

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM557500

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	Termination and Release of Security Interest in Intellectual Property		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
CoBank, ACB, as Collateral Agent		12/19/2019	FEDERALLY CHARTERED INSTRUMENTALITY: UNITED STATES
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	NORPAC Foods, Inc.		
<b>Street Address:</b>	3225 25th Street SE		
<b>City:</b>	Salem		
<b>State/Country:</b>	OREGON		
<b>Postal Code:</b>	97302		
<b>Entity Type:</b>	Corporation: OREGON		
<b>PROPERTY NUMBERS Total: 52</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3819711	ALL NATURAL, ALWAYS!	
<b>Registration Number:</b>	1117370	BEANS SUPREME	
<b>Registration Number:</b>	1260584	BEAUTIFUL VEGETABLES	
<b>Registration Number:</b>	1028056	BIG DADDY	
<b>Registration Number:</b>	932658	BIG DADDY	
<b>Registration Number:</b>	3687726	CHILI SUPREME	
<b>Registration Number:</b>	885973	COB CORN SHORTIES	
<b>Registration Number:</b>	836368	COBBETTS	
<b>Registration Number:</b>	3839030	COBBIES	
<b>Registration Number:</b>	876132	COBETTES	
<b>Registration Number:</b>	3917060	FLAV-R-PAC	
<b>Registration Number:</b>	608803	FLAV-R-PAC	
<b>Registration Number:</b>	977427	FLAV-R-PAC	
<b>Registration Number:</b>	3764405	FLAV-R-PAC CONNOISSEUR COLLECTION	
<b>Registration Number:</b>	2399169	FLAV-R-PAC JUST ADD CHICKEN!	
<b>Registration Number:</b>	2382452	FLAV-R-PAC JUST ADD HAMBURGER!	
<b>Registration Number:</b>	2010378	FLAV-R-PAC VEGETABLE COLLECTION	
<b>Registration Number:</b>	790079	FLAV-R-TATERS	

OP \$1315.00 3819711

Property Type	Number	Word Mark
Registration Number:	1875397	GRANDE CLASSICS
Registration Number:	1861062	GRANDE CLASSICS
Registration Number:	3349122	ISLAND BLENDS
Registration Number:	3515813	JUST ADD CHICKEN!
Registration Number:	3515815	JUST ADD HAMBURGER!
Registration Number:	2363214	MAIN COURSE
Registration Number:	3370957	MEAL BASICS
Registration Number:	2151151	
Registration Number:	851998	NORPAC
Registration Number:	4022628	NORPAC
Registration Number:	2915509	NORPAC QUALITY PRODUCTS FROM OUR FARMERS
Registration Number:	1225219	PASTA PERFECT
Registration Number:	1529913	PASTA PERFECT
Registration Number:	2854385	QUICK 'N EASY COMBOS
Registration Number:	1093908	RINGLETTS
Registration Number:	800468	ROYAL GARNET
Registration Number:	1049746	SACK O' CORN
Registration Number:	438239	SANTIAM
Registration Number:	3693273	SCRATCH RECIPE
Registration Number:	2044118	SOUP EXPRESS
Registration Number:	4656925	SOUP SELECT
Registration Number:	1527173	SOUP SUPREME
Registration Number:	799203	SPRINGWATER
Registration Number:	503459	STACO
Registration Number:	3759302	STEAM OF THE CROP
Registration Number:	563370	SUPER MK'T
Registration Number:	4142572	SUPER MK'T
Registration Number:	3662295	TATER BARS
Registration Number:	875273	VALLEY MAID
Registration Number:	984078	WESTPAC
Serial Number:	85784035	CHEF STARTERS
Serial Number:	86407695	FLAV·R·PAC AMERICAN HARVEST
Serial Number:	85667368	SIDESATIONS
Serial Number:	86630949	CHILI SUPREME

**CORRESPONDENCE DATA**

Fax Number: 7043311159

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.*

**TRADEMARK**

**REEL: 006837 FRAME: 0857**

**Phone:** 7043311000  
**Email:** PTO\_TMconfirmation@mvalaw.com, christinaquinn@mvalaw.com  
**Correspondent Name:** Moore & Van Allen PLLC  
**Address Line 1:** 100 North Tryon Street  
**Address Line 2:** Suite 4700  
**Address Line 4:** Charlotte, NORTH CAROLINA 28202-4003

**ATTORNEY DOCKET NUMBER:** 037859.000015

**NAME OF SUBMITTER:** John Slaughter

**SIGNATURE:** /john slaughter/

**DATE SIGNED:** 01/14/2020

**Total Attachments: 24**

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## TERMINATION AND RELEASE OF SECURITY INTEREST IN INTELLECTUAL PROPERTY

This **TERMINATION AND RELEASE OF SECURITY INTEREST IN INTELLECTUAL PROPERTY**, dated as of December 19, 2019 (“Release”), is made by CoBank, ACB, as collateral agent, and executed by the Debtor (defined herein) pursuant to the Order (defined herein) (“Agent”), in favor of NORPAC Foods, Inc., an Oregon corporation (“Debtor”).

**WHEREAS**, pursuant to that certain Third Amended and Restated Loan and Security Agreement dated as of October 30, 2015 (as amended, restated, supplemented or otherwise modified from time to time, the “Security Agreement”) by and among the Debtor, Agent, and others party thereto and the Second Amendment to Amended and Restated Intellectual Property Security Agreement dated as of October 30, 2015 (as amended, restated, supplemented or otherwise modified from time to time, including the First Amended and Restated Intellectual Property Security Agreement dated as of December 28, 2012, the “IP Security Agreement”) by and among the Debtor and Agent, Debtor granted to the Agent, for the benefit of the Lender Group, a first priority security interest in all of Debtor’s right, title and interest in and to the Collateral (as defined in the IP Security Agreement), including the Collateral set forth on Schedule A attached hereto;

**WHEREAS**, the IP Security Agreement was recorded at the United States Patent and Trademark Office (“USPTO”) on November 2, 2015 at Reel 5658 Frame 0430; and

**WHEREAS**, pursuant to the Order (as defined in Schedule B attached hereto), the security interest in the Collateral is unconditionally released, discharged, and terminated, and Debtor may execute this Release on behalf of Agent.

**NOW THEREFORE**, in consideration of the mutual promises and undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with the intention of being legally bound hereby, Agent and Debtor agree as follows:

**SECTION 1. Defined Terms.** Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Security Agreement, IP Security Agreement or Order.

**SECTION 2. Termination and Release.** Agent hereby:

- (a) terminates the IP Security Agreement;
- (b) terminates, cancels, forever discharges, and releases the first priority security interest in all of Debtor’s right, title and interest in and to the Collateral (as defined in the IP Security Agreement), including the Collateral set forth on Schedule A attached hereto;
- (c) represents and warrants that it has full authority to execute and deliver this Release; and
- (d) authorizes the recordation of this Release with the USPTO at Debtor’s expense.

IN WITNESS WHEREOF, the Agent (by Debtor) has caused this Termination and Release of Security Interest in Intellectual Property to be duly executed as of the date first set forth above.

Agent:

CoBank, ACB, as collateral agent, by Debtor

By: Shawn Campbell  
Name: SHAWN CAMPBELL  
Title: PRES + CEO

**Schedule A**

# Norpac Foods, Inc. Status Report

Client sort contains Norpac and Mathias equine branding or registered

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	8&15 Date (US Only)	Renewal	Status
1575-82359-01	ALL NATURAL ALWAYS	USA	29	Frozen fruits, frozen vegetables	77813,169	3,819,711	7/19/2010	7/19/2016	7/19/2020	Registered
1575-20417-01	BEANS SURPRISE	USA	29	Frozen vegetables - namely, a frozen mixture consisting of three types of beans, onions and green peppers - in class 29.	73133,369	1,117,370	6/17/979		6/17/2019	Registered
1575-22416-01	BEAUTIFUL VEGETABLES	USA	29	frozen and canned vegetables for sale to the institutional trade	79223,966	1,290,384	12/6/1983		12/6/2023	Registered
1575-18801-01	BIG DADDY	USA	29	frozen vegetables, and particularly partially processed frozen potatoes	73063,223	1,028,056	10/20/1975		12/29/2015	Registered
1575-14828-01	BIG DADDY & DESIGN	USA	29	Frozen vegetables, and particularly partially processed frozen potatoes	979,965	992,638	4/19/1972	4/10/1978	4/19/2025	Registered
1575-09095-01	CHEF STARTERS	USA	29	Frozen vegetables	85784,032	774,759,955	8/19/2010		2/19/2025	Pending
1575-81369-02	CHILI SWIRLWE	Canada		sauces	1415063					Registered
1575-81388-01	CHILI SWIRLWE	USA	29	soups	77500,048	3,887,728	9/22/2009	9/23/2015	9/22/2019	Registered
1575-13122-01	COOL CORN SICKLES	USA	29	Frozen corn on the cob	72380,846	885,973	2/10/1976		2/10/2020	Registered
1575-8862-01	COBBLETS	USA	30	Frozen corn on the cob	72228,765	838,368	10/31/887		10/31/2017	Registered
1575-03434-01	COBBLES	USA	29	Frozen vegetables	77777,938	3,859,030	8/24/2010	8/24/2016	8/24/2020	Registered
1575-11690-01	COBBLES	USA	29	Frozen corn on the cob	282916	876,192	9/21/989		9/21/2018	Registered
1575-14738-01	COBBLES	Canada		Frozen corn on the cob	386,206	1,78,383	9/17/1971		9/17/2016	Registered
1575-72997-02	CLASSIC FRESHED SOUPS	Mexico	29	soups	794089	926002	6/28/2006		7/19/2018	Registered
1575-91108-01	FLAVY IN PACAMERICAN HARVEST and Design	USA	29	frozen vegetables	88467,895					Pending

# Norpac Foods, Inc. Status Report

Chart set consists Norpac and the status equals pending or registered

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	8&15 Date (US Only)	Renewal	Status
1575-84488-01	FLAV-R-PAC	USA	29; 30; 32; 35	International Class: 029 Canned fruits and vegetables; Frozen fruits; Frozen vegetables; Soups	651073,195	5,817,060	2/8/2014	2/8/2017	2/8/2021	Registered
				International Class: 030 Pasta; Rice						
				International Class: 032 Fruit pizzas						
				International Class: 035 Dairy foodstuffs sauces in the field of frozen fruits and vegetables; canned fruits and vegetables; soups, pasta and rice						
1575-2999-01	FLAV-R-PAC	USA	29	canned and frozen fruits and vegetables, frozen citrus fruit juices, and frozen citrus fruit juice concentrates	711638,294	609,803	7/12/1992		7/12/2025	Registered
1575-16388-01	FLAV-R-PAC & Design	USA	29	Canned and frozen fruits and vegetables	724428,665	977,427	1/22/1974	1/22/1999	1/22/2024	Registered
1575-84488-02	FLAV-R-PAC	Canada		frozen vegetables, frozen fruits and frozen vegetable blends w th and w thout sauce	1488810	TMA 780,659	10/25/2010		10/25/2025	Registered
1575-71402-01	FLAV-R-PAC	China	29	canned and frozen fruits and vegetables, and frozen soup mixes	4803444	4803444	4/14/2008		4/13/2018	Registered
1575-71402-02	FLAV-R-PAC	China	32	frozen citrus fruit juices; frozen citrus	4803445	4803445	4/14/2008		4/13/2018	Registered



# Norpac Foods, Inc. Status Report

Class 1 and 34 contains Norpac and the status equate pending or registered

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	8/15 Date (US Only)	Renewal	Status
1575-4473-01	FLAV-R-PAC	Korean Republic	29, 32	fruit juice concentrates canned fruits and vegetables, frozen blueberries, frozen blackberries, frozen elderberries, frozen boysenberries, frozen cantaloupe balls, frozen honeydew balls, frozen melon balls, frozen raspberries, frozen straw berries, frozen asparagus, frozen beans, frozen carrots, frozen corn, frozen peas, frozen squash, frozen potatoes, frozen onions, frozen broccoli, frozen french fries, frozen Brussels sprouts, frozen cauliflower, frozen chinese peas pods, frozen corn on the cob, frozen olives, frozen shelled peas, frozen spinach, frozen washi frozen, frozen french fried onion rings, frozen baked potatoes, frozen cooked and seasoned diced potatoes, frozen vegetable mixtures (IC 29)	337196	388553	10/28/1997		12/29/2017	Registered
1575-52488-01	Sauze			frozen citrus juice, and frozen citrus fruit juice concentrates (IC 35)	1425011934	1425011934	08/02/2014		12/31/2023	

# Norpac Foods, Inc. Status Report

Client sort contains 'Norpac' and 'Flav' status equals 'pending' or 'registered'

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	8.15 Date (US Only)	Renewal	Status
1575-82480-02	FLAV-R-PAC	Arabic	29	frozen fruits; vegetables preserved	2063005					Registered
1575-82480-02	FLAV-R-PAC	United Arab Emirates	29	frozen fruits; frozen vegetables	2063005					Pending
1575-81799-01	FLAV-R-PAC CONNOISSEUR COLLECTION	USA	29	frozen and processed vegetables	77561779	3,764,403	3/23/2010	3/23/2015	3/23/2020	Registered
1575-81799-02	FLAV-R-PAC CONNOISSEUR COLLECTION	Canada		frozen, canned and processed fruits; frozen, canned and processed vegetables	1,432,148	1344761,856	11/02/2010			Registered
1575-81799-03	FLAV-R-PAC CONNOISSEUR COLLECTION	Mexico	29	frozen and/or canned and/or processed fruits; frozen and/or canned and/or processed vegetables	937108	1097356	4/29/2009		9/23/2019	Registered
1575-51404-01	FLAV-R-PAC JUST ADO CMOCKERY & DESIGN	USA	29	frozen vegetable blends	75662600	2,399,169	10/31/2000	10/31/2008	10/31/2020	Registered
1575-51403-01	FLAV-R-PAC JUST ADO HANDELWERK & DESIGN	USA	29	frozen vegetable blends	75662,283	2,362,452	9/5/2000	9/5/2006	9/5/2020	Registered
1575-38584-01	FLAV-R-PAC VEGETABLE COLLECTION	USA	29	frozen vegetables	74399,887	2,010,379	10/29/1996	10/22/2006	10/22/2016	Registered
1575-38483-01	FLAV-R-PAC VEGETABLE COLLECTION	Canada		frozen vegetables	738946	466692	1/13/1997		1/13/2027	Registered
1575-8016-01	FLAV-R-TA TAPAS	USA	29	frozen breaded potato rolls	72195,317	750,079	5/29/1995		5/23/2025	Registered
1575-45815-01	GRANDE CLASSES	USA	29	processed frozen foods, namely vegetables	74301,739	1,875,287	1/24/1995	1/24/2001	1/24/2025	Registered
1575-45815-01	GRANDE CLASSES AND DESIGN	USA	29	Processed frozen foods, namely vegetables	74301,737	1,861,082	1/11/1994		1/11/2024	Registered

# Norpac Foods, Inc. Status Report

Client sort contains Norpac and 131 status equals pending or registered

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	Ex. 15 Date (US Only)	Renewal	Status
1575-28871-01	INTERNATIONAL CLASSICS	Canada		Frozen soup mixes	709029	432002	08/01/1994		03/20/2014	Registered
1575-78831-01	SEANOE BLENDS & Design	USA	29	Frozen vegetable blends	771015, 8772	3,349,122	12/4/2007	12/4/2013	12/4/2017	Registered
1575-78231-03	SEANOE BLENDS & DESIGN	Mexico	29	Frozen vegetable blends	828008	1027903	10/24/2007		12/18/2018	Registered
1575-61770-02	JUST ADD CHICKEN	USA	29	Frozen vegetable blends	77418, 8713	3,515,813	10/14/2008	10/14/2014	10/14/2018	Registered
1575-61771-08	JUST ADD HAM/PEPPERONI	USA	29	Frozen vegetable blends	77419, 8824	3,515,815	10/14/2008	10/14/2014	10/14/2018	Registered
1575-50928-01	MAN COURSE	USA	29	Frozen soup	719208, 469	2,383,214	05/27/2003		02/7/2010	Registered
1575-88877-01	MEAL BASICS	USA	29	Frozen vegetables and vegetable blends	781538, 809	3,270,957	11/13/2008	11/13/2014	11/13/2018	Registered
1575-43085-01	MICELAMOUS DESIGN (ARCHITECTURE)	USA	29	Frozen vegetables and fruit	747711, 801	2,151,151	07/14/1998		07/14/2018	Registered
1575-8144-01	NORPAC	USA	29	Canned fruits and canned and frozen vegetables	72273, 822	661,988	7/21/1988		7/22/2018	Registered
1575-78971-01	NORPAC	USA	29, 30, 35	Frozen fruits (IC 29) pasta, rice (IC 30) Charcuterie/ship services in the field of frozen fruit and vegetables, canned fruit and vegetables, soups, pastas and rice (IC 30)	85238, 860	4,022,836	08/20/11	02/1/2017	02/1/2021	Registered
1575-68331-01	NORPAC & DESIGN	USA	29, 30	29 - Frozen and processed fruits and vegetables; pastas; and soups 30 - pasta	78377, 118	2,915,304	1/4/2005	1/4/2011	1/4/2025	Registered

# Norpac Foods, Inc. Status Report

Search sort categories: Norpac and Trademark status: Pending or Registered

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	Reg. 15 Date (US Only)	Renewal	Status
1575-71903-01	NORPAC & DESIGN	Korea	29	Kidney beans, peas, eggplants, potatoes, sweet potatoes, brackens, red peppers, carrots, garlic, radishes, gourds, Chinese cabbage, beans, ginger, peas, mushrooms, sprouts, radishes, onions, cucumbers, burdock, burdock sticks, tomatoes, green (Wazai) chutney, fragrant mushrooms, uric acid beans, pineapples, parsnips, dried vegetables, radish, fruit eskate and vegetable salads	40-2004-42029	608273	10/24/2005		10/24/2015	Registered
1575-71904-01	NORPAC & DESIGN	Korea	29	vegetable soups, canned fruits, canned vegetables, pearled butter, pickles, potato flakes, and potato chips	70-2004-000597	608273	10/24/2005		10/24/2015	Registered
1575-02481-01	NORPAC	Saudi Arabia	29	frozen fruits; vegetables, preserved	1436011028					Pending
1575-02481-02	NORPAC	United Arab Emirates	29	frozen fruits; frozen vegetables	208306					Pending
1575-30157-01	PA-STA PERFECT	USA	30	Pasta, rameny, macaroni and noodles	229,178	1,229,219	1/25/1989		1/25/2009	Registered
1575-31045-01	PA-STA PERFECT	USA	30	frozen pasta and vegetables (TM)	79731,834	1,229,313	3/14/1989		3/14/2019	Registered
1575-34991-01	PA-STA PERFECT	Canada		Pasta, rameny	667919	420224	12/31/93		12/31/2003	Registered

# Norpac Foods, Inc. Status Report

Client sort contains 'norpac' and TM status equals 'pending' or 'registered'

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	Exp. Date (US Only)	Renewal	Status
1575-61956-01	CLUCK 'N' EASY CORNERS Design	USA	29	refrigerated and roasted frozen vegetables	790339,994	2,854,385	6/16/2004	6/16/2010	6/16/2014	Registered
1575-20888-01	PIZZALITTS Design	USA	29	Frozen french fried onion rings	79140,993	1,093,306	6/30/1978		6/29/2016	Registered
1575-8223-01	ROYAL GARNET	USA	29	chilled and frozen fruits, berries and vegetables	72201,045	800,466	12/14/1985		12/14/2015	Registered
1575-18935-01	SACK O' CORN	USA	29	Frozen corn on the cob	79082,747	1,049,246	10/5/1978		10/5/2019	Registered
1575-6437-01	SANTAM	USA	29	chilled vegetables and fruits, and frozen dehydrated fruits	71813,345	439,229	4/19/1948		4/19/2019	Registered
1575-79883-01	SOFT TOP PLEONE	USA	29	soups sold to restaurants and other food service institutions, and not sold for household use through retail stores	77327,157	3,889,273	10/6/2009	10/6/2015	10/6/2019	Registered
1575-89413-01	SOBESAYONS	USA	29	frozen vegetables	82667,388					Pending
1575-40542-01	SOUP EXPRESS	USA	29	Frozen soups	74819,996	2,044,118	3/11/1987	3/11/2003	3/11/2017	Registered
1575-90818-01	SOUP SEASCT	USA	29	Soups	85899,317	4,858,925	12/16/2014	12/16/2020	12/16/2024	Registered
1575-30838-01	SOUP SUPREME AND DESIGN	USA	29	Frozen soup mixes	79796,378	1,537,173	2/28/1989		2/28/2019	Registered
1575-34959-01	SOUP SUPREME & Design	Canada	29	Frozen soup mixes	697919	424,008	3/4/1994		3/4/2004	Registered
1575-44171-01	SOUP SUPREME & Design	Korea	29	frozen vegetables soup mixes, frozen fruit soup mixes, frozen fish soup mixes, frozen shell fish soup mixes, frozen beef soup mixes, frozen pork soup mixes, frozen chicken soup	257296	369,146	7/21/1997		7/21/2017	Registered

# Norpac Foods, Inc. Status Report

Client and contains "propriet" and "TM status expires pending" or "registered"

Matter ID	Mark Name	Country	Classes	Goods/Services	Application No.	Reg. No.	Reg. Date	Reg. Date (US Only)	Renewal	Status
1875-75797-01	SOUP SUPPLES & DRESSING	Mexico	29	73485 frozen soup mixes, namely, preparations for making soups such as vegetable soups, stew & soup, Chowder or cream	804287	962553	4/26/2007		9/5/2016	Registered
1875-71404-01	SOUP SUPPLES	China	29	frozen soup mixes	4003442	4803442	4/14/2006		4/13/2018	Registered
1875-8725-01	SPRINGWATER	USA	29	canned vegetables	722710,583	788,202	11/23/1965		11/22/2013	Registered
1875-5498-01	STACCO and Dressing	USA	29	Canned vegetables	73,836,305	508,459	10/26/1948		10/26/2018	Registered
1875-86479-02	STEAM OF THE CHOP	USA	29	frozen vegetables	77,978,863	3,758,302	3/8/2010	3/8/2016	3/8/2030	Registered
1875-2048-01	SUPERNUT (FROZEN GREEN BEANS)	USA	29	frozen vegetable-ternery, green beans	611,192	563,978	8/28/1952		8/28/2022	Registered
1875-2049-02	SUPERNUT (FROZEN VEGETABLES)	USA	29	frozen vegetables	654,423,772	4,142,572	5/15/2012	5/15/2012	5/15/2022	Registered
1875-11082-02	YATEN BARS	USA	29	processed potatoes	76,888,856	3,882,295	8/4/2009	8/4/2015	8/4/2019	Registered
1875-12489-01	VALLEY MAID	USA	29	Canned and frozen fruits and vegetables	304882	875,273	8/19/1988		8/19/2019	Registered
1875-9142-01	WESTMAC	USA	29	canned and frozen fruits and vegetables	461,864	884,078	5/14/1974		5/14/2024	Registered
1875-71403-01	WESTMAC	China	29	canned and frozen fruits and vegetables	8803463	4803463	4/14/2006		4/13/2018	Registered

U.S. Trademark Application Serial No. 86/630949 for the mark CHILI SUPREME, filed on May 15, 2015.


**Schedule B**

Order (attached)



Below is an order of the court.

**It is Further Ordered, that Debtors shall file a Report of Sale within seven (7) days after closing of the sale authorized in this Order. The Report of Sale must confirm the identity of the purchaser, the purchase price, and the amount of proceeds distributed to each category of claims set forth in Paragraph 10 below.**



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PETER C. MCKITTRICK  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re

NORPAC Foods, Inc. [TIN 9330],  
Hermiston Foods, LLC [TIN 3927], and  
Quincy Foods, LLC [TIN 7444],

Debtors.

Case No. 19-62584-pcm11

**LEAD CASE**

(Jointly Administered with Case  
Nos. 19-33102-pcm11 and 19-33103-pcm11)

**ORDER (I) APPROVING SALE OF  
ASSETS FREE AND CLEAR OF LIENS,  
CLAIMS, ENCUMBRANCES, AND  
INTERESTS; (II) AUTHORIZING  
ASSUMPTION AND ASSIGNMENT OF  
CERTAIN EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES, AND  
(III) GRANTING RELATED RELIEF**

On November 15, 2019, the above-captioned debtors (each, a “Debtor” and collectively, “Debtors”)<sup>1</sup>, filed a “Notice of Intent to Sell Real or Personal Property, Compensate Real Estate Broker, and/or Pay any Secured Creditor’s Fees and Costs; Motion for Authority to Sell Property” (ECF No. 403; hereafter, the “Sale Notice”). The Sale Notice provided notice of Debtors’ intent to sell certain of their assets (“Assets”) free and clear of all liens, claims,

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<sup>1</sup> All capitalized terms used in this Order that are not otherwise defined in this Order shall have the definitions given to them in the Sale Notice and/or the APA.

encumbrances, and interests to Oregon Potato Company (“OPC”) pursuant to an Asset Purchase Agreement dated as of November 15, 2019 (the “OPC APA”), a copy of which was filed with the Court, subject to higher bids, as described in the Sale Notice, and set a deadline of December 6, 2019 for objections to the proposed sale.

Also on November 15, 2019, Debtors filed a “Motion to Assume and Assign Executory Contracts (ECF No. 406) that are to be included in the proposed sale to OPC (the “Assignment Motion”) and a related “Notice of Intent to Assume and Assign Executory Contracts, and Related Cure Amounts” (ECF No. 407), setting a deadline of December 6, 2019 for contract counterparties to object to the proposed assumption/assignment and proposed cure amounts with respect to their contracts.

On December 9, 2019, JRS Properties III LLLP and Simplot Frozen Vegetables, LLC (together, “Simplot”), submitted a competing bid.

The Court held a hearing on December 10, 2019 (the “Sale Hearing”) to consider the relief requested in the Sale Notice and the Assignment Motion, and any objections thereto. The parties appeared at the Sale Hearing, and the Court continued the Sale Hearing pending an auction with OPC and Simplot as competing bidders. Debtors held an auction on December 10 and 11, 2019. After several rounds of bidding, OPC’s last bid was deemed the highest and best bid by Debtor.

At the Sale Hearing, all objections were either withdrawn or overruled.

Upon consideration of the pleadings and papers filed in respect to the Sale Notice and the Assignment Motion, as well as evidence and argument presented at the Sale Hearing, and after due deliberation,

IT IS HEREBY FOUND AND CONCLUDED that:

A. Debtors provided timely and sufficient notice of the proposed sale of assets and assignment of executory contracts to OPC (collectively, the “Sale”), and the Sale

Hearing to creditors and interested persons in compliance with the Bankruptcy Code and Bankruptcy Rules.

B. Prior to and after the Petition Date, Debtors conducted a good-faith, full, fair, and complete marketing process with respect to the Assets, and Debtors received no better alternative offers for the Assets. Debtors' marketing efforts, including the methodology for selecting OPC as the buyer and the auction process, were conducted in a manner that was reasonably calculated to achieve the highest and best offer for the Assets, as well as reasonable alternative offers.

C. Approval of the OPC APA, as amended on December 11, 2019 (the "APA"), and consummation of the Sale are in the best interests of Debtors' estates, their creditors, and other parties-in-interest.

D. Debtors have demonstrated sound business reasons for the Sale pursuant to Section 363(b) of the Bankruptcy Code. Such business reasons include, without limitation, the following: (i) the APA constitutes the best offer for the Assets after extensive prepetition and postpetition marketing, and (ii) the Sale presents the best opportunity to realize the highest value of the Assets and avoid decline and devaluation of the Assets.

E. Debtors and OPC entered into the APA without collusion, in good faith, and from arm's length bargaining positions, in that: (i) the APA enabled Debtors to accept a higher or better offer in respect of the Sale, and Debtors were free to deal with any other party interested in a transaction regarding the Assets, (ii) Debtors solicited bids from other potential bidders; (iii) OPC made the highest or best bid in respect of the Sale; and (iv) OPC is not an "insider" or "affiliate" of Debtors as those terms are defined in the Bankruptcy Code. The purchase price for the Assets was not controlled by an agreement among any bidders. Accordingly, OPC is a good faith purchaser under Section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby.

F. The APA provides that OPC will assume certain “Assumed Liabilities” and take title to the Assets subject to certain “Permitted Encumbrances” as defined in the APA. Otherwise, OPC will take title to the Assets free and clear of all:

1. security interests, encumbrances, liens, and other interests, including, without limitation, rights arising under the Perishable Agricultural Commodities Act (“PACA”), judicial liens and tax liens (collectively, the “Liens”); and

2. liabilities and “claims” (as defined by Section 101 of the Bankruptcy Code) now existing or hereafter arising, fixed or contingent, asserted or unasserted, legal or equitable, liquidated or unliquidated, including, but not limited to, those arising under, related to, or based on successor or transferee liability, express or implied warranties, environmental laws, union contracts, pension or other retiree benefit plans, or for any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of any of the Assets prior to Closing, except to the extent that “claims” relate to any of the Assumed Liabilities or Permitted Encumbrances (collectively, the “Claims”). For the avoidance of doubt, the Liens do not include the Permitted Encumbrances and the Claims do not include the Assumed Liabilities.

G. Debtors may transfer the Assets free and clear of the Liens and Claims because in respect to each such Lien or Claim, one or more of the standards set forth in Bankruptcy Code Section 363(f)(1)-(5) has been satisfied. Debtors’ primary secured creditor, CoBank, ACB, has specifically represented to the Court that it consents to the Sale free and clear of its Liens and Claims so long as the proceeds are distributed in accordance with this Order. All Liens that are not Permitted Encumbrances will attach to the sale proceeds.

H. OPC would not have entered into the APA and would not consummate the Sale (i) if the transfer of the Assets were not free and clear of all Liens and Claims; or (ii) if OPC would, or in the future could, be liable for the Liens or Claims.

NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The findings of fact and conclusions of law set forth above and stated on the record at the hearing constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

### **I. Approval of the Sale**

2. The Sale is authorized and approved. Any and all objections to the Sale that have not been withdrawn, waived, or settled are overruled on the merits with prejudice.

3. Debtors are authorized, but not directed, to consummate the Sale with OPC pursuant to and in accordance with the terms and conditions of this Order and the APA, and to execute and deliver all instruments, documents, and other agreements required under the APA or otherwise reasonably necessary to implement the APA and close the Sale. If Debtor does not consummate the Sale with OPC on or before January 15, 2020 due to the fault of OPC, then Debtors are authorized, but not directed, to consummate the Sale with Simplot as the back-up bidder, pursuant to and in accordance with the terms and conditions of this Order and the Simplot Asset Purchase Agreement filed with the court, as modified orally at the Sale Hearing (the "Simplot APA"), and to execute and deliver all instruments, documents, and other agreements required under the Simplot APA or otherwise reasonably necessary to implement the Simplot APA and close the Sale. If Debtors close a sale with Simplot, all further references in this order to APA shall be deemed to refer to the Simplot APA.

### **II. Sale Free and Clear of Liens and Claims**

4. Pursuant to Sections 105(a) and 363(f) of the Bankruptcy Code, upon Closing, all of Debtors' rights, title, and interests in the Assets shall be transferred to OPC, or Simplot as the back-up bidder (hereafter, "Purchaser"), free and clear of all Liens and Claims. The transfer will vest Purchaser with all rights, title, and interests in and to the Assets.

5. Except as otherwise specifically provided in the APA and this Order, Purchaser shall have no liability of any kind or character for the Liens or Claims, including, but

**Page 5 of 11 - ORDER (I) APPROVING SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (III) GRANTING RELATED RELIEF**

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not limited to, under any theory of antitrust, environmental, successor or transferee liability, labor law, successor employer liability, de facto merger or joint venture, fraudulent conveyance, mere continuation, or substantial continuity, whether known or unknown, as of the Closing,

6. After the Closing, all persons and entities (as defined by Section 101 of the Bankruptcy Code) are forever barred, estopped, and permanently enjoined from asserting Liens or Claims against the Assets or Purchaser, or any of Purchaser's successors or assigns. Following Closing, no holder of a Lien or Claim shall interfere with Purchaser's title to, or use and enjoyment of, the Assets based on or related to such Lien or Claim.

### **III. Filing and Recording Releases of Liens**

7. This Sale Order shall be effective as a determination that, upon Closing, all Liens on or in respect to the Assets are deemed to be unconditionally released, discharged, and terminated.

8. Upon Closing, each of Debtors' secured creditors is authorized and directed to execute such termination statements, reconveyances, and other documents, and take all other actions as may be necessary, to release their Liens on the Assets, and if they fail to timely do so, Debtors may do so in their stead.

9. This Section III of this Order shall be binding upon all filing agents, filing officers, title agents, title companies, recorders and registrars of mortgages and deeds, administrative agencies, Departments of Motor Vehicles, and other federal, state, and local officials who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Assets.

### **IV. Sale Proceeds**

10. The Liens shall attach to the cash proceeds of the Sale with the same priority, validity, force, and effect they now have as against the Assets, subject to any claims and

defenses, setoffs, or rights of recoupment Debtors may possess with respect thereto. The Sale proceeds shall be distributed as follows:

- (a) first, to pay Closing costs and expenses incurred by Debtors in connection with the Sale (excluding legal fees);
- (b) second, to pay Cure Costs with respect to the Assigned Contracts between Debtors and Lineage Logistics, LLC, as set forth in paragraph 13 below.
- (c) third, to pay allowed claims secured by valid PACA trust rights against the Assets;
- (d) fourth, to pay allowed secured claims that are senior in priority to CoBank's security interests, and to reserve in escrow an amount sufficient to pay any asserted lien claims that are senior in priority to CoBank's security interests (whether or not disputed by Debtors, Purchaser, CoBank, or any other party-in-interest) until such time as those asserted lien claims are allowed or disallowed;
- (e) fifth, any unpaid portion of the Carveout, as defined in the Amended Final Order Granting Debtors' Motion for Authorization to Obtain Secured Credit [ECF No. 202] shall be paid to attorneys for Debtors, to be held in their client trust account pending further Court Order;
- (f) sixth, to repay the balance owed to CoBank on the DIP loan and CoBank's secured prepetition claim;
- (g) seventh, to pay allowed secured claims against the Assets junior in priority to CoBank; and
- (h) eighth, to Debtors, to be distributed pursuant to a Chapter 11 Plan or in accordance with further orders of the Court.

#### **V. Assumption and Assignment of Assigned Contracts**

11. Debtors are authorized to assume and assign the Assigned Contracts to Purchaser on the terms set forth in the Assumption Notice or as otherwise agreed by Purchaser

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and the contract counterparties, effective at Closing. Purchaser may remove particular contracts from the list of Assigned Contracts any time prior to Closing and those removed contracts will not be assumed or assigned to Purchaser.

12. To the extent any counterparty to an Assigned Contract failed to timely object to the terms for assumption and assignment of such contract, such counterparty is deemed to consent to the assumption and assignment of such contract on such terms to Purchaser at Closing.

13. As to the contracts with Lineage Logistics, LLC, Quincy Foods, LLC shall pay (a) the undisputed cure amounts listed in the Assumption Notice; (b) such other cure amounts agreed to by Lineage Logistics, LLC and Quincy Foods, LLC; or (c) if a cure amount was timely disputed, the amount ordered by this Court to constitute the cure amount. Quincy Foods, LLC shall also pay any and all other postpetition Cure Costs (as defined in the APA) associated with such contracts.

14. As to each other Assigned Contract Purchaser elects to assume at Closing, Purchaser shall pay (a) the undisputed cure amount listed in the Assumption Notice; (b) such other amount agreed to by the contract counterparty and the affected Debtor; or (c) if the cure amount was timely disputed, the amount ordered by this Court to constitute the cure amount. Purchaser shall also pay any and all other postpetition Cure Costs (as defined in the APA) associated with such contracts.

15. Because Purchaser has sufficient assets to continue performance under the Assigned Contracts, Purchaser's agreement to perform is adequate assurance of future performance under the Assigned Contracts.

16. Upon the assignment of an Assigned Contract to Purchaser, Purchaser shall be deemed to be substituted for Debtors as a party to such contract and Debtors shall be released, pursuant to Section 365(k) of the Bankruptcy Code, from any liability for breach of such contract occurring after such assignment.

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## VI. Additional Provisions

17. Section 363(b)(1)(A) of the Bankruptcy Code (regarding personally identifiable information about individuals) is not applicable to the Sale.

18. (i) None of the insurance policies or any related agreements (collectively, the “Chubb Insurance Contracts”) issued at any time by ACE American Insurance Company, ACE Property and Casualty Insurance Company, Illinois Union Insurance Company, Great Northern Insurance Company, and Federal Insurance Company (together with affiliates and successors of each, “Chubb”); or any rights, benefits, claims, rights to payments and/or recoveries under the Chubb Insurance Contracts shall be sold, assigned, or otherwise transferred to Purchaser in connection with the Sale; (ii) nothing shall alter, modify, or otherwise amend the terms or conditions of the Chubb Insurance Contracts; and (iii) for the avoidance of doubt, Purchaser is not, and shall not be deemed to be, an insured under any of the Chubb Insurance Contracts; provided, however, that to the extent any claim with respect to any Assets arises that is covered by the Chubb Insurance Contracts, Debtors may pursue such claim in accordance with the terms of the Chubb Insurance Contracts, and, if applicable, turn over to Purchaser any such insurance proceeds (each, a “Proceed Turnover”); provided further, however, that Chubb shall not have any duty to effectuate a Proceed Turnover or liability related to a Proceed Turnover.

19. Notwithstanding the provisions of Bankruptcy Rule 6004 and Bankruptcy Rule 6006, or any applicable provisions of the Local Bankruptcy Rules, this Sale Order shall not be stayed for 14 days after the entry hereof, but shall be effective and enforceable immediately upon entry.

20. This Court retains exclusive jurisdiction, regardless of whether a Chapter 11 plan has been confirmed and consummated and irrespective of the provisions of any such plan or order confirming such plan, to enforce and implement the terms and provisions of the APA, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects including, but not limited to,

**Page 9 of 11 - ORDER (I) APPROVING SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (III) GRANTING RELATED RELIEF**

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retaining jurisdiction to (a) compel delivery of the Assets to Purchaser in accordance with the terms of the APA; (b) resolve any other dispute arising under or related to the APA, or the breach thereof; and (c) interpret, implement, and enforce the provisions of this Sale Order and resolve any disputes related thereto.

21. Purchaser is a good faith purchaser of the Assets and is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code. Accordingly, any reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to Purchaser.

22. The APA and any related agreements, documents, or other instruments may be modified, amended, or supplemented in accordance with the terms thereof without further order of this Court if it would not have an adverse impact on the consideration to be paid to creditors and would not alter the distribution waterfall in paragraph 10 above.

23. This Order shall be binding in all respects upon (a) each Debtor, (b) its estate, (c) all creditors and other holders of Liens and Claims, (d) all counterparties to Assigned Contracts, (e) Purchaser and all successors and assigns of Purchaser, and (f) any trustees subsequently appointed upon conversion of this case to a case or cases under Chapter 7 of the Bankruptcy Code; provided that, in the event Closing does not occur by December 31, 2019, all creditors and other holders of Liens and Claims shall have the right to move for reconsideration of the effectiveness of this Order and/or for relief from the automatic stay, and nothing herein shall constitute a waiver, releases, or agreement to forbear from exercising whatever rights and remedies creditors may have under the Bankruptcy Code or under applicable non-bankruptcy law, which rights and remedies are expressly reserved.

# # #

I certify that I have complied with the requirements of LBR 9021-1(a).

Presented by:

TONKON TORP LLP

By /s/ Michael W. Fletcher

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RECORDED: 01/14/2020

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