



10-01-2004

Form PTO-1594 (Rev. 06/04) OMB Collection 0651-0027 (exp. 06/30/2005)

DEPARTMENT OF COMMERCE Patent and Trademark Office



RECORDATION
TRAD

102849421

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):
 VITALITY ACQUISITION CORP.

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

Citizenship (see guidelines) Delaware
 Execution Date(s) September 24, 2004
 Additional names of conveying parties attached? Yes No

2. Name and address of receiving party(ies) Yes
 Additional names, addresses, or citizenship attached? No

Name: DYMAS FUNDING COMPANY, LLC
 Internal Address: _____
 Street Address: One North Franklin St.
 City: Chicago
 State: IL
 Country: USA Zip: 60606

Association Citizenship _____
 General Partnership Citizenship _____
 Limited Partnership Citizenship _____
 Corporation Citizenship _____
 Other LLC Citizenship Delaware

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)

9-28-04

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)
 See Schedule A attached hereto.

B. Trademark Registration No.(s)
 See Schedule A attached hereto.

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Paul Hastings Janofsky & Walker
 Internal Address: Attn: Teresa McNally
 Street Address: 515 South Flower St.
25th Floor
 City: Los Angeles
 State: CA Zip: 90071
 Phone Number: 213-683-6000
 Fax Number: 213-627-0705
 Email Address: TeresaMcNally@paulhastings.com

6. Total number of applications and registrations involved: 24

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ _____

Authorized to be charged by credit card
 Authorized to be charged to deposit account
 Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
 Expiration Date _____

b. Deposit Account Number _____
 Authorized User Name _____

9. Signature: Teresa McNally 9/27/04
 Signature Date
 Teresa McNally
 Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 18

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

10/01/2004 ECOOPER 00000057 75371117

01 FC:8521 40.00 OP
02 FC:8522 575.00 OP

TRADEMARK
REEL: 003054 FRAME: 0050

SCHEDULE A
to the Trademark Security Agreement of Vitality Foodservice, Inc.

United States Trademarks of Debtor

Trademark	App. No.	App. Date	Reg. No.	Reg. Date
CALABAY	75371117	10/10/1997	2431955	2/27/2001
CHOICEPAK (Stylized)	76169847	11/22/2000	2678803	1/21/2003
COOL CHOICE	73460230	1/11/1984	1359475	9/10/1985
COOL CHOICE	73405505	12/10/1982	1280896	6/5/1984
DISPENSER-PAK	72034252	7/23/1957	675115	3/3/1959
DISPENSER-PAK	75793493	9/7/1999	2440230	4/3/2001
FAMILY CHOICE	73535632	5/3/1985	1364807	10/8/1985
FLORIDAGOLD	72337182	9/5/1969	895172	7/21/1970
FLORIDAGOLD (Stylized)	73304458	4/6/1981	1213405	10/19/1982
GOLDEN CHOICE	73535630	5/3/1985	1377481	1/7/1986
ISLAND PASSION	74362899	3/1/1993	1914253	8/22/1995
JUS SQUEEZD & Design	75333951	7/31/1997	2223815	2/16/1999
NATURE'S SELECT & Design	74485546	2/2/1994	2010479	10/22/1996
PREMIUM SELECT	75624998	1/20/1999	2296185	11/30/1999
RTS EXPRESS & Design	76409216	5/16/2002	2693039	3/4/2003
SWITCH-A-BRIX	73116718	2/22/1977	1125955	10/16/1979
VITA GOLD	75933748	3/2/2000	2428457	2/13/2001
VITALITY	72325533	4/25/1969	907932	2/16/1971
VITALITY	72363180	6/19/1970	919962	9/7/1971
VITALITY	72438282	10/13/1972	966673	8/21/1973
VITALITY	75385646	11/6/1997	2802591	1/6/2004
VITALITY EXPRESS	74253662	3/9/1992	1729171	11/3/1992
VITALITY EXPRESS PAK	74256298	3/17/1992	1792848	9/14/1993
VITALITY SPRINGS	76205035	2/5/2001	2756827	8/26/2003

TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT** (this "Agreement"), dated as of September 24, 2004, is made by, **VITALITY ACQUISITION CORP.**, a Delaware corporation, (the name of which will be changed to "Vitality Foodservice, Inc." on the Effective Date) (the "Debtor"), in favor of **DYMAS FUNDING COMPANY, LLC**, a Delaware limited liability company ("Dymas"), as the collateral agent for the below-defined Agents and Lenders (in such capacity, together with its successors, if any, in such capacity, "Collateral Agent").

RECITALS

WHEREAS, Vitality Foodservice Holding Corp., Debtor, Vitality Foodservice Canada Inc., a Canadian federal business corporation (the "Canadian Borrower" and, together with Debtor, jointly and severally, individually and collectively, the "Borrower"), the guarantors signatory thereto, the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), Collateral Agent, Dymas, as administrative agent for the Lenders (in such capacity, together with its successors and assigns, if any, in such capacity, "Administrative Agent"), and LaSalle Business Credit, LLC, a Delaware limited liability company, as revolver agent for the Lenders (in such capacity, together with any successor revolver agent, "Revolver Agent" and together with Administrative Agent and Collateral Agent, each an "Agent" and collectively, the "Agents"), have entered into that certain Financing Agreement, dated contemporaneously herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), pursuant to which Agents and Lenders have agreed to make certain financial accommodations to Borrower;

WHEREAS, Debtor has executed and delivered to Collateral Agent that certain Security Agreement, of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Security Agreement"), pursuant to which Debtor has granted to Collateral Agent, for the benefit of the Lender Group, security interests in and liens on (among other things) all or substantially all of Debtor's general intangibles; and

WHEREAS, pursuant to the Loan Documents, and as one of the conditions precedent to the obligations of the Lender Group under the Financing Agreement, Debtor has agreed to execute and deliver this Agreement to Collateral Agent for filing with the PTO (as defined below) and with any other relevant recording systems in any jurisdiction, and as further evidence of and to effectuate Collateral Agent's existing security interests in the Trademark Collateral (as defined below).

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, Debtor hereby agrees in favor of Collateral Agent as follows:

1. Definitions; Interpretation.

(a) Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

“Administrative Agent” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Agent” and “Agents” shall have the respective meanings ascribed to such terms in the recitals to this Agreement.

“Agreement” shall have the meaning ascribed to such term in the preamble of this Agreement.

“Bankruptcy Code” means the United States Bankruptcy Code (11 U.S.C. §101 et seq.), as amended, and any successor statute.

“Borrower” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Business Day” has the meaning ascribed to such term in the Financing Agreement.

“Canadian Borrower” has the meaning ascribed to such term in the recitals of this Agreement.

“Code” means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, priority, or remedies with respect to Collateral Agent's Liens on any Trademark Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies.

“Collateral Agent” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Dymas” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Debtor” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Event of Default” means any Event of Default under the Financing Agreement.

“Financing Agreement” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Insolvency Proceeding” means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other bankruptcy or insolvency law, assignments for the benefit of creditors, or any other proceeding by or against any person or its assets relating to formal or informal moratoria, compositions, marshaling, extensions generally with creditors, or seeking reorganization, arrangement, or other similar relief.

“Lender” and **“Lenders”** shall have the respective meanings specified therefor in the recitals hereto.

“Lender Group” means, individually and collectively, the Lenders and the Agents.

“Proceeds” means whatever is receivable or received from or upon the sale, lease, license, collection, use, exchange or other disposition, whether voluntary or involuntary, of any Trademark Collateral, including “proceeds” as such term is defined in the Code, and all proceeds of proceeds. Proceeds shall include (i) any and all accounts, chattel paper, instruments, general intangibles, cash and other proceeds, payable to or for the account of Debtor, from time to time in respect of any of the Trademark Collateral, (ii) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to or for the account of Debtor from time to time with respect to any of the Trademark Collateral, (iii) any and all claims and payments (in any form whatsoever) made or due and payable to Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Trademark Collateral by any Person acting under color of governmental authority, and (iv) any and all other amounts from time to time paid or payable under or in connection with any of the Trademark Collateral or for or on account of any damage or injury to or conversion of any Trademark Collateral by any Person.

“PTO” means the United States Patent and Trademark Office and any successor thereto.

“Revolver Agent” has the meaning ascribed to such term in the recitals of this Agreement.

“Secured Obligations” means all liabilities, obligations, or undertakings (including the Obligations) owing by any Debtor to any of the Agents or any of the Lenders of any kind or description arising out of or outstanding under, advanced or issued pursuant to, or evidenced by the Financing Agreement, this Agreement, or any of the other Loan Documents, irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, voluntary or involuntary, whether now existing or hereafter arising, and including all interest, indemnities and any and all costs, fees (including attorneys’ fees), and expenses and any other amounts (including any portion thereof that accrues after the commencement of an Insolvency Proceeding, whether or not allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) which such Debtor is required to pay in connection with any of the foregoing, whether compelled to do so by law, or otherwise.

“Security Agreement” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Trademark Collateral” has the meaning set forth in Section 2.

“Trademarks” has the meaning set forth in Section 2.

“United States” and “U.S.” each mean the United States of America.

(b) Terms Defined in Code. Where applicable and except as otherwise defined herein, terms used in this Agreement shall have the meanings assigned to them in the Code.

(c) Interpretation. In this Agreement, except to the extent the context otherwise requires:

(i) Any reference to a Section or a Schedule is a reference to a section hereof, or a schedule hereto, respectively, and to a subsection or a clause is, unless otherwise stated, a reference to a subsection or a clause of the section or subsection in which the reference appears.

(ii) The words “hereof,” “herein,” “hereto,” “hereunder” and the like mean and refer to this Agreement as a whole and not merely to the specific section, subsection, paragraph or clause in which the respective word appears.

(iii) The meaning of defined terms shall be equally applicable to both the singular and plural forms of the terms defined.

(iv) The words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation.”

(v) References to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto.

(vi) References to statutes or regulations are to be construed as including all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation referred to.

(vii) Any captions and headings are for convenience of reference only and shall not affect the construction of this Agreement.

(viii) Capitalized words not otherwise defined herein shall have the respective meanings assigned to them in the Financing Agreement.

(ix) In the event of a direct conflict between the terms and provisions of this Agreement and the Financing Agreement, or between the terms and provisions of this Agreement and the Security Agreement, it is the intention of the parties hereto that such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict between this Agreement and the Financing Agreement that cannot be resolved as aforesaid, the terms and provisions of the Financing Agreement shall control and govern; provided, however, that the inclusion herein of additional obligations on the part of Debtor and supplemental rights and remedies in favor of Collateral Agent for the benefit

of the Lender Group (whether under federal law or applicable New York law), in each case in respect of the Trademark Collateral, shall not be deemed in conflict with the Financing Agreement. In the event of any actual, irreconcilable conflict between this Agreement and the Security Agreement that cannot be resolved as aforesaid, the terms and provisions of this Agreement shall control and govern; ; provided that the inclusion herein of additional obligations on the part of the Debtor and supplemental rights and remedies in favor of Collateral Agent for the benefit of the Lender Group (whether under New York law or applicable federal law), in each case in respect of the Trademark Collateral, shall not be deemed a conflict with the Security Agreement.

(x) All of the Schedules attached hereto shall be deemed incorporated by reference.

2. Security Interest.

(a) Assignment and Grant of Security in respect of the Secured Obligations. To secure the prompt payment and performance of all of the Secured Obligations, Debtor hereby grants, assigns, transfers and conveys to Collateral Agent, for the benefit of each Agent and each Lender, a continuing security interest in all of Debtor's right, title and interest in and to the following property, whether now existing or hereafter acquired or arising and whether registered or unregistered (collectively, the "Trademark Collateral"):

(i) all state (including common law) and federal trademarks, service marks and trade names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature owned by Debtor, now existing or hereafter adopted or acquired, and all registrations and recordings thereof, and all applications filed or to be filed in connection therewith, including registrations and applications in the PTO, any State of the United States (but excluding each application to register any trademark, service mark, or other mark prior to the filing under applicable law of a verified statement of use (or the equivalent) for such trademark or service mark) and all extensions or renewals thereof, including without limitation any of the foregoing identified on Schedule A and Schedule B hereto (as the same may be amended, modified or supplemented from time to time), and the right (but not the obligation) to register claims under any state or federal trademark law or regulation and to apply for, renew and extend any of the same, to sue or bring opposition or cancellation proceedings in Debtor's name or in the name of Collateral Agent or in the name of Collateral Agent for the benefit of the Lender Group for past, present or future infringement or unconsented use thereof, and all rights arising therefrom throughout the world (collectively, the "Trademarks");

(ii) all claims, causes of action and rights to sue for past, present or future infringement or unconsented use of any of the Trademarks and all rights arising therefrom and pertaining thereto;

(iii) all general intangibles (as defined in the Code) related to or arising out of any of the Trademarks and all the goodwill of Debtor's business symbolized by the Trademarks or associated therewith; and

(iv) all Proceeds of any and all of the foregoing.

Anything contained in this Agreement to the contrary notwithstanding, the term "Trademark Collateral" shall not include any rights or interests in any contract, permit, license, charter or license agreement covering personal property that are now or hereafter held by any Debtor in the event that: (i) as a result of the grant of a security interest therein, such Debtor's rights in or with respect to such asset would be forfeited or such Debtor would be deemed to have breached or defaulted under the applicable agreement that governs such asset pursuant to restrictions contained in the applicable agreement or implied in such agreement by applicable law; and (ii) any such restriction is effective and enforceable under applicable law (including, without limitation, Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code of any relevant jurisdiction); provided, however, that in no event shall the foregoing be construed to exclude from the security interest created by this Agreement: (X) any and all proceeds of such assets, or (Y) such assets at any time that the restrictions in the agreement are no longer effective and enforceable or at any time that the consent of the other party to the agreement is obtained to the grant of a security interest in and to such asset in favor of Collateral Agent.

(b) Continuing Security Interest. Debtor hereby agrees that this Agreement shall create a continuing security interest in the Trademark Collateral which shall remain in effect until terminated in accordance with Section 18 hereof.

(c) Incorporation into Security Agreement. This Agreement shall be fully incorporated into the Security Agreement and all understandings, agreements and provisions contained in the Security Agreement shall be fully incorporated into this Agreement. Without limiting the foregoing, the Trademark Collateral described in this Agreement shall constitute part of the Collateral in the Security Agreement.

(d) Licenses. Debtor may grant licenses of the Trademark Collateral in accordance with the terms of the Loan Documents.

3. Further Assurances; Appointment of Collateral Agent as Attorney-in-Fact. Debtor at its expense shall execute and deliver, or cause to be executed and delivered, to Collateral Agent any and all documents and instruments, in form and substance reasonably satisfactory to Collateral Agent, and take any and all action, in each case which Collateral Agent may reasonably request to be delivered or performed from time to time, to perfect and continue the perfection or to maintain the priority of, or provide notice of the security interest in the Trademark Collateral held by Collateral Agent for the benefit of the Lender Group and to accomplish the purposes of this Agreement. If Debtor refuses or fails to, within ten (10) Business Days following any reasonable request by Collateral Agent therefor, execute and deliver all of the documents or perform all of the acts requested by Collateral Agent pursuant to the preceding sentence, Collateral Agent shall have the right, in the name of Debtor, or in the name of Collateral Agent or otherwise, without further notice to or assent by Debtor, and Debtor hereby irrevocably constitutes and appoints Collateral Agent (and any of Collateral Agent's officers or employees or agents designated by Collateral Agent acting within the scope of their employment or engagement) as Debtor's true and lawful attorney-in-fact with full power and authority, (i) to sign the name of Debtor on all or any of such documents or instruments and perform all acts so requested of Debtor in accordance with the foregoing that are reasonably

necessary to perfect or continue the perfection of, maintain the priority or enforceability of or provide notice of the security interest in the Trademark Collateral held by Collateral Agent for the benefit of the Lender Group, and (ii) to execute any and all other documents and instruments, and to perform any and all other acts and things for and on behalf of Debtor, which are reasonably necessary to maintain, preserve and protect the Trademark Collateral and to accomplish the purposes of this Agreement, including (A) upon the occurrence and during the continuance of any Event of Default, to defend, settle, adjust or institute any action, suit or proceeding with respect to the Trademark Collateral, (B) upon the occurrence and during the continuation of any Event of Default, to assert or retain any rights under any license agreement for any of the Trademark Collateral, including any rights of Debtor arising under Section 365(n) of the Bankruptcy Code, and (C) upon the occurrence and during the continuance of any Event of Default, to execute any and all applications, documents, papers and instruments for Collateral Agent to use the Trademark Collateral, to grant or issue any exclusive or non-exclusive license with respect to any Trademark Collateral, and to assign, convey or otherwise transfer title in or dispose of the Trademark Collateral. The power of attorney set forth in this Section 3, being coupled with an interest, is irrevocable so long as this Agreement shall not have terminated in accordance with Section 18.

4. Representations and Warranties. Debtor represents and warrants to each member of the Lender Group as follows:

(a) No Other Trademarks. Schedule A and Schedule B set forth a true and correct list of all of Debtor's existing Trademarks that are registered, or for which any application for registration has been filed with the PTO or any corresponding or similar trademark office of any other U.S. jurisdiction, and that are owned by Debtor.

(b) Trademarks Subsisting. Each of Debtor's Trademarks listed in Schedule A and Schedule B is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and, to the best of Debtor's knowledge, each of the Trademarks set forth on Schedule A is valid and enforceable.

(c) Ownership of Trademark Collateral; No Violation. (i) Debtor has rights in and good and defensible title to the Trademark Collateral, (ii) Debtor is the sole and exclusive owner of the Trademark Collateral, free and clear of any Liens and rights of others (other than interest created hereunder and other than Permitted Liens, including licenses, registered user agreements and covenants by Debtor not to sue third persons), and (iii) with respect to any Trademarks for which Debtor is either a licensor or a licensee pursuant to a license or licensing agreement regarding such Trademark, each such license or licensing agreement is in full force and effect and Debtor is not in material default of any of its obligations thereunder, and (iv) with respect to any Trademarks for which Debtor is a licensor pursuant to a license or licensing agreement regarding such Trademark, other than the parties to such licenses or licensing agreements (and any of their sublicenses which are authorized pursuant to such licenses or licensing agreements), no other Person has any rights in or to any of the Trademark Collateral. To the best of Debtor's knowledge, the past, present and contemplated future use of the Trademark Collateral by Debtor has not, does not and will not infringe upon or violate any right, privilege or license agreement of or with any other Person or give any such Person the right to terminate any such right, privilege or license agreement.

(d) No Infringement. To the best of Debtor's knowledge, (i) no material infringement or violation presently is being made of any of the Trademark Collateral by any Person, and (ii) the past, present, and contemplated future use of the Trademark Collateral by Debtor has not, does not and will not infringe upon or violate any right, privilege, or license arrangement of or with any other Person or give such Person the right to terminate any such license arrangement.

(e) Powers. Debtor has the unqualified right, power and authority to pledge and to grant to Collateral Agent security interests in the Trademark Collateral pursuant to this Agreement, and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person except as already obtained.

5. Covenants. So long as any of the Secured Obligations shall remain unpaid or any Lender shall have any Commitment under the Financing Agreement (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), Debtor covenants and agrees that it will:

(a) comply with all of the covenants, terms and provisions of this Agreement, the Financing Agreement, the Security Agreement, and the other Loan Documents to which Debtor is a party applicable to Debtor;

(b) promptly give Collateral Agent written notice of the occurrence of any event of which it becomes aware that is reasonably likely to have a material adverse effect on any of the Trademarks or the Trademark Collateral, including any petition under the Bankruptcy Code or any foreign insolvency laws filed by or against any licensor of any of the Trademarks for which Debtor is a licensee;

(c) on a continuing basis, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places, all such instruments and documents, including appropriate financing and continuation statements and security agreements, and take all such action, all as may be reasonably necessary to or may be reasonably requested by Collateral Agent, to carry out the intent and purposes of this Agreement, to assure, confirm or protect the grant or perfection of the security interests granted or purported to be granted hereby, to ensure Debtor's compliance with this Agreement or to enable Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to the Trademark Collateral. Without limiting the generality of the foregoing sentence, Debtor, if Debtor fails to complete any of the documents reasonably requested by Collateral Agent within ten (10) Business Days following such reasonable request therefor, hereby authorizes Collateral Agent to, for the purposes specified in this subsection (c):

(i) modify this Agreement without first obtaining Debtor's approval of or signature to such modification by amending Schedule A or Schedule B hereof to include a reference to any right, title or interest in any existing material Trademark Collateral or Trademark Collateral acquired or developed by Debtor after the execution hereof, or to delete any reference to any right, title or interest in any Trademark Collateral in which Debtor no longer has or claims any right, title or interest; and

(ii) file one or more financing or continuation statements, or any amendments thereto, concerning all or any portion of the Trademark Collateral, without the signature of Debtor where permitted by law;

(d) comply, in all material respects, with all applicable statutory and regulatory requirements in connection with any and all of the Trademark Collateral, give such notice of Trademarks, and, to the extent prudent in the exercise of Debtor's reasonable business judgment, prosecute such material claims, and do all other acts and take all other measures which may be reasonably necessary to preserve, protect and maintain the Trademark Collateral and all of Debtor's rights therein, including diligently prosecute any material trademark application pending as of the date of this Agreement or thereafter;

(e) comply with each of the terms and provisions of this Agreement, the Financing Agreement, and the Security Agreement applicable to Debtor, and not enter into any agreement (for example, a license agreement) which is inconsistent with the obligations of Debtor under this Agreement, the Financing Agreement, and the Security Agreement without Collateral Agent's prior written consent; and

(f) not permit the inclusion in any contract to which Debtor becomes a party of any provision that could or might impair or prevent the creation of a security interest in favor of Collateral Agent, for the benefit of the Lender Group, in Debtor's rights and interest in any property included within the definition of Trademark Collateral acquired under such contracts.

6. Future Rights. If and when Debtor shall obtain ownership of any new Trademarks, or any reissue, division, continuation, renewal or extension or continuation in part of any Trademarks, the provisions of this Agreement shall automatically apply thereto and Debtor shall give to Collateral Agent prompt notice thereof in accordance with Section 12.01 of the Financing Agreement (provided, however, that Debtor shall not be obligated to provide such notice more frequently than quarterly). Debtor shall do all things deemed necessary by Collateral Agent in its reasonable discretion to ensure the validity, perfection, priority and enforceability of the security interests of Collateral Agent in such future acquired Trademark Collateral. If Debtor refuses to execute and deliver, or fails to execute and deliver within ten (10) Business Days of Collateral Agent's reasonable request therefor, any of the documents reasonably necessary to accomplish the purposes of this Section 6, Debtor hereby authorizes Collateral Agent to modify, amend or supplement the Schedules hereto and to re-execute this Agreement from time to time on Debtor's behalf and as its attorney-in-fact to include any future Trademarks which are or become Trademark Collateral and to cause such re-executed Agreement or such modified, amended or supplemented Schedules to be filed with the PTO.

7. Duties of Collateral Agent and the Lender Group. Notwithstanding any provision contained in this Agreement, neither Collateral Agent nor any other member of the Lender Group shall have any duty to exercise any of the rights, privileges or powers afforded to it and shall not be responsible to Debtor or any other Person for any failure to do so or delay in doing so. Except for the accounting for moneys actually received by Collateral Agent or any other member of the Lender Group hereunder or in connection herewith, neither Collateral Agent nor any member of the Lender Group shall have any duty or liability to exercise or preserve any

rights, privileges or powers pertaining to the Trademark Collateral. Nothing in this Section 7 or elsewhere in this Agreement shall relieve Collateral Agent of liability or responsibility for its own gross negligence or willful misconduct.

8. Events of Default. The occurrence of any "Event of Default" under the Financing Agreement shall constitute an Event of Default hereunder.

9. Remedies. From and after the occurrence and during the continuation of an Event of Default, the Lender Group and Collateral Agent on behalf thereof shall have all rights and remedies available to them under the Financing Agreement and the other Loan Documents and applicable law (which rights and remedies are cumulative) with respect to the security interests in any of the Trademark Collateral. Debtor hereby agrees that such rights and remedies include the right of Collateral Agent as a secured party to (after the occurrence and during the continuation of an Event of Default) sell or otherwise dispose of the Trademark Collateral, pursuant to the Code. Debtor hereby agrees that Collateral Agent shall at all times have such royalty-free licenses, to the extent permitted by law and the Loan Documents, for any Trademark Collateral that is reasonably necessary to permit the exercise of any of Collateral Agent's rights or remedies available to it after the occurrence of and during the continuance of an Event of Default with respect to (among other things) any asset of Debtor in which Collateral Agent has a security interest, including Collateral Agent's rights to sell or license general intangibles, inventory, tooling or packaging which is acquired by Debtor (or its successor, assignee or trustee in bankruptcy). In addition to and without limiting any of the foregoing, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right (but shall in no way be obligated) to bring suit or to take such other action as Collateral Agent deems necessary or reasonable, in the name of Debtor or Collateral Agent, to enforce or protect any of the Trademark Collateral, in which event Debtor shall, at the request of Collateral Agent, do any and all lawful acts and execute any and all documents required by Collateral Agent in aid of such enforcement. To the extent that Collateral Agent shall elect not to bring suit to enforce such Trademark Collateral, Debtor, in the exercise of its reasonable business judgment, agrees to use all reasonable measures and its diligent efforts, whether by action, suit, proceeding or otherwise, to prevent the infringement, misappropriation or violation thereof by others and for that purpose agrees diligently to maintain any action, suit or proceeding against any Person reasonably necessary to prevent such infringement, misappropriation or violation.

10. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by Debtor and Collateral Agent for the benefit of the Lender Group and their respective successors and assigns.

11. Notices. All notices and other communications hereunder shall be in writing and shall be mailed, sent or delivered in accordance with the Financing Agreement.

12. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the law of the State of New York applicable to contracts made and to be performed in the State of New York, except to the extent that the validity or perfection of the security interests hereunder in respect of the Trademark Collateral are governed by federal law, in which case such choice of New York law shall not be deemed to deprive Collateral Agent of such rights and remedies as may be available under federal law.

13. Entire Agreement; Amendment. This Agreement and the other Loan Documents, together with the Schedules and Exhibits hereto and thereto, which are incorporated herein by this reference, contains the entire agreement of the parties with respect to the subject matter hereof and supersede all prior drafts and communications relating to such subject matter. Neither this Agreement nor any provision hereof may be modified, amended or waived except by the written agreement of the parties to this Agreement. The foregoing notwithstanding, Collateral Agent may re-execute this Agreement, or modify, amend or supplement the Schedules hereto or execute a supplemental Trademark Security Agreement, as provided herein, and the terms of any such modification, amendment, supplement or supplemental Trademark Security Agreement shall be deemed to be incorporated herein by this reference.

14. Severability. If one or more provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction or with respect to any party, such invalidity, illegality or unenforceability in such jurisdiction or with respect to such party shall, to the fullest extent permitted by applicable law, not invalidate or render illegal or unenforceable any such provision in any other jurisdiction or with respect to any other party, or any other provisions of this Agreement.

15. Counterparts; Telefacsimile Execution. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

16. Security Agreement. Debtor acknowledges that the rights and remedies of Collateral Agent with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement and all such rights and remedies are cumulative.

17. No Inconsistent Requirements. Debtor acknowledges that this Agreement and the other Loan Documents may contain covenants and other terms and provisions variously stated regarding the same or similar matters, and Debtor agrees that all such covenants, terms and provisions are cumulative and all shall be performed and satisfied in accordance with their respective terms.

18. Termination; Release. When the Secured Obligations have been paid in full in accordance with the terms of the Financing Agreement, and the Commitments shall have expired or been irrevocably terminated (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), this Agreement shall terminate (subject to Section 19) and all rights in the Trademark Collateral shall revert to Debtor. Collateral Agent, at the request and sole expense of Debtor will promptly execute and deliver to Debtor the proper instruments (including Uniform Commercial Code termination statements and including cancellation of this Agreement by written notice from Collateral Agent to the PTO)

acknowledging the termination of this Agreement, and will duly assign, transfer and deliver to Debtor, without recourse, representation or warranty of any kind whatsoever, such of the Trademark Collateral as may be in possession of Collateral Agent and has not theretofore been disposed of, applied or released.

19. Revival and Reinstatement of Secured Obligations. If the incurrence or payment of the Secured Obligations by Debtor or the transfer by Debtor to Collateral Agent or any other member of the Lender Group of any property of Debtor should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent conveyances, preferences, and other voidable or recoverable payments of money or transfers of property (collectively, a "Voidable Transfer"), and if Collateral Agent or any other member of the Lender Group is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the reasonable advice of its counsel, then, as to any such Voidable Transfer, or the amount thereof that Collateral Agent or any other member of the Lender Group is required or elects to repay or restore, and as to all reasonable costs, expenses, and attorneys fees of Collateral Agent or any other member of the Lender Group related thereto, the liability of Debtor automatically shall be revived, reinstated, and restored and shall exist as though such Voidable Transfer had never been made.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the date first above written.

**VITALITY ACQUISITION CORP.,
a Delaware corporation**

By: *Darren Adeson*
Name: *Darren Adeson*
Title: *VPTLFO*

[SIGNATURE PAGE TO TRADEMARK SECURITY AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement,
as of the date first above written.

COLLATERAL AGENT:

DYMAS FUNDING COMPANY, LLC,
a Delaware limited liability company

By: Dymas Capital Management Company, LLC,
a Delaware limited liability company
its Manager

By: *Andrew D. Maul*
Its: *Managing Director*

[SIGNATURE PAGE TO TRADEMARK SECURITY AGREEMENT]

SCHEDULE A
to the Trademark Security Agreement of Vitality Foodservice, Inc.

United States Trademarks of Debtor

Trademark	App. No.	App. Date	Reg. No.	Reg. Date
CALABAY	75371117	10/10/1997	2431955	2/27/2001
CHOICEPAK (Stylized)	76169847	11/22/2000	2678803	1/21/2003
COOL CHOICE	73460230	1/11/1984	1359475	9/10/1985
COOL CHOICE	73405505	12/10/1982	1280896	6/5/1984
DISPENSER-PAK	72034252	7/23/1957	675115	3/3/1959
DISPENSER-PAK	75793493	9/7/1999	2440230	4/3/2001
FAMILY CHOICE	73535632	5/3/1985	1364807	10/8/1985
FLORIDAGOLD	72337182	9/5/1969	895172	7/21/1970
FLORIDAGOLD (Stylized)	73304458	4/6/1981	1213405	10/19/1982
GOLDEN CHOICE	73535630	5/3/1985	1377481	1/7/1986
ISLAND PASSION	74362899	3/1/1993	1914253	8/22/1995
JUS SQUEEZD & Design	75333951	7/31/1997	2223815	2/16/1999
NATURE'S SELECT & Design	74485546	2/2/1994	2010479	10/22/1996
PREMIUM SELECT	75624998	1/20/1999	2296185	11/30/1999
RTS EXPRESS & Design	76409216	5/16/2002	2693039	3/4/2003
SWITCH-A-BRIX	73116718	2/22/1977	1125955	10/16/1979
VITA GOLD	75933748	3/2/2000	2428457	2/13/2001
VITALITY	72325533	4/25/1969	907932	2/16/1971
VITALITY	72363180	6/19/1970	919962	9/7/1971
VITALITY	72438282	10/13/1972	966673	8/21/1973
VITALITY	75385646	11/6/1997	2802591	1/6/2004
VITALITY EXPRESS	74253662	3/9/1992	1729171	11/3/1992
VITALITY EXPRESS PAK	74256298	3/17/1992	1792848	9/14/1993
VITALITY SPRINGS	76205035	2/5/2001	2756827	8/26/2003

SCHEDULE B
to the Trademark Security Agreement of Vitality Foodservice, Inc.

United States Trademark Applications of Debtor

NONE

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