

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
F&P, Inc.		11/01/2004	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Young America Corporation		
Street Address:	717 Faxon Road		
City:	Young America		
State/Country:	MINNESOTA		
Postal Code:	55397		
Entity Type:	CORPORATION: MINNESOTA		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	2768821	UNITED REBATES	
Registration Number:	1977301	SUPER COMBO REBATES	
Registration Number:	1926648	ALL-IN-ONE	
CORRESPONDENCE DATA			
Fax Number:	(612)340-8856		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	(612) 492-6853		
Email:	ip.docket@dorsey.com		
Correspondent Name:	Paul W. Mussell		
Address Line 1:	50 South Sixth Street		
Address Line 2:	Suite 1500		
Address Line 4:	Minneapolis, MINNESOTA 55402		
NAME OF SUBMITTER:	Paul Mussell		
Signature:	/Paul Mussell/		

CH \$90.00 2768821

Date:

07/08/2005

Total Attachments: 19

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BUSINESS ACQUISITION AGREEMENT

This **BUSINESS ACQUISITION AGREEMENT** (this "*Agreement*"), dated as of November 1, 2004, is made and entered into by and between Young America Corporation, a Minnesota corporation ("*YA*"), and F&P, Inc., a California corporation doing business as Howe Promotions ("*Howe*").

WHEREAS, Howe is engaged in the business of handling rebate promotion and fulfillment services including three retailers (Shopko, Longs and Eckerd), and any of their successor companies through purchase, sale or merger (the "*Business*"); and

WHEREAS, Howe desires to assign to YA, and YA desires to assume from Howe, on the terms and subject to the conditions set forth in this Agreement, its customer contracts and customer relationships, and certain critical assets that are currently being used by Howe in the conduct of the Business.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements and the conditions set forth in this Agreement, YA and Howe hereby agree as follows:

I. Assumption of the Business

1.1 Assumption of the Business. On the terms and subject to the conditions set forth in this Agreement, Howe shall, at the Closing (as defined in Section 3.1 hereof), convey and assign to YA, and YA shall acquire from Howe, all of Howe's right, title and interest in the following as of the Closing Date (as defined in Section 3.1 hereof) (collectively, the "*Assets*"):

(a) Howe inventories of supplies, creative materials, catalogues, parts, finished goods and work-in-process used in connection with the Business;

(b) Howe's interest in those certain licenses, contracts or agreements with respect to the Business to which Howe is a party, as outlined in Schedule 1.1(b), to the extent transferable based on the best efforts of Howe, and all rights to payment with respect to such licenses, contracts and agreements for services rendered on or after November 1, 2004;

(c) Except as set forth in Section 1.1(d), all rights in patents, patent applications, trademarks, service marks, trade names, corporate names, copyrights, mask works, trade secrets or other intellectual property rights owned by, licensed to or otherwise controlled by Howe and used in, developed for use in or necessary to the conduct of the Business as now conducted and including the rights to institute or maintain any action or investigation for and to recover damages for any past infringement thereof or any actions of unfair competition relating thereto;

(d) For a one-year period from the Closing Date, a license to use, in connection with the Business, the name "Howe Promotions" or any combination of words in which the name "Howe Promotions" appears or any rights associated with such

name or any right to use such name in all jurisdictions in which Howe either currently uses any such name or has any right to use any such name, and all goodwill associated with the name and the Business;

(e) All of Howe's books, records and other documents and information relating to the Business (as pertaining to Shopko, Long's and Eckerd's), including, without limitation, all customer, prospect, dealer and distributor lists, sales literature, inventory records, purchase orders and invoices, sales orders and sales order log books, customer information, commission records, correspondence, product data, material safety data sheets, price lists, product demonstrations, quotes, bids, all product catalogs and brochures and access to employee payroll and personnel records;

(f) The current telephone listings of the Business and the right to use the telephone numbers currently being used at the principal offices and other offices or facilities of the Business;

(g) All permits, licenses and other governmental approvals, if any, held by Howe with respect to the Business, to the extent they are assignable; and

(h) All equipment listed on Schedule 1.1(h), the prices of which are listed on such schedule and shall be paid to Howe on January 1, 2005.

The parties hereto expressly agree that YA is not acquiring any assets of Howe not specifically identified hereinabove, including, but not limited to, cash, cash equivalents, accounts receivable, prepaids and prepaid deposits, tax receivables, personal property assets at the premises, financial and other records not specified in Section 1.1(e) above, or vehicles.

1.2 Excluded Liabilities. Except as provided in Section 2.3 and 8.3 and for obligations arising on or after the Closing Date with respect to the licenses, contracts or agreements outlined in Schedule 1.1(b), Howe shall retain, and YA shall not assume, and nothing contained in this Agreement shall be construed as an assumption by YA of, any liabilities, obligations or undertakings of Howe of any nature whatsoever, whether accrued, absolute, fixed or contingent, known or unknown, due or to become due, unliquidated or otherwise. Howe shall be responsible for all of the liabilities, obligations and undertakings of Howe, including all expenses, liabilities and obligations arising or accruing on or before the Closing Date and as provided in Section 2.3 (subject to reimbursement) and 8.2(iii) with respect to the licenses, contracts or agreements outlined in Schedule 1.1(b), and Howe shall retain all employee benefit plans and shall continue to be responsible for all liabilities and obligations under those employee benefit plans. All customer programs commencing prior to the Closing Date will be the responsibility of Howe, and all customer programs commencing on or after the Closing Date will be the responsibility of YA, subject to the obligations of Howe (subject to reimbursement) in Section 2.3; provided, however, that, to the extent that Howe acquired and paid for certain assets in advance for programs principally starting after the Closing Date and for which YA will receive substantially all of the benefit, which assets are available and transferable to YA (e.g., printing costs prepaid but not yet invoiced to the retailers, gift check stock if not reimbursed by the retailers), such program assets will be transferred to YA and YA will reimburse Howe separately from the consideration described in Article II herein for the direct cost of such assets

relating to YA assumed programs. The parties agree that any prepaids or assets for programs "overlapping" the Closing Date will be equitably adjusted between them based on the party benefiting from the asset and the party who paid for such asset (e.g., customer deposits received by Howe before or after the Closing Date for any programs commencing after the Closing Date shall be paid to YA).

II. Purchase Price

2.1 Amount. The purchase price (the "*Purchase Price*") for the Assets and the Business shall be paid on January 1, 2005 for the amounts listed on Schedule 1.1(h) and the balance as follows:

For all income earned or accrued during the thirty-six month period commencing on the Closing Date, YA shall pay Howe (or its successors pursuant to Section 9.7) at the address described in Section 9.6 (Howe's federal tax identification number = 95-3084720) an amount equal to 20% of the first \$1,200,000 of "gross profit" of the Business in each successive twelve month period (commencing on the Closing Date), and 40% of the gross profit of the Business over \$1,200,000 in each such twelve month period, regardless of when such income is received by YA. For purposes of this section, "Business" shall mean the services traditionally performed by Howe for Shopko, Longs and Eckerd (the "*Howe Clients*") and any successor companies of the Howe Clients through purchase, sale or merger, including any services and charges therefore specifically for the Howe Clients of the type traditionally performed by YA (fulfillment and call center services) under and pursuant to the Services Agreement described below, but shall exclude all services not currently offered by Howe and all services offered by YA now or in the future (prior to such merger or acquisition) to any company acquiring or merging with any of the Howe Clients. For purposes of this section, "gross profit" means fee income (including revenue from uncashed checks, if any) and media revenues resulting from direct pass through media costs for all services performed for clients of the Business less "direct costs." For purposes of this section, "direct costs" shall mean (i) the costs charged for delivery of fulfillment and call center services pursuant to the terms of the Services Agreement between YA and Howe dated April 21, 2004 (a copy of which is attached hereto as Exhibit A, which is incorporated herein by reference), (ii) other pass through costs (e.g., direct media costs (printing and type fees, etc.), retailer's share of media fees and project specific expenses that are passed through directly to the clients of the Business (photos, printing, shipping, etc.)) incurred by YA in performing the services for clients of the assumed Business, and (iii) any income earned or accrued as described above that remains uncollected for 180 days (any such income later collected shall be subtracted from direct costs at the time of such collection). Direct costs specifically do not include overhead, employee salaries and related costs, travel and entertainment, general administrative or inter-corporate or interdivisional charges. During the earn-out period, for purposes of calculating gross profit, the charges in the Services Agreement may change based on increased or decreased costs from changes in client specifications. The payment amounts shall be calculated monthly on an accrual basis (revenue from uncashed checks, if any, will be calculated and paid in a manner consistent with YA's accounting practices, which shall be described in Schedule 2.1 attached hereto, and will be paid within 20 days after the end of each calendar month). Howe agrees that any amounts due it under this Section may be set off against obligations or liabilities Howe or its shareholders have to YA under Sections 8.2 or 9.12, provided that the parties first utilize and complete the procedural provisions set forth in Section 8.4(b). Howe acknowledges

and agrees that YA has no obligation to continue the Business and has the right to terminate some or all of the Business at any time and for any reason.

2.2 Equitable Transfer of Fees and Expenses. As contemplated by Section 1.2, the parties agree to effect an equitable allocation of fees and expenses in connection with the assumption of the contracts described in Section 1.1(c) to the extent that such contracts, or some of them, are successfully transferred and assumed. Effective on the Closing Date (assuming a Closing Date of November 1, 2004; if the Closing Date is a different date, the dates in the following subsections will be adjusted by an amendment executed by the parties at the Closing to give rise to the same economic consequences contemplated below):

(a) YA will receive the monthly management fee payments for Eckerd's and Long's for the month of November 2004.

(b) YA would take over direct program costs and labor related expenses in accordance with Sections 2.3 and 9.12 herein, from and after the Closing Date.

(c) If the Closing Date is other than the beginning of the month, the fees and expenses for Eckerd's and Long's would be prorated based on the number of days elapsed for the month divided by days in the month.

(d) Shopko media fees will be allocated as follows: (i) for the Shopko Super Combo Rebates program, commencing January 30, 2005, media fees will be evenly divided between YA and Howe; (ii) for the Shopko "6 Hour Sale", which commences November 6, 2004, Howe will retain all media fees and pay all production costs; and (iii) for Shopko Electronics, commencing November 7, 2004, Howe will retain all media fees and pay all production costs.

(e) Programs existing and commenced by Howe prior to the Closing Date will not be included in this Agreement and will be entirely retained by Howe.

2.3 Reimbursement of Expenses for Facilities and Equipment. During the period commencing on the Closing Date through December 31, 2004, Howe will continue to pay for its premises lease in Pasadena, and all other expenses reasonably necessary to operate the Business, including employee expenses as such expenses are provided for in Section 9.12 herein, and will operate the Business for the benefit of YA. Since, during such period, YA will receive the economic benefits of the Business, YA will reimburse Howe for such expenses incurred by it, both direct and indirect. In this regard, Howe will provide YA will evidence of such expenditures by invoice, and YA will reimburse such expenses within ten days following its receipt of such invoice. Such reimbursement will be made without regard to any other offsets or obligations of Howe to YA asserted thereby, it being acknowledged that Howe is advancing such expenses and making its offices and infrastructure and employees available to YA as an accommodation in order to provide YA with initial and temporary operating premises during the initial transitional period. Howe further agrees that the provisions of 8.2(iii) shall specifically apply for the benefit of YA during this transitional period insofar as any non-operating losses are caused by acts or omissions of Howe or its employees in connection with the operations of the

Business. Any of the foregoing conduct that is directed, or participated in, by YA or its employees during such transitional period shall exonerate Howe from any such responsibility.

2.4 Audit Rights. YA agrees that, together with each payment made under Section 2.1, it shall accompany such payment with a detailed calculation of the source of such payment and all specific calculations of the gross profit and all deductions therefrom. During the period of the payments due under Section 2.1, and for a period of one year thereafter, Howe will have the right, at its expense and upon at least seven (7) days advance written notice, twice annually to inspect (in a manner that is not disruptive to the operation of YA's business) or request, at its option, the records (or copies thereof) relating to the Business and the Howe Clients that give rise to the earn-out provided for in Section 2.1. YA agrees to fully cooperate with such audit to the extent it is not disruptive to its business. Howe agrees that its rights do not include the inspection of any portion of YA's business records not directly related to the consideration and Business contemplated and includable within Section 2.1. In the event that Howe establishes that the payments made thereto by YA are deficient, YA agrees that it will immediately pay such deficiency to Howe, and that, if such deficiency is in an amount at least 5% greater than that reported and paid to Howe, YA agrees that, in such event, it will immediately reimburse Howe for its costs of conducting that audit, but not in excess of \$3,000.

III. Closing

3.1 Execution; Closing. Notwithstanding the earlier execution hereof by the parties, which shall be a pre-condition to the transitional procedures described in Section 3.2 herein, the closing of the transactions contemplated by this Agreement (the "Closing") will take place at the offices of Howe on November 1, 2004, or, if the parties prefer, in a non-physical closing by exchanging first facsimile signatures and then airfreighted original signatures, or at such other manner, place and on such other date as is mutually agreeable to YA and Howe. The date on which the Closing occurs is referred to herein as the "Closing Date," and the Closing shall be deemed effective as of 8:00 a.m., Minneapolis time, on the Closing Date.

3.2 General Procedure. At the Closing, each party shall deliver to the party entitled to receipt thereof the documents required to be delivered pursuant to Article VII hereof and such other documents, instruments and materials (or complete and accurate copies thereof, where appropriate) as may be reasonably required in order to effectuate the intent and provisions of this Agreement, and all such documents, instruments and materials shall be satisfactory in form and substance to counsel for the receiving party. The conveyance, transfer, assignment, and delivery of the Assets shall be effected by Howe's execution and delivery to YA of a bill of sale substantially in the form attached hereto as Exhibit A (the "Bill of Sale") and such other instruments of conveyance, transfer, assignment and delivery as YA shall reasonably request to cause Howe to transfer, convey, assign and deliver the Assets to YA, and the assignment to, and assumption by, YA of the licenses, contracts and agreements outlined in Schedule 1.1(b) shall be effected by Howe's and YA's execution of an assignment and assumption agreement substantially in the form attached hereto as Exhibit B (the "Assignment and Assumption Agreement"). Each party agrees to undertake its best efforts to obtain such consent and to cooperate with the Howe Clients in order to establish the benefits of consenting to such transfer and assignment.

IV. Representations and Warranties of Howe

Howe hereby represents and warrants to YA that:

4.1 Incorporation and Corporate Power. Howe is a corporation duly incorporated, validly existing and in good standing under the laws of the State of California and has all requisite corporate power and authority and all authorizations, licenses, permits and certifications necessary to carry on the Business as now being conducted and to own, lease and operate the Assets. The execution, delivery and performance of this Agreement by Howe and the consummation of the transactions contemplated hereby have been duly and validly authorized by the board of directors and shareholders of Howe, and no other proceedings on its part are necessary to authorize the execution, delivery and performance of this Agreement. This Agreement has been duly executed and delivered by Howe and, assuming that this Agreement is the valid and binding agreement of YA, constitutes the valid and binding obligation of Howe, enforceable in accordance with its terms, except to the extent that enforcement may be limited by principles of public policy and laws of general application relating to bankruptcy, insolvency, reorganization, arrangement, moratorium, the relief of debtors, the availability of equitable remedies, public policy, or similar laws affecting the enforcement of creditors' rights generally.

4.2 Authority; No Breach. Howe has the requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement by Howe and the consummation of the transactions contemplated hereby do not conflict with or result in any breach of any of the provisions of, or constitute a default under, result in a violation of, result in the creation of a right of termination or acceleration or any lien, security interest, charge or encumbrance upon any Assets of Howe, or require any authorization, consent, approval, exemption or other action by or notice to any court or other governmental body, under the provisions of the Articles of Incorporation or Bylaws of Howe or any indenture, mortgage, lease, loan agreement or other agreement or instrument by which Howe or the Assets are bound or affected, or any law, statute, rule or regulation or order, judgment or decree to which Howe or the Assets are subject; provided, however, that the contracts referred to in Section 1.1(c) relating to the Howe Clients do require the consent of the Howe Clients and Howe is making no representation or warranty that such consent can be obtained.

4.3 Governmental Authorities; Consents. Howe is not required to submit any notice, report or other filing with any governmental authority in connection with the execution or delivery by it of this Agreement or the consummation of the transactions contemplated hereby. No consent, approval or authorization of any governmental or regulatory authority is required to be obtained by Howe in connection with its execution, delivery and performance of this Agreement.

4.4 Financial Statement. Howe has delivered to YA copies of (a) the unaudited balance sheet, as of September 30, 2004, of the Business (the "*Latest Balance Sheet*"). The Latest Balance Sheet is based upon the information contained in the books and records of Howe and fairly presents the financial condition of the Business. To the best knowledge of Howe, the Latest Balance Sheet has been prepared in accordance with generally accepted accounting principles applicable to unaudited interim financial statements. Since the date of the Latest

Balance Sheet (the "*Balance Sheet Date*"), there has been no material adverse change in the assets, financial condition, operating results, customer, employee or supplier relations, business condition or prospects of Howe.

4.5 Title to Properties. Howe does not own any real property. Howe holds a valid and existing leasehold interest under its lease in California through December 31, 2004. Howe has delivered to YA a complete and accurate copy of such lease, which has not been modified in any respect, except to the extent that such modifications are disclosed by the copy delivered to YA. Howe is not in default, all leasehold payments are current, and no circumstances exist which, if unremedied, would, either with or without notice or the passage of time or both, result in a default under such lease; nor, to the best knowledge of Howe, is any other party to such lease in default.

4.6 Tax Matters. Each of Howe and any subsidiary, any affiliated, combined or unitary group of which the Company or any subsidiary is or was a member, any employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*")) that Howe maintains or to which it contributes (collectively, the "*Plans*"), as the case may be (each, a "*Tax Affiliate*" and, collectively, the "*Tax Affiliates*"), has: (i) timely filed all returns, declarations, reports, estimates, information returns and statements (collectively, "*Returns*") required to be filed or sent by it with respect to any taxes (ii) timely and properly paid (or has had paid on its behalf) all taxes shown to be due and payable on such Returns; and (iii) complied with all applicable laws, rules, and regulations relating to the withholding of Taxes and the payment thereof (including, without limitation, withholding of Taxes under Sections 1441 and 1442 of the Internal Revenue Code of 1986, as amended (the "*Code*"), or similar provisions under any foreign laws), and timely and properly withheld from individual employee wages and paid over to the proper governmental authorities all amounts required to be so withheld and paid over under all applicable laws. There are no liens for Taxes upon any of the assets, except liens for Taxes not yet due.

4.7 Litigation; Compliance with Laws. There are no actions, suits, proceedings, orders or investigations pending or, to the best knowledge of Howe, threatened against Howe, at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, and there is no reasonable basis known to Howe for any of the foregoing. To the best of its knowledge, Howe has complied in all material respects with all applicable laws, regulations and other requirements.

4.8 Employee Benefit Plans. Howe maintains one or more Plans. To the best of Howe's knowledge, the Plans comply in all material respects with the requirements of ERISA and the Code. Howe and members of Howe's controlled group (as defined under Section 414 of the Code) have never maintained or contributed to a Plan subject to Title IV of ERISA. Howe has no actual or potential liability for death or medical benefits after separation from employment, other than health care continuation benefits described in Section 4980B of the Code or Section 10128.50, *et seq.*, of the California Insurance Code ("*Cal-COBRA*"). Notwithstanding the foregoing, and for purposes of disclosure to YA, Howe maintains a 401(k) plan, which Howe agrees to be responsible for, including the filing of all necessary Form 5500's and any other maintenance or termination thereof.

V. Representations and Warranties of YA

YA hereby represents and warrants to Howe that:

5.1 Incorporation and Corporate Power. YA is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Minnesota, with the requisite corporate power and authority to enter into this Agreement and perform its obligations hereunder.

5.2 Execution, Delivery; Valid and Binding Agreement. The execution, delivery and performance of this Agreement by YA and the consummation of the transactions contemplated hereby have been duly and validly authorized by all requisite corporate action, and no other corporate proceedings on its part are necessary to authorize the execution, delivery or performance of this Agreement. This Agreement has been duly executed and delivered by YA and constitutes the valid and binding obligation of YA, enforceable in accordance with its terms.

5.3 No Breach. The execution, delivery and performance of this Agreement by YA and the consummation by YA of the transactions contemplated hereby do not conflict with or result in any breach of any of the provisions of, constitute a default under, result in a violation of, result in the creation of a right of termination or acceleration or any lien, security interest, charge or encumbrance upon any assets of YA, or require any authorization, consent, approval, exemption or other action by or notice to any court or other governmental body, under the provisions of the Articles of Incorporation or Bylaws of YA or any indenture, mortgage, lease, loan agreement or other agreement or instrument by which YA is bound or affected, or any law, statute, rule or regulation or order, judgment or decree to which YA is subject.

5.4 Governmental Authorities; Consents. YA is not required to submit any notice, report or other filing with any governmental authority in connection with the execution or delivery by it of this Agreement or the consummation of the transactions contemplated hereby. No consent, approval or authorization of any governmental or regulatory authority or any other party or person is required to be obtained by YA.

5.5 Brokerage. No third party shall be entitled to receive any brokerage commissions, finder's fees, fees for financial advisory services or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of YA.

VI. Covenants of Howe

6.1 Conduct of the Business. In connection with the Assets or the Business, Howe agrees to observe each term set forth in this Section 6.1 and agrees that, from the date hereof until the Closing Date, unless otherwise consented to by YA in writing:

(a) The Business shall be conducted, and Howe shall not take any action except in the ordinary course of Howe's business, on an arm's-length basis and in accordance in all material respects with all applicable laws, rules and regulations and Howe's past custom and practice. Howe will not make material changes in employee compensation, employee benefits or employee agreements.

(b) Howe shall use its best efforts to preserve intact the organization and goodwill of the Business, keep available the services of Howe's officers and employees as a group and maintain satisfactory relationships with suppliers, distributors, customers and others having business relationships with Howe in connection with the Business.

6.2 Noncompetition Covenant. During the three-year period commencing on the Closing Date, Howe, and its officers, directors and principal shareholders shall not directly or indirectly engage in any business activities that are competitive with the Business as it was conducted prior to the consummation of the transactions contemplated hereby, and Howe and its officers, directors and principal shareholders shall execute and deliver to YA at the Closing the Noncompetition Agreement in the form of Exhibit C, which will include set-off rights against the payments described in Section 2.1 (which set off rights are subject to certain restrictions provided in Section 2.1). With respect to the specific provisions of the non-competition covenant, the parties agree that the non-competition language in Exhibit C shall control over any more general description set forth in this Section 6.2. Howe understands that YA would not have agreed to purchase the Assets without having received this noncompetition covenant from Howe, and Howe acknowledges that it has entered into this noncompetition covenant as a material inducement to YA to consummate the transactions contemplated hereby. The parties agree that none of the purchase price described in Section 2.1 is being allocated to the Noncompetition Agreement or the covenants set forth therein.

6.3 Training. Prior to Closing, Howe shall provide a reasonable amount of training for YA's personnel regarding procedures necessary to service the Howe Clients. YA agrees to reimburse Howe for its direct costs (excluding overhead) of providing such training, specifically including its personnel expenses. The training shall be at Howe's Pasadena, California office, or any other location desired by YA provided that it pays all necessary travel, lodging and meal expense of Howe's employees conducting such training at such other location. All such training must be approved in advance in writing by YA.

VII. Conditions to Closing

7.1 Conditions to YA's Obligations. The obligation of YA to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions on or before the Closing Date:

(a) The representations and warranties set forth in Article IV hereof shall be true and correct in all material respects at and as of the Closing Date as though then made and as though the Closing Date had been substituted for the date of this Agreement, and Howe shall confirm the same to YA in writing at the Closing;

(b) On the Closing Date, Howe shall have delivered to YA all of the following:

(1) the Bill of Sale and such other instruments of conveyance, transfer, assignment and delivery as YA shall have reasonably requested pursuant to Section 3.2 hereof;

(2) the Assignment and Assumption Agreement;

- (3) an executed copy of the Noncompetition Agreement; and
- (4) such other certificates, documents and instruments as YA reasonably requests related to the transactions contemplated hereby.

VIII. Indemnification

8.1 Survival of Representations and Warranties. The representations and warranties contained in Article IV and Article V hereof shall survive the Closing for a period of one year; provided, however, that for claims arising under Sections 8.2(iii) and 8.3(iii), the rights of the parties to seek claims will continue through the applicable statutes of limitations provided at law.

8.2 Indemnification by Howe. Howe agrees to indemnify in full YA and its officers, directors, employees, agents and stockholders (collectively, the "*YA Indemnified Parties*") and hold them harmless against any loss, liability, deficiency, damage, expense or cost (including reasonable legal expenses) (collectively, "*Losses*"), which YA Indemnified Parties may suffer, sustain or become subject to, as a result of (i) any misrepresentation in any of the representations and warranties of Howe contained in this Agreement or in any exhibits, schedules, certificates or other documents delivered or to be delivered by or on behalf of Howe pursuant to the terms of this Agreement or otherwise referenced or incorporated in this Agreement (collectively, the "*Related Documents*"), (ii) any breach of, or failure to perform, any agreement of Howe contained in this Agreement or any of the Related Documents, or (iii) any "*Claims*" (as defined in Section 8.4(a) hereof) or threatened Claims against YA arising out of the actions or inactions of Howe with respect to the Assets or the Business prior to the Closing (or after the Closing with respect to Section 4.8, or prior to January 1, 2005 with respect to Section 2.3), specifically including Claims by Howe's former President and shareholder (as more specifically described in Section 9.13) and Claims relating to unclaimed property and/or any reporting obligations with respect thereto (collectively, "*YA Losses*"). Howe shall be liable to YA for YA Losses only if and to the extent the aggregate amount of YA Losses exceeds \$10,000.

8.3 Indemnification by YA. YA agrees to indemnify in full Howe, and its officers, directors, employees, agents and stockholders (collectively, the "*Howe Indemnified Parties*") and hold them harmless against any Losses which any of the Howe Indemnified Parties may suffer, sustain or become subject to as a result of (i) any misrepresentation in any of the representations and warranties of YA contained in this Agreement or in any of the Related Documents, (ii) any breach of, or failure to perform, any agreement of YA contained in this Agreement or any of the Related Documents, or (iii) any Claims or threatened Claims against the Howe Indemnified Parties arising out of the actions or inactions of YA with respect to the Assets or the Business after the Closing (or after January 1, 2005 with respect to the matters described in Section 2.3) (collectively, "*Howe Losses*"). YA shall be liable to Howe for Howe Losses only if and to the extent the aggregate amount of Howe Losses exceeds \$10,000.

8.4 Method of Asserting Claims. As used herein, an "*Indemnified Party*" shall refer to a "*YA Indemnified Party*" or "*Howe Indemnified Party*," as applicable, the "*Notifying Party*" shall refer to the party hereto whose Indemnified Parties are entitled to indemnification hereunder, and the "*Indemnifying Party*" shall refer to the party hereto obligated to indemnify such Notifying Party's Indemnified Parties.

(a) In the event that any of the Indemnified Parties is made a defendant in or party to any action or proceeding, judicial or administrative, instituted by any third party for the liability or the costs or expenses of which are Losses (any such third party action or proceeding being referred to as a "Claim"), the Notifying Party shall give the Indemnifying Party prompt notice thereof. The failure to give such notice shall not affect any Indemnified Party's ability to seek reimbursement unless such failure has materially and adversely affected the Indemnifying Party's ability to defend successfully a Claim. The Indemnifying Party shall be entitled to contest and defend such Claim; *provided*, that the Indemnifying Party (i) has a reasonable basis for concluding that such defense may be successful and (ii) diligently contests and defends such Claim. Notice of the intention so to contest and defend shall be given by the Indemnifying Party to the Notifying Party within 20 business days after the Notifying Party's notice of such Claim (but, in all events, at least five business days prior to the date that an answer to such Claim is due to be filed). Such contest and defense shall be conducted by reputable attorneys employed by the Indemnifying Party. The Notifying Party shall be entitled at any time, at its own cost and expense (which expense shall not constitute a Loss unless the Notifying Party reasonably determines that the Indemnifying Party is not adequately representing or, because of a conflict of interest, may not adequately represent, any interests of the Indemnified Parties, and only to the extent that such expenses are reasonable), to participate in such contest and defense and to be represented by attorneys of its or their own choosing. If the Notifying Party elects to participate in such defense, the Notifying Party will cooperate with the Indemnifying Party in the conduct of such defense. Neither the Notifying Party nor the Indemnifying Party may concede, settle or compromise any Claim without the consent of the other party, which consents will not be unreasonably withheld. Notwithstanding the foregoing, (i) if a Claim seeks equitable relief or (ii) if the subject matter of a Claim relates to the ongoing business of any of the Indemnified Parties, which Claim, if decided against any of the Indemnified Parties, would materially adversely affect the ongoing business or reputation of any of the Indemnified Parties, then, in each such case, the Indemnified Parties alone shall be entitled to contest, defend and settle such Claim in the first instance and, if the Indemnified Parties do not contest, defend or settle such Claim, the Indemnifying Party shall then have the right to contest and defend (but not settle) such Claim.

(b) In the event any Indemnified Party should have a claim against any Indemnifying Party that does not involve a Claim, the Notifying Party shall deliver a notice of such claim with reasonable promptness to the Indemnifying Party. If the Indemnifying Party notifies the Notifying Party that it does not dispute the claim described in such notice or fails to notify the Notifying Party within 15 days after delivery of such notice by the Notifying Party whether the Indemnifying Party disputes the claim described in such notice, the Loss in the amount specified in the Notifying Party's notice will be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall pay the amount of such Loss to the Indemnified Party on demand. If the Indemnifying Party has timely disputed its liability with respect to such claim, the Chief Executive Officers of each of the Indemnifying Party and the Notifying Party will proceed in good faith to negotiate a resolution of such dispute, and if not resolved through the negotiations of such Chief Executive Officers within 15 days after the delivery of the Notifying Party's notice of such claim, such dispute shall be resolved

fully and finally by an arbitrator selected pursuant to, and an arbitration governed by, the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall resolve the dispute within 30 days after selection, subject to discovery to be conducted as permitted by the arbitrator, and judgment upon the award rendered by such arbitrator (which judgment shall be made pursuant to a reasoned written decision) may be entered in any court of competent jurisdiction. Each party shall bear one half of the cost of the arbitrator.

(c) After the Closing, the rights and remedies set forth in this Article VIII shall constitute each party's sole and exclusive means to pursue claims against the other party hereto for misrepresentations or breaches of covenants contained in this Agreement and the Related Documents or for other breaches or claims described in Sections 8.2 and 8.3. Notwithstanding the foregoing, nothing herein shall prevent any of the Indemnified Parties from bringing an action based upon allegations of fraud or other intentional breach of an obligation of or with respect to either party in connection with this Agreement and the Related Documents. In the event such action is brought, and in the event of any claim maintained pursuant to this Article VIII, the prevailing party's attorneys' fees and costs shall be paid by the nonprevailing party.

(d) Any indemnification payable under this Article VIII shall be allocated to the purchase price or otherwise, depending on the context and basis of the claim(s).

IX. Miscellaneous

9.1 Press Releases and Announcements. Prior to the Closing Date, neither party hereto shall issue any press release (or make any other public announcement) related to this Agreement or the transactions contemplated hereby or make any announcement to the employees, customers or suppliers of Howe without prior written approval of the other party hereto, except as may be necessary, in the opinion of counsel to the party seeking to make disclosure, to comply with the requirements of this Agreement or applicable law. If any such press release or public announcement is so required, the party making such disclosure shall consult with the other party prior to making such disclosure, and the parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such disclosure that is satisfactory to both parties.

9.2 Expenses. Except as otherwise expressly provided for herein, Howe and YA will pay all of their own expenses (including attorneys' and accountants' fees, in connection with the negotiation of this Agreement, the performance of their respective obligations hereunder and the consummation of the transactions contemplated by this Agreement (whether consummated or not).

9.3 Further Assurances. Howe agrees that, on and after the Closing Date, it shall take all appropriate action and execute any documents, instruments or conveyances of any kind that may be reasonably necessary or advisable to carry out any of the provisions hereof, including, without limitation, placing YA in possession and operating control of the Assets and transferring all permits, if any, to YA that are otherwise transferable.

9.4 Cooperation and Exchange of Information. YA and Howe shall provide each other with such cooperation and information as either of them reasonably may request of the other in filing any Tax return, amended return or claim for refund, determining a liability for Taxes or a right to a refund of Taxes or in conducting any audit or proceeding in respect of Taxes. Such cooperation and information shall include providing copies of relevant Tax returns or portions thereof, together with accompanying schedules and related work papers and documents relating to rulings or other determinations by taxing authorities. Each party shall make its employees available on a mutually convenient basis to provide explanation of any documents or information provided hereunder. Upon written request by YA, Howe will provide to YA such factual information reasonably necessary for filing Tax returns, tax planning and contesting any tax audit that Howe possesses as YA may reasonably request with respect to the Assets (which information Howe agrees to maintain and preserve for so long as it may be needed by YA). YA agrees to provide Howe reasonable access to the books and records and other documents described and transferred pursuant to Section 1.1(f) in the event such materials are required for tax audits or for any other lawful business purpose not inconsistent with the best interests of YA.

9.5 Amendment and Waiver. This Agreement may not be amended or waived except in a writing executed by the party against which such amendment or waiver is sought to be enforced. No course of dealing between or among any persons having any interest in this Agreement will be deemed effective to modify or amend any part of this Agreement or any rights or obligations of any person under or by reason of this Agreement.

9.6 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given when personally delivered or three business days after being mailed by first class U.S. mail, return receipt requested, or the next day, if sent by facsimile, telecopy or other electronic transmission device. Notices, demands and communications to YA and Howe will, unless another address is specified in writing, be sent to the address indicated below:

Notices to YA:

Young America Corporation
18671 Lake Drive East
Chanhassen, MN 55317
Attn: Roger D. Andersen
Facsimile: (952) 294-8499

With a copy to:

Dorsey & Whitney LLP
50 South Sixth Street
Minneapolis, Minnesota 55402
Attn: William A. Jonason
Facsimile: (612) 340-7800

Notices to Howe:

95 Marengo Avenue
Pasadena, California 91101
Attn: Mr. Norman Howe
Facsimile: (626) 377-4425

With a copy to:

Finestone & Richter
11601 Wilshire Boulevard Ste. 1900
Los Angeles, California 90025
Attn: Jeffrey R. Richter
Facsimile: (310) 575-0170

9.7 Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except that neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. Notwithstanding the foregoing, Howe shall have the right to designate assignees of its right to receive payments from time to time, which designation YA agrees to honor subject to the setoff rights described herein.

9.8 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

9.9 Complete Agreement. This Agreement and the Related Agreements and the Exhibits hereto, the Disclosure Schedule and the other documents referred to herein contain the complete agreement between the parties and supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.

9.10 Counterparts. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument.

9.11 Governing Law. The internal law, without regard to conflicts of laws principles, of the State of Minnesota will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement.

9.12 Employment Matters. Howe agrees to use its best efforts to keep employed after the Closing Date and until December 31, 2004 its current employees or other employees with substantially similar skills who are capable of performing the services currently performed by Howe. Howe agrees to perform with such employees and for the benefit of YA those services as are necessary to perform YA's obligations under the customer agreements assumed by YA hereunder. YA agrees to pay Howe its direct and actual costs incurred in employing those employees performing such services, but only to the extent they are performing such services. As of January 1, 2005, Howe agrees to make available for hire by YA those employees performing the services described above. Howe shall be responsible for all liability for giving notification of and providing health care continuation coverage to current or former employees of the Business and their "qualified beneficiaries" within the meaning of and as required by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") and Cal-COBRA (to the extent either is applicable) with respect to qualifying events occurring prior to or as of (a) January 1, 2005 for those employees made available for hire by YA, and (b) any time after January 1, 2005 for all other employees, and shall indemnify and hold YA harmless against any liability arising out of providing or failing to provide such coverage or arising out of any

such failure to comply with COBRA or Cal-COBRA; provided, however, that Howe shall have no responsibility or indemnification obligation with respect to qualifying events occurring after January 1, 2005 for employees of the Business hired by YA.

9.13 **Guaranty.** By signing below, Norman Howe, one of the principal shareholders of Howe, hereby absolutely, unconditionally and irrevocably guarantees to YA the full and prompt payment and performance when due of the obligations of Howe relating to Section 8.2(iii) with regard to Claims by Michael Arthur, Howe's former President and shareholder ("Arthur"). In this regard, all of the procedures set forth in Section 8.4 regarding the procedures for pursuing an indemnification claim with respect to Arthur or any claims raised by him shall be available to YA through Norman Howe in the event that Howe fails to honor in full its indemnification obligations pursuant to Section 8.2(iii), and Norman Howe unequivocally and without condition agrees to honor all such indemnification obligations and procedures in the event of any claims relating to Arthur. Enforcement of this guaranty by YA shall be subject to the same rules and procedures as set forth in Section 8.4, and this guaranty is not intended to create a separate indemnification procedure. With respect to such guaranty, Norman Howe waives any and all defenses, claims and discharges of Howe, including any defense of waiver, release, discharge of bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiencies statutes, fraud, incapacity, minority, usury, illegality or unenforceability that may be available to Howe, or any setoff available against YA in favor of Howe, whether or not on account of a related transaction. Norman Howe waives presentment, demand for payment, notice of dishonor or nonpayment. If any payment from Howe or Norman Howe is applied by YA to the guaranteed obligation and is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, bankruptcy, insolvency or reorganization of Howe), the obligation to which such payment was applied shall, for the purposes of this guaranty, be deemed to have continued in existence, notwithstanding such previous application, and this guaranty shall be enforceable as to such obligation as fully as if such application had never been made. Norman Howe acknowledges and agrees that (a) his contingent liability under the guaranty shall continue for a period of 395 days after the last day on which YA received a payment by Howe or Norman Howe for any of the obligation guaranteed hereunder, (b) if any case in respect of Howe under the United States Bankruptcy Code (or any successor statute) is commenced prior to the end of such 395 period, then the termination of Norman Howe's contingent liability hereunder shall be automatically extended until the earlier of (1) the date on which an order determining that YA has no liability under 11 U.S.C. §550 becomes final and nonappealable or (2) the date on which such case is closed or dismissed and either all appeals of any order affecting the same have been exhausted or the time in which to perfect such an appeal has expired with no appeal having been perfected. This guaranty shall be binding on Norman Howe and shall inure to the benefit of YA and its successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and applications hereof and, to this end, the provisions of this guaranty are declared to be severable. For purposes of this Section, the "guaranteed obligation" is limited to any Claims or YA Losses that arise from claims asserted by Arthur.

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

YOUNG AMERICA CORPORATION

By: [Signature]
Name: Mark Pearson
Title: Vice President of Sales & Marketing

HOWE PROMOTIONS

By: [Signature]
Name: H. Norman Howe
Title: CEO

[Signature]
Norman Howe

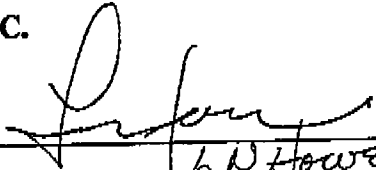
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BILL OF SALE

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, F&P, Inc., a California corporation doing business as Howe Promotions ("*Seller*"), hereby sells, assigns and transfers to Young America Corporation, a Minnesota corporation ("*Buyer*"), pursuant to the terms and conditions of that certain Business Acquisition Agreement between Seller and Buyer dated November 1, 2004 (the "*Agreement*"), all of its right, title and interest in and to each and all of the assets described in Section 1.1 of the Agreement (other than those described in Section 1.1(b), 1.1(d), 1.1(f) and 1.1(g), which are addressed in the Assignment and Assumption Agreement), free and clear of all mortgages, liens, claims, charges, encumbrances, security interests, pledges or title retention agreements or leases of any kind or nature.

Dated: November 1, 2004

F&P, INC.

By: 
 Name: L. Howe
 Title: CEO

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT, dated as of November 1, 2004, between F&P, Inc., a California corporation doing business as Howe Promotions ("*Assignor*"), and Young America Corporation, a Minnesota corporation ("*Assignee*").

WHEREAS, Assignor and Assignee have entered into a Business Acquisition Agreement dated November 1, 2004 (the "*Agreement*");

WHEREAS, Assignor is the owner of the entire right, title and interest in, to and under that certain contracts, leases, commitment, agreements and other instruments (the "*Assigned Agreements*") that are identified on Schedule 1.1(b) attached hereto, and Assignor desires to assign to Assignee, and Assignee desires to receive from Assignor, all of Assignor's right, title and interest in, to and under the Assigned Agreements;

WHEREAS, Assignor is the owner of and uses the name "Howe Promotions" and hereby agrees to license to Assignee for a one-year period from the date hereof the right to use the name "Howe Promotions" in connection with the Business (as defined in the Agreement); and

WHEREAS, Assignor has certain rights to the telephone listings used in the Business (the "*Telephone Listings*") and certain permits, licenses and other governmental approvals (collectively, the "*Permits*") and is hereby assigning such rights and interests to Assignee.

NOW, THEREFORE, in consideration of the premises, the mutual agreements herein set forth below and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Assignor hereby transfers, assigns and conveys to Assignee, to the extent assignable by Assignor, its entire right title and interest in, to and under the Assigned Agreements, the Telephone Listings and the Permits.
2. Assignor hereby accepts the foregoing assignment and hereby assumes and agrees to perform to the extent such Assigned Agreements are assignable by Assignor to Assignee all of the obligations of Assignor under the Assigned Agreements applicable to the period beginning November 1, 2004.
3. Assignor hereby licenses to Assignee the right to use, in connection with the Business, the name "Howe Promotions" or any combination of words in which the words "Howe Promotions" appears or any rights associated with such name or any right to use such name in all jurisdictions in which Howe either currently uses any such name or has any right to use any such name, and all goodwill associated with the name and the Business.

IN WITNESS WHEREOF, the parties herein have executed this agreement as of the date set forth in the first paragraph.

F&P, INC.

By: [Signature]
Name: L W Howe
Title: CEO

YOUNG AMERICA CORPORATION

By: [Signature]
Name: Mark Pearson
Title: Vice President of Sales + Marketing