

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
Costa Macaroni Mfg. Co.		03/18/2005	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Pasta Montana, L.L.C.		
Street Address:	One Pasta Place		
City:	Great Falls		
State/Country:	MONTANA		
Postal Code:	59401		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	1274496	COSTA	
Registration Number:	1274497	PASTA BY COSTA	
Registration Number:	2701010	AMARONE	
CORRESPONDENCE DATA			
Fax Number:	(503)670-7999		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	503-620-0243		
Email:	ptaylor@btllaw.com		
Correspondent Name:	Paul Taylor		
Address Line 1:	5285 SW Meadows Rd.		
Address Line 2:	Suite 370		
Address Line 4:	Lake Oswego, OREGON 97035		
NAME OF SUBMITTER:	Paul Taylor		
Signature:	/Paul Taylor/		

OP \$90.00 1274496

Date:

08/31/2005

Total Attachments: 24

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ASSET PURCHASE & SALE AGREEMENT

This agreement ("Agreement") is between Costa Macaroni Mfg. Co. (the "Seller"), a California corporation with its main office located at 4790 Valley Blvd., Los Angeles, CA 90032, and Pasta Montana, L.L.C. (the "Purchaser"), a Delaware limited liability company with its main office located at One Pasta Place, Great Falls, MT 59401. It is effective March 18, 2005 (the "Effective Date").

The Seller is engaged in the business of pasta production and sale and is the owner of assets including, but not limited to equipment, inventories, intellectual property, contract rights, and miscellaneous assets used in connection with the operation of its business;

The Purchaser desires to purchase, and the Seller desires to sell, certain assets used in the operation of the Seller's business.

The parties agree as follows:

1. Sale of Assets.

- 1.1 The Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller, on the terms and conditions set forth in this Agreement, the assets listed on Schedule 1, including, without limitation, the Seller's names, trademarks, goodwill, customer list, certain inventory, unfulfilled orders, outstanding purchases from suppliers, website, telephone numbers, domain names, and email addresses (the "Assets").
- 1.2 Excluded from this sale and purchase are all of the Seller's equipment, including all production and packaging equipment; accounts receivable; cash; notes receivable; prepaid accounts; corporate seals, minute books, stock transfer books; general ledger and other accounting records (except as otherwise provided herein); other records related exclusively to the organization, existence or share capitalization of the Seller; and any other assets of the business not specified in Schedule 1, together with the Seller's rights under any contract between the Seller and any third party and to which consent to assignment to the Purchaser is required, but has not been obtained on the Closing Date (as that term is defined below).

2. **Sale of Equipment.** On even date herewith, the Purchaser has entered into an Equipment Purchase & Sale Agreement (the "Equipment Agreement") with FQP, Inc., a California corporation (the "Equipment Seller"), in which the Purchaser has agreed to purchase certain long goods production and packaging equipment (the "Equipment") from the Equipment Seller. A copy of the Equipment Agreement is attached to this Agreement as Schedule 2, but forms no part hereof. Purchaser agrees that the Seller shall not be coextensive with the Equipment Seller, and for purposes of this Agreement and the Equipment Agreement, the Seller shall be conclusively deemed to be independent of the Equipment Seller. Purchaser agrees that it shall have no right of setoff or recoupment against the Seller for any breach of the Equipment Agreement by the Equipment Seller, and hereby explicitly waives its right to bring any action in

law or equity against the Seller or the Seller's principals for any claim, of whatever nature, arising out of or related to the Equipment Agreement.

3. **Liabilities Assumed.** The Purchaser does not assume any liabilities of any nature related to the Assets, the Seller, or the Seller's business.
4. **Purchase Price.** The purchase price for the Assets shall be \$2,750,000 ("Purchase Price"). The Purchase Price shall be allocated as set forth in Schedule 4 hereto.
5. **Payment of Purchase Price.** The Purchase Price shall be paid as follows:
 - 5.1 At Closing, the Purchaser shall pay, by cashier's check, certified check or wire transfer, the sum of \$1,050,000.
 - 5.2 An additional \$1,700,000 shall be paid as follows:
 - 5.2.1 A payment of \$340,000 shall be made on March 31, 2006.
 - 5.2.2 Sixteen payments of \$85,000 each shall be made, with the first made on June 30, 2006, and on the last day of each calendar quarter thereafter. No interest shall be applied to amounts owed under this Agreement, unless any amount owed becomes past due, at which point interest shall accrue at the rate of 1.5% per month from the date it became past due until it is paid in full. These obligations shall be represented by a promissory note substantially in the form set forth on Schedule 5 hereto (the "Note"), to be made and delivered by the Purchaser at Closing.
6. **Adjustments.** The parties will coordinate any adjustments as they mutually deem appropriate.
7. **Names.** On and after the Closing Date, the Seller shall no longer utilize any of the trademarks, trade names, service marks or other names listed among the Assets in Schedule 1, except as otherwise set forth in this Agreement. The Seller further agrees to execute such assignments, instruments and documents, as may be necessary or appropriate (such as trademark assignment forms), in the Purchaser's sole and absolute discretion, to effectuate the complete and permanent transfer of such names to Purchaser.
8. **On-going Production, Inventory, and Packaging.**
 - 8.1 **On-going Production.** After execution of this Agreement, the Seller will continue to produce short goods, long goods and lasagna products at full capacity until such time as the Purchaser is able to shift production to its own facility. The parties anticipate that this transition will occur on June 1, 2005 (the "Transition Date"), although the Transition Date may be adjusted by the mutual agreement of the parties. Until the Transition Date, the Seller will continue to receive, accept and fill orders from customers until the Transition Date for its own account. The Seller will invoice and collect payments from customers from the sale of this product. The Purchaser grants to the Seller a royalty-free license to use

the trademarks and tradenames included in the Assets for the purposes set forth in this provision. The Seller will engage in these business operations in good faith and the Purchaser agrees to release any claims against the Seller in connection with these business operations, except for any claims based on the Seller's intentional misconduct or gross negligence.

- 8.2 Inventory.** The Purchaser will purchase any inventory in the Seller's possession as of the Transition Date, provided that such product is in saleable quality and condition. The price for these products is set forth in Schedule 8 and will be in addition to the Purchase Price.
- 8.3 Packaging Materials.** The Purchaser shall purchase from the Seller all packaging materials in the possession of the Seller as of the date on which each production line is closed, provided that the materials are useable. The parties will coordinate with each other in good faith to identify these materials and to set a price and other purchase terms for the materials based on the seller's acquisition price of said materials. The price paid by the Purchaser for these materials shall be in addition to the Purchase Price.

9. Security.

- 9.1 Grant of Security Interest.** As security for the timely performance of all of the Purchaser's obligations under this Agreement, including payment of the Note, the Seller retains and, effective at Closing, the Purchaser grants to the Seller, until the Note is paid in full, a security interest in the Assets and all proceeds from the sale of the Assets (the "Collateral").
- 9.2 Additional Documents.** At Closing, the Purchaser shall join with the Seller in executing appropriate UCC financing statements and any other documents required, in the Seller's sole discretion, to perfect the Seller's security interest, including, but not limited to, a supplemental security agreement appropriate for recordation in the Patent and Trademark Office of the United States. In addition, at Closing, the parties shall execute appropriate documents to be filed with any other governmental agencies that are necessary to transfer ownership of the Assets, with retention of a security interest therein by the Seller. The Purchaser shall pay all fees and other costs incurred in connection with the filing of financing statements and transfer of title and registration.
- 9.3 Release of Security Interest in Inventory.** When the balance of the Note has been fully paid, the Seller shall, upon the Purchaser's request, release its security interest in the Assets and shall file an appropriate UCC termination statement, provided the Purchaser is not then in default under this Agreement.

10. Agreements Concerning Security. After Closing and until the Note is paid in full, the Purchaser covenants and agrees as follows:

- 10.1 Ongoing Business.** As soon as practicable after Closing, the Purchaser will relocate the business acquired from the Seller under this Agreement to Great Falls and will continue to operate the business there in good faith until such time as the Purchaser decides, in its sole

discretion, to discontinue all or part of the production or business. In the event the Purchaser discontinues all or substantially all of its pasta business, the Purchaser will, at its option, either: (a) pay off all outstanding amounts owed to the Seller under this Agreement as of the date of discontinuation; or (b) transfer the Assets back to the Seller (or the Seller's designee) at no additional fee. The Purchaser will maintain a sales and distribution facility in the Los Angeles area for the duration of this Agreement.

- 10.2 Insurance.** The Purchaser will keep the Collateral fully insured against loss or damage by fire, theft, vandalism and such other hazards as the Seller may from time to time require, upon such reasonable terms and in with such insurance company or companies as the Seller may from time to time approve. The Seller or the Seller's successors and assigns shall be named as an additional insured on all such insurance policies, and each insurance policy shall contain an endorsement providing for 30 days written notice to the Seller prior to cancellation of such policy by the insurance company or companies. The Purchaser will immediately deliver to the Seller a copy of all such policies, or certificates thereof, evidencing the required coverage and, from time to time at the Seller's request, shall furnish evidence that the policies remain in force. In the event of damage or loss covered by the Purchaser's insurance, the Purchaser shall have the option of repairing, restoring or replacing the damaged or lost Collateral or of applying the proceeds to the Note; provided however, that if the Purchaser is in default under this Agreement at the time that the proceeds are received, then the Seller may require that all proceeds be applied to the Note.
- 10.3 Taxes.** Except for amounts being contested in good faith, the Purchaser will pay, before delinquency, all taxes, license fees and assessments relative to the Collateral or its use and shall pay any and all other taxes, liens, assessments and charges relative to the Purchaser's conduct of the business.
- 10.4 Liens.** The Purchaser will keep the Collateral free of all liens and encumbrances except the lien of the Seller's security interest, those liens being contested in good faith, any liens created by the Purchaser in connection with financing its business, and any other liens created by the Purchaser in the normal course of its business.
- 10.5 Right of Inspection.** The Seller, its successors or assigns, or the agents for any of the foregoing, shall have the right at all reasonable times during the Purchaser's business hours to inspect the collateral and inspect, audit and copy any books and records of the Purchaser relating to the Collateral.

11. Closing.

- 11.1 Time and Place.** The closing ("Closing") of the sale and purchase of the Assets shall take place at 10:00 am on March 18, 2005 ("Closing Date"), or at such other time as the parties may agree in writing. At Closing, title to the Assets shall transfer from the Seller to the Purchaser.
- 11.2 Obligations of Seller at the Closing.** At the Closing, the Seller shall deliver to the Purchaser the following:

- 11.2.1 one or more bills of sale from the Seller conveying all of the Assets to the Purchaser, in the form as set forth in Schedule 11.2;
- 11.2.2 a copy of the resolutions of the Seller's board of directors and shareholders authorizing the execution, delivery and performance of this Agreement and any other agreement to be entered into by the Seller in connection herewith and the transactions contemplated hereby; and
- 11.2.3 such other assignments, bills of sale, instruments of conveyance, certificates of officers and other documents as reasonably may be requested by the Purchaser prior to the Closing to consummate this Agreement and the transactions contemplated hereby.

11.3 Obligations of Purchaser at the Closing. At the Closing, the Purchaser shall execute, or cause to be executed, and shall deliver to the Seller the following:

- 11.3.1 the Note;
- 11.3.2 a copy of the resolutions of the Purchaser's board of directors and members authorizing the execution, delivery and performance of this Agreement and any other agreement to be entered into by the Purchaser in connection herewith and the transactions contemplated hereby;
- 11.3.3 such certificates of officers and other documents as reasonably may be requested by the Seller prior to the Closing to consummate this Agreement and the transactions contemplated hereby.

12. Seller's Obligation Prior to Closing.

12.1 Seller's Operation of Business Prior to Closing. The Seller agrees that between the date of this Agreement and the Closing Date, the Seller will:

- 12.1.1 Continue to operate the business that is the subject of this Agreement in the usual and ordinary course and in substantial conformity with all applicable laws, ordinances, regulations, rules or orders, and will use its best efforts to preserve its business organization and preserve the continued operation of its business with its customers, suppliers and others having business relations with the Seller. The Seller will consult with the Purchaser, as reasonably requested by the Purchaser, so that the Purchaser is fully informed of all important business decisions and, further, has the opportunity to give input into those decisions.
- 12.1.2 Not assign, sell, lease or otherwise transfer or dispose of any of the assets used in the performance of its business, whether now owned or hereafter acquired, except in the normal and ordinary course of business and in connection with its normal operation.

- 12.1.3 Maintain all of its assets other than inventories in their present condition, reasonable wear and tear and ordinary usage excepted, and maintain the inventories at levels normally maintained, all in consultation with the Purchaser.
- 12.2 **Access to Premises and Information.** At reasonable times prior to the Closing Date, the Seller will provide the Purchaser and its representatives with reasonable access during business hours to the assets, titles, contracts and records of the Seller and furnish such additional information concerning the Seller's business as the Purchaser from time to time may reasonably request.
- 12.3 **Conditions and Best Efforts.** The Seller will use its best efforts to effectuate the transactions contemplated by this Agreement and to fulfill all the conditions and obligations of the Seller under this Agreement, and will do all acts and things as may be required to carry out its respective obligations under this Agreement and to consummate and complete this Agreement.
- 13. Covenants of Purchaser Prior to Closing.**
- 13.1 **Conditions and Best Efforts.** The Purchaser will use its best efforts to effectuate the transactions contemplated by this Agreement and to fulfill all the conditions of the Purchaser's obligations under this Agreement, and shall do all acts and things as may be required to carry out the Purchaser's obligations and to consummate this Agreement.
- 13.2 **Confidential Information.** If for any reason the sale of Assets is not closed, the Purchaser will not disclose to third parties any confidential information received from the Seller in the course of investigating, negotiating and performing the transactions contemplated by this Agreement.
- 14. Seller's Representations and Warranties.** The Seller represents and warrants to the Purchaser as follows:
- 14.1 **Corporate Existence.** The Seller is now, and on the Closing Date will be, a corporation duly organized, validly existing and in good standing under the laws of the State of California, has all requisite corporate power and authority to own its properties and assets and carry on its business and is good standing in each jurisdiction in which such qualification is required.
- 14.2 **Corporation Power and Authorization.** The Seller has full corporate authority to execute and deliver this Agreement and any other agreement to be executed and delivered by the Seller in connection herewith, and to carry out the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate and shareholder action. No other corporate proceedings by the Seller will be necessary to authorize this Agreement or the carrying out of the transactions contemplated hereby. This Agreement constitutes a valid and binding Agreement of the Seller in accordance with its terms.

- 14.3 Conflict with Other Agreements, Consents and Approvals.** With respect to (i) the Articles of Incorporation or Bylaws of the Seller, (ii) any applicable law, statute, rule or regulation, (iii) any contract to which the Seller is a party or may be bound, or (iv) any judgment, order, injunction, decree or ruling of any court or governmental authority to which the Seller is a party or subject, the execution and delivery by the Seller of this Agreement and any other agreement to be executed and delivered by the Seller in connection herewith and the consummation of the transactions contemplated hereby will not (a) result in any violation, conflict or default, or give to others any interest or rights, including rights of termination, cancellation or acceleration, (b) require any authorization, consent, approval, exemption or other action by any court or administrative or governmental body which has not been obtained, or any notice to or filing with any court or administrative or governmental body which has not been given or done, or (c) require the consent of any third party.
- 14.4 Compliance with Law.** The Seller's use and occupancy of the Assets, wherever located, has been in compliance with all applicable federal, state, local or other governmental laws or ordinances, the non-compliance with which, or the violation of which, might have a material adverse affect on the Assets, the Assumed Liabilities or the financial condition, results of operations or anticipated business prospects of the Purchaser, and the Seller has received no claim or notice of violation with respect thereto. Without in any way limiting the generality of the foregoing, the Seller is in compliance with, and is subject to no liabilities under, any and all applicable laws, governmental rules, ordinances, regulations and orders pertaining to the presence, management, release, discharge or disposal of toxic or hazardous waste material or substances, pollutants (including conventional pollutants) and contaminants. The Seller has obtained all material permits, licenses, franchises and other authorizations necessary for the conduct of its business.
- 14.5 Financial Statements.** The Seller shall make available to the Purchaser at any time the following financial information: the Seller's active customer list, sales volume, gross sales amounts, promotion and other sales costs, and brokerage fees.
- 14.6 Marketing Information.** The Seller will provide to the Purchaser any information that, in good faith, may affect the viability or on-going success of the Seller's business, such as any pending customer disputes and competition issues with other companies. The Seller represents and warrants, to the actual knowledge of Constance Foster, Stephen Zoccoli, and Paul Roper, that the customer list it has provided to the Purchaser is complete and accurate, and that it has no actual knowledge of any material issues that might jeopardize the Purchaser's ability to continue to sell products to customers at prices and in amounts consistent with the Seller's business in the recent past, and that it has disclosed all customer-related issues that could reasonably impact the Purchaser's on-going business in any material way. The Purchaser agrees that the warranty included in this provision shall not be deemed breached unless it is demonstrated that the Seller knowingly and willingly failed to disclose material customer-related information.

14.7 Title to Assets. Except as described in Schedule 1 of this Agreement, the Seller holds good and marketable title to the Assets, free and clear of restrictions on or conditions to transfer or assignment, and free and clear of liens, pledges, charges or encumbrances.

14.8 Intellectual Property Rights.

14.8.1 The Seller owns, possesses or has the right to use all intellectual property rights necessary or required to conduct its business as presently conducted, or otherwise used by the Seller, including all names listed in Section 7 above;

14.8.2 no royalties or other amounts are payable by the Seller to other persons by reason of the ownership or the use of the any intellectual property owned or used by the Seller;

14.8.3 (i) to the best knowledge of the Seller, no product or service related to the Seller's business and marketed and sold by the Seller violates any license or infringes upon any intellectual property rights of others, (ii) the Seller has not received any notice that any such product or service conflicts with any intellectual property rights of others, and (iii) to the best knowledge of the Seller, there is no reasonable basis to believe that any such violation, infringement or conflict may exist;

14.8.4 The Seller is not a party to, or subject to, any contract which currently requires, or upon the passage of time or occurrence of an event or contingency (whether of default or otherwise) will require, the conveyance or disclosure of secret processes or formulae related to, any intellectual property of the Seller;

14.8.5 Except as described in Schedule 1, the Seller has obtained and delivered to the Purchaser all consents and approvals of third parties necessary to duly transfer to the Purchaser all of the Seller's rights, title and interest in and to all of its intellectual property included among the Assets.

14.9 Labor Agreements and Disputes. The Seller is neither a party to, nor otherwise subject to any collective bargaining or other agreement governing the wages, hours and terms of employment of the Seller's employees. The Seller is not aware of any labor dispute or labor trouble involving employees of the Seller, nor has there been any such dispute or trouble during the six years preceding the date of this Agreement.

14.10 ERISA and Related Matters. Schedule 14.10 sets forth a description of all "Employee Welfare Benefit Plans" and "Employee Pension Benefit Plans" (as defined in §§ 3(1) and 3(2), respectively, of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) existing on the date hereof that are or have been maintained or contributed to by the Seller. Except as listed on Schedule 14.10, the Seller does not maintain any retirement or deferred compensation plan, savings, incentive, stock option or stock purchase plan, unemployment compensation plan, vacation pay, severance pay, bonus or benefit arrangement, insurance or hospitalization program or any other fringe benefit arrangement

for any employee, consultant or agent of the Seller, whether pursuant to contract, arrangement, custom or informal understanding, which does not constitute an "Employee Benefit Plan" (as defined in § 3(3) of ERISA), for which the Seller may have any ongoing material liability after Closing. The Seller does not maintain nor has it ever contributed to any Multiemployer Plan as defined by § 3(37) of ERISA. The Seller does not currently maintain any Employee Pension Benefit Plan subject to Title IV of ERISA. There have been no "prohibited transactions" (as described in § 406 of ERISA or § 4975 of the Code) with respect to any Employee Pension Benefit Plan or Employee Welfare Benefit Plan maintained by the Seller as to which the Seller has been party a party. As to any employee pension benefit plan listed on Schedule 14.10 and subject to Title IV of ERISA, there have been no reportable events (as such term is defined in § 4043 of ERISA). None of the Seller's employee benefit plans or arrangements has created, or is expected to create, as a result of the consummation of the transactions contemplated in this Agreement, an obligation or liability for employee benefits that could be imposed against the Purchaser or the Assets; provided further that as a result of the Purchaser's acquisition of the business historically operated by the Seller, the Purchaser shall not be considered a "successor employer" (as defined in Treasury Regulation Section 54.4980B-9, Q/A 8(c)), and therefore shall not be obligated to provide continued health plan coverage to former employees of the Seller, under Section 4980B of the Code and Sections 601 to 608 of ERISA (collectively referred to as "COBRA").

- 14.11 Noncancelable Contracts.** At the time of Closing, there will be no material leases, employment contracts, contracts for services or maintenance, or other similar contracts existing or relating to or connected with the operation of the Seller's business not cancelable within 90 days.
- 14.12 Government Contracts.** To the best knowledge of the Seller, the Seller has not entered into any contract with the United States government or and agency, department, instrumentality, prime contractor or higher-tier subcontractor thereof ("Government Contract"). The Seller is not a party to any Governments Contracts that require access to classified information, and there are no security clearances necessary for the operation of the Seller's business. To the best knowledge of the Seller, there are no outstanding quotations, bids or proposals submitted by the Seller to any agency, department or instrumentality of the United States government or to a prime contractor or higher-tier subcontractor thereof.
- 14.13 Litigation.** The Seller has no knowledge of any claim, litigation, proceeding or investigation pending or threatened against the Seller that might result in any material adverse change in the business or condition of Assets being conveyed under this Agreement.
- 14.14 Brokerage.** The Seller has not employed any broker, finder or similar agent in connection with the transactions contemplated by this Agreement, or taken action that would give rise to a valid claim against any party for a brokerage commission, finder's fee or similar compensation.
- 14.15 Noncompetition.**

14.15.1 The Seller acknowledges that an integral part of the consideration received from the Seller by the Purchaser is the agreement by the Seller to refrain from engaging in any competitive activities in the future. Therefore, from the Closing Date, except as otherwise permitted by this Agreement during the transition period, the Seller (including all directors, officers and shareholders of the Seller) will not, directly or indirectly, engage in any business activity that competes with the Purchaser in any market in which the Purchaser is active, becomes active, or has a reasonable opportunity to become active in the future. The Seller shall be free to engage in any other business activity that does not compete with the Purchaser. The Seller may engage in the production, distribution or sales of organic, whole wheat, high protein, and other niche pasta products, provided the Purchaser gives its prior written consent, which consent will not be unreasonably withheld.

14.15.2 In the event any court or adjudicative body with competent jurisdiction refuses to enforce this noncompetition provision, the parties will request that the court modify this provision to the least extent necessary to render the provision fully enforceable.

14.16 No Additional Representations or Warranties. Except as otherwise set forth in this Agreement, the Seller makes no representations or warranties to the Purchaser in relation to or in contemplation of this Agreement. The Assets are explicitly sold “as is”, without warranty of any kind, and without attendant Seller representations. The Purchaser has an absolute right to examine or inspect any part of the Seller’s business prior to the execution of this Agreement.

15. Representations of Purchaser. The Purchaser represents and warrants as follows:

15.1 Corporate Existence. The Purchaser is now, and on the Closing Date will be, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, has all requisite corporate power and authority to enter into this Agreement and perform its obligations hereunder.

15.2 Authorization. The Purchaser has full corporate authority to execute and deliver this Agreement and any other agreement to be executed and delivered by the Purchaser in connection herewith, and to carry out the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary company and member action. No other company proceedings by the Purchaser will be necessary to authorize this Agreement or the carrying out of the transactions contemplated hereby. This Agreement constitutes a valid and binding Agreement of the Seller in accordance with its terms.

15.3 Conflict with Other Agreements, Consents and Approvals. With respect to (i) the Articles of Organization or Operating Agreement of the Purchaser, (ii) any applicable law, statute, rule or regulation, (iii) any contract to which the Purchaser is a party or may be

bound, or (iv) any judgment, order, injunction, decree or ruling of any court or governmental authority to which the Purchaser is a party or subject, the execution and delivery by the Purchaser of this Agreement and any other agreement to be executed and delivered by the Purchaser in connection herewith and the consummation of the transactions contemplated hereby will not (a) result in any violation, conflict or default, or give to others any interest or rights, including rights of termination, cancellation or acceleration, or (b) require any authorization, consent, approval, exemption or other action by any court or administrative or governmental body which has not been obtained, or any notice to or filing with any court or administrative or governmental body which has not been given or done.

- 15.4 Employees.** The Purchaser shall offer employment to Buzz Weisman, Stephen Zoccoli, Nancy Hittner and Efren Pineda. The Seller shall use its best efforts to assure the orderly transfer of those employees to the Purchaser. The Seller shall be responsible for payment of all compensation payable to all of the Seller's employees who become employees of the Purchaser for the period through and including the Closing Date and shall retain all liabilities and obligations with respect to employees who are not transferred to the Purchaser.
- 15.5 Brokerage.** The Purchaser has not employed any broker, finder or similar agent in connection with the transactions contemplated by this Agreement, or taken action that would give rise to a valid claim against any party for a brokerage commission, finder's fee or similar compensation.
- 15.6 Accuracy of Representations and Warranties.** None of the representations or warranties of the Purchaser contain or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make the statements contained herein not misleading.
- 16. Conditions Precedent to Purchaser's Obligations.** The obligation of the Purchaser to purchase the Assets is subject to the fulfillment, prior to or at the Closing Date, of each of the following conditions, any one or portion of which may be waived in writing by the Purchaser:
- 16.1 Representations, Warranties and Covenants of Seller.** All representations and warranties made in this Agreement by the Seller shall be true as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date, and the Seller shall not have violated or shall not have failed to perform in accordance with any covenant contained in this Agreement.
- 16.2 Conditions of the Business.** There shall have been no material adverse change in the manner of operation of the Seller's business prior to the Closing Date.
- 16.3 No Suits or Actions.** At the Closing Date no suit, action or other proceeding shall have been threatened or instituted to restrain, enjoin or otherwise prevent the consummation of this Agreement or the contemplated transactions.

17. Conditions Precedent to Obligations of the Seller. The obligations of the Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing Date, of each of the following conditions, any one or a portion of which may be waived in writing by the Seller;

17.1 Representations, Warranties and Covenants of Purchaser. All representations and warranties made in this Agreement by the Purchaser shall be true as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date, and the Purchaser shall not have violated or shall not have failed to perform in accordance with any covenant contained in this Agreement.

18. Indemnification and Survival.

18.1 Survival of Representations and Warranties. All representations and warranties made in this Agreement shall survive the Closing of this Agreement, except that any party to whom a representation or warranty has been made in this Agreement shall be deemed to have waived any misrepresentation or breach of representation or warranty of which such party had knowledge prior to Closing. Any party learning of a misrepresentation or breach of representation or warranty under this Agreement shall immediately give written notice thereof to all other parties to this Agreement.

18.2 Seller's Indemnification.

18.2.1 The Seller hereby agrees to indemnify and hold the Purchaser, its successors and assigns harmless from and against:

- (a) Any and all damages, losses, claims, liabilities, deficiencies and obligations of every kind and description, contingent or otherwise, arising out of or related to the operation of the Seller's business prior to the close of business on the day before the Closing Date, except for damages, losses, claims, liabilities, deficiencies and obligations of the Seller expressly assumed by the Purchaser under this Agreement or paid by insurance maintained by the Seller or the Purchaser;
- (b) any and all damage or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any agreement on the part of the Seller under this Agreement; and
- (c) any and all actions, suits, claims, proceedings, investigations, audits, demands, assessments, fines, judgments, costs and other expenses (including, without limitation, reasonable audit and attorneys fees) incident to any of the foregoing.

18.2.2 The Seller's indemnity obligations under this Section shall be subject to the following:

- (a) If any claim is asserted against the Purchaser that would give rise to a claim by the Purchaser against the Seller for indemnification under the provisions of this Section, then the Purchaser shall promptly give written notice to the Seller concerning such claim and the Seller shall, at no expense to the Purchaser, defend the claim.
- (b) The Seller shall not be required to indemnify the Purchaser for an amount that exceeds the total purchase price paid by the Purchaser under this Agreement.

18.3 Purchaser's Indemnification. The Purchaser agrees to defend, indemnify, and hold harmless the Seller from and against (i) any and all claims, liabilities and obligations of every kind and description arising out of or related to the operation of the business following Closing or arising out of the Purchaser's failure to perform obligations of the Seller assumed by the Purchaser pursuant to this Agreement; (ii) any and all damage or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any agreement on the part of the Purchaser under this Agreement, and (iii) any and all actions, suits, claims, proceedings, investigation, audits, demands, assessments, fines, judgments, costs and other expenses (including, without limitation, reasonable audit and attorneys fees) incident to any of the foregoing.

19. Default.

19.1 Notice of Default. The Purchaser shall not be deemed in default for failure to perform the terms, covenants and conditions of this Agreement, other than failure to make payments on the Note, until notice of the default has been given to the Purchaser and the Purchaser has failed to remedy the default within 60 days after the notice. If the Purchaser fails to make any payment within 60 days of the date the same becomes due under the Note, the Purchaser shall be deemed in default and the Seller shall not be obligated to give notice to the Purchaser of a declaration of default.

19.2 Cross-Default Provision. A default in this Agreement, including a default in payment of the Note, shall constitute a default in the other agreements described in this Agreement to be delivered by the parties at Closing (excepting the Equipment Agreement), and a default in any one or more of such agreements (excepting the Equipment Agreement) shall constitute a default in this Agreement. Nothing stated in this provision shall be construed to interpret a default in the Equipment Agreement as a default to this Agreement. Purchaser acknowledges and agrees that a default under the Equipment Agreement shall not constitute a default under this Agreement.

20. Bulk Transfers. The Purchaser waives compliance by the Seller with the California Bulk Transfers Article of the Uniform Commercial Code, and any other similar laws in any applicable jurisdiction (collectively "Bulk Transfers Law") in respect to the transactions contemplated by this Agreement. The Seller shall indemnify the Purchaser from, and hold it harmless against, any liabilities, damages, costs and expenses resulting from or arising out of (i) the parties' failure to comply with any Bulk Transfers Law with respect to the transactions

contemplated by this Agreement, or (ii) any action brought or levy made as a result thereof, except for the Assumed Liabilities. If the Seller fails to comply with the provisions of this Section and the Purchaser is required to pay any creditor of the Seller in order to protect the property purchased under this Agreement from claims or liens of the Seller's creditors, except those assumed by the Purchaser, then the Purchaser may offset the amount it pays against the balance due the Seller on the Note by furnishing to the Seller proof of such payment in the form of a receipt from the creditor involved.

21. Miscellaneous Provisions.

- 21.1 Further Assurances.** The Seller will, from time to time on or after the Closing Date, execute and deliver to the Purchaser all such further assignments, endorsements and other documents as the Purchaser reasonably requests in order to complete the sale of the Assets and the Business to the Purchaser.
- 21.2 Amendments and Waivers.** The provisions of this Agreement may be amended only by the written agreement of all of the parties hereto. Any waiver, permit, consent or approval of any kind or character on the part of any party of any provisions or conditions of this Agreement must be made in writing and shall be effective only to the extent specifically set forth in such writing.
- 21.3 Successors and Assigns.** This Agreement will bind and inure to the benefit of the respective successors and assigns of the parties hereto. In the event of assignment by the Seller of any debts owing to it under this Agreement, the Seller will promptly inform the Purchaser of such assignment to enable the Purchaser to fulfill its on-going obligations.
- 21.4 Termination.** This Agreement may be terminated at any time prior to the Closing by the mutual written agreement of Seller and the Purchaser (the "Termination Date"). This Agreement shall become void and of no effect as of the Termination Date and neither party shall have any liability to the other, except that nothing in this Section shall release either party from liability for a willful failure to carry out its obligations under this Agreement.
- 21.5 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 this Agreement.
- 21.6 Notices.** Any notices, requests, demands or other communications required or permitted to be sent hereunder shall be delivered personally, sent by facsimile transmission, sent by overnight courier or mailed by registered or certified mail, return receipt requested, to the following addresses, and shall be deemed to have been received on the day of personal delivery, one business day after deposit with an overnight courier or three business days after deposit in the mail:

If to the Purchaser, to: Pasta Montana, L.L.C.
One Pasta Place
Great Falls, MT 59401
Attn: President

With a copy to: BTI International Law Office
5285 Meadows Rd., Suite 370
Lake Oswego, OR 97035
Attn: Paul Taylor

If to the Seller, to: Constance Foster
P.O. Box 50047
Pasadena, CA 91115-0047

With a copy to: Paul R. Roper
Paul R. Roper, P.C
987 N. Enterprise
Orange, California 92867

- 21.7 Publicity.** There shall be no public announcements, press releases or other publicity concerning this transaction except as may be required by law; provided, however, that the Purchaser may make any public announcements it deems appropriate after June 1, 2005.
- 21.8 Governing Law.** The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the state of Oregon applicable to contracts made and to be performed in that state.
- 21.9 Dispute Resolution.** Either party may submit any unresolved disputes related to this Agreement to binding arbitration. The arbitration will be held in Portland, OR and will be conducted in accordance with the rules and procedures and under the auspices of Judicial Arbitration & Mediation Services (JAMS). The decision of the arbitration shall be binding and may be entered for enforcement by the prevailing party in any court with jurisdiction.
- 21.10 Default; Attorneys Fees.** Time is of the essence of this Agreement. If Seller defaults hereunder, the Purchaser may seek specific performance of this Agreement, damages or rescission. In any arbitration, suit, action or appeal to enforce this Agreement or any term or provision hereof, or to interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees as may be established by arbitration or the a court.
- 21.11 Counterparts; Facsimile Signatures.** This Agreement may be executed in counterparts or by facsimile.
- 21.12 Entire Agreement.** This Agreement, together with those documents expressly referred to herein (excepting the Equipment Agreement), constitutes the final agreement of the parties concerning the matters referred to herein, and supersedes all prior agreements and understandings.

Seller: Costa Macaroni Mfg. Co.

Purchaser: Pasta Montana, L.L.C.

Constance Foster, President
Constance Foster, President

Anthony J. Flagg, President
Anthony J. Flagg, President

Date: *March 18, 2005*

Date: *March 18, 2005*

List of Schedules:

- 1: Assets
- 2: Equipment Purchase & Sale Agreement
- 4: Purchase Price Allocation
- 5: Secured Promissory Note
- 8: Pricing for Additional Inventory
- 11.2: Bill of Sale Format
- 14.10: ERISA Items

Seller: Costa Macaroni Mfg. Co.

Purchaser: Pasta Montana, L.L.C.

Constance Foster, President

Anthony J. Flagg

Anthony J. Flagg, President

Date: _____

Date: *March 18, 2005*

List of Schedules:

- 1: Assets
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- 11.2: Bill of Sale Format
- 14.10: ERISA Items

SCHEDULE 1

LIST OF ASSETS

The Purchaser agrees to purchase and the Seller agrees to sell the following assets:

1. The following names, including all related trademarks and service marks, whether registered with the US Patent & Trademark Office or in common law.

AMARONE (including Reg. No. 2,701,010)

COSTA (including Reg. No. 1,274,496)

PASTA BY COSTA (including Reg. No. 1,274,497)

2. All goodwill associated with the trademarks and service marks being sold hereunder.
3. An up-to-date and complete list of all current customers of the Seller.
4. All inventory as set forth in Section 8.2.
5. All unfulfilled orders as of the Transition Date.
6. Outstanding purchases from suppliers as of the Transition Date.
7. The following telephone numbers: (323) 225-2464; (800) 433-7785; and (323) 225-1667.
8. The following domain names and connected email addresses: www.costapasta.com and www.pastabycosta.com.
9. All data and information contained in and associated with the Seller's websites at the above-referenced domains.

SCHEDULE 4

ALLOCATION OF PURCHASE PRICE

Trade Name and Goodwill	\$2,750,000
Trademarks	
Customer List	
Certain Inventory	
Unfilled Orders	
Outstanding Purchases from Suppliers	
Website	
Telephone Numbers	
Domain Names	
Email Addresses	
Total	<u>\$2,750,000</u>

SECURED PROMISSORY NOTE

\$1,700,000

Great Falls, MT
March 18, 2005

For value received, Pasta Montana, L.L.C. ("Debtor") promises to pay to Costa Manufacturing Mfg. Co. or order ("Holder") the sum of \$1,700,000.

No interest will be applied to this Note, except as set out below.

Principal will be paid according to the following schedule:

- A lump sum payment of \$340,000 shall be made on or before March 31, 2006.
- Sixteen payments of \$85,000 each shall be made on or before the last day of each subsequent calendar quarter, beginning on June 30, 2006.

Principal and interest may be prepaid in whole or in part at any time without premium or penalty. All payments shall be applied first against accrued and unpaid interest and then against principal. All payments will be in U.S. dollars.

Time is of the essence of this Note. If any payment due hereunder is not made when due or Debtor is adjudged insolvent or bankrupt, then the principal sum with accrued interest shall at once become immediately due and payable without notice or demand and shall bear interest at the default rate of 1.5% per month ("Default Rate") from the date of default until paid in full, compounded monthly. Should the Default Rate be deemed unenforceable or unlawful under any applicable law, then the Default Rate shall be modified and reduced to the maximum rate allowed by applicable law.

Holder may institute an action for the collection of any sums due under this Note in any court with jurisdiction. Holder may recover from Debtor a reasonable amount for any attorney fees and other related costs incurred in collecting under this Note, whether or not an action is filed and including any appeal.

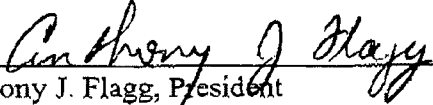
This Note is to be construed in all respects and enforced according to the laws of the State of Oregon and Debtor consents to such personal jurisdiction and waives any right to a jury trial and any objections as to venue. Presentment, notice of dishonor, demand for payment, and protest are waived by Debtor.

This Note shall be fully binding on and inure to the benefit of the successors and assigns of the parties hereto.

TRADEMARK**REEL: 003150 FRAME: 0722**

This Note shall be secured by a Security Agreement, a UCC-1, and any such other documents as Holder reasonably deems necessary to secure the obligations hereunder.

Pasta Montana, L.L.C.



Anthony J. Flagg, President

**SCHEDULE 8
INVENTORY PRICING**

Pursuant to the terms in Section 8.2, the Purchaser shall purchase inventory from the Seller at the following prices:

<u>Product</u>	<u>Price per pound</u>
Jumbo shells	\$0.61
Manicotti	\$0.81
Lasagna (regular)	\$0.60
Lasagna (extra wide)	\$0.65
All other products	\$0.36

In addition, the Purchaser will pay an additional \$0.085 for any egg, spinach or garden products.

SCHEDULE 11.2

BILL OF SALE OF BUSINESS ASSETS

FOR GOOD AND SUFFICIENT CONSIDERATION, to be paid pursuant to the terms of the Asset Purchase & Sale Agreement ("Asset Agreement") executed contemporaneously herewith, the undersigned Costa Macaroni Mfg. Co. ("Seller"), a California corporation, hereby sells, transfers, and conveys to Pasta Montana, LLC ("Buyer"), a Delaware limited liability company, the following business assets of the Seller: All assets listed on Schedule "A"* hereto and made a part here of.

This sale is made without warranty except as specified in the Asset Agreement

Dated:

COSTA MACARONI MFG. CO.

Constance Foster - 3-18-05

By: Constance Foster
President

[Signature to be notarized if required under Oregon law]

- Schedule "A" shall be identical to Schedule 1 of the Asset Purchase.

SCHEDULE 14.10**ERISA INFORMATION**

Seller ("Plan Sponsor") established the Costa Macaroni Manufacturing Co. Inc. Retirement Plan (the "Plan") effective January 1, 1999. The plan is a self-administered Profit Sharing Plan that is qualified under Section 401 of the Internal Revenue Service Code and is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA). The plan administrator and Legal Agent is the Costa Macaroni Manufacturing Co., Inc., located at 4790 Valley Blvd., Los Angeles, CA 90032-3834.

The Plan has individual participant accounts and contributions are variable as determined by the Plan Sponsor on an annual basis.

The Plan is funded by a pooled trust arrangement entitled the Costa Macaroni Manufacturing Co. Retirement Trust (the "Trust"). The investment activities of the Trust are directed solely by the Trustees, who are Constance Foster and Stephen Zoccoli.