



To the Honorable Commissioner for Pat

102180702

attached original document(s) or copy(ies).

1. Name of conveying party(ies):

Flavors of North America, Incorporated

Med  
8-1-02

- Individual(s)
- General Partnership
- Corporation
- Association
- Limited Partnership
- Other: \_\_\_\_\_

Citizenship/State of Incorporation/Organization: Illinois

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- License
- Other: \_\_\_\_\_
- Merger
- Change of Name
- Nunc Pro Tunc Assignment

Effective Date: \_\_\_\_\_

Execution date: July 17, 2002

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

Name: Cole Taylor Bank

Street Address: 111 W. Washington Street  
Chicago, Illinois 60602

- Individual(s)
- Association
- General Partnership
- Limited Partnership
- Corporation

Other: Illinois State Chartered Bank

Citizenship/State of Incorporation/Organization: Illinois

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

75/637552 76/209507  
75/637553 76/267692

B. Trademark Registrations No.(s)

2055459  
2390444

Additional numbers attached  Yes  No

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

**Donna M. Shaw**  
MICHAEL BEST & FRIEDRICH LLC  
ATTORNEYS AT LAW  
401 NORTH MICHIGAN AVENUE, SUITE 1900  
CHICAGO, ILLINOIS 60611-4212

Direct telephone calls to the above at telephone no. (312) 222-0800 or fax no. (312) 222-0818.

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" Service Under 37 CFR 1.10 postage prepaid, in an envelope addressed to Commissioner for Patents and Trademarks, Box Assignments, Washington, DC 20231 on August 1, 2002.

Date: 8/1/02  
Typed name: A'dorn McGavock-West

6. Total number of applications and registrations involved:..... 6

7. Total fee (37 CFR 3.41) ..... \$165.00

- Enclosed
- Authorized to be charged to deposit account
- Authorization to charge additional fees

8. Deposit account number:

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

ATTORNEY DOCKET NO.: \_\_\_\_\_

DO NOT USE THIS SPACE

FC:481 40.00 OP  
91:482 125.00 OP

Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized.

Donna M. Shaw  
Name of Person Signing

Donna M. Shaw, Esq.  
Signature

8/1/02  
Date

Total number of pages including cover sheet, attachments, and document: **14**

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

Commissioner for Patents & Trademarks, Box Assignments

Washington, DC 20231

TRADEMARK

REEL: 002556 FRAME: 0856

# TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

THIS TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT (the "Agreement") is made as of this 17<sup>th</sup> day of July, 2002 by and between FLAVORS OF NORTH AMERICA, INCORPORATED, an Illinois corporation with its principal place of business located at 525 Randy Road, Carol Stream, Illinois 60173 ("Assignor") and COLE TAYLOR BANK with its principal banking office located at 111 W. Washington, Chicago, Illinois ("Lender")

## RECITALS:

The Lender has entered into a Loan Agreement dated of even date herewith (said Loan Agreement as it may hereafter be amended or otherwise modified from time to time being the "Loan Agreement" and the terms defined therein and not otherwise defined herein being used as defined therein) with Assignor. The Loan Agreement is secured by that certain Security Agreement dated of even date herewith executed by and between Assignor and Lender (the "Security Agreement"). Assignor has agreed to assign to Lender a continuing security interest in all of Assignor's trademark rights pursuant to this Trademark Collateral Assignment and Security Agreement in furtherance of Assignor's agreement to Lender under the Security Agreement under which the Lender is granted a lien on and security interest in machinery and equipment ("Other Assets") relating to products sold under the Trademarks, whereby Lender shall have the right to foreclose on the Trademarks and the Other Assets in the event of the occurrence and continuance of a Default under the Loan Agreement which is not remedied at the expiration of any applicable cure period, in order that the owner of the Trademarks may continue the manufacture of products to be sold under the Trademarks and maintain substantially the same product specifications and quality as maintained by Assignor.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein contained and for other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged), and in order to induce the Lender to make the Loans under the Loan Agreement, the parties hereto agree as follows:

1. To secure the complete and timely satisfaction of all of the Liabilities now or hereafter existing, whether for principal, interest, fees, costs, disbursements, expenses or otherwise and all obligations of Assignor now or hereafter existing under this Agreement, Assignor hereby grants, assigns and conveys to Lender a continuing security interest in all of Assignor's right, title and interest in and to the trademark application(s) and trademark(s) listed in Schedule A attached hereto and incorporated herein by reference, as the same may be amended pursuant hereto from time to time, including all after acquired trademark applications and trademarks, and also including without limitation all renewals thereof, all proceeds of infringement suits, the right to sue for past, present and future infringements and all rights corresponding thereto throughout the world (all of the foregoing are hereinafter collectively referred to as, the "Trademarks"), and the good will of the business to which each of the Trademarks relates.

2. Assignor covenants and warrants that:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;

(b) To the best of Assignor's knowledge, each of the Trademarks is valid and enforceable;

(c) Assignor has not received notice of any claim having been made that the use of any of the Trademarks does or may violate the rights of any third person;

(d) Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, registered user agreements and covenants by Assignor not to sue third persons;

(e) Assignor has the unqualified right to enter into this Agreement and perform its terms;

(f) Assignor has used, and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the registered Trademarks; and

(g) Assignor has used, and will continue to use for the duration of this Agreement, standards of quality in its manufacture of products sold under the Trademarks consistent with its present and past business practices.

3. Assignor hereby grants to Lender and its employees and agents the right to visit Assignor's plants and facilities which manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours. Assignor shall do any and all acts reasonably required by Lender to ensure Assignor's compliance with paragraph 2(g).

4. Assignor agrees that, until all of the Liabilities shall have been satisfied in full, it will not enter into any agreement, including, but not limited to, any license agreements, which is inconsistent with Assignor's obligations under this Agreement, without Lender's prior written consent.

5. If, before the Liabilities shall have been satisfied in full, Assignor shall obtain rights to any new Trademarks, the provisions of Paragraph 1 shall automatically apply thereto and Assignor shall give Lender prompt written notice thereof.

6. Assignor authorizes Lender to modify this Agreement by amending Schedule A to include any future Trademarks covered by Paragraphs 1 and 5 hereof.

7. Unless and until there shall have occurred and be continuing an Event of Default (as defined in the Loan Agreement which is not remedied at the expiration of any applicable cure period), Lender hereby grants to Assignor the exclusive, nontransferable right and license to use the Trademarks on and in connection with products sold by Assignor, for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any

sublicense under, the license granted to Assignor in this Paragraph 7, without the prior written consent of Lender.

8. If any Event of Default shall have occurred and be continuing which is not remedied at the expiration of any applicable cure period, Assignor's license under the Trademarks, as set forth in Paragraph 7, shall terminate forthwith, and the Lender shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located and, without limiting the generality of the foregoing, the Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Chicago, Illinois, or elsewhere, all or from time to time any of the Trademarks, or any interest which the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds after payment of the Liabilities. Any remainder of the proceeds after payment in full of the Liabilities shall be paid over to the Assignor. Notice of any sale or other disposition of the Trademarks shall be given to Assignor at least ten (10) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

9. At such time as Assignor shall completely satisfy all of the Liabilities, this Agreement shall terminate and Lender shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademarks, subject to any disposition thereof which may have been made by Lender pursuant hereto.

10. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks and/or this Agreement, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of the Liabilities and shall bear interest at the highest rate prescribed in the Loan Agreement which shall begin to accrue from the date of Lender's demand for payment hereunder.

11. Assignor shall have the duty, through counsel reasonably acceptable to Lender, to prosecute diligently any trademark applications of the Trademarks pending as of the date of this Agreement or thereafter until the Liabilities shall have been paid in full, to file and prosecute opposition and cancellation proceedings and to do any and all acts which are reasonably necessary to preserve and maintain all rights in the Trademarks. Any expenses incurred in

connection with the Trademarks shall be borne by Assignor. The Assignor shall not abandon any Trademark without the consent of Lender, which consent shall not be unreasonably withheld.

12. Assignor shall have the right, with the prior written consent of Lender, which will not be unreasonably withheld, to bring any opposition proceedings, cancellation proceedings or lawsuits in its own name to enforce or protect the Trademarks, in which event Lender may, if necessary, be joined as a nominal party to such suit if Lender shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. Assignor shall promptly, upon demand, reimburse and indemnify Lender for all damages, costs and expenses, including reasonable attorney's fees, incurred by Lender in the fulfillment of the provisions of this Paragraph 12.

13. In the event of the occurrence of an Event of Default under the Loan Agreement which is not remedied at the expiration of any applicable cure period, Assignor hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

14. Assignor agrees that it hereby authorizes Lender, at Assignor's expense, to file and refile under the Uniform Commercial Code such financing statements, continuation statements and other documents in such offices as Lender may deem necessary or appropriate and wherever required or permitted by law in order to perfect and preserve Lender's security interest in the Trademarks, and hereby authorizes Lender to file financing statements and amendments thereto relative to all or any part of the Trademarks without the signature of the Assignor where permitted by law, and agrees to do such further acts and things and execute and deliver to Lender such additional conveyances, assignments, agreements and instruments as Lender may require or deem advisable to carry into effect the purpose of this Agreement or to better assure and confirm unto Lender its rights, powers and remedies hereunder.

15. If Assignor fails to comply with any of its obligations hereunder, Lender may do so in Assignor's name or in Lender's name, but at Assignor's expense, and Assignor hereby agrees to reimburse Lender in full for all expenses, including reasonable attorney's fees, incurred by Lender in protecting, defending and maintaining the Trademarks.

16. No course of dealing between Assignor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

17. All of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

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

19. This Agreement is subject to modification only by a writing signed by the parties, except as provided in Paragraph 6.

20. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

**21. THIS AGREEMENT SHALL BE CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH, AND GOVERNED BY THE LAWS AND DECISIONS (WITHOUT GIVING EFFECT TO THE CONFLICTS OF THE LAWS PRINCIPLES THEREOF) OF THE STATE OF ILLINOIS, EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN ILLINOIS.**


**22. ASSIGNOR HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND ASSIGNOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE LENDER OR ANY LENDER TO BRING PROCEEDINGS AGAINST ASSIGNOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ASSIGNOR AGAINST THE LENDER OR ANY AFFILIATE OF THE LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY FINANCING AGREEMENT SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.**

**23. ASSIGNOR AND LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.**

WITNESS the execution hereof under seal as of the day and year first above written.


ASSIGNOR:

**FLAVORS OF NORTH AMERICA,  
INCORPORATED, an Illinois corporation**

By:   
Name: JOSEPH J. SLATER  
Title: PRESIDENT

LENDER:

**COLE TAYLOR BANK**

By:   
Name: EDWARD L. COOPER III  
Title: SENIOR VICE PRESIDENT

Schedule A to that certain Trademark Collateral Assignment and Security Agreement dated July 17, 2002 executed by and between FLAVORS OF NORTH AMERICA, INCORPORATED and COLE TAYLOR BANK

| <u>Trademark Registration No.</u> | <u>Country</u> | <u>Registration</u> | <u>Registration Date</u> |
|-----------------------------------|----------------|---------------------|--------------------------|
| 538398                            | Canada         | Flavor 101          | December 6, 2000         |
| 2055459                           | USA            | Flavor 101          | April 22, 1997           |
| 2390444                           | USA            | Savoryworks         | September 28, 2000       |

| <u>Trademark Application No.</u> | <u>Country</u> | <u>Registration</u> | <u>Application Date</u> |
|----------------------------------|----------------|---------------------|-------------------------|
| 75/637552                        | USA            | Flavorworks         | February 10, 1999       |
| 75/637553                        | USA            | Aromaworks          | February 10, 1999       |
| 76/209507                        | USA            | F.O.N.A.            | February 9, 2001        |
| 76/267692                        | USA            | Tasteof Success     | June 7, 2001            |