as of the ___ day of December, 2004 in Chicago, Illinois.

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have entered into this Patent, Copyright, License and Trademark Security Agreement as of the date first above written.

CERTI-FRESH FOODS, INC.

By: _____
Name: _____
Title: _____

The undersigned accepts and agrees to the foregoing Patent, Copyright, License and Trademark Security Agreement as of the 20 day of December, 2004 in Chicago, Illinois.

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

By: Jennifer Hoffman
Name: Jennifer Hoffman
Title: VP

STATE OF California)
) SS.
COUNTY OF Los Angeles)

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that Jerry Saenz, personally known to me to be the Vice president of Certi-Fresh Foods, Inc. (the "Company"), and personally known to me to be the same person whose name is subscribed to the foregoing Patent, Copyright, License and Trademark Security Agreement, appeared before me this day and acknowledged that he/~~she~~ signed and delivered said assignment as an officer of the Company and caused the seal of the Company to be affixed thereto, pursuant to authority given by the board of directors of the Company, as his/~~her~~ free and voluntary act and as the free and voluntary act and deed of the Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal as of the 17th day of December, 2004.

(NOTARIAL SEAL)



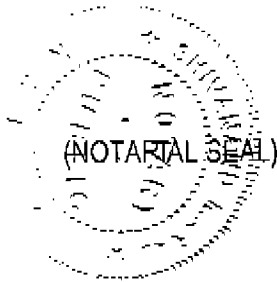
Deborah G. Potts
Notary Public

My Commission Expires: 04-01-2007

STATE OF NEW JERSEY)
) SS.
COUNTY OF HUDSON .)

I, the undersigned, a Notary Public in and for said State and County do hereby certify that Jennifer Hoffman, personally known to me to be the Vice President of **Merrill Lynch Business Financial Services Inc.** (Chicago), personally known to me to be the same person whose name is subscribed to the foregoing Patent, Copyright, License and Trademark Security Agreement, appeared before me this day and acknowledged that he/she signed and delivered said agreement as an officer of said MLBFS and caused the seal of said MLBFS to be affixed thereto, pursuant to authority given by the Board of Directors of said MLBFS, as his/her free and voluntary act and as the free and voluntary act and deed of said MLBFS, for the uses and purposes therein set forth.

GIVEN under my hand and official seal as of the 5 day of ~~December, 2004~~ JANUARY, 2005.



Notary Public

SHIVNAND MARAJ

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires: MY COMMISSION EXPIRES JULY 31, 2008

SCHEDULE A
PATENTS AND PATENT APPLICATIONS

None

SCHEDULE B

COPYRIGHTS

None

SCHEDULE C
PATENT AND COPYRIGHT LICENSES

None

SCHEDULE D
TRADEMARKS, SERVICE MARKS

Trademark Name	Trademark Registration Number	Date of Registration	Trademark Serial Number	Date of Filing
CERTI-FRESH	2862294	July 13, 2004	76521290	June 9, 2003
GOLDEN BOUNTY	2876562	August 24, 2004	76521287	June 9, 2003
"SHRIMP THE BEST"	Pending	Pending	76494802	February 27, 2003
BLUE DIAMOND	1817006	January 18, 1994	74325336	October 26, 1992
PACIFIC GOLD	1817004	January 18, 1994	74323299	October 19, 1992

Unregistered Trademarks:

- Captains Quarters -- Including all artwork and designs
Used since 1999
- Fish of the World -- Including all artwork and designs
Used since 1999
- Under 300 Calories -- Including all artwork and designs
Used since 1982

Internet Domain Names:

www.certi-fresh.com

Trade Secrets:

Customer contact databases/relationships
Vendor contact databases/relationships
Industry knowledge and market information sourcing abilities

SCHEDULE E
TRADEMARK LICENSES

None