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SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 30, 2003

GALAXY NUTRITIONAL FOODS, INC.
(Exact Name of Registrant as Specified in Charter)

Delaware (State or other jurisdiction of incorporation)	1-15345 (Commission File Number) Identification No.)	25-1391475 (IRS Employer
---	--	-----------------------------

2441 Viscount Row Orlando, Florida (Address of principal executive offices)	32809 (Zip Code)
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Registrant's telephone number, including area code: (407) 855-5500

(Former name or former address, if changed since last report.)

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ITEM 1. CHANGES IN CONTROL OF REGISTRANT.

Not applicable.

ITEM 2. ACQUISITION OR DISPOSITION OF ASSETS.

Not applicable.

ITEM 3. BANKRUPTCY OR RECEIVERSHIP.

Not applicable.

ITEM 4. CHANGES IN REGISTRANT'S CERTIFYING ACCOUNTANT.

Not applicable.

ITEM 5. OTHER EVENTS

NEW ASSET-BASED CREDIT FACILITY

Effective May 30, 2003, Galaxy Nutritional Foods, Inc. (the "Company") obtained from Textron Financial Corporation ("TFC") a revolving credit facility (the "TFC Loan") in the maximum principal amount of \$7,500,000 pursuant to the terms and conditions of a Loan and Security Agreement dated as of May 27, 2003 (the "Loan Agreement"). The TFC Loan is secured by the Company's inventory, accounts receivable and all other assets. Generally, subject to the maximum principal amount which can be borrowed under the TFC Loan and certain reserves that must be maintained during the term of the TFC Loan, the amounts available under the TFC Loan for borrowing by the Company from time to time is equal to the sum of (i) up to eight-five percent (85%) of the net amount of its eligible accounts receivable plus (ii) up to sixty percent (60%) of the Company's eligible inventory not to exceed \$3,500,000.00. The criteria for the eligibility of accounts receivable and inventory is set forth in the Loan Agreement, however whether accounts receivable and inventory constitute eligible accounts receivable and inventory is also subject to determination by TFC in its sole discretion. Advances under the TFC Loan bear interest at a variable rate, adjusted on the first (1st) day of each month, equal to the prime rate plus one and three-quarter percent (1.75%) per annum calculated on the average cash borrowings for the preceding month. The TFC Loan matures and the entire outstanding principal balance, all accrued but unpaid interest, and all other costs, expenses, fees and other amounts due under the Loan Agreement or other documents executed in connection with the TFC Loan or contemplated by the Loan Agreement, are due and payable in full on May 26, 2006.

Because the TFC Loan is a revolving credit facility, amounts available for borrowing under the TFC Loan may be borrowed, repaid and reborrowed over the course of the TFC Loan, subject to the terms and conditions of the Loan Agreement. Under the Loan Agreement and related loan documents, all revenues generated by the Company, other than certain de minimus amounts, are deposited in a lockbox account maintained by the Company but controlled by TFC. All such revenues are automatically used to repay amounts owing to TFC under the TFC Loan which, in turn, will create borrowing availability under the TFC Loan subject to the limitations on such borrowing availability set forth in the Loan Agreement and the Company's compliance with the terms and conditions of the Loan Agreement and related loan documents.

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The TFC Loan replaced the Company's previous asset-based credit facility with FINOVA Capital Corporation which was paid in full as of May 30, 2003.

On June 2, 2003, the Company issued a press release disclosing the making of the TFC Loan. A copy of the press release is attached hereto as an exhibit.

NEW SOUTHTRUST BANK TERM LOAN AND MODIFICATIONS TO EXISTING SOUTHTRUST BANK TERM LOANS

Simultaneously with the closing of the TFC Loan, SouthTrust Bank, the Company's term lender ("SouthTrust"), extended the Company an additional term loan in the principal amount of \$2,000,000, the proceeds of which were used to repay, in part, the Company's mezzanine loan from FINOVA Mezzanine Capital, Inc. The new loan was consolidated with the Company's existing term loan which had an outstanding principal balance of approximately \$8,100,000 for a total term loan amount of approximately \$10,100,000 (the "SouthTrust Loan"). The SouthTrust Loan

bears interest at the rate of SouthTrust's base rate of interest plus 1%, an increase of 1% over the prior term loan. SouthTrust also extended the maturity date of the SouthTrust Loan from March 2005 to June 2009. The SouthTrust Loan is secured by all of the Company's equipment and certain related assets.

SouthTrust also renewed the Company's working capital term loan in the principal amount of \$501,000, extending the maturity date from October 2003 to April 2004 and providing for a fully amortizing payment schedule over the term of the loan.

The Company issued to SouthTrust a warrant on May 29, 2003 to purchase 100,000 shares of the Company's common stock, \$.01 par value. The warrant is exercisable until June 1, 2009 at a per share exercise price of \$1.97. The closing sale price of the Common Stock on the AMEX Stock Exchange on May 28, 2003 was \$2.25.

On June 2, 2003, the Company issued a press release disclosing the making of the new loan and the modifications to the existing loans. A copy of the press release is attached hereto as an exhibit.

PRIVATE PLACEMENT OF SECURITIES

On May 30, 2003, the Company completed a private placement of its Common Stock, \$.01 par value, issuing a total of 2,138,891 shares to seven investors for aggregate gross proceeds to the Company of \$3,850,000. The purchase price of the shares was \$1.80 per share. The closing sale price of the Common Stock on the AMEX Stock Exchange on May 29, 2003 was \$2.15. The shares are restricted securities that have not been registered under the Act and may not be offered or sold in the United States absent registration or applicable exemptions and registration requirements. The Company has undertaken the obligation to file a registration statement with the Securities and Exchange Commission within 180 days of closing to register the shares issued in the private placement.

A portion of the proceeds generated from the private placement were used to repay the balance of the Company's mezzanine loan from FINOVA Mezzanine Capital, Inc. after application of the proceeds from the new loan from SouthTrust. The Company intends to utilize the remainder of the proceeds for working capital and general corporate purposes.

On June 2, 2003, the Company issued a press release disclosing the sale of the shares. A copy of the press release is attached hereto as an exhibit.

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MASTER DISTRIBUTION AND LICENSING AGREEMENT

The Company has entered into a Master Distribution and Licensing Agreement (the "Agreement") with Fromageries Bel S.A. ("Bel"), a leading branded cheese company in Europe, whose brands include Mini Babybel, The Laughing Cow, Kaukauna, Bonbel, Kiri, Port-Salut, Sylphide and the recently acquired Leerdammer. The Agreement became effective upon the closing of the TFC Loan, the new loan from SouthTrust and the private placements described above. Bel also participated in the private placement with a \$2,000,000 investment.

Under the Agreement, the Company has granted Bel exclusive distribution rights for the Company's products (the "Products") in a territory comprised of the European Union States and to more than 21 other European countries and territories (the "Territory"). The Company has also granted Bel the exclusive option during the term of the Agreement to elect to manufacture the Products designated by Bel for distribution in the Territory.

The term of the Agreement is ten years, provided that either of the parties may elect to terminate the Agreement by delivery of notice to the other between March 24, 2007 and May 22, 2007, which termination shall be effective as of first anniversary of the date of the notice of termination. Alternatively, the parties may mutually agree to continue operating under the Agreement, to convert the Agreement to a manufacturing and license agreement, or to terminate the Agreement.

Pricing for Bel's purchase of Products for distribution is based on cost plus a multiplier formula as set forth in Exhibit 3 of the Agreement. The multiplier shall be determined by the parties on a country-by-country basis. The Agreement also provides that Bel is required to order Products in minimum purchase quantities as set forth in Exhibit 4 of the Agreement for certain Products and as may be established by the Company for other Products. Delivery of Products to Bel shall be made FOB, U.S. port of shipment. Payment by Bel for purchases shall be made by irrevocable letters of credit denominated in U.S. dollars to be drawn upon when the Company delivers Products to the common carrier at the U.S. port of shipment. Bel will distribute the Products within the Territory under trademarks and branding developed and owned by Bel and may determine, in its discretion, the price it will charge purchasers for the Products in the Territory.

In the event Bel exercises its option to manufacture any of the Company's

products, the parties shall negotiate and enter into a manufacturing and license agreement setting forth the terms and conditions of the license. Bel shall pay to the Company a royalty of 3 - 5% of the aggregate net sales of the products Bel elects to manufacture, and annual royalties shall be subject to a minimum to be agreed upon by the parties. In the event the Company and Bel are unable to agree to the minimum annual royalty amounts or any other term that is required to appear in the manufacturing agreement, they will refer the matter to a neutral party who will establish the term in dispute whereupon it will become a part of the manufacturing agreement.

The Agreement also contains other material terms and conditions including additional covenants, representations and warranties, indemnification provisions and other customary provisions.

On June 2, 2003, the Company issued a press release disclosing the alliance with Bel and the Agreement. A copy of the press release is attached hereto as an exhibit.

ITEM 6. RESIGNATIONS OF REGISTRANT'S DIRECTORS.

Not applicable.

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ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS.

Exhibit 10.1 Loan and Security Agreement dated as of May 27, 2003 between Galaxy Nutritional Foods, Inc. and Textron Financial Corporation (Filed herewith.)

Exhibit 10.2 Patent, Copyright and Trademark Collateral Security Agreement dated as of May 27, 2003 between Galaxy Nutritional Foods, Inc. and Textron Financial Corporation (Filed herewith.)

Exhibit 10.3 Renewal Promissory Note in the principal amount of \$10,131,984.85 dated as of May 28, 2003 by Galaxy Nutritional Foods, Inc. in favor of SouthTrust Bank (Filed herewith.)

Exhibit 10.4 Renewal Promissory Note in the principal amount of \$501,000.00 dated as of May 28, 2003 by Galaxy Nutritional Foods, Inc. in favor of SouthTrust Bank (Filed herewith.)

Exhibit 10.5 Amendment of Loan Agreement dated as of May 28, 2003 between Galaxy Nutritional Foods, Inc. and SouthTrust Bank (Filed herewith.)

Exhibit 10.6 Amendment of Security Agreement dated as of May 28, 2003 between Galaxy Nutritional Foods, Inc. and SouthTrust Bank (Filed herewith.)

Exhibit 10.7 Warrant to Purchase Securities of Galaxy Nutritional Foods, Inc. dated as of May 29, 2003 in favor of SouthTrust Bank (Filed herewith.)

Exhibit 10.8 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Fromageries Bel S.A. (Filed herewith.)

Exhibit 10.9 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Fromageries Bel S.A. (Filed herewith.)

Exhibit 10.10 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Frederick A. DeLuca (Filed herewith.)

Exhibit 10.11 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Frederick A. DeLuca (Filed herewith.)

Exhibit 10.12 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Apollo Capital Management Group, L.P. (Filed herewith.)

Exhibit 10.13 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Apollo Capital Management Group, L.P. (Filed herewith.)

Exhibit 10.14 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Apollo MicroCap Partners, L.P. (Filed herewith.)

Exhibit 10.15 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Apollo MicroCap Partners, L.P. (Filed herewith.)

Exhibit 10.16 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Ruggieri of Windermere Family

Limited Partnership (Filed herewith.)

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Exhibit 10.17 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Ruggieri of Windermere Family Limited Partnership (Filed herewith.)

Exhibit 10.18 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Ruggieri Financial Pension Plan (Filed herewith.)

Exhibit 10.19 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and Ruggieri Financial Pension Plan (Filed herewith.)

Exhibit 10.20 Securities Purchase Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and David Lipka (Filed herewith.)

Exhibit 10.21 Registration Rights Agreement dated as of May 21, 2003 between Galaxy Nutritional Foods, Inc. and David Lipka (Filed herewith.)

Exhibit 10.22 Master Distribution and License Agreement dated as of May 22, 2003 between Galaxy Nutritional Foods, Inc. and Fromageries Bel S.A. (Filed herewith.)

Exhibit 99.1 Refinancing Press Release issued by the Company on June 2, 2003 (Filed herewith.)

Exhibit 99.2 Equity Press Release issued by the Company on June 2, 2003 (Filed herewith.)

Exhibit 99.3 Fromageries Bel Press Release issued by the Company on June 2, 2003 (Filed herewith.)

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

GALAXY NUTRITIONAL FOODS, INC.

June 2, 2003

By: /s/ Christopher J. New

Christopher J. New, Chief Executive Officer

Filename: ex101-603.txt
Type: EX-10.1
Comment/Description: Loan and Security Agreement
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LOAN AND SECURITY AGREEMENT

Between

TEXTRON FINANCIAL CORPORATION

As Lender

and

GALAXY NUTRITIONAL FOODS, INC.

As Borrower

Dated as of May 27, 2003

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LOAN AND SECURITY AGREEMENT

Dated as of May 27, 2003

GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation ("Borrower") and TEXTRON FINANCIAL CORPORATION, a Delaware corporation ("Lender"), agree as follows:

DEFINITIONS

As used in this Agreement:

"Account" or "Accounts" means all now owned or hereafter acquired right, title and interest in all accounts, as such term is defined in the UCC, and any and all supporting obligations with respect to any of the foregoing.

"Account Debtor" means a Person to whom Borrower sells inventory, goods or services in the ordinary course of business, including without limitation, each Person who is obligated on a Receivable.

"Additional Documents" has the meaning set forth in Section 3.2(d).

"Adjusted Tangible Net Worth" means, with respect to Borrower, the sum of (i) stockholder's equity, including preferred stock, determined in accordance with GAAP and (ii) subordinated indebtedness (if any), minus the sum of (a) Intangible Assets, (b) all loans or advances to any Person, and (c) prepaid expenses.

"Affiliate" means, with respect to a Person, any Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person. For purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote 10% or more of the securities having ordinary voting power for the election of directors of such Person, or (y) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or partnership or other voting interest, by contract or otherwise.

"Agreement" means this Loan and Security Agreement, including all Schedules, exhibits and other attachments hereto, as the same may be amended, supplemented, extended or restated from time to time.

"Agreement Date" means the date as of which this Agreement is dated.

"Annual Facility Fee" means the fee referred to in Section 2.2.

"Applicable Law" means all applicable provisions of constitutions, statutes, rules, regulations and orders of governmental bodies and orders and decrees of courts and arbitrators.

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"Asset Disposition" means the disposition of any asset owned by Borrower or any of its Subsidiaries, other than sales of Inventory in the ordinary course of business.

"Availability" means at any time (a) the amount of the Borrowing Base at such time minus (b) the aggregate principal amount of Revolving Loan Advances.

"Availability Reserve" means a reserve based on the requirement that excess Availability under the Revolving Credit Facility be in an amount of not less than \$100,000.00.

"Bankruptcy Code" means the United States Bankruptcy Code, as in effect from time to time.

"Board" means the duly elected and serving members of the Board of Directors of Borrower.

"Borrower" means Borrower as defined in the preamble.

"Borrower's Incorporation Certificate" means Borrower's Restated Certificate of Incorporation filed December 23, 2002 with the Secretary of State, State of Delaware.

"Borrowing" means a borrowing of Revolving Loan Advances.

"Borrowing Base" means, with respect to Borrower, an amount in dollars equal to the lesser of (a) the Revolving Credit Limit, or (b) the sum, without duplication, of: (i) up to eight-five percent (85%) of the net amount of the Eligible Receivables; plus (ii) up to sixty percent (60%) of the Eligible Inventory not to exceed \$3,500,000.00; minus (iii) the Availability Reserve;

minus (iv) the Dilution Reserve, and minus (v) other Reserves, if any.

"Borrowing Base Certificate" means the Borrowing Base Certificate referred to in Section 1.2.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks in Providence, Rhode Island are authorized or required to close.

"Capital Expenditures" means the aggregate of all expenditures made and liabilities incurred that, in accordance with GAAP, are required to be included in or reflected by the property, plant, equipment or similar fixed assets accounts.

"Capitalized Lease" means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Change of Control" means the occurrence of any of the following events: (i) the sale or transfer of all or substantially all of the assets of Borrower as an entirety to any Person or related group of Persons other than an Affiliate or Affiliates of Borrower; or (ii) Borrower is liquidated, dissolved, or adopts a plan of liquidation pursuant to the Bankruptcy Code or any other bankruptcy law.

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"Closing Date" means the date of the funding of an initial Revolving Loan Advance under this Agreement.

"Closing Fee" means the fee referred to in Section 2.1.

"Collateral" means all of Borrower's assets, including, without limitation, all of the following property and interests in property of Borrower, wherever located and whether now or hereafter existing or now owned or hereafter acquired or arising: (i) all Receivables; (ii) all Inventory; (iii) all Equipment; (iv) all Contract Rights; (v) all General Intangibles; (vi) all Investment Property; (vii) each Deposit Account and all certificates of deposit maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit that is an instrument under the UCC; (viii) all goods and other property, whether or not delivered, (a) the sale or lease of which gives or purports to give rise to any Receivable, including, but not limited to, all merchandise returned or rejected by or repossessed from customers, or (b) securing any Receivable, including, without limitation, all rights as an unpaid vendor or lienor (including, without limitation, stoppage in transit, replevin and reclamation) with respect to such goods and other property; (ix) all mortgages, deeds to secure debt and deeds of trust on real or personal property, guaranties, leases, security agreements, and other agreements and property which secure or relate to any Receivable or other Collateral, or are acquired for the purpose of securing and enforcing any item thereof; (x) all documents of title, policies and certificates of insurance, securities, chattel paper (including electronic chattel paper and tangible chattel paper) and other documents and instruments; (xi) all other goods and personal property, whether tangible or intangible, wherever located, including money, supporting obligations, letters of credit, and each Letter-of-credit right; (xii) all files, correspondence, computer programs, tapes, discs and related data processing software which contain information identifying or pertaining to any of the Receivables, or any Account Debtor, or showing the amounts thereof or payments thereon or otherwise necessary or helpful in the realization thereon or the collection thereof; (xiii) any "commercial tort claims" as that term is defined in the UCC (as identified by the parties in writing from time to time) and (xiv) any and all products and proceeds of the foregoing (including, but not limited to, any claim to any item referred to in this definition, and any claim against any third party for loss of, damage to or destruction of any or all of, the Collateral or for proceeds payable under, or unearned premiums with respect to, policies of insurance) in whatever form, including, but not limited to, cash, negotiable instruments and other instruments for the payment of money, chattel paper, security agreements and other documents.

"Contaminant" means any waste, pollutant, hazardous substance, toxic substance, hazardous waste, special waste, petroleum or petroleum-derived substance or waste, or any constituent of any such substance or waste.

"Contract Rights" means any rights under contracts not yet earned by performance and not evidenced by an instrument or chattel paper.

"Covenant Compliance Certificate" means the Covenant Compliance Certificate referred to in Section 6.1.

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"Default" shall mean an event or condition the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of

Default.

"Deposit Account" has the meaning given to it in the UCC.

"Deposit Account Control Agreement" means each Deposit Account Control Agreement among Borrower, Lender and the bank named therein, pursuant to which Lender shall have been granted a first priority lien and security interest in the deposit account more particularly described therein.

"Dilution Reserve" means the reserve established by Lender in an amount not greater than the amount by which credits, returns, discounts and allowances related to the Receivables exceed five percent (5%) of the Receivables, which shall be effective upon receipt by Lender of the most recently completed report of the field examination of the books, records and other assets of Borrowers conducted pursuant to Section 3.2 or under any other provision of this Agreement.

"Dollar" and "\$" means freely transferable United States dollars.

"Early Termination Fee" means the fee referred to in Section 2.5.

"EBITDA" means, for any period, the sum of the amounts for such period of (a) Net Income, (b) Interest Expense, (c) taxes imposed on or measured by income or excess profits (for such period and without regard to any prior periods), (d) the amount of all depreciation and amortization allowances and (e) other non-cash stock compensation expenses and benefits of Borrower.

"Eligible Inventory" means that portion of Borrower's Inventory on which Lender has a first and exclusive perfected security interest and that Lender determines in its sole discretion from time to time, based on credit policies, market conditions, Borrower's business and financial condition and other matters, is eligible for use in calculating the Borrowing Base. For purposes of determining the Borrowing Base, Eligible Inventory shall not include: (a) work in process, (b) slow-moving, obsolete, or discontinued Inventory, (c) supply items, pallets or packaging, (d) Inventory in the control of a third person for processing, storage or otherwise unless the Borrower shall have obtained and delivered to Lender a bailee or other appropriate waiver, in form and substance satisfactory to Lender, the original documents or other instruments evidencing such Inventory, or such other agreements or other documents as Lender shall require in its sole and absolute discretion, (e) Inventory of an age within ninety (90) days of its respective expiration dates; (f) consigned Inventory, (g) Inventory in transit, (h) Inventory held by Borrower for lease or to be furnished under a contract of service, (i) Inventory associated with any contract of which Borrower has knowledge that the same may be subject to cancellation or a material adverse development, (j) Inventory located other than at the Orlando Warehouses, (k) Inventory associated with any contract to the extent that progress or advance payments are received from the Account Debtor such that Inventory is identified to such contract, or (l) Inventory the value of which may be otherwise impaired as determined by Lender in its sole discretion. For purposes of this definition, Inventory that at any time is or becomes Eligible Inventory, but which subsequently fails to meet any of the requirements of this definition shall

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cease to be Eligible Inventory (but shall continue to be part of the Collateral) for so long as the same fails to meet such requirements.

"Eligible Receivable" means any Receivable of Borrower that consists of the unpaid portion of the obligation stated on the invoice issued to an Account Debtor with respect to Inventory sold and shipped to or services performed for such Account Debtor in the ordinary course of business that Lender determines in its sole and good faith discretion, based on credit policies, market conditions, Borrower's business and other criteria, is eligible. A Receivable shall not be an Eligible Receivable unless such Receivable (i) is subject to Lender's perfected first priority security interest and no other Lien, (ii) is evidenced by an invoice or other documentary evidence satisfactory to Lender that has been sent to the Account Debtor, (iii) is unconditionally due and payable in Dollars or Canadian currency, and (iv) conforms to the warranties regarding Accounts and Receivables contained in this Agreement. Eligible Receivables shall not include any of the following:

(a) a Receivable that is unpaid more than ninety (90) days after the original invoice date thereof or is Receivable with payment terms of more than sixty (60) days from the original invoice date;

(b) a Receivable where fifty percent (50%) or more of all Receivables of the Account Debtor or an affiliated group of Account Debtors (in dollar value) are not Eligible Receivables pursuant to clause (a) above;

(c) a Receivable owed by an Account Debtor, or affiliated group of Account Debtors, which is obligated to Borrower respecting Receivables, the aggregate unpaid balance of which exceeds fifteen percent (15%) (unless otherwise agreed

to in writing by Lender) of the aggregate unpaid balance of all otherwise Eligible Receivables owed to Borrower at such time by such Account Debtors, but only to the extent of such excess;

(d) a Receivable that (i) arises from uncompleted performance on the part of Borrower, (ii) constitutes a progress billing, advance billing, any retention amount, or retainage, (iii) is a guaranteed sale, a sale and return, or other repurchase or return basis; or (iv) is a "bill and hold" or involves a sale of goods, and all such goods have not been lawfully shipped and invoiced to the Account Debtor (or if requested by Lender, copies of all invoices, together with all shipping documents and delivery receipts evidencing such shipment have not been delivered to Lender), unless such Account Debtor enters into a "bill and hold" agreement or similar agreement with Borrower acceptable to Lender in its discretion;

(e) a Receivable with respect to which the Account Debtor is either (i) the United States or any department, agency, or instrumentality of the United States (other than Receivables with respect to which Borrower has complied, to the satisfaction of Lender, with the Assignment of Claims Act of 1940, as amended), or (ii) any state of the United States (other than (y) Receivables owed by any state that does not have a statutory counterpart to the Assignment of Claims Act or (z) Receivables owed by any state that has a statutory counterpart to the Assignment of Claims Act as to which Borrower has complied to Lender's satisfaction);

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(f) a Receivable that arises from an Account Debtor that is a creditor of Borrower, has threatened or asserted a right of setoff, has disputed its liability or has made any claim with respect to its obligation to pay, or a Receivable that is subject to a levy, prior assignment, claim, Lien, subrogation right or security interest, except that, if such Account Debtor enters into a written set off agreement with Borrower acceptable to Lender in its sole discretion, then, in such case, the amount by which such Receivable excess the amount of such offset will be considered eligible;

(g) a Receivable that is subject to any credit or contra provided, however, that if the amount of such Receivable exceeds the amount of such credit or contra, such excess may be considered for eligibility;

(h) a Receivable that arises from an Affiliate of Borrower or an Interested Party;

(i) a Receivable that arises from an Account Debtor (i) that is subject to an Insolvency Proceeding, is not solvent or has gone out of business; (ii) to whom goods are being shipped on a "cash on delivery" or C.O.D. basis; or (iii) as to which Lender or Borrower are aware of an imminent Insolvency Proceeding or a material impairment of the financial condition;

(j) a Receivable with respect to which the Account Debtor is located in the states of New Jersey, Minnesota, or West Virginia (or any other state that requires a creditor to file a business activity report or similar document in order to bring suit or enforce its remedies against such Account Debtor in the courts or through any judicial process of such state), unless Borrower (i) has qualified to do business in New Jersey, Minnesota, West Virginia, or such other states, (ii) has filed a business activities report with the applicable division of taxation, the department of revenue, or with such other state offices, as appropriate, for the then-current year, or (iii) is exempt from such filing requirement;

(k) a Receivable that is evidenced by any chattel paper, promissory note, payment instrument or written agreement or arises from the sale of goods by Borrower to any Account Debtor purchasing such goods primarily for personal, family or household purposes, or on a sale or return or other conditional basis;

(l) a Receivable that arises from an Account Debtor whose chief executive office or place of organization is outside the United States or any of the following provinces of Canada: Ontario, Alberta, Manitoba, Saskatchewan, British Columbia, Prince Edward Island and the Yukon Territory, unless (i) the payment for such Receivable is assured by an irrevocable letter of credit payable in United States dollars satisfactory to Lender (as to form, substance, issuer and domestic confirming bank), the proceeds of which have been assigned to Lender and the original letter of credit has been delivered to Lender and directly drawable by Lender, or (ii) the payment for such Receivable is insured by foreign credit insurance acceptable to Lender, such credit insurance has been collaterally assigned to Lender in form satisfactory to Lender, and Lender has been named beneficiary with respect thereto;

(m) a Receivable arising from the delivery of any toolings, samples, trial merchandise, promotional or demonstration material; or

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(n) a Receivable for which Lender has notified Borrower that the Receivable or the Account Debtor is unsatisfactory or unacceptable (which Lender reserves the right to do in its sole good faith discretion at any time).

For purposes of this definition, any Receivable that at any time is or becomes an Eligible Receivable, but which subsequently fails to meet any of the requirements of this definition, shall cease to be an Eligible Receivable (but shall continue to be part of the Collateral) for so long as the same fails to meet such requirements.

"Environmental Laws" means all federal, state, local and foreign laws now or hereafter in effect relating to pollution or protection of the environment, including laws relating to emissions, discharges, Releases or threatened Releases of pollutants, Contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment (including, without limitation, ambient air, surface water, ground water, or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, removal, transport, or handling of pollutants, Contaminants, chemicals, or industrial, toxic or hazardous substances or wastes, and all regulations, notices or demand letters issued, entered, promulgated or approved thereunder.

"Equipment" means and includes, all machinery, apparatus, equipment, motor vehicles, tractors, trailers, rolling stock, fittings, fixtures and other tangible personal property (other than Inventory) of every kind and description used in Borrower's business operations or owned by Borrower or in which Borrower has an interest, and all parts, accessories and special tools and all increases and accessions thereto and substitutions and replacements therefor.

"ERISA" means the Employee Retirement Income Security Act of 1974, as in effect from time to time.

"Escrow Agreement" means that certain Escrow Agreement, dated as of the Agreement Date among Lender, Borrower, SouthTrust, Gibraltar Bank, FSB, and each other party who is a signatory thereto.

"Event of Default" means an event described in Section 9.1 of the Agreement.

"FDA" means the Food and Drug Administration.

"Financing Statements" means any and all Uniform Commercial Code financing statements, in form and substance satisfactory to Lender, naming Lender as secured party, and Borrower as debtor.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of Borrower that ends on the last day of March of each year.

"Fixed Charge Coverage Ratio" means, for any period, the ratio of (i) Borrower's EBITDA minus Unfunded Capital Expenditures minus taxes actually paid by Borrower in cash minus distributions and dividends paid by Borrower in cash, to (ii) Borrower's Interest Expense

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plus scheduled amortization payments (including Capitalized Lease payments) made by Borrower, in each case for such period.

"GAAP" means generally accepted accounting principles consistently applied and maintained throughout the period indicated and, when used with reference to Borrower or any Subsidiary of Borrower, consistent with the prior financial practices of Borrower.

"General Intangibles" means all of Borrower's now owned or hereafter acquired general intangibles, choses in action and causes of action and all other intangible personal property of Borrower of every kind and nature (other than Accounts), including, without limitation, all Proprietary Rights, corporate or other business records, inventions, designs, blueprints, plans, specifications, goodwill, computer software, customer lists, registrations, licenses, franchises, tax refund claims, reversions or any rights thereto and any other amounts payable to Borrower from any Plan or other employee benefit plan, rights and claims against carriers and shippers, rights to indemnification, business interruption insurance and proceeds thereof, property, casualty or any similar type of insurance and any proceeds thereof, proceeds of insurance covering the lives of key employees on which Borrower is beneficiary and any letter of credit, guarantee, claims, security interest or other security held by or granted to Borrower to secure payment by an Account Debtor of any of the Accounts.

"Governmental Approvals" means all authorizations, consents, approvals,

licenses and exemptions of, registrations and filings with, and reports to, all governmental bodies, whether federal, state, local or foreign national or provincial and all agencies thereof.

"Indebtedness" of any Person means, without duplication, all Liabilities of such Person, and to the extent not otherwise included in Liabilities, the following: (a) all obligations for Money Borrowed or for the deferred purchase price of property or services, (b) all obligations (including, during the noncancellable term of any lease in the nature of a title retention agreement, all future payment obligations under such lease discounted to their present value in accordance with GAAP) secured by any Lien to which any property or asset owned or held by such Person is subject, whether or not the obligation secured thereby shall have been assumed by such Person, (c) all obligations of other Persons which such Person has guaranteed, including, but not limited to, all obligations of such Person consisting of recourse liability with respect to accounts receivable sold or otherwise disposed of by such Person, and (d) in the case of Borrower (without duplication) all Obligations under the Loan Documents, provided that Indebtedness shall not include unsecured trade payables or trade credit incurred by Borrower.

"Initial Term" means the three (3) year period commencing on the Agreement Date.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization arrangement, or other similar relief.

"Intangible Assets" means, with respect to any Person, that portion of the book value of all of such Person's assets that would be treated as intangibles under GAAP.

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"Interest Expense" means for any period as determined in conformity with GAAP, total interest expense, whether paid or accrued or due (including without limitation, in respect of the Loans and subordinated debt, if any) and payable, including without limitation, the interest component of Capitalized Lease obligations for such period, all bank fees that are in the nature of interest and (to the extent not duplicative) net costs under swap, cap or other interest rate contracts, but excluding amortized loan costs and bank charges.

"Interest Rate" means a variable rate, adjusted monthly on the first (1st) day of each month during the Initial Term and each Renewal Term, equal to the Prime Rate plus one and three-quarter percent (1.75%) per annum calculated on the average cash borrowings for the preceding month. In each case, the Interest Rate shall not be subject to rebate or proration upon the termination of this Agreement for any reason.

"Interested Party" means (a) any highly compensated employee of Borrower (that is, any employee with annual income equal or greater to the then current standard set forth in Section 414(q)(1)(B)(i) of the Internal Revenue Code), (b) any shareholder holding 10% or more of the outstanding voting securities of Borrower, and (c) any director of Borrower.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as in effect from time to time.

"Inventory" means all inventory as such term is defined in the Uniform Commercial Code and shall include, without limitation, (a) all goods intended for sale or lease by Borrower, for display or demonstration and all other products intended for sale by Borrower to its customer, (b) all work-in-process, (c) all raw materials or other materials and supplies of every nature and description used or which might be used in connection with the manufacture, packing, shipping, advertising, selling, leasing or furnishing of such goods or otherwise used or consumed in Borrower's business, and (d) all documents evidencing and general intangibles relating to any of the foregoing.

"Investment" means, with respect to any Person; (a) the acquisition or ownership by such Person of any share of capital stock, evidence of Indebtedness (which shall not include funds on deposit in demand deposit accounts) or other security issued by any other Person, (b) any loan, advance or extension of credit to, or contribution to the capital of, any other Person, excluding advances to employees in the ordinary course of business for business expenses, (c) the obligations of any other Person that are guaranteed by such Person, (d) any other investment in any other Person, and (e) any commitment or option to make any of the investments listed in clauses (a) through (d) above.

"Investment Property" has the meaning given to it in the UCC.

"Lender" shall mean Textron Financial Corporation, a Delaware corporation.

"Letter-of-credit right" has the meaning given to it in the UCC.

"Liabilities" of any Person means all items (except for items of capital stock, additional paid-in capital or retained earnings, or of general contingency or deferred tax reserves) which in accordance with GAAP would be included in determining total liabilities as shown on the

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liability side of a balance sheet of such Person as at the date as of which Liabilities are to be determined.

"Lien" as applied to the property of Borrower or any Person means: (a) any mortgage, deed to secure debt, deed of trust, lien, pledge, charge, lease constituting a Capitalized Lease obligation, conditional sale or other title retention agreement, or other security interest, security title or encumbrance of any kind in respect of any property of such Person, or upon the income or profits therefrom, (b) any arrangement, express or implied, under which any property of such Person is transferred, sequestered or otherwise identified for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to the payment of the general, unsecured creditors of such Person, and (c) the filing of, or any agreement to give, any financing statement under the Uniform Commercial Code or its equivalent in any jurisdiction, excluding informational financing statements relating to property leased by such Person.

"Loan Documents" means collectively this Agreement, the Security Documents and each other instrument, agreement or document executed by Borrower or any other Person in connection with this Agreement, whether prior to, on or after the Agreement Date.

"Loans" means the Revolving Loan Advances.

"Lockbox" means each United States Post Office Box specified in the Lockbox Agreement.

"Lockbox Agreement" means each agreement between Borrower and a bank concerning the establishment of the Lockbox and related bank deposit account for the collection of and remittance to Lender of Receivables.

"Materially Adverse Effect" means any act, omission, situation, circumstance, event or undertaking which would, singly or in any combination with one or more other acts, omissions, situations, circumstances, events or undertakings have, or reasonably be expected to have, a materially adverse effect upon (a) the business, assets, properties, liabilities, financial condition and results of operations of Borrower and its Subsidiaries taken as a whole, (b) the value of the Collateral, (c) the Security Interest or the priority of the Security Interest, (d) the respective ability of Borrower or any other obligor to perform any material obligations under this Agreement or any other Loan Document to which it is a party, or (e) the legality, validity, binding effect, enforceability or admissibility into evidence of any Loan Document or the ability of Lender to enforce any material rights or remedies under or in connection with any Loan Document.

"Money Borrowed" means, as applied to Indebtedness, (a) Indebtedness for money borrowed, (b) Indebtedness, whether or not in any such case the same was for money borrowed, (i) represented by notes payable, and drafts accepted, that represent extensions of credit, (ii) constituting obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) upon which interest charges are customarily paid or that was issued or assumed as full or partial payment for property, (c) Indebtedness that constitutes a Capitalized Lease obligation, and (d) Indebtedness that is such by virtue of clause (c) of the definition thereof, but only to the extent

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that the obligations guaranteed are obligations that would constitute Indebtedness for Money Borrowed, provided that Money Borrowed shall not include unsecured trade payables and other trade credit incurred in the ordinary course of business.

"Net Income" means, as applied to any Person, the net income (or net loss) of such Person for the period in question after giving effect to deduction of or provision for all operating expenses, all taxes and reserves (including reserves for deferred taxes) and all other proper deductions, all determined in accordance with GAAP, provided that there shall be excluded: (a) the net income (or net loss) of any Person accrued prior to the date it becomes a Subsidiary of, or is merged into or consolidated with, the Person whose Net Income is being determined or a Subsidiary of such Person, (b) the net income (or net loss) of any Person in which the Person whose Net Income is being determined or any Subsidiary of such Person has an ownership interest, except, in the case of net

income, to the extent that any such income has actually been received by such Person or such Subsidiary in the form of cash dividends or similar distributions, (c) any restoration of any contingency reserve, except to the extent that provision for such reserve was made out of income during such period, (d) any net gains or losses on the sale or other disposition, not in the ordinary course of business, of Investments, business units and other capital assets, provided that there shall also be excluded any related charges for taxes thereon, (e) any net gain arising from the collection of the proceeds of any insurance policy, (f) any write-up of any asset, and (g) any other extraordinary item.

"Net Proceeds" means proceeds received by Borrower or any of its Subsidiaries in cash from any Asset Disposition (including, without limitation, payments under notes or other debt securities received in connection with any Asset Disposition), net of: (a) the transaction costs of such sale, lease, transfer or other disposition; (b) any tax liability arising from such transaction; and (c) amounts applied to repayment of Indebtedness (other than the Obligations) secured by a Lien on the asset or property disposed.

"Notice of Borrowing" means a telephonic or electronic notice followed by a confirming same-day written notice requesting a Borrowing, which is given by telex or facsimile transmission in accordance with the applicable provisions of this Agreement and which specifies (i) the amount of the requested Borrowing, and (ii) the date of the requested Borrowing.

"Obligations" means, in each case whether now in existence or hereafter arising, (a) the principal of, and interest and premium, if any, on, the Revolving Loan Advances, and (b) all indebtedness, liabilities, obligations, covenants and duties of Borrower to Lender of every kind, nature and description arising under this Agreement, or any of the other Loan Documents, or in connection with the Revolving Credit Facility, whether direct or indirect, absolute or contingent, due or not due, contractual or tortious, liquidated or unliquidated, and whether or not evidenced by any note, and whether or not for the payment of money, including without limitation, fees and expenses required to be paid or reimbursed pursuant to this Agreement.

"Obligor" means Borrower and any Person who may now or in the future guaranty the payment and performance of the whole or any part of the Obligations.

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"Orlando Warehouses" means those certain warehouses located at 2441 Viscount Row, Orlando, Florida and 2901 Titan Row, Orlando, Florida, for which each landlord has provided a Landlord's Waiver and Consent on terms and conditions acceptable to Lender.

"Payable Reserve" means a reserve required by Lender from time to time in the exercise of its discretion reflecting an amount equal to the sum of accounts payable over sixty (60) days past due for which no accommodation for payment has been made by Borrower to the satisfaction of Lenders in its sole discretion.

"PBGC" means the Pension Benefit Guaranty Corporation and any successor agency.

"Permitted Investments" means Investments of Borrower in: (a) negotiable certificates of deposit or time deposits issued by a state bank or by any United States bank or trust company having capital, surplus and undivided profits in excess of \$1,000,000.00; (b) obligations issued or guaranteed by the United States of America or any agency or instrumentality thereof which has a remaining maturity at the time of purchase of not more than one year and repurchase agreements relating to the same; (c) commercial paper with maturities of not more than 180 days and a published rating of not less than A-1 or P-1 (or the equivalent rating), (d) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof; (e) loans to employees not prohibited under Section 7.3; and (f) advances or extensions of credit made by Borrower in the ordinary course of its business not to exceed \$100,000.00 in the aggregate outstanding at any time.

"Permitted Liens" means: (a) Liens securing taxes, assessments and other governmental charges or levies (excluding any Lien imposed pursuant to any of the provisions of ERISA) or the claims of materialmen, mechanics, carriers, warehousemen or landlords for labor, materials, supplies or rentals incurred in the ordinary course of business, but (i) in all cases only if payment shall not at the time be required to be made, and (ii) in the case of warehousemen or landlords, only if such liens are junior to the Security Interest in any of the Collateral, (b) Liens consisting of deposits or pledges made in the ordinary course of business in connection with, or to secure payment of, obligations under workers' compensation, unemployment insurance or similar legislation or under payment or performance bonds, (c) other Liens on real property owned by Borrower in the nature of zoning restrictions, easements, and rights or restrictions of record on the use of real property, which do not materially detract from the value of such property or impair the use thereof in the

business of Borrower, (d) purchase money Liens, (e) judgment Liens that have been stayed or bonded deposits or pledges made in connection with, or to secure payment of, worker's compensation, (f) unemployment insurance, old age pension programs mandated under Applicable Law or other social security; (g) Liens shown on Schedule 5.5(a), and (h) Liens of Lender arising under this Agreement and the other Loan Documents.

"Person" means any individual, limited liability company, corporation, partnership, association, trust or unincorporated organization, or a government or any agency or political subdivision thereof.

"Plan" means any employee benefit plan as defined in Section 3(3) of ERISA in respect of which Borrower is, or within the immediately preceding six years was, an "employer" as defined in Section 3(5) of ERISA.

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"Prime Rate" means for any month the rate of interest per annum announced or quoted by JPMorgan Chase Bank on the last day of the preceding month as its prime rate for commercial loans, whether or not such rate is the lowest rate charged by JPMorgan Chase Bank to its most preferred borrower, and, if such prime rate for commercial loans is discontinued by JPMorgan Chase Bank as a standard, a comparable reference rate designated by Lender as a substitute therefor shall be the Prime Rate.

"Proprietary Rights" means all of Borrower's now owned and hereafter arising or acquired patents, patent applications, inventions and improvements, copyrights, copyright applications, literary rights, trademarks, trademark applications, trade names, trade secrets, service marks, data bases, computer software and software systems, including the source and object codes, information systems, discs, tapes, customer lists, telephone numbers, credit memoranda, goodwill, licenses, and other intangible property, and all other rights under any of the foregoing, all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing, all income, royalties, damages, claims and payments now or hereafter due and/or payable under or with respect thereto, including without limitation, damages and payments for past and future infringement thereof, and all rights to sue for past, present and future infringement of any of the foregoing.

"Receivable" means and includes (a) any and all rights to the payment of money or other forms of consideration of any kind (whether classified under the Uniform Commercial Code as Accounts, contract rights, chattel paper, general intangibles, or otherwise) including, but not limited to, Accounts, accounts receivable, letters of credit and the right to receive payment thereunder, chattel paper, tax refunds, insurance proceeds, Contract Rights, notes, drafts, instruments, documents, acceptances, and all other debts, obligations and liabilities in whatever form from any Person, (b) all guarantees, security and Liens for payment thereof, (c) all goods, whether now owned or hereafter acquired, and whether sold, delivered, undelivered, in transit or returned, which may be represented by, or the sale or lease of which may have given rise to, any such right to payment or other debt, obligation or liability, and (d) all proceeds of any of the foregoing.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System (or any successor).

"Release" means release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the outdoor environment or into or out of any property, including the movement of Contaminants through or in the air, soil, surface water or groundwater.

"Remedial Action" means actions required to (a) clean up, remove, treat or in any other way address Contaminants in the outdoor environment; (b) prevent the Release or threat of Release or minimize the further Release of Contaminants so they do not migrate or endanger or threaten to endanger public health or welfare or the outdoor environment; or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care.

"Renewal Term" means the extension of this Agreement beyond the Initial Term, as provided for in Section 1.6.

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"Reportable Event" has the meaning set forth in Section 4043(b) of ERISA, but shall not include a Reportable Event as to which the provision for thirty (30) days notice to the PBGC is waived under applicable regulations.

"Reserves" means reserves established against the amount of the Revolving Loan Advances, which Lender in the exercise of its credit judgment and discretion, deems necessary to ensure payment of the Obligations.

"Revenues" shall mean all money, funds, cash, proceeds, or payments of any

kind received by Borrower from all sources, including without limitation, all proceeds of Collateral, including Net Proceeds, insurance proceeds, and all proceeds from the sale of Inventory or other Collateral, whether received in cash, by check, by other instrument, or otherwise.

"Revolving Credit Facility" means the revolving credit facility established under this Agreement in an aggregate principal amount outstanding at any one time of \$7,500,000.00 or such lesser or greater amount as shall be agreed upon from time to time in writing by Lender and Borrower.

"Revolving Loan Advance" means a revolving loan made to Borrower pursuant to Section 1.1 and "Revolving Loan Advances" means more than one Revolving Loan Advance.

"SEC" means the Securities and Exchange Commission.

"Security" shall have the same meaning as in Section 2(1) of the Securities Act of 1933, as amended.

"Security Documents" means each of the following: (a) the Financing Statements, (b) the Trademark Agreement, (c) each Deposit Account Control Agreement, (d) each Lockbox Agreement, and (e) each other writing executed and delivered by Borrower or any other Obligor securing the Obligations or any part thereof.

"Security Interest" means the Liens of Lender on and in the Collateral created or effected hereby or by any of the Security Documents or pursuant to the terms hereof or thereof.

"SouthTrust" means SouthTrust Bank.

"SouthTrust Collateral" means the collateral in which the Borrower has granted to SouthTrust a security interest as more fully described in that certain Security Agreement (Machinery and Equipment) dated as of March 10, 2002, as it has been and may hereafter be amended, supplemented, extended or restated from time to time, and in which SouthTrust has a first priority security interest in accordance with applicable law.

"SouthTrust Debt" means those certain term loans of SouthTrust secured by the SouthTrust Collateral.

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"Subsidiary" means, (a) when used to determine the relationship of a Person to another Person, a Person of which an aggregate of fifty percent (50%) or more of the stock of any class or classes or fifty percent (50%) or more of other ownership interests is owned of record or beneficially by such other Person, or by one or more Subsidiaries of such other Person, or by such other Person and one or more Subsidiaries of such Person, (i) if the holders of such stock, or other ownership interests, (A) are ordinarily, in the absence of contingencies, entitled to vote for the election of a majority of the directors (or other individuals performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency, or (B) are entitled, as such holders, to vote for the election of a majority of the directors (or individuals performing similar functions) of such Person, whether or not the right so to vote exists by reason of the happening of a contingency, or (ii) in the case of such other ownership interests, if such ownership interests constitute a majority voting interest, and (b) when used with respect to a Plan, ERISA or a provision of the Internal Revenue Code pertaining to employee benefit plans, any other corporation, trade or business (whether or not incorporated) which is under common control with Borrower and is treated as a single employer with Borrower under Section 414(b) or (c) of the Internal Revenue Code and the regulations thereunder.

"Termination Date" means the earliest to occur of: (a) the end of the Initial Term, or such later date as to which the same may be extended pursuant to the provisions of Section 1.6, (b) such date as the Obligations shall have been accelerated pursuant to the provisions of Section 9.2, or (c) such date as all Obligations shall have been irrevocably paid in full and the Revolving Credit Facility shall have been terminated.

"Termination Event" means (a) a Reportable Event, or (b) the filing of a notice of intent to terminate a Plan, or the treatment of a Plan amendment as a termination, under Section 4041(c) of ERISA, or (c) the institution of proceedings to terminate a Plan by the PBGC under Section 4042 of ERISA, or the appointment of a trustee to administer any Plan.

"Trademark Agreement" means the Patent, Copyright and Trademark Collateral Assignment and Security Agreement, dated on or about the Agreement Date, made by Borrower to Lender.

"Unfunded Capital Expenditures" means Capital Expenditures that are funded or financed with the proceeds of any Borrowing under this Agreement.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as in effect from time to time in the state of Rhode Island.

General. Unless otherwise defined, all terms used in this Agreement that are defined in the UCC shall have the meaning give them in the UCC. All terms of an accounting nature not specifically defined in this Agreement shall have the meaning ascribed them by GAAP. References to any legislation or statute or code, or to any provision thereof, shall include any modification or reenactment of, or any legislative, statutory or code provision substituted for, such legislation, statute or code or provision thereof. References to any Person include its successor or permitted substitutes and assigns.

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ARTICLE I - LOANS, RENEWAL AND TERMINATION

1.1 Revolving Loan Advances. Lender agrees, for so long as no Default or Event of Default exists and subject to the terms of this Agreement, to make Revolving Loan Advances to Borrower in an aggregate amount at any time outstanding up to the amount of the Borrowing Base at such time; provided, however, the aggregate amount of all Loans outstanding at any time shall not exceed the amount of the Revolving Credit Facility. It is expressly understood and agreed that Lender intends to use the Borrowing Base as a maximum ceiling on Revolving Loan Advances to Borrower; provided, however, that it is agreed that should the Revolving Loan Advances ever exceed the ceiling so determined or any other limitation set forth in this Agreement, such Revolving Loan Advances shall nevertheless constitute Obligations secured by the Security Interest of Lender and, as such, shall be entitled to all benefits thereof and security therefor. Under the Revolving Credit Facility, Borrower from time to time may borrow, repay, prepay and reborrow the Revolving Loan Advances pursuant to the terms of this Agreement.

1.2 Borrowing Procedures.

(a) Subject to the provisions of Section 8.1 of this Agreement, and provided that there does not then exist a Default or an Event of Default, Borrower may, from time to time, request that Lender make Revolving Loan Advances to Borrower in accordance with the terms of this Agreement. Lender shall fund Borrower's request for Revolving Loan Advances as follows: (i) by the close of business on the day such request is received if the request is received prior to 2:00 p.m. east coast time; and (ii) by the close of the next Business Day if the request is received after that time.

(b) Each request for a Revolving Loan Advance shall be made by transmission to Lender of a Notice of Borrowing and shall, if requested by Lender or required pursuant to Section 6.7, be accompanied by a complete and accurate Borrowing Base Certificate, and shall be confirmed by Borrower with Lender by telephone; provided, that Lender shall at any time have the right to review and adjust, in the exercise of its reasonable discretion, any calculation set forth in the Borrowing Base Certificate or the Notice of Borrowing (i) to reflect Lender's reasonable estimate of declines in value of any of the Collateral described in such Borrowing Base Certificate, and (ii) to the extent such calculation is not in accordance with this Agreement. Borrower shall make no more than one (1) request for Revolving Loan Advances each day.

(c) Borrower shall reimburse Lender and hold Lender harmless from any loss or expense that Lender actually sustains or incurs as a consequence of the failure of Borrower to borrow additional Loans after Borrower has requested (or is deemed to have requested) such additional Loans, including any such loss or expense arising from the liquidation or re-employment of funds obtained by Lender to maintain the Loans or from fees payable to terminate the deposits from which such funds were obtained.

1.3 Interest.

(a) Interest shall accrue on the outstanding principal balance of the Revolving Loan Advances at the Interest Rate. All interest accrued on the outstanding principal balance of

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the Revolving Loan Advances shall be calculated on the basis of a year of three hundred sixty (360) days and the actual number of days elapsed in each month. Accrued interest shall be added to the outstanding principal balance of the Loans on the first Business Day of each calendar month following the month in which such interest accrues.

(b) Upon the occurrence and during the continuation of an Event of Default, the unpaid principal balance of the Revolving Loan Advances shall bear interest at a per annum rate equal to the Interest Rate plus three percent (3%) effective as of and from the date such Event of Default first occurred, as

determined by Lender.

1.4 Charges to Loan Account. At Lender's option, exercised in Lender's sole discretion, Lender may (a) deduct the aggregate amount of principal, interest, fees, costs, expenses, and other charges and amounts provided for in this Agreement or in any other Loan Documents from any Revolving Loan Advance on the due date thereof, (b) treat such amounts as a Revolving Loan Advance or (c) disburse such amount by way of direct payment, which such disbursement shall be deemed to be a Revolving Loan Advance.

1.5 Allocation of Payments and Limit of Interest. Prior to the occurrence of an Event of Default, all Revenues received by Lender from Borrower shall be applied pro tanto to the Obligations as follows: first to pay any fees and expenses then due to Lender under the Loan Documents, until paid in full, and second, to repay the principal amount of all outstanding Obligations until paid in full. Upon the occurrence and during the continuance of an Event of Default, all Revenues received by Lender from Borrower shall be applied pro tanto to the Obligations in such manner as Lender shall determine in its sole discretion. Lender does not intend to charge interest at a rate in excess of the highest rate permitted by Applicable Law. Interest on any outstanding principal balance shall be spread over the entire period that such principal balance is outstanding. Any excess interest charges paid by Borrower to Lender shall be applied to reduce the outstanding principal balance of the Obligations.

1.6 Renewal and Termination.

(a) This Agreement shall expire on the Termination Date. This Agreement shall be automatically renewed for additional one (1) year periods upon expiration of the Initial Term unless terminated by Lender or Borrower as provided in this Section 1.6. Borrower may terminate this Agreement at the expiration of the Initial Term or at the end of each Renewal by giving written notice of such termination to Lender at least ninety (90) days prior to the effective date of such termination, and, if such termination date is on a date other than the end of the Initial Term or a Renewal Term, by payment to Lender of the Early Termination Fee as provided in Section 2.5 hereof. Lender may terminate this Agreement (i) at the expiration of the Initial Term or at the end of each Renewal by giving written notice of such termination to Borrower at least ninety (90) days prior to the effective date of such termination and (ii) at any time during the existence of an uncured Event of Default.

(b) Upon the termination of this Agreement for any reason as herein provided, Borrower shall be required to pay, discharge and satisfy, no later than the effective date of such termination, the Revolving Loan Advances, all accrued and unpaid interest and fees, any Early Termination Fee, and all other non-contingent Obligations outstanding.

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(c) All undertakings, agreements, covenants, warranties and representations of Borrower contained in this Agreement and the other Loan Documents shall survive any such termination, and Lender shall retain each and every Security Interest, and all other rights and remedies of Lender under this Agreement and the other Loan Documents, notwithstanding such termination until Borrower has paid the amounts described in Section 1.6(b).

(d) Notwithstanding the payment in full of the Revolving Loan Advances, all accrued and unpaid interest and fees, any Early Termination Fee, and all other non-contingent Obligations outstanding, Lender shall not be required to terminate its Security Interests unless, with respect to any loss or damage Lender may incur as a result of dishonored checks or other items of payment received by Lender from Borrower or any Account Debtor and applied to the Obligations, Lender shall (i) have received a written agreement, executed by Borrower and by any Person whose loans or other advances to Borrower are used in whole or in part to satisfy the Obligations, indemnifying Lender from any such loss or damage; or (ii) have retained such monetary reserves and its Security Interest for such period of time as Lender, in its reasonable discretion, may deem necessary to protect Lender from any such loss or damage.

ARTICLE II - FEES

2.1 Closing Fee. In order to induce Lender to enter into this Agreement and to make the Loans, Borrower shall pay a Closing Fee in accordance with the Escrow Agreement and Schedule 2 thereto. The Closing Fee shall be fully earned by Lender as of the date hereof.

2.2 Facility Fee. Borrower shall pay to Lender an Annual Facility Fee in an amount equal to \$37,500.00 on the first and second anniversary date of this Agreement, which Annual Facility Fee shall be fully earned by Lender as of each due date thereof.

2.3 Field Examination Fee. For each field examination of the books, records and other assets of Borrower performed by one or more employees or agents of Lender, Borrower shall pay to Lender a field examination fee in an amount equal

to \$750.00 (or such other amount as Lender shall establish from time to time on notice to Borrower) for each day spent by each such employee in performing and/or summarizing the results of such examination (including all necessary travel time) plus all reasonable "out-of-pocket" expenses. Field examinations shall be performed by Lender no more frequently than quarterly, and, if Borrower is in default, with such frequency as Lender shall determine in its sole discretion, and each field examination fee shall be payable by Borrower to Lender on the date on which each such field examination is performed.

2.4 Wire Transfer Fee. For each wire transfer initiated by Lender to or for the benefit of Borrower, Borrower shall pay to Lender a fee of \$25.00 or such higher amount as Lender shall reasonably establish from time to time.

2.5 Early Termination Fee. If for any reason this Agreement is terminated by Borrower prior to the end of the Initial Term or any Renewal Term of this Agreement, in view of the impracticality and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of lost profits of Lender as a result thereof, Borrower agrees to pay to Lender, upon the effective date of such termination, an Early

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Termination Fee in an amount equal to the following percentage of the amount of the Revolving Credit Facility corresponding to the period in which the termination date occurs:

Percentage of Revolving ----- Credit Facility -----	Period -----
3%	From Agreement Date to and including the first anniversary of the Agreement Date
2%	From the first anniversary of the Agreement Date to and including the second anniversary of the Agreement Date
1%	From and after second anniversary of the Agreement Date but on or prior to the Termination Date

The Early Termination Fee shall be presumed to be the amount of damages sustained by Lender as a result of such early termination, and Borrower agrees that it is reasonable under the circumstances currently existing. In addition, Lender shall be entitled to the Early Termination Fee upon the termination of this Agreement by Lender on account of any Event of Default as provided in Section 9.2 or the occurrence of an Event of Default described in Section 9.1(h). The Early Termination Fee shall be deemed included in the Obligations.

2.6 Costs and Expenses. Borrower agrees to reimburse Lender for all reasonable out-of-pocket expenses incurred by Lender in connection with the Loans, including, but not limited to, filing fees, tax, lien and judgment search fees, fees of outside auditors, bank fees, outside attorneys' fees, allocated costs of internal counsel, and any other reasonable fees or expenses.

2.7 Unused Line Fee. Borrower shall pay to Lender an unused line fee equal to one-fourth of one percent (0.25%) per annum of the amount of the Revolving Credit Facility not used for cash Borrowings. Such unused line fee shall be payable monthly in arrears on the first (1st) day of each month during the Initial Term and each Renewal Term, and shall be calculated on the average cash Borrowings for each preceding month, and shall not be subject to rebate or proration upon the termination of this Agreement for any reason. The Unused Line Fee shall be deemed included in the Obligations.

2.8 Collateral Monitoring Fee. Borrower shall pay to Lender a collateral monitoring fee in an amount equal to \$1,500 per month during the term of this Agreement. The collateral monitoring fee shall be payable on the first day of each month. Each collateral monitoring fee shall be deemed included in the Obligations when charged.

ARTICLE III - GRANT OF SECURITY INTEREST

3.1 Grant of Security Interest. To secure the payment, performance and observance of the Obligations, Borrower grants and hereby assigns, mortgages, and pledges, to Lender all of the Collateral, and grants to Lender a continuing security interest in, and a Lien upon, and a right of set off against, all of the Collateral.

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3.2 Continued Priority of Security Interest.

(a) The Security Interest granted by Borrower shall at all times be valid, perfected and enforceable against Borrower and all third parties in accordance with the terms of this Agreement, as security for the Obligations, and the Collateral shall not be at any time subject to any Liens that are prior to, or on parity with or junior to the Security Interest, other than Permitted Liens. Borrower represents and warrants to Lender that none of the lenders holding a Permitted Lien has a security interest in the Collateral superior in priority to the Lien of Lender granted under this Agreement, other than the first priority security interest of SouthTrust in the SouthTrust Collateral.

(b) Borrower shall, at its sole cost and expense, take all action that may be necessary or desirable, or that Lender may reasonably request, so as at all times to maintain the validity, perfection, enforceability and rank of the Security Interest in the Collateral in conformity with the requirements of Section 3.2(a), or to enable Lender to exercise or enforce its rights hereunder.

(c) Borrower covenants and agrees with Lender that from and after the Agreement Date and until the Termination Date:

(i) In the event that any Collateral, including proceeds, is evidenced by or consists of negotiable collateral (including without limitation letters of credit, Letter-of-credit rights, instruments, promissory notes, draft documents or chattel paper (including electronic and tangible chattel paper)), and if and to the extent that perfection or priority of Lender's security interest is dependent on or enhanced by possession, Borrower, immediately upon the request of Lender, shall endorse and deliver physical possession of such negotiable collateral or chattel paper to Lender.

(ii) Borrower shall take all steps reasonably necessary to grant Lender control of all electronic chattel paper in accordance with the UCC and all "transferable records" as defined in each of the Uniform Electronic Transaction Act and the Electronic Signatures in Global and National Commerce Act; and

(iii) If Borrower retains possession of any chattel paper or instruments with Lender's consent, such chattel paper and instruments shall be marked with the following legend: "This writing and the obligations evidenced or secured thereby are subject to the security interest of Textron Financial Corporation."

(d) At any time upon the reasonable request of Lender, Borrower shall execute (or cause to be executed) and deliver to Lender, any and all financing statements, original financing statements in lieu of continuation statements, fixture filings, security agreements, pledges, assignments, endorsements of certificates of title, and all other documents (the "Additional Documents") upon which Borrower's signature may be required that Lender may request in its discretion, in form and substance satisfactory to Lender, to perfect and continue the perfection of or better perfect Lender's Liens in the Collateral (whether now owned or hereafter arising or acquired), and in order to consummate fully all of the transactions contemplated hereby and under the other Loan Documents. To the maximum extent permitted by

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Applicable Law, Borrower authorizes Lender to execute any such Additional Documents in Borrower's name and authorizes Lender to file such executed Additional Documents in any appropriate filing office. In addition, on such periodic basis as Lender shall require, Borrower shall (a) provide Lender with a report of all new patentable, copyrightable (other than materials commonly prepared in the ordinary course of business), or trademarkable materials acquired or generated by Borrower during the prior period, (b) cause to be prepared, executed, and delivered to Lender supplemental schedules to the applicable Loan Documents to identify such patents, copyrights, and trademarks that have been or will be registered by the Borrower with the appropriate filing office as being subject to the security interests created thereunder, and (c) execute and deliver to Lender such documents as Lender may require to perfect its security interest in such registered patents, copyrights, and trademarks. Borrower authorizes Lender to transmit, communicate or, as applicable, file any financing statement under the UCC, record, in-lieu financing statement, amendment, correction statement, continuation statement, termination statement or other instrument describing the Collateral as "all personal property of Debtor" or "all assets of Debtor" or words of similar effect in such jurisdictions and in such filing offices as Lender may deem necessary or desirable in order to perfect any security interest granted by Borrower under this Agreement and the other Loan Documents without signature.

Borrower hereby ratifies, to the extent necessary, Lender's authorization to file a financing statement, if such financing statement has been pre-filed by Lender prior to the Agreement Date. Prior to repayment in full and final discharge of the Obligations, Borrower shall not terminate, amend or file a correction statement with respect to any financing statement filed pursuant to this Section 3.2(d) without Lender's prior written consent.

(e) Borrower shall promptly notify Lender in writing upon incurring or otherwise obtaining a commercial tort claim, as that term is defined in the UCC, after the date hereof against any third party and, upon request of Lender, promptly amend Schedule 1 to this Agreement, authorize the filing of additional or amendments to existing financing statements and do such other acts or things that are necessary or desirable by Lender to give Lender a security interest in any such commercial tort claim.

(f) Borrower shall mark its books and records as directed by Lender and as may be necessary or appropriate to evidence, protect and perfect the Security Interest and shall cause its financial statements to reflect the Security Interest.

ARTICLE IV - PROCEEDS OF COLLATERAL, RECEIVABLES AND COLLECTIONS

4.1 Borrower's Proceeds of Collateral. Borrower shall pay to Lender all proceeds of Collateral, including Net Proceeds, immediately upon Borrower's receipt thereof; except that, Revenues from the SouthTrust Collateral shall be paid to SouthTrust first until the SouthTrust Debt is paid in full and then the balance, if any, to Lender. For purposes of calculating interest owing by Borrower hereunder, Lender shall apply the amount of such Revenues to the Obligations two (2) Business Days following the date upon which Lender receives such Revenues in immediately available funds.

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4.2 Collection of Receivables and other Collateral.

(a) Borrower shall establish and maintain, at its expense, a Lockbox, in the sole discretion of Lender, with such banks as are acceptable to Lender pursuant to documentation satisfactory to Lender, in its discretion, into which Borrower shall promptly deposit or cause to be deposited all Revenues (other than de minimus Revenues directly collected by Borrower at its business premises in an aggregate amount not to exceed \$10,000 per month); provided, that, not later than one hundred eighty (180) days of the date of the initial Loan hereunder, Borrower shall cause all Revenues to be deposited in the Lockbox at SouthTrust and will discontinue use of the Lockbox at Regions Bank. Borrower shall direct and instruct all of its Account Debtors to directly remit to such Lockbox all payments on Receivables and all other payments constituting Revenues, in the identical form in which such payments are made, whether by cash, check or other manner of payment. If, notwithstanding such instructions, Borrower receives any Revenues directly, Borrower shall hold such Revenues in trust as Lender's trustee and within one (1) Business Day of receipt Borrower shall deposit such Revenues directly into the Lockbox. Borrower agrees that all payments made to the Lockbox or other funds received and collected by Lender, whether in respect of the Receivables, as other Revenues, or otherwise, shall be subject to Lender's sole control and shall be treated as payments to Lender in respect of the Obligations and therefore shall constitute the property of Lender to the extent of the amount of the outstanding Obligations.

(b) Lender or its designee may, in Lender's sole discretion, at any time during which an Event of Default exists, notify Account Debtors of the Security Interest and collect Receivables directly from Account Debtors and charge the collection costs and expenses to Borrower as additional Loans. Whether or not a Default or an Event of Default has occurred, any of Lender's officers, employees or agents shall have the right, at any time or times hereafter, in the name of Lender, any designee of Lender, or Borrower, to verify the validity, amount or any other matter relating to any Receivables by mail, telephone, electronic communication or otherwise. Borrower shall cooperate fully with Lender in an effort to facilitate and promptly conclude any such verification process.

ARTICLE V - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender, as of the date of this Agreement and at all times that Lender makes Loans to Borrower, as follows:

5.1 Existence, Power and Authority; Borrower Affiliates; Subsidiaries.

(a) Organization; Qualification. Borrower is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, as identified in Schedule 5.1(a), having the corporate power and authority to own its properties and to carry on its business

as now being and hereafter proposed to be conducted, and Borrower is duly qualified and authorized to do business in the jurisdictions listed on Schedule 5.1(a) and in each jurisdiction in which the nature of its business or the ownership and characteristics of its property requires such qualification or authorization, except where the failure to be so qualified would not have a Materially Adverse Effect. The jurisdictions in which Borrower is qualified to do business as a foreign entity are listed on Schedule 5.1(a).

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(b) Power. Borrower has the right and power, and has taken all necessary action to authorize it, to execute, deliver and perform the Loan Documents in accordance with their respective terms. Each of the Loan Documents has been duly executed and delivered by the duly authorized officers of Borrower and each is, or each when executed and delivered in accordance with this Agreement will be, a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms. All of the transactions contemplated under the Loan Documents are within Borrower's powers and are not in contravention of law or the terms of Borrower's Incorporation Certificate or Borrower's by-laws, or other organizational documentation, or any material agreement or undertaking to which Borrower is a party or by which Borrower or its property is bound, and does not result in the creation or imposition of any lien, charge or encumbrance upon any assets of Borrower, other than the Lien of Lender.

(c) Borrower Affiliates; Subsidiaries. Except as set forth on Schedule 5.1(c), Borrower has no Affiliates or Subsidiaries.

(d) Capitalization. The outstanding shares of capital stock of Borrower have been duly and validly issued and are fully paid and nonassessable. Except as set forth on Schedule 5.1(d), there are no existing warrants, options, or commitments of any kind or nature convertible into capital stock of any class of Borrower.

(e) Business. Borrower is engaged principally in the business(es) described on Schedule 5.1(e).

5.2 Compliance with Other Agreements and Applicable Law. Except as set forth on Schedule 5.2, Borrower is not in default under, or in violation in any respect of, any material agreement, contract, instrument or other commitment to which Borrower is a party or by which Borrower or its property is bound, and Borrower is in compliance in all material respects with all Governmental Approvals applicable to or required in connection with the conduct of Borrower's business and affairs, and Borrower is otherwise in compliance in all material respects with all Applicable Laws.

5.3 Absence of Litigation. Except as set forth on Schedule 5.3, there are no actions, proceedings or investigations pending or threatened against Borrower, or any of its assets, which, if adversely determined against Borrower can reasonably be expected to have a Materially Adverse Effect on the assets, financial condition or business of Borrower.

5.4 Taxes and Returns. Except as set forth on Schedule 5.4, Borrower has timely filed all tax returns which Borrower is required by law to file or has obtained valid extensions, and all taxes and other sums related to the payment of taxes owing by Borrower to any governmental authority have been fully paid and Borrower maintains adequate reserves to pay such tax liabilities as they accrue.

5.5 Lien Priority and Nature of Certain Collateral.

(a) Liens. Except for the SouthTrust Collateral, Lender has a perfected first priority security interest in the Collateral and, except for the Liens described on Schedule 5.5(a) and the other Permitted Liens, none of the properties and assets of Borrower is subject to any Lien. As to the SouthTrust Collateral, Lender has a security interest junior to SouthTrust. Other

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than the Financing Statements of Lender pursuant to this Agreement, no financing statement under the Uniform Commercial Code of any state or other instrument evidencing a Lien that names Borrower as debtor has been filed (and has not been, or will not upon repayment of outstanding loans from the proceeds from the Loans upon or about the Closing Date be, terminated) in any state or other jurisdiction, and Borrower has not signed any such financing statement or other instrument or any security agreement authorizing any secured party thereunder to file any such financing statement or instrument, except to perfect the Liens listed on Schedule 5.5(a) and the other Permitted Liens and those that will no longer be effective upon repayment of outstanding loans from the proceeds from the Loans on or about the Closing Date. Borrower further represents and warrants that since April 4, 2003, Borrower has not granted any new Liens on the Collateral or authorized the filing of any financing statements other than to

Lender.

(b) Title. Except as set forth on Schedule 5.5(b), Borrower has valid and legal title to or leasehold interest in all personal property, real property, and other assets used in its business.

(c) Receivables. Each Eligible Receivable has arisen from the sale and delivery of goods or from services rendered by Borrower, is genuine, complete and, in all other respects, what it purports to be, and is not otherwise ineligible under the standards set forth in this Agreement.

(d) Inventory. All Inventory is located on the premises set forth on Schedule 5.5(d) or is Inventory in transit to one of such locations, except as otherwise disclosed in writing to Lender. Borrower has not, within the twelve (12) months preceding the Agreement Date, located any Inventory at premises other than those set forth on Schedule 5.5(d).

(e) Equipment. All Equipment currently in use in Borrower's business is in good order and repair in all material respects and is located on the premises set forth on Schedule 5.5(e). Borrower has not, within the twelve-(12) months preceding the Agreement Date, located any Equipment at premises other than those set forth on Schedule 5.5.(e)

(f) Real Estate. Borrower owns or leases no real property other than that described on Schedule 5.5(f).

(g) Corporate and Fictitious Names. Except as otherwise disclosed on Schedule 5.5(g), during the five-year period preceding the Agreement Date, neither Borrower nor any predecessor of Borrower has been known as or used any corporate or fictitious name other than the name of Borrower as first set forth in this Agreement.

5.6 Principal Place of Business. Borrower's principal places of business and, if Borrower has more than one principal place of business, Borrower's chief executive office, are located at the addresses set forth on Schedule 5.6. All books and records pertaining to the Collateral are kept by Borrower at its principal places of business.

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5.7 Environmental Compliance.

(a) Except as set forth on Schedule 5.7, to the best of Borrower's knowledge, Borrower has not Released, generated, used, stored, treated, transported, manufactured, handled, produced or disposed of any Contaminants on or off its premises (whether or not owned by Borrower), in any manner that violates in any material respect any applicable Environmental Laws or any Governmental Approvals, and the business and operations of Borrower comply in all material respects with all Environmental Laws and all Governmental Approvals and similar authorizations.

(b) Except as set forth on Schedule 5.7, to the best of Borrower's knowledge (i) there is not and has not been any Remedial Action taken with respect to any real estate leased by Borrower, (ii) there has not been nor is there now pending any investigation, proceeding, complaint, order, directive, claim, citation or notice by any governmental authority or any other person with respect to any non-compliance with or violation of the requirements of any Environmental Laws by Borrower, or (iii) there has not been any Release, threatened or actual, of any Contaminants, or generation, use, storage, treatment, transportation, manufacture, handling, production, or disposal of any Contaminants, or any other environmental, health or safety matter, which materially adversely affects (A) Borrower, (B) its business, operations, or assets, or (C) any properties at which Borrower has transported, or stored any Contaminants.

(c) Except as set forth on Schedule 5.7, Borrower has no liability (contingent or otherwise) with a known Release, threatened or actual, from any real property owned or leased by Borrower, or the generation, use, storage, treatment, transportation, manufacture, handling, production, or disposal of any Contaminant, on the owned or leased real property.

(d) All material Governmental Approvals or similar authorizations required to be obtained or filed in connection with the operations of Borrower under any Environmental Laws have been obtained, and all Governmental Approvals and similar authorizations are valid and in full force and effect in all respects.

5.8 Proprietary Rights. A correct and complete schedule of all of Borrower's registered Proprietary Rights is set forth in Schedule 5.8 and none of the Proprietary Rights is subject to any licensing agreement or similar arrangement, except as set forth on Schedule 5.8 or as entered into in the ordinary course of Borrower's business. To the best knowledge of Borrower (i) none of the Proprietary Rights infringes on the valid trademark, trade name,

copyright, or patent right of any other person or entity, and (ii) no other person's or entity's property infringes on the Proprietary Rights, in any material respect. The Proprietary Rights described on Schedule 5.8 constitute all of the property of such type necessary to the current conduct of the business of Borrower.

5.9 Trade Names. All trade names or styles under which Borrower sells Inventory or Equipment or creates Accounts, or to which instruments in payment of Accounts are made payable, are listed on Schedule 5.5(g) and Schedule 5.9.

5.10 Employee Relations. Borrower has a stable work force in place and Borrower is not, except as disclosed on Schedule 5.10, party to any collective bargaining agreement nor has

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any labor union been recognized as the representative of Borrower's employees, and Borrower knows of no pending, threatened, or contemplated strikes, work stoppage or other labor disputes involving any of Borrower's employees.

5.11 Employee Pension Benefit Plans. Each Plan meets the minimum funding standards of Section 302 of ERISA, if applicable, and no Termination Event has occurred with respect to any Plan of Borrower.

5.12 Bank Accounts. Borrower has provided to Lender in writing a complete and correct list of all checking accounts, deposit accounts, and other bank accounts maintained by Borrower.

5.13 Accuracy and Completeness of Information. All representations and warranties set forth in this Article V, and all statements and other information furnished by or on behalf of Borrower in connection with this Agreement or any of the Loan Documents, are true and correct in all material respects and do not omit any material fact; except that, the information certificate provided by Borrower to Lender shall be deemed supplemented and updated by the representations and warranties set forth in this Article V and the Schedules attached hereto. Each financial statement furnished by or on behalf of Borrower presents fairly the financial condition of Borrower as of the date of such statement and for the relevant period(s) then ended.

5.14 Software License Compliance. Borrower warrants and represents that all software used by Borrower on any of Borrower's computers is either Borrower's proprietary software or is duly licensed, maintained and operated in material compliance with the software owner's license terms and conditions.

5.15 Investment Company; Other Regulations. Borrower is not an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended. Borrower is not subject to regulations under any federal or state statute or regulations which limits its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

5.17 Survival of Warranties; Cumulative. All representations and warranties contained in this Agreement or any of the other Loan Documents shall survive the execution and delivery of this Agreement, any investigation made by or on behalf of Lender, or any Borrowing hereunder, and shall be deemed to have been made again to Lender on the date of each additional Borrowing or other credit accommodation under this Agreement, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall have been true and accurate on and as of such earlier date), and shall be conclusively presumed to have been relied on by Lender regardless of any investigation made or information possessed by Lender. The representations and warranties set forth in this Agreement and in the other Loan Documents shall be cumulative and shall be in addition to any other representations or warranties which Borrower shall now or hereafter give, or cause to be given, to Lender.

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ARTICLE VI - AFFIRMATIVE COVENANTS

Until this Agreement has been terminated and all Obligations have been paid in full, Borrower covenants and agrees with Lender as follows:

6.1 Financial Statements. Borrower shall deliver to Lender:

(a) for each Fiscal Year, immediately upon filing the same with the SEC, provided such filing is not deemed late under applicable law or regulations, Borrower's Form 10-K; provided, that, if Borrower's Form 10-K is not filed within ninety (90) days following the close of each Fiscal Year, Borrower's annual audited financial statements certified by a recognized firm of certified public accountants acceptable to Lender as having been prepared in accordance with GAAP and as presenting fairly the financial condition of Borrower as of the date thereof and for the period then ended, including, income

statement, balance sheet, and statement of cash flow (and including any management letter to Borrower from such accountants, to be delivered not later than thirty (30) days after such letter is issued);

(b) for each Fiscal Quarter (other than the fourth Fiscal Quarter), immediately upon filing the same with the SEC, provided such filing is not deemed late under applicable law or regulations, Borrower's Form 10-Q; provided, that, for the fourth Fiscal Quarter of each Fiscal Year and if Borrower's Form 10-Q is not filed within forty-five (45) days of any other Fiscal Quarter, unaudited financial statements, including income statement, balance sheet, and statement of cash flow, for Borrower prepared in accordance with GAAP (subject to the absence of notes and to annual audit adjustment), certified by an Executive Officer of Borrower as presenting fairly the financial condition of Borrower as of the date thereof and for the period then ended;

(c) promptly after the filing thereof, a true, correct, and complete copy of each material report and registration statement other than described in (a) and (b) above, including amendments, and extensions filed with the SEC, including, without limitation, each Form 8-K filed by or on behalf of Borrower with the SEC.

(d) within ten (10) days of receipt by Borrower, copies of all FDA and State of Florida inspection reports.

(e) upon Lender's reasonable request, such other financial information, including, (i) within thirty (30) days after the close of each month, reasonably detailed monthly and fiscal year-to-date financial statements, including income statement, balance sheet, and statement of cash flow, prepared in accordance with GAAP (subject to the absence of notes and to annual audit adjustment), certified by the chief executive officer, chief financial officer, or other authorized individual of Borrower as presenting fairly the financial condition of Borrower, which, for the end of each month, shall also include a Covenant Compliance Certificate, in the form of Exhibit A attached hereto, setting forth a calculation of the financial covenants described in Section 7.6 below, and the status of all other monetary covenants set forth in this Agreement, (ii) at least sixty (60) days prior to the end of Borrower's Fiscal Year an annual operating budget showing a projected income statement, balance sheet and cash flows as of each Fiscal Quarter

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for the forthcoming Fiscal Year, and (iii) Receivable dilution analyses, origination reports and default/charge-off reports.

Borrower may deliver the reports required under this Section 6.1 to Lender by email to the email address(es) provided by Lender from time to time.

6.2 Books and Records. Borrower shall keep accurate and complete records of the Collateral and permit Lender to: (a) visit during regular business hours Borrower's business locations at intervals to be determined by Lender; and (b) inspect, audit and make extracts from or copies of Borrower's books, records, journals, receipts, computer tapes and disks. All governmental authorities are authorized to furnish Lender with copies of reports of examinations of Borrower made by such parties. Banks, Account Debtors and other third parties (without waiving any attorney-client privilege) with whom Borrower has contractual relationships pertaining to the Collateral or the Loan Documents, are authorized to furnish Lender with copies of such contracts and related materials. Lender is authorized, in its own name or any other name, to communicate with Account Debtors in order to verify the existence, amount and terms of any Receivable.

6.3 Additional Documentation. Borrower shall execute and deliver to Lender all additional documents that Lender may, from time to time, reasonably determine are necessary or appropriate to evidence the Loans or to continue or perfect Lender's Security Interest in the Collateral.

6.4 Existence, Name, Organization and Chief Executive Office. Borrower shall maintain its existence in good standing and shall deliver to Lender written notice, at least sixty (60) days in advance, of any proposed change in Borrower's state of incorporation, a change in Borrower's name or organizational identification number, a change in the use of any trade name, new trade names, fictitious name or new fictitious names, Borrower's business locations, the location of Borrower's principal place of business or chief executive office, the mailing address of Borrower, the location of any Inventory or Equipment, or the location of Borrower's books and records, and shall execute or cause to be executed any and all documents that Lender reasonably requests in connection therewith, including, in the case of any new location of Inventory that is not owned by Borrower, the waiver and consent from the lessor of such premises that is more particularly described in clause (g) of the definition of Eligible Inventory.

6.5 Compliance with Laws and Taxes. Borrower shall comply in all material respects with all Applicable Laws. Borrower shall pay all real and personal property taxes, assessments and charges, and all franchise, income,

unemployment, social security, withholding, sales and all other taxes assessed against Borrower or the Collateral, at such times and in such manner so as to avoid any penalty from accruing against Borrower or any Lien or charge from attaching to the Collateral. Borrower shall promptly deliver to Lender, upon request, receipts bills evidencing payment of such taxes and assessments.

6.6 Performance of Obligations. Borrower shall:

(a) perform, in a timely manner, all of its obligations pursuant to all leases, mortgages, deeds of trust or other agreements to which Borrower is a party, and shall pay when due all debt owed by Borrower and all claims of mechanics, materialmen, carriers, landlords,

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warehousemen and other like persons, except only, and to the extent that, the amount of any such debt and claims is being contested by Borrower in good faith by appropriate proceedings and Borrower maintains on its books reasonable reserves therefor in accordance with GAAP;

(b) with respect to Borrower's Series A Preferred Stock, (i) notify Lender immediately upon (A) determining or receiving any information that any one or more of the "Redemption Events" described in Article Fourth, Section A(8)(a)(i) of Borrower's Incorporation Certificate is reasonably likely to occur, has occurred or, with the passage of time, will occur and (B) receipt of notice of a redemption event (i.e., a "Holders' Redemption Notice") from one or more of the holders of Borrower's Series A Preferred Stock pursuant to Borrower's Incorporation Certificate and (ii) deliver to Lender a copy of any Holder's Redemption Notice (as defined in Borrower's Incorporation Certificate) via facsimile; and

(c) with respect to Borrower's obligations owing to Angelo Morini, (i) notify Lender immediately upon (A) determining that Borrower will default or otherwise fail to pay any amounts owing to him when due (but in all cases not less than ten (10) days prior to the date payment is due) and (ii) receipt of any notice attempting to accelerate all or part of any such obligations owing, (ii) deliver to Lender a copy of any notices of default or other correspondence from him relating to a default or potential default in the obligations, and (iii) withhold and not make any further payments to him once an Event of Default occurs under this Agreement.

6.7 Reporting as to Revenues, Receivables and Inventory.

(a) With such frequency as Lender shall direct, Borrower shall deliver to Lender such information as Lender shall request with respect to the Revenues, Receivables and Inventory, including, but not limited to:

(i) no later than 5:00 p.m., east coast time on the first to occur in any given week of (A) the day on which Borrower requests a Revolving Loan Advance or (B) Wednesday of each week, a weekly Borrowing Base Certificate based on the Receivables and Inventory as of the end of the preceding week, together with a detailed summary of sources of all of the Revenues, including sales of Inventory, and credits and collections associated with Receivables;

(ii) no later than the fifteenth (15th) day of each month, a Borrowing Base Certificate based upon the Receivables and Inventory as of the end of the preceding month, together with a detailed summary of the sources of all of the Revenues, including sales of Inventory and credits and collections associated with Receivables, for the preceding month;

(iii) no later than the fifteenth (15th) day of each month, detailed schedules showing the aging of Receivables and Borrower's accounts payable as of the end of the preceding month;

(iv) within fifteen (15) days of any change in Interested Parties, a current list of Interested Parties;

(v) daily sales and collections reporting;

(vi) weekly Inventory reporting; and

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(vii) no later than ten (10) days following Lender's request therefor, a complete and updated list of Borrower's customers, including the name, address and telephone number of each customer.

(b) Borrower shall notify Lender promptly if:

(i) Borrower enters into a long-term contract with the United States of America, and, if requested by Lender, Borrower shall execute all instruments

and take all steps necessary to insure that all amounts due and to become due under such long- term contract are properly assigned to Lender pursuant to the Assignment of Claims Act of 1940 or otherwise;

(ii) Borrower receives information with regard to any type or item of Collateral which might have in any way a Materially Adverse Effect on the value of the Collateral as a whole or the rights and remedies of Lender with respect thereto; and

(iii) any accounts due and owing in which amounts in excess of \$20,000 are in dispute by any single Account Debtor on an Eligible Receivable, and Borrower shall explain in detail the reason for the dispute, all claims related to the dispute, and the amount in controversy;

6.8 Over-Advance. If, at any time, the aggregate unpaid principal amount of any of the Revolving Loan Advances, including without limitation, all amounts deemed to be Revolving Loan Advances in accordance with Section 1.4, exceeds any applicable limit set forth in this Agreement, Borrower shall immediately pay to Lender the amount of any such excess and all accrued interest and other charges owing to Lender with respect thereto.

6.9 Breach or Default. Borrower shall notify Lender immediately upon the occurrence of any circumstance which: (a) makes any representation or warranty of Borrower contained in this Agreement or any other Loan Document incorrect or misleading in any material respect; or (b) constitutes an Event of Default.

6.10 Maintenance of Assets. Borrower shall maintain all of its real and personal property currently in use in Borrower's business in good repair, working order and condition, shall make all necessary replacements to such property so that the value and the operating efficiency of such property will be preserved, shall prevent any personal property from becoming a fixture to real estate (unless owned by Borrower and encumbered by a mortgage, deed of trust, security deed or similar agreement in favor of Lender), and will pay or cause to be paid all rental or mortgage payments due on its real property. Notwithstanding the foregoing, Borrower shall not be required to maintain or replace any personal property that Borrower has in good faith determined is obsolete or not useful in the conduct of Borrower's business.

6.11 Insurance. Borrower shall procure and continuously maintain: (a) "All Risk Extended Coverage" property insurance covering Borrower's tangible personal property for the full replacement value thereof; (b) "All Risk Extended Coverage" business interruption insurance in an amount acceptable to Lender; (c) liability insurance in an amount acceptable to Lender; and (d) such other customary insurance coverages as are reasonably specified by Lender from time to time. Each property and business interruption insurance policy shall contain a standard Lender's Loss Payable Endorsement in favor of Lender, providing for, among other things, thirty (30) days prior written notice to Lender of any cancellation, non-renewal or

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modification of such coverage. Borrower shall deliver to Lender certified copies of such policies and all required endorsements, or other evidence of such insurance acceptable to Lender. All amounts received by Lender from any such insurance policies may be applied by Lender to the Obligations. If Borrower fails to procure required insurance or such insurance is canceled or otherwise lapses, Lender may procure such insurance and add the cost of such insurance to the principal balance of the Loans.

6.12 Use of Proceeds.

(a) Borrower shall use the proceeds of all Revolving Loan Advances and all other loans or accommodations made by Lender for Borrower for legal and proper business purposes; and

(b) not use any part of such proceeds (i) to purchase or to carry or reduce or retire or refinance any credit incurred to purchase or carry, any margin stock (within the meaning of Regulation U or T of the Board of Governors of the Federal Reserve System) or, in any event, for any purpose which would involve a violation of Regulation U, T or X of such Board of Governors, (ii) for any personal, family or household purposes, or (iii) for any purpose prohibited by law or by the terms and conditions of this Agreement or any of the Loan Documents.

6.13 Disclosure. Promptly and in no event later than five (5) Business Days after obtaining knowledge thereof, Borrower shall (i) notify Lender if any written information, exhibit, or report furnished to Lender contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and (ii) correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgment, filing, or recordation thereof.

6.14 Further Assurances. Borrower will promptly cure, or cause to be cured, defects in the execution and delivery of the Loan Documents (including this Agreement), resulting from any act or failure to act by Borrower or any of the employees or officers thereof. Borrower, at its expense, will promptly execute and deliver to Lender, or cause to be executed and delivered to Lender, all such other and further documents, agreements, and instruments in compliance with or accomplishment of the covenants and agreements of Borrower in the Loan Documents, including this Agreement, or to correct any technical omissions in the Loan Documents, or to obtain any consents that are necessary in connection with or in accomplishment of the covenants and agreements of Borrower, all as may be necessary or appropriate in connection therewith as may be requested by Lender.

6.15 Brokerage Commissions. Except as otherwise provided in the Escrow Agreement, Borrower shall pay any and all brokerage commission or finders fees incurred in connection with or as a result of Borrower's obtaining financing from Lender under this Agreement. Borrower agrees to indemnify, defend, and hold Lender harmless from and against any claim of any broker or finder arising out of Borrower's obtaining financing from Lender under this Agreement.

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6.16 FDA and Other Regulatory Bodies Compliance. Borrower shall on the Agreement Date and at times until the Obligations are paid in full operate its business in material compliance with all applicable federal, state and local laws, regulations and other requirements for companies involved in the manufacturing, distribution or sale of food products similar to those manufactured, distributed or sold by Borrower, including, without limitation any and all applicable (i) FDA rules and regulations, including, without limitation, those rules and regulations with respect to product descriptions, nutritional claims, label formats, minimum type sizes, content and location of nutritional information panels, nutritional comparisons, ingredient content panels, and manufacturing techniques; (ii) customs regulations; or (iii) other government regulations regarding comestibles.

ARTICLE VII - BORROWER'S NEGATIVE COVENANTS

Borrower covenants and agrees with Lender, from and after the date of this Agreement, as follows:

7.1 Business, Management and Organization. Borrower shall not: (a) make any material change in its management, which includes the following: the removal of Christopher New, as Chief Executive Officer of Borrower; (b) make any material change in the general nature of the business that Borrower presently conducts; (c) change its name except after first complying with Section 6.4 of this Agreement; (d) change its state of incorporation except after first complying with Section 6.4 of this Agreement, or its type of organization (that is, from a corporation); or (e) issue any additional shares of Borrower's Series A preferred stock other than pursuant to Article Fourth, Section A(3) of Borrower's Incorporation Certificate.

7.2 Disposition of Assets. Borrower shall not: (a) encumber the Collateral in favor of any party other than Lender, whether voluntarily or involuntarily, other than the Permitted Liens; or (b) sell, consign, lease or remove from Borrower's business locations any of Borrower's assets except that, until Lender gives Borrower notice to the contrary during the existence of any Event of Default, Borrower may (i) sell Inventory in the ordinary course of its business (any sale or exchange of Inventory in satisfaction of indebtedness of Borrower shall not be deemed a sale of Inventory in the ordinary course of business); (ii) sell or dispose of obsolete assets that constitute Collateral which Borrower has determined, in good faith, not to be useful in the conduct of its business and which, in any Fiscal Year, do not have an aggregate fair market value in excess of \$100,000.00; and (iii) sell or dispose of obsolete assets that do not constitute Collateral which Borrower has determined, in good faith, not to be useful in the conduct of its business.

7.3 Loans and Guarantees. Borrower shall not make any loan or contribute money, goods or services to, or guaranty or agree to become liable for any obligation of, any other Person, including any Affiliates of Borrower or any Interested Party, other than: (a) loans to employees of Borrower for reimbursable expenses incurred by such employees in the normal course of Borrower's business; (b) other loans to employees of Borrower not to exceed \$25,000.00 in the aggregate outstanding at any time; (c) sales of Inventory in the ordinary course of business; and (d) Permitted Investments.

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7.4 Capital Expenditures and Investments. Borrower shall not: (a) make any Unfunded Capital Expenditures in the Fiscal Year ending March 31, 2004, in the aggregate, in excess of \$250,000.00 (but in an amount not to exceed \$150,000 for acquisition and/or upgrade of Borrower's computer system) or in any Fiscal Year thereafter, in the aggregate, in excess of \$100,000.00 or (b) make any

Investment other than Permitted Investments.

7.5 Distributions and Salaries. Borrower shall not:

(a) make any cash dividend, distribution or payment on or with respect to any shares, or purchase, redeem or otherwise acquire or retire any of its stock (except (i) shares acquired on the conversion thereof into other shares of stock, (ii) repurchases of stock from former employees or directors of Borrower under the terms of applicable repurchase agreements or otherwise, such repurchases not to exceed in the aggregate \$50,000.00 in any Fiscal Year; or (iii) with respect to Borrower's Series A convertible preferred stock, redemption of any or all of such stock issued as of the date of this Agreement pursuant to and on the terms of subsection (a) of Article Fourth, Section (A) 8 of Borrower's Incorporation Certificate only (and not pursuant to any other part of Article Fourth, Section (A) 8 or part of Borrower's Incorporation Certificate)); or

(b) increase, whether by election, promotion, hiring or otherwise, the salaries and other compensation paid to officers of Borrower by more than fifteen percent (15%) in the aggregate in any Fiscal Year from the salary paid to the same or similar officers in the prior Fiscal Year fulfilling same or similar responsibilities and duties.

7.6 Financial Covenants.

(a) Borrower shall not permit the Fixed Charge Coverage Ratio to be less than 1.00 to 1.00 as of Closing Date and, thereafter, as of the end of each calendar month, for the immediately preceding rolling twelve month period, commencing with the month ending May 31, 2003, to be less than the ratio specified below set forth opposite such month:

PERIOD ENDING -----	RATIO -----
May 31, 2003 through September 30, 2003	1.00 to 1.00
October 1, 2003 through March 31, 2004	1:15 to 1:00
April 1, 2004 through September 30, 2004	1:25 to 1:00
October 1, 2004, through March 31, 2005	1:40 to 1:00
April 1, 2005 and thereafter	1:50 to 1: 00

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(b) Borrower shall not permit its Adjusted Tangible Net Worth as of the Closing Date to be less than \$11,000,000.00 or, at any time thereafter, to be less than the sum of \$11,000,000.00 plus an amount equal to seventy-five percent (75%) of Net Income for each calendar month, commencing with the month ending May 31, 2003, and for each month thereafter. For any determination hereunder, non-cash stock compensation expense and benefits shall be excluded from shareholders' equity and Net Income so that such expenses and benefits shall have a zero effect upon the calculation.

(c) Borrower's shall not permit its Trailing Twelve Month Inventory Turnover to be less than (i) four times (4x) as of the Closing Date and at the end of each calendar month thereafter through March 31, 2004, commencing May 31, 2003, and (ii) five times (5x) at the end of April 30, 2004, and each calendar month thereafter, in each instance as determined by Lender in its sole discretion. "Trailing Twelve Month Inventory Turnover" means, for the immediately preceding rolling twelve month period as of the date of determination, the trailing twelve (12) month cost of sales less depreciation for the applicable period, divided by the average month-end Inventory balances for the current period and the trailing eleven (11) months, calculated as of and from the Closing Date.

All amounts referenced in this Section shall be determined in accordance with GAAP.

7.7 Change of Control. Borrower shall not cause, permit, or suffer, directly or indirectly, any Change of Control.

7.8 Limitation on Indebtedness for Money Borrowed. Borrower shall not create or suffer to exist any Indebtedness for Money Borrowed except: (i) the Indebtedness for Money Borrowed by Borrower to Lender under this Agreement and the Loan Documents; (ii) Indebtedness for Money Borrowed outstanding as of the Closing Date and listed on Schedule 7.8; (iii) Indebtedness for Money Borrowed secured by Permitted Liens; (iv) other Indebtedness for Money Borrowed in an aggregate outstanding amount not to exceed \$100,000.00; and (v) Indebtedness for Money Borrowed in order to refinance, but not to increase the amount of the

available principal amount of, any of the foregoing.

7.9 Mergers; Consolidations; Acquisitions. Borrower shall not merge or consolidate, or permit any Subsidiary of Borrower to merge or consolidate, with any Person; nor acquire, or permit any of its Subsidiaries to acquire, all or any substantial part of the properties and assets or Securities of any Person.

7.10 Subsidiaries. After the Closing Date, Borrower shall not create any Subsidiaries, or transfer any assets to any Subsidiary.

7.11 Fiscal Year. Borrower shall not change its Fiscal Year end for accounting purposes.

7.12 Affiliate/Interested Party Transactions. Borrower shall not enter into or be a party to any agreement or transaction with any Affiliate or Interested Party except (i) agreements disclosed prior to the Closing Date in Borrower's SEC filings or as set forth on Schedule 7.12 and other non-material agreements as of the Closing Date, (ii) in the ordinary course of and

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pursuant to the reasonable requirements of Borrower's business and upon fair and reasonable terms that are no less favorable to Borrower than it would obtain in a comparable arms length transaction with a Person not an Affiliate or Interested Party of Borrower, and such agreement or transaction is fully disclosed to Lender, or (iii) to raise equity for the purpose of paying dividends or distributions or redeeming all or part of Borrower's Series A convertible preferred stock when and in the amount due pursuant to Borrower's Incorporation Certificate.

ARTICLE VIII - CONDITIONS PRECEDENT

8.1 Initial Credit. The obligation of Lender to extend any credit under this Agreement, including the making of the initial Revolving Loan Advance and any future Loans, is subject to the fulfillment to Lender's satisfaction of all of the following conditions:

(a) All legal matters incidental to the extension of credit by Lender shall satisfactory to counsel of Lender.

(b) Lender shall have received, in form and substance satisfactory to Lender, each of the following, duly executed:

- (i) This Agreement;
- (ii) The Trademark Agreement;
- (iii) Borrower's borrowing resolutions, together with a secretary's certificate;
- (iv) UCC-1 Financing Statement(s); (v) An opinion of Borrower's counsel;
- (vi) Each Deposit Account Control Agreement for Borrower;
- (vii) The Lockbox Agreement with each of (i) SouthTrust and (ii) Regions Bank;
- (viii) A Processor Agreement with Stueben Foods;
- (ix) Each other Security Document;
- (x) A Landlord Waiver and Consent from each of Borrower's landlords;
- (xi) All releases, terminations, agreements and other documents as Lender may request to effect and evidence termination of the existing financing arrangements of Borrower and the interests of any other lender or lenders pursuant to any such financing arrangements in any assets and properties of Borrower;
- (xii) A Borrowing Base Certificate dated as of the Agreement Date;
- (xiii) The payoff letter from each existing lender to be paid from the initial Loan;
- (xiv) A current list of Interested Parties; and

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(xv) Such other documents as Lender may require under this Agreement.

(c) Lender shall have received evidence of insurance and loss payee endorsements and/or certificates of insurance naming Lender as loss payee, as required under this Agreement, in form and substance satisfactory to Lender, at Borrower's cost and expense;

(d) Lender shall have completed a field review of the records and other information with respect to the Collateral as Lender may require, the results of which (including evidence of segregation and identification of Collateral) shall be satisfactory to Lender in its discretion;

(e) Lender shall have received and reviewed UCC search results for all jurisdictions in which assets of Borrower are located in the United States, in form and substance satisfactory to Lender;

(f) Lender shall have received evidence, in form and substance satisfactory to Lender, that Lender has a valid perfected first security interest in all of the Collateral except as otherwise permitted under this Agreement;

(g) The excess Availability under the Credit Facility, as of the Closing Date, shall not be less than (i) \$750,000.00 after the payment of all fees and expenses to be paid by Borrower at Closing Date under this Agreement or the Escrow Agreement and the application of the proceeds of the initial Loans funded under this Agreement, plus (ii) a Payable Reserve;

(h) Lender shall have completed its business, legal and collateral due diligence, including a collateral audit and review of Borrower's books and records, contracts with Account Debtors conducted by Lender and verification of Borrower's representations and warranties to the Lender, the results of which shall be satisfactory to Lender;

(i) Lender shall have completed background checks with respect to certain principal owners and managers of Borrower, the results of which shall be satisfactory to Lender in its sole discretion;

(j) Lender shall be satisfied in its sole discretion that there are no offset arrangements between the Borrower and Account Debtors, including any related buy-back agreements;

(k) No Default or Event of Default shall have occurred and be continuing;

(l) All representations and warranties of Borrower set forth in this Agreement shall be true and correct in all material respects;

(m) The documents regarding the SouthTrust Collateral and SouthTrust Debt shall be in form and substance acceptable to Lender in its discretion;

(n) The Parties shall have completed or delivered, as applicable, all items on the checklist of closing items in connection with this Agreement, each to the satisfaction of Lender in its discretion; and

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(o) The Escrow Agreement shall have been executed and delivered by all parties thereto, Borrower shall have disbursed to the Escrow Agent (as defined in the Escrow Agreement) the sums to be paid by Borrower at Closing, and the terms of the Escrow Agreement for disbursement of the Initial Loan by Lender shall have been fully satisfied.

8.2 Initial and Subsequent Credit. The obligation of Lender to make each extension of credit requested by Borrower under this Agreement, including without limitation, the initial Revolving Loan Advance and any subsequent Revolving Loan Advance shall be subject to the fulfillment to Lender's satisfaction of all of the following conditions:

(a) The representations and warranties contained in this Agreement and in each of the other Loan Documents shall be true in all material respects on and as of the date of the signing of this Agreement and on the date of each extension of credit or the making of any Loans by Lender pursuant to this Agreement, with the same effect as though such representations and warranties had been made on and as of each such date, and on each such date, no Event of Default, and no condition, event or act which with the giving of notice or the passage of time or both would constitute an Event of Default, shall have occurred and be continuing or shall exist.

(b) Lender shall have received all additional documents that Lender may require in connection with such extension of credit, in form and substance satisfactory to Lender.

(c) There shall be no material adverse change, as determined by Lender

in its discretion, since December 31, 2002, in the financial condition or business of Borrower, nor any material decline, as determined by Lender in its discretion, in the market value of any Collateral or a substantial or material portion thereof or of the assets of Borrower.

ARTICLE IX - EVENTS OF DEFAULT; REMEDIES

9.1 Events of Default. The occurrence or existence of any one or more of the following events or conditions, whether voluntary or involuntary, shall constitute an Event of Default:

(a) Borrower fails to pay when due (whether due at stated maturity, on demand, upon acceleration or otherwise) any installment of principal, overadvance, interest, premium, if any, and fees on any of the Revolving Loan Advances, or otherwise owing under this Agreement;

(b) Borrower fails to pay any of the other Obligations on the due date thereof (whether due at stated maturity, on demand, upon acceleration or otherwise) and such failure shall continue for a period of ten (10) days after Lender's giving Borrower written notice thereof;

(c) Borrower fails or neglects to perform, keep or observe any covenant contained in this Agreement or the other Loan Documents (other than a covenant which is dealt with specifically elsewhere in this Section 9.1) and the breach of such other covenant in this Agreement or the other Loan Documents is not cured within ten (10) days after the sooner to occur of Borrower's receipt of written notice of such breach from Lender or the date on which such failure or neglect first becomes known to any officer of Borrower; provided, that if the cure of such failure or neglect cannot be effected within such ten (10) day period, and Borrower is

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diligently attempting to cure such failure or neglect, then such 10-day period shall be extended up to another twenty (20) days so long as the extension of such 10-day period will not have a Materially Adverse Effect as determined by Lender in its discretion;

(d) Any representation or warranty made by or on behalf of Borrower, or other information provided by or on behalf of Borrower to Lender, was incorrect or misleading in any material respect at the time it was made or provided;

(e) Borrower defaults and such default continues beyond any applicable grace or cure period: (i) under the terms of the SouthTrust Debt; or (ii) as primary or secondary obligor, in the payment of any principal or interest on any Indebtedness for Money Borrowed (other than the Obligations) in excess of \$50,000.00 or, if such Indebtedness is payable on demand, Borrower fails to pay such Indebtedness upon demand; or (iii) in the observance of any covenant, term or condition contained in any agreement evidencing, securing or relating to any Indebtedness for Money Borrowed (other than the Obligations) in excess of \$50,000.00, if the effect of such default is to cause, or to permit any other party to such Indebtedness to cause, all or part of such Indebtedness to become due before its stated maturity; or (iv) under the terms of Borrower's Incorporation Certificate for the payment of dividends, distributions or redemption amounts to the holder(s) of Borrower's Series A preferred stock;

(f) A writ of attachment, garnishment execution, distraint or similar process in excess of \$50,000.00 is issued against Borrower, or any of its properties except for any such writ of attachment, garnishment execution, distraint or similar process that is subject to a bonafide dispute by Borrower and is properly contested by appropriate proceedings promptly instituted and diligently conducted, or which is not paid, released, dismissed, or transferred to bond within thirty (30) days thereafter;

(g) Lender determines, in its reasonable discretion, that a Materially Adverse Effect has occurred;

(h) Borrower becomes insolvent or bankrupt; makes an assignment for the benefit of creditors or consents to the appointment of a trustee or receiver; a trustee or a receiver is appointed for Borrower or for a significant portion of Borrower's assets; bankruptcy, reorganization or insolvency proceedings are instituted by Borrower; reorganization or insolvency proceedings are instituted against Borrower and are not dismissed within sixty (60) days after the institution thereof; or if any of the foregoing occurs with respect to any other Person liable for any of Borrower's obligations owing to Lender;

(i) Any judgment or order for the payment of money in excess of \$50,000.00, individually, or in excess of \$100,000.00 in the aggregate for all such judgments or orders, is entered against Borrower, unless the same shall be (i) fully covered by insurance and the issuer of the applicable policy shall have acknowledged full coverage in writing within thirty (30) days of judgment, or (ii) vacated, stayed, bonded, paid or discharged within a period of thirty

(30) days from the date of such judgment or order;

(j) Any Loan Document is terminated other than as provided for in this Agreement or in such Loan Document or becomes void or unenforceable, or any Security

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Interest in any portion of the Collateral other than Equipment ceases to be a valid and perfected first priority security interest, other than as a result of the Permitted Liens; or any Security Interest in any portion of the Equipment ceases to be a second priority security interest;

(k) Borrower conceals, removes, or permits to be concealed or removed, any of its assets with the intent to hinder, delay or defraud Lender or any of Borrower's other creditors;

(l) Any loss, theft, damage or destruction of any item of Collateral or other property of Borrower which has a Materially Adverse Effect;

(m) There is filed against Borrower or other Person liable for any of Borrower's Obligations any civil or criminal action, suit or proceeding under any federal or state racketeering statute (including, without limitation, the Racketeer Influenced and Corrupt Organization Act of 1970), which action, suit or proceeding could result in the confiscation or forfeiture of any material portion of the Collateral;

(n) Any Termination Event with respect to any Plan shall have occurred; or a decision shall have been made by Borrower or any member of the "controlled group of corporations" (as defined in Section 1563(a)(4) of the Internal Revenue Code determined without regard to Sections 1563(a) and (e)(3)(c) of such Code) of which Borrower is a party, to terminate, file a notice of termination with respect to, or withdraw from, any Plan; and

(o) Any default, event of default, or breach occurs under lease agreement(s) for the Orlando Warehouses, or either one of them.

9.2 Lender's Remedies. In addition to any other rights and remedies that Lender may have, upon the occurrence and during the continuance of an Event of Default, Lender may:

(a) Without notice to, or demand upon, Borrower:

(i) discontinue making any further Revolving Loan Advances;

(ii) terminate this Agreement;

(iii) declare all Obligations to be immediately due and payable;

(iv) take possession of all or any portion of the Collateral, wherever located, and enter on any of the premises where any of the Collateral may be and remove, repair and store any of the Collateral until it is sold or otherwise disposed of (Lender shall have the right to store, without charge, all or any portion of the Collateral at any of Borrower's business locations);

(v) use, without charge, Borrower's Proprietary Rights, advertising materials, or any property of a similar nature, in advertising for sale and selling any of the Collateral; and

(vi) renew, modify or extend any Receivable, grant waivers or indulgences with respect to any Receivable, accept partial payments on any Receivable, release, surrender or substitute any security for payment of any Receivable, or compromise with, or release, any party liable on any Receivable in such a manner as Lender may, in its sole discretion deem advisable, all without affecting or diminishing Borrower's Obligations to Lender.

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(b) With notice to Borrower:

(i) require Borrower, at Borrower's expense, to assemble the Collateral and make the Collateral available to Lender at locations reasonably convenient to Lender and Borrower; and

(ii) sell or otherwise dispose of all or any portion of the Collateral at public or private sale for cash or credit, with such notice as may be required by law (in the absence of any contrary requirement, Borrower agrees that ten (10) days prior notice of a public or private sale of the Collateral is reasonable), in lots or in bulk, all as Lender, in its sole discretion, may deem advisable. Lender shall have the right to conduct any such sales, without charge, at Borrower's business locations. Lender may purchase all or any portion of the Collateral at public sale and, if permitted by law, at private

sale and, in lieu of actual payment of the purchase price, may offset the amount of such price against the outstanding amount of the Loans and any other amounts owing from Borrower to Lender. Proceeds realized from the sale of any Collateral will be applied in the following order: (a) to the reasonable costs, expenses and attorneys' fees incurred by Lender in connection with the collection, acquisition, protection and sale of the Collateral; (b) to any accrued and unpaid interest owing from Borrower to Lender; and (c) to any other amounts owing from Borrower to Lender. Borrower agrees that Borrower will remain fully liable for any deficiency owing to Lender after the proceeds of the Collateral have been applied to the Loans and all other amounts owing from Borrower to Lender.

(c) If any of the Collateral shall require repairing, maintenance, preparation, or the like, or is in process or other unfinished state, Lender shall have the right, but not the obligation, to repair or perform such maintenance, preparation, processing or completion of manufacturing to place the same in such saleable condition as Lender shall deem appropriate, but Lender shall have the right to sell or dispose of such Collateral with or without such processing.

ARTICLE X - JURY TRIAL WAIVER;
OTHER WAIVERS AND CONSENTS; AND GOVERNING LAW

10.1 Governing Law; Choice of Forum; Service of Process;
Jury Trial Waiver.

(a) The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island, without reference to applicable conflict of law principles.

(b) Borrower and Lender irrevocably consent and submit to the non-exclusive jurisdiction of Rhode Island Courts in connection with the resolution of any disputes relating to this Agreement or the other Loan Documents. Borrower irrevocably waives any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or any of the other Loan Documents, or in any way connected with or related or incidental to the dealings of the parties in respect of this Agreement or the other Loan Documents or the transactions related hereto or thereto, in each case whether now existing or

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hereafter arising, and whether in contract, tort, equity or otherwise, and agrees that any dispute with respect to any such matters shall be heard only in the courts described above (except that Lender shall have the right to bring any action or proceeding against Borrower or its property in the courts of any other jurisdiction which Lender deems necessary or appropriate in order to realize on the Collateral or otherwise enforce its rights against Borrower or its property.

(c) Borrower waives personal service of any and all process upon it and consents that all such service of process may be made by registered mail (return receipt requested) directed to Borrower at the address set forth below and service so made shall be deemed to be completed five (5) Business Days after the same shall have been so deposited in the United States mails. Nothing contained in this Agreement shall affect the right of Lender to serve legal process by any other manner permitted by law.

(d) BORROWER AND LENDER EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES TO THIS AGREEMENT IN RESPECT OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR THE RELATED TRANSACTIONS, INCLUDING WITHOUT LIMITATION, THE OBLIGATIONS OF BORROWER, THE COLLATERAL, OR ANY INSTRUMENT, DOCUMENT OR GUARANTY DELIVERED PURSUANT TO THIS AGREEMENT, OR THE VALIDITY, PROTECTION, INTERPRETATION, ADMINISTRATION, COLLECTION OR ENFORCEMENT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, WHETHER NOW EXISTING OR HEREAFTER ARISING, WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. BORROWER AND LENDER EACH HEREBY AGREES THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT BORROWER OR LENDER MAY FILE AN ORIGINAL COUNTERPART OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO A TRIAL BY JURY.

(e) Borrower hereby releases and exculpates Lender, its officers, employees and designees, and Lender shall not have any liability to Borrower (whether in contract, tort, equity or otherwise) for losses suffered by Borrower in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Lender, that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any such litigation, Lender shall be entitled to the benefit of the rebuttable presumption that it acted at all times in good faith and with the

exercise of ordinary care in the performance by it of the terms of this Agreement.

10.2 Waiver of Certain Claims and Counterclaims. In no event shall Lender have any liability to Borrower for lost profits or other special, consequential, incidental, exemplary or punitive damages in connection with this Agreement or any of the other Loan Documents or the transactions contemplated hereby or thereby, and Borrower expressly waives any and all right to assert any such claims. Borrower further waives all rights to interpose any claims, deductions,

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setoffs, recoupment, or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto. No officer of Lender has any authority to waive, condition, or modify the provisions of this section.

10.3 Indemnification. Borrower hereby agrees to indemnify, save and hold harmless Lender and its directors, officers, agents, attorneys and employees from and against: (i) the use or contemplated use of the proceeds of any of the Revolving Loan Advances, any transaction contemplated by this Agreement or the other Loan Documents, or any relationship with Borrower or any other party to this Agreement or the other Loan Documents; (ii) any of the claims reserved by Borrower's existing lenders being paid with the initial Loan by Lender as more particularly set forth in the applicable payoff letter between such lender, Borrower, and Lender; (iii) any administrative or investigative proceeding by any governmental agency arising out of or related to a claim, demand, action or cause of action described in clause (i) above; and (iv) any and all liabilities, losses, costs or expenses (including reasonable attorneys' fees and disbursements and other professional services) that any party indemnified hereunder suffers or incurs as a result of any foregoing claim, demand, action or cause of action; provided, however, that no such indemnitee shall be entitled to indemnification for any loss caused by its own gross negligence or willful misconduct. Any obligation or liability of Borrower to any such indemnitee under this section shall survive the expiration or termination of this Agreement and the repayment of the Loans and performance of all Obligations.

ARTICLE XI - MISCELLANEOUS

11.1 Power of Attorney. Borrower irrevocably appoints Lender, and any person designated by Lender, as Borrower's true and lawful attorney-in-fact to: (a) endorse for Borrower, in Lender's or Borrower's name, any draft or other order for the payment of money payable to Borrower; and (b) execute and file or submit for recording, in Lender's or Borrower's name, Financing Statements describing the Collateral. Lender shall not be liable to Borrower for any action taken by Lender or its designee under this power of attorney, except to the extent that such action was taken by Lender in bad faith or with gross negligence or willful misconduct. Borrower agrees that a carbon, photographic or other reproduction of a Financing Statement or this Agreement may be filed by Lender as a Financing Statement.

11.2 Outstanding Revolving Loan Advances. The outstanding principal amount of, and accrued interest on, the Revolving Loan Advances and the Interest Rate applicable to the Revolving Loan Advances from time to time, shall be, at all times, ascertained from the records of Lender and shall be conclusive absent manifest error.

11.3 Modifications and Course of Dealing. This Agreement constitutes the entire agreement of Borrower and Lender relative to the subject matter hereof. No modification of or supplement to this Agreement shall bind Lender unless in writing and signed by an authorized officer of Lender. The enumeration in this Agreement of Lender's rights and remedies is not intended to be exclusive, and such rights and remedies are in addition to and not by way of limitation of any other rights or remedies that Lender may have under the Uniform Commercial Code or other Applicable Law. No course of dealing and no delay or failure of Lender to exercise any right, power or privilege under any of the Loan Documents will affect any other or

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future exercise of such right, power or privilege. The exercise of any one right, power or privilege shall not preclude the exercise of any others, all of which shall be cumulative.

11.4 Assignment and Participation. Borrower may not assign or transfer any of its rights or delegate any of its obligations under this Agreement or any of the other Loan Documents. Lender shall have the right, from time to time, without notice to Borrower, to sell, assign or otherwise transfer all or any part of its interest in this Agreement, the other Loan Documents, and the Loans to any other party, or enter into participation arrangements with any other party. Borrower authorizes Lender to deliver to potential assignees or

participants Borrower's financial information and all other information delivered to Lender in furtherance of or pursuant to the terms of this Agreement.

11.5 Delegation of Duties. Lender may execute any of its duties under this Agreement or the other Loan Document by or through agents, employees or attorneys-in-fact. Lender shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact selected by Lender as long as such selection was made without gross negligence or willful misconduct.

11.6 Notices. Except as otherwise provided herein, whenever any notice, demand, request or other communication shall or may be given to or served upon any party by any other party, or whenever any party desires to give or serve upon any other party any communication with respect to this Agreement, each such communication shall be in writing and shall be deemed to have been validly served, given or delivered (a) upon the earlier of actual receipt and five (5) Business Days after deposit in the United States mail, registered or certified mail, return receipt requested, with proper postage prepaid, (b) upon transmission, when sent by telecopy or other similar facsimile transmission (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery or United States mail as otherwise provided in this Section 11.6), (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid or (d) when hand-delivered, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated in the signature page to this Agreement or to such other address (or facsimile number) as may be substituted by notice given as herein provided.

11.7 Expenses. Borrower agrees to pay, and to hold Lender harmless from and against, all reasonable out-of-pocket expenses incurred by Lender (including fees and costs incurred by in-house counsel) in connection with any amendments, waivers or consents relating to this Agreement or any of the other Loan Documents. Borrower further agrees to pay any reasonable fees, costs, or expenses incurred by Lender arising in connection with Lender's enforcement or preservation of its rights under this Agreement or any other Loan Document, or in the collection of any of the Loans, including without limitation, attorneys' fees (including fees and costs incurred by in-house counsel), expert fees, and legal costs. Borrower also agrees to pay or reimburse Lender for the costs of conducting an appraisal of Borrower's Inventory.

11.8 Assignment of Receivables and Inventory. This Agreement may be supplemented by separate assignments of Receivables and Inventory and, if such assignments are executed, the rights and interests given by Borrower pursuant to such assignments shall be in addition to, and not in limitation of, the rights and security interests given by Borrower under this Agreement. Lender will not be responsible for the safekeeping of any Inventory delivered to Lender, for the collection of proceeds of any of the Collateral, or for losses of collected proceeds held by Borrower in trust for Lender.

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11.9 Binding Effect; Severability. This Agreement shall not be deemed to create any right in any party except as provided herein and shall inure to the benefit of, and be binding upon, the successors and assigns of Borrower and Lender. All of Borrower's obligations under this Agreement are absolute and unconditional and shall not be subject to any offset or deduction whatsoever. The provisions of this Agreement are intended to be severable. If any provision of this Agreement is held invalid or unenforceable in whole or in part, such provision will be ineffective to the extent of such invalidity or unenforceability without in any manner effecting the validity or enforceability of the remaining provisions of this Agreement.

11.10 Final Agreement. This Agreement and the other Loan Documents are intended by Borrower and Lender to be the final, complete, and exclusive expression of the agreement between them. This Agreement supersedes any and all prior oral or written agreements relating to the subject matter hereof. No modification, rescission, waiver, release, or amendment of any provision of this Agreement or any provision of any of the other Loan Documents shall be made, except by a written agreement signed by Borrower and a duly authorized officer of Lender.

11.11 Counterparts. This Agreement may be executed in any number of counterparts, and by Lender and Borrower in separate counterparts, each of which shall be an original, but all of which shall taken together constitute one and the same agreement. The parties hereby acknowledge and agree that facsimile signatures of this Agreement shall have the same force and effect as original signatures.

11.12 Captions. The captions contained in this Agreement are for convenience of reference only, are without substantive meaning and should not be construed to modify, enlarge, or restrict any provision.

11.13 Borrower's Representative. Borrower hereby appoints and authorizes

its Chief Financial Officer to act as its representative and agent hereunder to issue notices and other communications on its behalf (the "Borrower Representative"). Notwithstanding any provision herein to the contrary, Lender agrees that any notice or other communication issued by an authorized representative on behalf of Borrower Representative shall be acknowledged as a notice or other communication properly issued by Borrower and that it shall not recognize any notice or other communication that was not issued by Borrower Representative or its authorized representative as a properly authorized notice or other communication from Borrower.

The undersigned, pursuant to due authority, have caused this Agreement to be executed as of the date set forth above.

[SIGNATURES BEGIN ON NEXT PAGE]

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[SIGNATURE PAGE]

BORROWER:

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New
Name: Christopher J. New
Title: Chief Executive Officer

2441 Viscount Row
Orlando, FL 32809
Facsimile: (407) 854-0472
Attention: Chief Executive Officer
and Chief Financial Officer

With a copy to:

Baker & Hostetler LLP
200 South Orange Avenue
Suite 2300
Orlando, Florida 32801
Facsimile: (407) 841-0168
Attention: Jeffrey E. Decker

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[SIGNATURE PAGE]

LENDER:

TEXTRON FINANCIAL CORPORATION

By: _____
Name: _____
Title: _____

11575 Great Oaks Way
Suite 210
Alpharetta, GA 30022
Attn: SVP-ABLG Portfolio
Management
Facsimile: (770) 360-1672

with a copy to:

Steven M. Schott, Esq.
Textron Financial Corporation
11575 Great Oak Way
Suite 210
Alpharetta, GA 30022
Facsimile: (770) 360-1458

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ACKNOWLEDGMENT OF GALAXY NUTRITIONAL FOODS, INC.

STATE OF)
) ss:
COUNTY OF)

Before me, a Notary Public in and for said County and State, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she executed said instrument as his or her free and voluntary act and

the free and voluntary act of Galaxy Nutritional Foods, Inc., as the
_____ of said Company.

Given under my hand and Notarial Seal this _____ day of May 2003.

Notary Public, State of Florida

Printed, typed or stamped name of Notary Public

My commission expires:

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EXHIBIT A

FORM OF COVENANT COMPLIANCE CERTIFICATE

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Filename: ex102-603.txt
Type: EX-10.2
Comment/Description: Patent, Copyright and
Trademark Agt.

(this header is not part of the document)

PATENT, COPYRIGHT AND TRADEMARK COLLATERAL SECURITY AGREEMENT

THIS PATENT, COPYRIGHT AND TRADEMARK COLLATERAL SECURITY AGREEMENT (the "Agreement") is made as of the 27th day of May, 2003 between GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation ("Borrower") and TEXTRON FINANCIAL CORPORATION, a Delaware corporation ("Lender"). All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement (as this term is defined below).

RECITALS

A. Borrower and Lender have entered into that certain Loan and Security Agreement dated as of even date herewith, pursuant to which Lender has agreed to extend credit to Borrower in the maximum amount of \$7,500,000 (as amended, restated, modified and supplemented from time to time, the "Loan Agreement").

B. In order to induce Lender to enter into the Loan Agreement and the transactions contemplated thereby, and as a condition thereto, Borrower is required to execute and deliver to Lender this Agreement and pursuant hereto to assign and grant to Lender a security interest in and to all of Borrower's right, title, and interest in the Intellectual Property Collateral (as defined below).

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. As used in this Agreement:

(a) "Copyrights" means and includes, in each case whether now existing or hereafter arising, all of Borrower's right, title and interest in and to (i) all copyrights, rights and interests in copyrights, works protectable by copyright, copyright registrations and copyright applications; (ii) all renewals of any of the foregoing; (iii) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for

past or future infringements of any of the foregoing; (iv) the right to sue for past, present and future infringements of any of the foregoing; and (v) all rights corresponding to any of the foregoing throughout the world.

(b) "Patents" means and includes, in each case whether now existing or hereafter arising, all of Borrower's right, title and interest in and to (i) any and all patents and patent applications, (ii) inventions and improvements described and claimed therein, (iii) reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (iv) income, royalties, damages, claims and payments now or hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof, (v) rights to sue for past, present and future infringements thereof, and (vi) all rights corresponding to any of the foregoing throughout the world.

(c) "Trademarks" means and includes in each case whether now existing or hereafter arising, all of Borrower's rights, title and interest in and to (i) trademarks (including service marks), trade names and trade styles and the registrations and applications for registration thereof and the goodwill of the business symbolized by the trademarks, (ii) licenses of the foregoing, whether as licensee or licensor, (iii) renewals thereof, (iv) income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, including, without limitation, damages, claims and payments for past and future infringements thereof, (v) rights to sue for past, present and future infringements thereof, including the right to settle suits involving claims and demands for royalties owing, and (vi) all rights corresponding to any of the foregoing throughout the world.

(d) "Other Assets", means Borrower's intellectual property and/or proprietary materials other than Copyrights, Patents and Trademarks, including without limitation, formulations, manufacturing procedures, quality control procedures and product specifications relating to any products sold under the Copyrights, Patents, and Trademarks

(e) "Intellectual Property Collateral" means collectively the Copyrights, Other Assets, Patents, and Trademarks.

2. As collateral security for the prompt and punctual payment and performance of the Obligations by Borrower and for the prompt performance by Borrower of its obligations and undertakings under this Agreement, Borrower hereby grants to Lender, its successors and assigns, a security interest in all of the Intellectual Property Collateral, whether now owned or hereafter acquired by Borrower, and hereby pledges, mortgages, and hypothecates the Intellectual Property Collateral to Lender.

3. Borrower covenants, warrants and represents that:

(a) Set forth on Schedule A attached hereto is a true and complete list of all of the Intellectual Property Collateral that is subject to current registrations or pending applications for registration in the United States Copyright Office, the United States Patent and Trademark Office, and any other government or public office or agency of the United States of America or other jurisdictions.

(b) Borrower is the sole and exclusive owner of all of the Intellectual Property Collateral, free and clear of all liens and encumbrances, except for (i) the security interest created by this Agreement and the other Loan Documents, (ii) the security interest of FINOVA Mezzanine Capital, Inc. described in Exhibit A hereto and of FINOVA Capital Corporation pursuant to an agreement dated November 14, 2001, and (iii) the licenses issued by Borrower in and to Intellectual Property Collateral set forth on Schedule 5.8 of the Loan Agreement.

(c) Except for the security interest of FINOVA Mezzanine Capital, Inc. described in Exhibit A hereto and of FINOVA Capital Corporation pursuant to an agreement dated November 14, 2001, Lender has a first priority security interest in the Intellectual Property Collateral.

(d) Borrower will take actions to defend Borrower's right, title and interest in and to its Intellectual Property Collateral against the claims of third parties, except where the failure to do so would not have or be reasonably expected to have a Materially Adverse Effect.

(e) The Intellectual Property Collateral set forth on Schedule A is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and Borrower has not received any claim by any third party that any of such Intellectual Property Collateral is invalid or unenforceable.

(f) Execution, delivery and performance of this Agreement by Borrower does not (i) violate, conflict with, result in a breach of, constitute a default under, result in the termination of, or result in the creation of any encumbrances upon any of the Intellectual Property Collateral, under any agreement to which Borrower is a party or by which Borrower is bound, or (ii) violate any laws, rules, regulations or orders applicable to any of the Intellectual Property Collateral.

(g) Borrower has used, and will continue to use for the duration of this Agreement, reasonably consistent standards of quality in its manufacture of the products sold under or utilizing any of the Intellectual Property Collateral.

(h) Borrower will not grant to any Person an exclusive license for any territory in the United States of America or Canada for all or any part of the Intellectual Property Collateral.

(i) Borrower shall take any and all reasonable actions as are necessary or appropriate to properly maintain, protect, preserve, care for, and enforce any of the Intellectual Property Collateral, including, without limitation, payment when due of such fees, taxes, and other expenses which shall be incurred or which shall accrue with respect to any of the Intellectual Property Collateral.

(j) If Lender deems it necessary to perfect or continue perfection of Lender's interest in the Intellectual Property Collateral conveyed hereunder, Borrower shall (a) cause this Agreement to be properly recorded with the United States Patent and Trademark Office, the United States Copyright Office, and any other government or public office or agency of the United States of America, as applicable, and (b) for Intellectual Property Collateral registered in the United States or Canada (and upon Lender's request in such other jurisdictions), will execute and deliver to Lender such documents as Lender may require to perfect its security interest in registered Intellectual Property Collateral.

(k) All information heretofore or herein supplied in writing to Lender by or on behalf of Borrower with respect to any of the Intellectual Property Collateral is accurate and complete in all material respects.

(l) With respect to the Master Distribution and License Agreement effective May 22, 2003 between Borrower and Fromageries Bel S.A. ("Bel License Agreement"), Borrower will not (i) increase the Territory (as defined therein) to include any countries in addition to the specific countries described in clause (i), (ii) and (iii) of Section 1.3 thereof or (ii) otherwise materially amend, modify, supplement or otherwise change the terms, conditions or parameters of the agreement except as contemplated in the Bel License Agreement as in effect on May 22, 2003. The foregoing will not prevent or prohibit the Borrower from negotiating, establishing the terms and conditions of, and entering into the manufacturing agreement contemplated by the Bel License Agreement.

4. Borrower hereby grants to Lender and its employees, representatives and agents the right to visit during regular business hours any of Borrower's plants and facilities that manufacture, inspect or store products that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto, provided that Lender shall not interfere with the daily operations of Borrower. Borrower shall do any and all acts required by Lender to ensure Borrower's compliance with Section 3(g) above.

5. Borrower agrees that, until all of the Obligations of Borrower under the Loan Documents shall have been satisfied in full, Borrower will not (a) sell, assign, transfer or sublicense the Intellectual Property Collateral or any of its rights or interests therein other than to: (i) Lender, (ii) Fromageries Bel S.A. pursuant to or as contemplated by the Bel License Agreement or the manufacturing agreement contemplated thereunder,

and (iii) parties to whom Borrower has granted licenses in the ordinary course of its business on market terms or with the prior written consent of Lender or (b) enter into any other agreement which is inconsistent with Borrower's obligations hereunder, without the prior written consent of Lender.

6. If, before the Obligations of the Borrower shall have been satisfied in full, Borrower shall obtain rights to any new Intellectual Property Collateral, the provisions of this Agreement shall automatically apply thereto. Borrower shall give Lender prompt written notice of any new Intellectual Property Collateral which shall become subject to registrations or pending applications for registration in the United States Copyright Office, the United Patent and Trademark Office, and any other government or public office or agency of the United States of America or other jurisdictions and will execute and deliver to Lender such documents as Lender may require to perfect its security interest in any registered Intellectual Property Collateral.

7. Borrower authorizes Lender to modify this Agreement by amending Schedule A to include any new registrations and/or applications pending for any Intellectual Property Collateral without the necessity of Borrower's approval of or signature to such amendment, and Borrower shall do all such other acts (at its own expense) deemed reasonably necessary or appropriate by Lender to implement or preserve Lender's interests therein. All representations and warranties of Borrower set forth herein shall be deemed to be restated by Borrower as of the date of any such amendment of or supplement to Schedule A with full force and effect as though made on such date.

8. If any Event of Default shall have occurred and be continuing, Lender shall have, in addition to all other rights and remedies given by this Agreement, those allowed by law and the rights and remedies of a Lender under the Uniform Commercial Code as enacted in any applicable jurisdiction and, without limiting the generality of the foregoing, Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Providence, Rhode Island, or elsewhere, all or from time to time any part of the Intellectual Property Collateral, or any interest which Borrower may have therein, and after deducting from the proceeds of sale or other disposition of any part of the Intellectual Property Collateral all expenses (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds to the payment of the Obligations of Borrower. Any remainder of the proceeds after payment in full of the Obligations of Borrower shall be paid over to Borrower. Written notice of any sale or other disposition of any part of the Intellectual Property Collateral shall be given to Borrower at least ten (10) days before the time of any intended public or private sale or other disposition thereof is to be made, which Borrower 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 any of the Intellectual Property Collateral sold.

In addition, upon the occurrence of an Event of Default, Lender shall have, and Borrower hereby grants to Lender, effective under this Agreement and the other Loan Documents, a fully-paid-up, right and license to make, use, practice, and sell (or license or otherwise transfer) the Intellectual Property Collateral, for the exclusive purpose of, and to the extent necessary and sufficient for, the full and complete enjoyment and exercise of and realization upon the rights, remedies, and interests of Lender pursuant to this Agreement and the other Loan Documents. Except for the exclusive territorial license of Intellectual Property Collateral granted by Borrower to Fromageries Bel S.A. and such other licenses of Intellectual Property Collateral for exclusive territories not prohibited by this Agreement, the license granted by Borrower to Lender hereunder is worldwide.

9. Subject to the terms of the Loan Agreement, at such time as Borrower shall completely satisfy all of the Obligations, this Agreement shall terminate and Lender shall execute and deliver to Borrower all deeds, assignments, termination statements under the Uniform Commercial Code, and other instruments as may be necessary or proper to release Lender's security interest in the Intellectual Property Collateral,

subject to any disposition thereof which may have been made by Lender pursuant hereto.

10. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Lender in connection with 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 any part of the Intellectual Property Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to any part of the Intellectual Property Collateral, shall be borne and paid by Borrower on demand by Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the highest rate prescribed in the Loan Agreement.

11. Borrower shall not knowingly abandon or dedicate to the public any of the Intellectual Property Collateral, nor knowingly do any act nor omit to do any act if such act or omission is of a character that tends to cause or contribute to the abandonment or dedication to the public of any part of the Intellectual Property Collateral, without the consent of Lender, which consent shall not be unreasonably withheld.

12. In the event of the occurrence of an Event of Default under the Loan Agreement, Borrower 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 Borrower's true and lawful attorney-in-fact, with the power to endorse Borrower's name on all applications, documents, papers and instruments necessary for Lender to use any of the Intellectual Property Collateral, or to grant or issue any exclusive or non-exclusive license under any of the Intellectual Property Collateral to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of any of the Intellectual Property Collateral to anyone else. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until this Agreement shall terminate pursuant to the terms herein.

13. If Borrower fails to comply with any of its obligations hereunder, Lender may perform such obligations in Borrower's name or in Lender's name, but at Borrower's expense, and Borrower hereby agrees to reimburse Lender in full for all expenses, including reasonable attorneys' fees, incurred by Lender in protecting, defending and maintaining any of the Intellectual Property Collateral.

14. This Agreement is supplemental to the Loan Agreement, and in no event shall this Agreement, or the recordation of this Agreement or any other documents in connection herewith with the United States Patent and Trademark Office, the United States Copyright Office, or any other government or public office or agency of the United States of America, adversely effect or impair, in any way or to any extent, the other Loan Documents, and the security interest of Lender in the Collateral (including the Intellectual Property Collateral) pursuant to the other Loan Documents. Any and all rights and interests of Lender in and to the Intellectual Property Collateral (and any and all obligations of Borrower with respect to the Intellectual Property Collateral) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of Lender (and the obligations of Borrower) in, to, or with respect to the Collateral (including Intellectual Property Collateral) provided in or arising under or in connection with the other Loan Documents.

15. No course of dealing between Borrower 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.

16. All of Lender's rights and remedies with respect to any of the Intellectual Property Collateral, 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.

17. Notices that are required to be delivered hereunder shall be sufficient if in writing and sent to the addresses set forth in the Loan Agreement, in the manner and within the time specified in the Loan Agreement.

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 Section 7.

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. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Rhode Island, without reference to applicable conflict of law principles.

22. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties hereby acknowledge and agree that facsimile signatures of this Agreement shall have the same force and effect as original signatures.

[Signatures on Following Page]

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IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the date set forth above.

ATTEST
BORROWER:
GALAXY NUTRITIONAL FOODS, INC.

/s/ LeAnn Hitchcock By: /s/ Christopher J. New
Name: LeAnn Hitchcock Name: Christopher J. New
[CORPORATE SEAL] Title: Chief Executive Officer

LENDER:
TEXTRON FINANCIAL CORPORATION

By: _____
Name: _____
Title: _____

SCHEDULE A
Intellectual Property Collateral

(A) TRADEMARKS/SERVICEMARKS

- GCC = Galaxy Cheese Company
- GFC = Galaxy Food Company
- GNF = Galaxy Nutritional Foods
- FMC = Finova Mezzanine Capital

REGISTRATIONS

TRADEMARK	COUNTRY	REGISTRATION	REGISTRATION	CLAS
Owner		DATE	NUMBER	S
Security Interest				

Formagg O = GCC SI = FMC	United States	04/03/84	1272946	29
Formagg O = GFC	Canada	03/01/85	TMA300386	29
Formagg O = GCC	France	06/07/1984	1275120	29
Formagg O = GCC	Japan	08/31/94	2691896	31
Formagg O = GCC	United Kingdom	02/25/87	B1217447	29
Galaxy Nutritional Foods O = GNF SI = FMC	United States	06/11/02	2577980	29
Galaxy Nutritional Foods O = GNF SI = FMC	United States	04/29/02	2560390	40
G and Design O = GFC SI = FMC	United States	02/01/00	2314619	40
Labella's and Design O = GCC SI = FMC	United States	10/09/84	1299683	29
Lite Bakery O = GFC SI = FMC	United States	10/07/97	2102820	30

SCHEDULE A
INTELLECTUAL PROPERTY COLLATERAL
(cont'd)

The Lite Bakery and Design O = GFC SI = FMC	United States	10/21/97	2106432	30
Lite & Less and Design O = GFC SI = FMC	United States	04/18/00	2343029	29
Pizza and Dessert that Doesn't Hurt O = GFC SI = FMC	United States	09/18/98	2189242	35
Soyco	Australi a	11/12/01	894748	29
Soyco O = GFC SI = FMC	United States	01/12/93	1745941	29
Soyco and Design O = GFC SI = FMC	United States	08/17/93	1788315	29
Soymage O = GFC SI = FMC	United States	01/05/96	1744693	29
Soy Singles O = GFC SI = FMC	United States	06/24/97	2074712	29
Veggie Nature's Alternative to Milk O = GNF	Australi a	11/12/01	894749	29
Veggie Nature's Alternative to Milk & Design O = GNF	United States	12/17/02	2662329	29

Veggy Singles O = GFC SI = FMC	United States	06/03/97	2068151	29
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Veggie Slices O = GNF	Australia	11/12/01	894750	29
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SCHEDULE A
INTELLECTUAL PROPERTY COLLATERAL
(cont'd)

Veggie Slices O = GFC	United States	10/29/02	2641674	29
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Veggie Slices & Design O = GNF	Japan	02/21/03	4646851	29
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Veggie Slices Nature's Alternative to Cheese & Design O = GNF	Japan	02/21/03	4644850	29
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Wholesome Valley O = GFC SI = FMC	United States	02/01/00	2314726	29
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APPLICATIONS

TRADEMARK	COUNTRY	APPLICATION DATE	APPLICATION NUMBER	CLASS
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Galaxy Nutritional Foods O = GNF	Australia	11/12/01	894747	29
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Galaxy Nutritional Foods O = GNF SI = FMC	United States	02/01/01	76/204595	35
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Galaxy Nutritional Foods O = GNF	United States	02/19/03	76/491198	29
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Galaxy Nutritional Foods O = GNF	United States	02/19/03	76/491197	29
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Galaxy Nutritional Foods and Design O = GNF	United States	02/18/03	76/491199	29
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Galaxy Nutritional Foods O = GNF	United States	02/19/03	76/491272	40
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SCHEDULE A
INTELLECTUAL PROPERTY COLLATERAL
(cont'd)

Galaxy Nutritional Foods Veggie O = GNF	United States	02/07/02	76/367873	29
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G (Stylized Design) O = GNF	United States	02/19/02	76/491273	40
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G (Stylized Design) O = GNF	United States	02/19/03	76/491274	29
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Ultra Smoothie O = GNF	United States	08/29/02	76/445746	32
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Ultra Smoothie O = GNF	United States	04/01/03	76/506079	29
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Ultra Smoothie O = GNF	United States	04/01/03	76/502629	29
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Ultra Smoothie and United Design O = GNF	States	09/04/02	76/446486	32
Veggie Slices O = GNF	Japan	08/23/01	76635/2001	29
Veggie Slices Nature's Alternative to Cheese O = GNF	Japan	08/23/01	76633/2001	29
Wild Strings O = GNF	United States	09/16/02	76/450007	29

B) PATENTS

None

C) COPYRIGHTS

None

Filename: ex103-603.txt
Type: EX-10.3
Comment/Description: Renewal Promissory Note
 (this header is not part of the document)

RENEWAL PROMISSORY NOTE

\$10,131,984.85

May 28, 2003
 Orlando, Florida

FOR VALUE RECEIVED, the undersigned, GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation authorized to do business in the State of Florida f/k/a GALAXY FOODS COMPANY, a Delaware corporation ("Maker") promises to pay to the order of SOUTHTRUST BANK, (hereinafter called the "Bank" or, together with any other holder of this note, the "Holder") or order, at its place of business at 420 North 20th Street, Birmingham, Alabama 35203 Attn: Florida Commercial Banking (Orlando), or at such other place as the Holder of this Note may designate in writing, the principal sum of TEN MILLION ONE HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED EIGHTY-FOUR AND 85/100 DOLLARS (\$10,131,984.85), or so much thereof as is from time to time disbursed pursuant to the Loan Agreement between Maker and Holder dated March 10, 2000, as amended (the "Loan Agreement"), together with interest thereon at the Interest Rate, in lawful money of the United States, which shall be legal tender in payment of all debts and dues, public and private, at the time of said payment, said principal and interest to be payable as set forth below.

1. INTEREST RATE.

a. The Interest Rate shall be a floating rate calculated at an annual rate equal to one percent (1.0%) per annum in excess of the SOUTHTRUST BANK Base Rate of Interest in effect from time to time calculated on a daily moving basis upon the principal balance hereof from time to time outstanding, but in no event to exceed the maximum rate allowed by Florida Law, as amended, or as preempted and prescribed from time to time by the Laws of the United States of America or any rule or regulation of any department or agency thereof. The Base Rate of Interest of SOUTHTRUST BANK shall be that rate of interest (but not necessarily the best or lowest rate charged borrowing customers of SOUTHTRUST BANK) described by it as its Base Rate of Interest, whether or not such rate shall be otherwise published, as such rate shall vary from time to time, and each adjustment shall be effective on the day the change occurs.

b. Interest shall be calculated on the basis of a 360-day year, actual days elapsed.

2. MATURITY DATE. June 1, 2009.

3. PAYMENTS. The Loan shall be repaid by monthly payments each composed of \$75,000.00 principal, plus accrued interest at the Interest Rate beginning on July 1, 2003 and payable on the first day of each successive month thereafter through and including June 1, 2004, thereafter the Loan shall be repaid by monthly payments each composed of \$110,000.00 principal, plus accrued interest at the Interest Rate beginning on July 1, 2004 and payable on the first day of each successive month thereafter through and including June 1, 2005, thereafter the Loan shall be repaid by monthly payments each composed of \$166,250.00 principal, plus accrued interest at the Interest Rate beginning on July 1, 2005 and payable on the first day of each successive month thereafter until the Maturity Date at which time all then unpaid principal and interest shall be payable in full.

4. SECURITY AGREEMENT. As security for the payment of the indebtedness evidenced by this Note ("Liabilities"), the undersigned (among other things) has granted or has caused to be granted to Holder a Security Agreement dated March 10, 2000 encumbering and conveying property therein described ("Security Agreement"). Holder is given a lien upon and a security interest in all property of the undersigned now or at any time hereafter in the possession of Holder in any capacity whatsoever, including but not limited to any balance or share of any deposit, certificate of deposit, trust or agency account, as security for the payment of this Note and the Holder is hereby authorized to apply, on or after maturity (whether by a acceleration or otherwise) to the payment of this debt any such funds or property in possession of the Holder belonging to each Obligor, in such order of application as Holder may from time to time elect, without advance notice.

5. DEFAULT RATE. This note and all sums due hereunder shall bear interest from the date when due (without any prior notice from Holder to Maker or any Obligor), whether by lapse of time or on acceleration, and also after any judgment which may be entered against any Obligor and in favor of Holder, at the Default Rate (as hereinafter defined) until paid. The Default Rate shall be a rate of interest equal to the Interest Rate plus five percent (5%) per annum in excess of the Interest Rate.

6. INTEREST LIMITATION. Anything in this note, the Security Agreement or any other agreements or arrangements with the undersigned in connection with the loan evidenced by this Note to the contrary notwithstanding, in no event shall the amount of interest due hereunder, together with all

THIS NOTE IS A RENEWAL PROMISSORY NOTE WHICH RENEWS A NOTE IN THE PRINCIPAL AMOUNT OF \$8,131,984.85 AND INCLUDES AN ADDITIONAL \$2,000,000.00 FUTURE ADVANCE UPON WHICH DOCUMENTARY STAMP TAXES ARE BEING PAID.

amounts reserved, charged, or taken by Holder as compensation for fees, services, or expenses incidental to the making, negotiation or collection of the loan evidenced hereby, which are deemed to be interest under applicable law, exceed the maximum rate of interest on the unpaid principal balance hereof allowed from time to time by applicable law. If any sum is collected in excess of the applicable maximum rate of interest, the excess sum collected shall be applied to reduce the principal debt or be refunded to Maker, at Holder's option.

7. CONSENT AND WAIVER. Each Obligor (which term shall mean and include each Borrower, Maker, Guarantor, and all others who may become liable for all or any part of the obligations evidenced and secured hereby), does hereby, jointly and severally: (a) consent to any forbearance or extension of the time or manner of payment hereof and to the release of all or any part of any security held by the Holder to secure payment of this Note and to the subordination of the lien of the security agreement and any other instrument of security securing this Note as to all or any part of the property encumbered thereby, all without notice to or consent of that party; (b) agree that no course of dealing or delay or omission or forbearance on the part of the Holder in exercising or enforcing any of its rights or remedies hereunder or under any instrument securing this Note shall impair or be prejudicial to any of the Holder's rights and remedies hereunder or to the enforcement hereof and that the Holder may extend, modify or postpone the time and manner of payment and performance of this Note and any instrument securing this Note, may grant forbearances and may release, wholly or partially, any security held by the Holder as security for this Note and release, partially or wholly, any person or party primarily or secondarily liable with respect to this Note, all without notice to or consent by any party primarily or secondarily liable hereunder and without thereby releasing, discharging or diminishing its rights and remedies against any other party primarily or secondarily liable hereunder; (c) waive notice of acceptance of this Note, notice of the occurrence of any default hereunder or under any instrument securing this Note and presentment, demand, protest, notice of dishonor and notice

of protest and notices of any and all action at any time taken or omitted by the Holder in connection with this Note or any instrument securing this Note and waives all requirements necessary to hold that party to the liability of that party; (d) waive any "venue privilege" and/or "diversity of citizenship privilege" which they have now or have in the future, and do hereby specifically agree, notwithstanding the provision of any state or federal law to the contrary, that the venue for the enforcement, construction or interpretation of this note shall be the County Court, Circuit Court or Federal Court selected by the Holder hereof and they do hereby specifically waive the right to sue or be sued in the court of any other county in the State of Florida, any court in any other state or country or in any federal court, or in any state or federal administrative tribunal.

8. ATTORNEYS' FEES. All parties liable for the payment of this Note agree to pay the Holder in addition to the principal, premium and interest due and payable hereon, reasonable paralegal fees, attorneys' fees and costs, whether or not an action be brought, for the services of counsel employed after maturity or default to collect this Note or any principal or interest due hereunder, or to protect the security, if any, or enforce the performance of any other agreement contained in this Note or in any instrument of security executed in connection with the loan evidenced hereby, including, but not limited to costs, paralegal fees and attorneys' fees and costs on any trial, or appellate proceedings, or in any proceedings under the United States Bankruptcy Code or in any post judgment proceedings.

9. EVENTS OF DEFAULT. The happening of any of the following events shall constitute a default or Event of Default hereunder: (a) failure of any Obligor to pay any principal, interest or any other sums required hereunder when due under this Note; or (b) a default or Event of Default shall occur in any instrument securing this Note or in any other instrument executed in connection with the loan evidenced hereby.

10. ACCELERATION. If a default or Event of Default shall occur hereunder and such default shall continue for ten (10) days then at the option of the Holder, the entire principal sum then remaining unpaid together with any premiums and accrued interest shall immediately become due and payable without notice or demand, and said principal and premiums shall bear interest from such date at the Default Rate, to be charged by Holder, it being agreed that interest not paid when due shall, at the option of the Holder, draw interest at the Default Rate. Failure to exercise the above options shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. If this Note is payable upon demand, then no terms or provisions contained in this paragraph shall be deemed or interpreted to alter or abrogate the demand nature of this Note or the rights of Holder under a demand instrument.

11. OTHER REMEDIES. If a default or an Event of Default shall occur Holder shall have in addition to its remedies under the Security Agreement, this Note, Loan Agreement, and/or any other instrument securing or executed in conjunction with the loan evidenced hereby and applicable law all the remedies of a secured party under the Uniform Commercial Code of the State of Florida and, without limiting the generality of the foregoing, Holder shall have the right, at its option, and without notice or demand, to declare the entire amount of this Note remaining unpaid, and all other liabilities selected by Holder, immediately due and payable, less any unearned interest or other charges and any rebates required by law (it being the intention hereof that under no circumstances shall Holder be entitled to receive at any time any charges not allowed or permitted by law or any interest in excess of the maximum allowed by law); to set off against this Note all money owed by Holder in any capacity to the undersigned or any guarantor hereof, whether or not due; and Holder shall be deemed to have exercised such right of setoff and to have made a charge against any such money immediately upon the occurrence of such default even though such charge is made or entered in the books of Holder subsequent thereto. Upon disposition of any collateral after the occurrence of any default, undersigned shall be and remain liable for any deficiency; and Holder shall account to undersigned for any surplus, but Holder shall have the right to apply all or any part of such surplus (or to hold the same as a reserve) against any and all other liabilities of undersigned to Holder.

12. FLORIDA LAW. This Note is executed under seal and constitutes a contract under the laws of the State of Florida, and shall be enforceable in a Court of competent jurisdiction in that State, regardless of in which State this Note is being executed.

13. HEADINGS. The headings of the paragraphs contained in this Note are for convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meaning of the parties hereto.

14. LATE CHARGE. The undersigned promises to pay to the Holder of this note a "late charge" not to exceed an amount equal to five per cent (5%) of any principal or interest which is not paid within ten (10) days from the

due date thereof to cover the extra expense involved in handling delinquent payments. Collection or acceptance by Holder of such late charge shall not constitute a waiver of any remedies of Holder provided herein.

15. CROSS DEFAULT. A default under this Note shall be and constitute a default under any and all other notes or other evidence of indebtedness and any instruments of security therefor in which an Obligor is liable and of which the Holder is the Holder and a default under any other loan any Obligor has at anytime to Holder or any other lender shall be a default hereunder.

16. MISCELLANEOUS.

a. The term "Maker", as used herein, in every instance shall include the Maker's heirs, executors, administrators, successors, legal representatives and assigns, and shall denote the singular and/or plural, the masculine and/or feminine, and natural and/or artificial persons whenever and wherever the context so requires or admits.

b. This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All payments made on the indebtedness evidenced by this Note shall be applied first to repayment of monies paid or advanced by Holder on behalf of the Maker in accordance with the terms of the Security Agreement securing this Note, and thereafter shall be applied to payment of accrued interest, and lastly to payment of principal.

MAKER AND HOLDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE INCLUDING BUT NOT LIMITED TO ANY POST JUDGMENT ACTIONS AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE HOLDER MAKING THE LOAN OR EXTENSION OF CREDIT EVIDENCED BY THIS NOTE.

(Initials)

Address of Maker:
2441 Viscount Row
Orlando, Florida 32809

GALAXY NUTRITIONAL FOODS, INC.,
a Delaware corporation authorized to do
business in the State of Florida

By: /s/ CHRISTOPHER J. NEW

CHRISTOPHER J. NEW
Chief Executive Officer

TAXPAYER IDENTIFICATION NUMBER:

Filename: ex104-603.txt
Type: EX-10.4
Comment/Description: Renewal Promissory Note
(this header is not part of the document)

RENEWAL PROMISSORY NOTE

\$501,000.00

May 28, 2003
Orlando, Florida

FOR VALUE RECEIVED, the undersigned, GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation authorized to do business in the State of Florida f/k/a GALAXY FOODS COMPANY, a Delaware corporation ("Maker"), promises to pay to the order of SOUTHTRUST BANK, (hereinafter called the "Bank" or, together with any other holder of this note, the "Holder") or order, at its place of business at 420 North 20th Street, Birmingham, Alabama 35203 Attn: Florida Commercial Banking (Orlando), or at such other place as the Holder of this Note may designate in writing, the principal sum of FIVE HUNDRED ONE THOUSAND AND NO/100 DOLLARS (\$501,000.00), together with interest thereon at the Interest Rate, in lawful money of the United States, which

shall be legal tender in payment of all debts and dues, public and private, at the time of said payment, said principal and interest to be payable as set forth below.

1. INTEREST RATE.

a. The Interest Rate shall be a floating rate calculated at an annual rate of the SOUTHTRUST BANK Base Rate of Interest in effect from time to time calculated on a daily moving basis upon the principal balance hereof from time to time outstanding, but in no event to exceed the maximum rate allowed by Florida Law, as amended, or as preempted and prescribed from time to time by the Laws of the United States of America or any rule or regulation of any department or agency thereof. The Base Rate of Interest of SOUTHTRUST BANK shall be that rate of interest (but not necessarily the best or lowest rate charged borrowing customers of SOUTHTRUST BANK) described by it as its Base Rate of Interest, whether or not such rate shall be otherwise published, as such rate shall vary from time to time, and each adjustment shall be effective on the day the change occurs.

b. Interest shall be calculated on the basis of a 360-day year, actual days elapsed.

2. MATURITY DATE. March 1, 2004.

3. PAYMENTS. Principal and interest shall be repayable by monthly payments each composed of: (i) \$50,000.00 principal; plus (ii) accrued interest at the Interest Rate, beginning on June 1, 2003 and payable on the first day of each successive month thereafter until the Maturity Date at which time all then unpaid principal and interest shall be payable in full.

4. SECURITY AGREEMENT. As security for the payment of the indebtedness evidenced by this Note ("Liabilities"), the undersigned (among other things) has granted or has caused to be granted to Holder a Security Agreement dated March 10, 2000, as modified by Amendment of Security Agreement dated of even date herewith encumbering and conveying the property therein described ("Security Agreement"). Holder is given a lien upon and a security interest in all property of the undersigned now or at any time hereafter in the possession of Holder in any capacity whatsoever, including but not limited to any balance or share of any deposit, certificate of deposit, trust or agency account, as security for the payment of this Note and the Holder is hereby authorized to apply, on or after maturity (whether by a acceleration or otherwise) to the payment of this debt any such funds or property in possession of the Holder belonging to each Obligor, in such order of application as Holder may from time to time elect, without advance notice.

5. DEFAULT RATE. This note and all sums due hereunder shall bear interest from the date when due (without any prior notice from Holder to Maker or any Obligor), whether by lapse of time or on acceleration, and also after any judgment which may be entered against any Obligor and in favor of Holder, at the Default Rate (as hereinafter defined) until paid. The Default Rate shall be a rate of interest equal to the Interest Rate plus five percent (5%) per annum in excess of the Interest Rate until paid.

6. INTEREST LIMITATION. Anything in this note, the Security Agreement or any other agreements or arrangements with the undersigned in connection with the loan evidenced by this Note to the contrary notwithstanding, in no event shall the amount of interest due hereunder, together with all amounts reserved, charged, or taken by Holder as compensation for fees, services, or expenses incidental to the making, negotiation or collection of the loan evidenced hereby, which are deemed to be interest under applicable law, exceed the maximum rate of interest on the unpaid principal balance hereof allowed from time to time by applicable law. If any sum is collected in excess of the applicable maximum rate of

THIS NOTE IS A RENEWAL PROMISSORY NOTE WHICH RENEWS A NOTE UPON WHICH DOCUMENTARY STAMP TAXES HAVE ALREADY BEEN PAID.

interest, the excess sum collected shall be applied to reduce the principal debt or be refunded to Maker, at Holder's option.

7. CONSENT AND WAIVER. Each Obligor (which term shall mean and include each Borrower, Maker, Guarantor, and all others who may become liable for all or any part of the obligations evidenced and secured hereby), does hereby, jointly and severally: (a) consent to any forbearance or extension of the time or manner of payment hereof and to the release of all or any part of any security held by the Holder to secure payment of this Note and to the subordination of the lien of the Security Agreement and any other instrument of security securing this Note as to all or any part of the property encumbered thereby, all without notice to or consent of that party; (b) agree that no course of dealing or delay or

omission or forbearance on the part of the Holder in exercising or enforcing any of its rights or remedies hereunder or under any instrument securing this Note shall impair or be prejudicial to any of the Holder's rights and remedies hereunder or to the enforcement hereof and that the Holder may extend, modify or postpone the time and manner of payment and performance of this Note and any instrument securing this Note, may grant forbearances and may release, wholly or partially, any security held by the Holder as security for this Note and release, partially or wholly, any person or party primarily or secondarily liable with respect to this Note, all without notice to or consent by any party primarily or secondarily liable hereunder and without thereby releasing, discharging or diminishing its rights and remedies against any other party primarily or secondarily liable hereunder; (c) waive notice of acceptance of this Note, notice of the occurrence of any default hereunder or under any instrument securing this Note and presentment, demand, protest, notice of dishonor and notice of protest and notices of any and all action at any time taken or omitted by the Holder in connection with this Note or any instrument securing this Note and waives all requirements necessary to hold that party to the liability of that party; (d) waive any "venue privilege" and/or "diversity of citizenship privilege" which they have now or have in the future, and do hereby specifically agree, notwithstanding the provision of any state or federal law to the contrary, that the venue for the enforcement, construction or interpretation of this note shall be the County Court, Circuit Court or Federal Court selected by the Holder hereof and they do hereby specifically waive the right to sue or be sued in the court of any other county in the State of Florida, any court in any other state or country or in any federal court, or in any state or federal administrative tribunal.

8. ATTORNEYS' FEES. All parties liable for the payment of this Note agree to pay the Holder in addition to the principal, premium and interest due and payable hereon, reasonable paralegal fees, attorneys' fees and costs, whether or not an action be brought, for the services of counsel employed after maturity or default to collect this Note or any principal or interest due hereunder, or to protect the security, if any, or enforce the performance of any other agreement contained in this Note or in any instrument of security executed in connection with the loan evidenced hereby, including, but not limited to costs, paralegal fees and attorneys' fees and costs on any trial, or appellate proceedings, or in any proceedings under the United States Bankruptcy Code or in any post judgment proceedings.

9. EVENTS OF DEFAULT. The happening of any of the following events shall constitute a default or Event of Default hereunder: (a) failure of any Obligor to pay any principal, interest or any other sums required hereunder when due under this Note; or (b) a default or Event of Default shall occur in any instrument securing this Note or in any other instrument executed in connection with the loan evidenced hereby.

10. ACCELERATION. If a default or Event of Default shall occur hereunder and such default shall continue for ten (10) days then at the option of the Holder, the entire principal sum then remaining unpaid together with any premiums and accrued interest shall immediately become due and payable without notice or demand, and said principal and premiums shall bear interest from such date at the Default Rate to be charged by Holder, it being agreed that interest not paid when due shall, at the option of the Holder, draw interest at the rate provided for in this paragraph. Failure to exercise the above options shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. If this Note is payable upon demand, then no terms or provisions contained in this paragraph shall be deemed or interpreted to alter or abrogate the demand nature of this Note or the rights of Holder under a demand instrument.

11. OTHER REMEDIES. If a default or an Event of Default shall occur Holder shall have in addition to its remedies under the Security Agreement, this Note and/or any other instrument securing or executed in conjunction with the loan evidenced hereby and applicable law all the remedies of a secured party under the Uniform Commercial Code of the State of Florida and, without limiting the generality of the foregoing, Holder shall have the right, at its option, and without notice or demand, to declare the entire amount of this Note remaining unpaid, and all other liabilities selected by Holder, immediately due and payable, less any unearned interest or other charges and any rebates required by law (it being the intention hereof that under no circumstances shall Holder be entitled to receive at any time any charges not allowed or permitted by law or any interest in excess of the maximum allowed by law); to set off against this Note all money owed by Holder in any capacity to the undersigned or any guarantor hereof, whether or not due; and Holder shall be deemed to have exercised such right of setoff and to have made a charge against any such money immediately upon the occurrence of such default even though such charge is made or entered in the books of Holder subsequent thereto. Upon disposition of any collateral after the occurrence of any default, undersigned shall be and remain liable for any deficiency; and Holder shall

account to undersigned for any surplus, but Holder shall have the right to apply all or any part of such surplus (or to hold the same as a reserve) against any and all other liabilities of undersigned to Holder.

12. FLORIDA LAW. This Note is executed under seal and constitutes a contract under the laws of the State of Florida, and shall be enforceable in a Court of competent jurisdiction in that State, regardless of in which State this Note is being executed.

13. HEADINGS. The headings of the paragraphs contained in this Note are for convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meaning of the parties hereto.

14. LATE CHARGE. The undersigned promises to pay to the Holder of this note a "late charge" not to exceed an amount equal to five per cent (5%) of any principal or interest which is not paid within ten (10) days from the due date thereof to cover the extra expense involved in handling delinquent payments. Collection or acceptance by Holder of such late charge shall not constitute a waiver of any remedies of Holder provided herein.

15. CROSS DEFAULT. A default under this Note shall be and constitute a default under any and all other notes or other evidence of indebtedness and any instruments of security therefor in which an Obligor is liable and of which the Holder is the Holder and a default under any other loan any Obligor has at anytime to Holder or any other lender shall be a default hereunder.

16. MISCELLANEOUS.

a. The term "Maker", as used herein, in every instance shall include the Maker's heirs, executors, administrators, successors, legal representatives and assigns, and shall denote the singular and/or plural, the masculine and/or feminine, and natural and/or artificial persons whenever and wherever the context so requires or admits.

b. This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All payments made on the indebtedness evidenced by this Note shall be applied first to repayment of monies paid or advanced by Holder on behalf of the Maker in accordance with the terms of the Security Agreement securing this Note, and thereafter shall be applied to payment of accrued interest, and lastly to payment of principal.

MAKER AND HOLDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE INCLUDING BUT NOT LIMITED TO ANY POST JUDGMENT ACTIONS AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE HOLDER MAKING THE LOAN OR EXTENSION OF CREDIT EVIDENCED BY THIS NOTE.

(Initials)

Address of Maker:
2441 Viscount Row
Orlando, Florida 32809

GALAXY NUTRITIONAL FOODS, INC., a
Delaware corporation authorized to do
business in the State of Florida

By: /s/ CHRISTOPHER J. NEW

CHRISTOPHER J. NEW
Chief Executive Officer

TAXPAYER IDENTIFICATION NUMBER:

Filename: ex105-603.txt
Type: EX-10.5
Comment/Description: Amendment to Loan Agreement

(this header is not part of the document)

AMENDMENT OF LOAN AGREEMENT

THIS AMENDMENT OF LOAN AGREEMENT is executed this May 28, 2003, by GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation f/k/a GALAXY FOODS COMPANY, a Delaware corporation ("Borrower"), and is consented to by SOUTHTRUST BANK, ("Lender"), and is made with regard to the following matters:

R E C I T A L S:

A. On or about March 10, 2000, Borrower executed a loan agreement (the "Loan Agreement") in favor of Lender setting forth the terms and conditions upon which the Lender was willing to lend the Borrower the sum of EIGHT MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$8,500,000.00) in order to refinance and retire existing indebtedness of Borrower and to provide the Borrower with financing for the acquisition of new equipment, which loan was evidenced by a Note dated March 10, 2000, in the sum of EIGHT MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$8,500,000.00), which was renewed and increased by a future advance in the sum of \$1,500,000.00, as evidenced by that certain Renewal Promissory Note dated September 15, 2000, in the sum of TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) and was secured by a Security Agreement dated March 10, 2000, encumbering certain collateral of the Borrower as referenced in said Security Agreement; and

B. Certain terms of the Loan Agreement have previously been amended; and

C. Borrower has again requested Lender to amend the terms of the Loan Agreement and Lender is agreeable to such amendment.

THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) and for other valuable consideration received by the parties, it is hereby agreed as follows:

1. Section 1.02, definition of Funded Debt, is hereby modified such that the definition of Funded Debt shall not include trade payables, trade credit or accrued liabilities incurred in the ordinary course of business.

2. Section 1.02, definition of Interest Rate, is hereby modified to read as follows:

"means the applicable rate of interest to be borne by the Note (except when the Default Rate is in effect) with respect to the Loan, such rate shall be a floating rate calculated at an annual rate equal to one percent (1.0%) per annum in excess of the SOUTHTRUST BANK Base Rate of Interest in effect from time to time calculated on a daily moving basis upon the principal balance hereof from time to time outstanding, but in no event to exceed the maximum rate allowed by Florida Law, as amended, or as preempted and prescribed from time to time by the Laws of the United States of America or any rule or regulation of any department or agency thereof. The Base Rate of Interest of SOUTHTRUST BANK shall be that rate of interest (but not necessarily the best or lowest rate charged borrowing customers of SOUTHTRUST BANK) described by it as its Base Rate of Interest, whether or not such rate shall be otherwise published, as such rate shall vary from time to time, and each adjustment shall be effective on the day the change occurs."

3. Section 1.02, definition of Note, is hereby modified to read as follows:

"means that certain Renewal Promissory Note dated May 28, 2003, made by the Borrower to the order of the Bank in the amount of "TEN MILLION ONE HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED EIGHTY-FOUR AND 85/100 DOLLARS (\$10,131,984.85)."

4. Section 2.01, subsection (a), is hereby modified to read as follows:

"The indebtedness of the Borrower under the Loan shall be evidenced by the Note. Principal and interest shall be repaid as set forth in the Note."

5. Section 8.03, Addresses for Notices, Etc., is hereby modified such that all notices sent to the Bank shall also be sent to the following address:

SOUTHTRUST BANK
150 Second Avenue North, Suite 200
St. Petersburg, Florida 33701

6. Section 5.01(a) Accounting, Financial Statements, Etc., is hereby amended by deleting therefrom subsections (i), (ii) and (iv) and, in lieu thereof, substituting the following:

"(i) Within ten (10) days after filing with the Securities and Exchange Commission the following: (i) a copy of Borrower's annual report on Form 10-K; and (ii) a copy of Borrower's quarterly reports on Form 10-Q. Such reports may be furnished by email and will be deemed furnished if they are publicly available and accessible.

(ii) Intentionally omitted.

(iv) Intentionally omitted."

7. Section 5.01(j) Tangible Net Worth, is hereby amended to read as follows:

"(j) Tangible Net Worth. The Borrower must have a minimum Tangible Net Worth equal to at least Eleven Million and No/100 Dollars (\$11,000,000.00). Preferred stock shall be excluded for the purposes of calculating Tangible Net Worth."

8. Section 5.01(k) Total Liabilities to Tangible Net Worth, is hereby amended to read as follows:

"(k) Total Liabilities to Tangible Net Worth, The Borrower shall maintain a ratio of Total Liabilities to Tangible Net Worth of no more than 2.50 to 1.00 as calculated for any rolling four quarter period, which shall be measured quarterly. Preferred stock shall be excluded for the purposes of calculating Tangible Net Worth."

9. Section 5.01(l) Maximum Funded Debt to EBITDA, is hereby amended to read as follows:

"(l) Maximum Funded Debt to EBITDA The Borrower shall maintain a ratio of maximum Funded Debt to EBITDA of not greater than 3.25 to 1 as of, and to be measured at, March 31, 2004 and the same date of each year thereafter until all of the obligations have been repaid. In the event of a material expansion of the Borrower's manufacturing facilities, Bank agrees to readdress this covenant. Non-cash stock expense/benefit shall be excluded for the purposes of calculating EBITDA."

10. Other than as specifically set forth herein above, the terms and provisions of the Loan Agreement shall remain the same and in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have executed this document effective the day and year first above written.

GALAXY NUTRITIONAL FOODS, INC.,
a Delaware corporation

By: /s/ CHRISTOPHER J. NEW

CHRISTOPHER J. NEW
Chief Executive Officer

SOUTHTRUST BANK

By: /s/ Todd H. Banes

Todd H. Banes, Group Vice President

Filename: ex106-603.txt
Type: EX-10.6
Comment/Description: Amendment of Security Agreement

(this header is not part of the document)

AMENDMENT OF SECURITY AGREEMENT

THIS AMENDMENT OF SECURITY AGREEMENT is executed this 28th day of May, 2003, by GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation authorized to do business in the State of Florida f/k/a GALAXY FOODS COMPANY, a Delaware corporation ("Borrower"), and is consented to by SOUTHTRUST BANK, ("Lender"), and is made with regard to the following matters:

R E C I T A L S:

A. On or about March 10, 2000, Borrower executed a security agreement (the "Security Agreement") in favor of Lender setting forth the terms and conditions upon which the Lender was willing to lend the Borrower the sum of EIGHT MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$8,500,000.00) in order to refinance and retire existing indebtedness of Borrower and to provide the Borrower with financing for the acquisition of new equipment, which loan was evidenced by a Note dated March 10, 2000, in the sum of EIGHT MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$8,500,000.00), which was renewed and increased by a future advance in the sum of \$1,500,000.00, as evidenced by that certain Renewal Promissory Note dated September 15, 2000, in the sum of TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) ("Note One"), which is secured by the Security Agreement, encumbering certain collateral of the Borrower as referenced in said Security Agreement.

B. On or about October 19, 2000, Borrower executed a Promissory Note in the original principal amount of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) (herein "Note Two") in favor of Lender secured, in part, by the securities referenced in Exhibit "A" to that certain UCC-1 Financing Statement executed in connection with Note Two by Borrower in favor of Lender, and the Security Agreement was simultaneously modified such that the collateral referenced in the Security Agreement was also made to secure the repayment of the indebtedness evidenced by Note Two.

C. Borrower has requested and Lender has agreed to make a loan to Borrower for an additional sum of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) (herein the "Future Advance") to be evidenced by that certain Renewal Promissory Note executed by Borrower in favor of Lender dated of even date herewith in the original principal amount of TEN MILLION ONE HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED EIGHTY-FOUR AND 85/100 DOLLARS (\$10,131,984.85) conditioned upon the Borrower agreeing to modify the Security Agreement to specifically state that the collateral referenced in the Security Agreement shall continue to secure the repayment of: (i) Note One, as renewed by the Renewal Promissory Note of even date herewith and including the Future Advance of \$2,000,000.00; and (ii) Note Two.

D. Borrower has requested and Lender has agreed to renew and modify the terms of Note Two.

E. Borrower has requested Lender to amend the terms of the Security Agreement and Lender is agreeable to such amendment.

THEREFORE, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) and for other valuable consideration received by the parties, it is hereby agreed as follows:

1. Paragraph 2 of the Security Agreement is hereby amended to read as follows:

"2. Indebtedness Secured. This Security Agreement and the Security Interest created hereby secures the payment of all obligations of any kind owing by Debtor to Secured Party whether now existing or hereafter incurred, direct or indirect, primary or secondary, sole or joint and several, contingent or non-contingent, liquidated or non-liquidated, or otherwise, arising from loans, advances, guaranties, endorsements or otherwise, whether related or unrelated to the purpose of the original extension of credit, whether of the same or a different class as the primary obligation, including, without limitation, any sums advanced and any expenses or obligations incurred by Secured Party pursuant to this Security Agreement (including attorneys' fees and costs as provided herein) or any other agreement concerning, evidencing or securing obligations of Debtor to Secured Party, and any liabilities of Debtor to Secured Party arising from any source whatsoever and all extensions, renewals and modifications thereof, including but not limited to: (i) all obligations and indebtedness arising from the loan evidenced by Note One, as renewed of even date

herewith (including all renewals, modifications and future advances thereof) and all loan documents related thereto; and (ii) all obligations and indebtedness arising from the loan evidenced by Note Two as renewed of even date herewith (including all renewals, modifications and future advances thereof) and all loan documents related thereto (collectively, the "Indebtedness")."

2. Paragraph 5, subparagraph (a) of the Security Agreement is hereby amended to read as follows:

"(a) will furnish Secured Party within ten (10) days after filing with the Securities and Exchange Commission the following: (i) a copy of Debtor's annual report on Form 10-K; and (ii) a copy of Debtor's quarterly reports on Form 10-Q. Such reports may be furnished by email and will be deemed furnished if they are publicly available and accessible."

3. Other than as specifically set forth herein above, the terms and provisions of the Security Agreement shall remain the same and in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have executed this document effective the day and year first above written.

GALAXY NUTRITIONAL FOODS, INC.,
a Delaware corporation

By: /s/ CHRISTOPHER J. NEW

CHRISTOPHER J. NEW
Chief Executive Officer

SOUTHTRUST BANK

By: /s/ TODD H. BANES

TODD H. BANES
Group Vice President

Filename: ex107-603.txt
Type: EX-10.7
Comment/Description: Warrant to Purchase Securities

(this header is not part of the document)

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE SOLD, OFFERED FOR SALE, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO (A) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (B) AN EXEMPTION THEREFROM AND, IF REQUESTED BY THE COMPANY, THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY TO THE EFFECT THAT THE TRANSFER IS EXEMPT FROM THE REGISTRATION PROVISIONS OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

WARRANT TO PURCHASE SECURITIES
OF
GALAXY NUTRITIONAL FOODS, INC.

Void after June 1, 2009

This Warrant is issued to SOUTHTRUST BANK, N.A., or its registered assigns (the "Holder") by GALAXY NUTRITIONAL FOODS, INC., a Delaware corporation (the "Company"), on May 29, 2003 (the "Warrant Issue Date").

1. Number of Shares Subject to Warrant. Subject to the terms and conditions hereinafter set forth, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company, to purchase from the Company, at a price equal to the Exercise Price (as defined in Section 2 below), shares of the Warrant Stock.

For purposes of this Warrant:

(A) "Common Stock" shall mean the Company's common stock, \$0.01 par value.

(B) "Warrant Stock" shall mean 100,000 shares of the Company's Common Stock, subject to adjustment as described in Section 7 below.

(C) "Shares" shall mean fully paid and non-assessable shares of Common Stock.

2. Exercise Price. The per share purchase price for the Shares shall be \$1.97 (the "Exercise Price"). The Exercise Price shall be subject to adjustment pursuant to Section 7 hereof.

3. Exercise Period. Except as otherwise provided for herein, this Warrant shall be exercisable, in whole or in part, at any time and from time to time. On the Expiration Date, all Warrants evidenced hereby shall thereafter be void and of no further force and effect. Whether or not surrendered to the Company by the Holder, this Warrant shall be deemed canceled upon the expiration hereof.

4. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 3 hereof, the purchase rights hereby represented may be exercised in whole or in part, at the election of the Holder, by the tender of the Notice of Exercise in substantially the form attached hereto as Exhibit A and the surrender of this Warrant at the principal office of the Company and by the payment to the Company in cash, by check, cancellation of indebtedness or other form of payment acceptable to the Company, of an amount equal to the then applicable Exercise Price multiplied by the number of Shares then being purchased.

5. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter (with appropriate restrictive legends, as applicable).

6. Issuance of Shares. The Company hereby covenants that it will duly and validly reserve shares of Common Stock for issuance upon exercise of this Warrant. The Company covenants that the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof. The Shares issued hereunder shall have the same rights and obligations pertaining to the other shares of Common Stock issued previously by the Company.

7. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time prior to the exercise or expiration of this Warrant subdivide its Common Stock, by split-up or otherwise, or combine its Common Stock, or issue additional Common Stock as a dividend with respect to any of its Common Stock, the number of Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price, provided that the aggregate Exercise Price payable hereunder for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 7(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Reclassification, Reorganization and Consolidation. In the event of any corporate reclassification, capital reorganization, consolidation, spin-off or change in the Common Stock of the Company (other than as a result of a subdivision, combination, or dividend provided for in Section 7(a) above), then, as a condition of such event, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and/or other securities and property receivable in connection with such event by a holder of the same number of

shares for which this Warrant could have been exercised immediately prior to such event. In any such case appropriate provisions shall be made with respect to the rights and interest of the Holder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities and property deliverable upon exercise hereof, and appropriate adjustments shall be made to the Exercise Price, provided that the aggregate exercise price payable hereunder for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same.

(c) Adjustment to Number of Shares. Upon each adjustment of the Exercise Price, the number of Shares issuable upon exercise of the Warrant shall be increased to equal the quotient obtained by dividing (x) the product resulting from multiplying (i) the number of Shares issuable upon exercise of the Warrant, and (ii) the Exercise Price, in each case as in effect immediately before such adjustment by (y) the adjusted Exercise Price.

(d) Notice of Adjustment. When any adjustment is required to be made to the Exercise Price or in the number or kind of Shares purchasable upon exercise of the Warrant, the Company shall promptly notify the Holder of such event and of the adjusted Exercise Price or number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant.

8. Assumption of Warrant. If at any time, while this Warrant, or any portion thereof, is outstanding and unexpired there shall be an acquisition of the Company by another entity by means of a merger, reorganization or consolidation of the Company or any other transaction in which the owners of the Company's outstanding voting power immediately prior to such transaction own, directly or indirectly, less than 51% of the voting power of the resulting or surviving entity immediately upon completion of such transaction, then, as a part of such acquisition, lawful provision shall be made so that the Holder shall thereafter be entitled to receive upon exercise of this Warrant, during the period specified herein and upon payment of the aggregate Exercise Price then in effect, the number of shares of stock or other securities or property of the successor corporation resulting from such acquisition which a holder of the Shares deliverable upon exercise of this Warrant would have been entitled to receive in such acquisition if this Warrant had been exercised immediately before such acquisition.

9. No Fractional Shares or Scrip. No fractional Shares or scrip representing fractional Shares shall be issued upon the exercise of this Warrant, but in lieu of any fractional Share the Company shall make a cash payment therefor on the basis of the closing sale price of the Common Stock on the AMEX Stock Exchange (or any successor exchange or quotation system on which the Common Stock is listed or quoted) on the date of exercise.

10. No Shareholder Rights. Prior to exercise of this Warrant, the Holder shall not be entitled to any rights of a shareholder with respect to the Shares, including (without limitation) the right to vote such Shares, receive dividends or other distributions thereon, exercise preemptive rights or be notified of shareholder meetings, and such Holder shall not be entitled to any notice or other communication concerning the business or affairs of the Company. However, nothing in this Section 10 shall limit the right of the Holder to be provided the notices required under this Warrant.

11. Compliance With Securities Act; Transferability of Warrant or Shares.

(a) Compliance With Securities Act. The Holder, by acceptance hereof, agrees that this Warrant, and the Shares issuable upon exercise of this Warrant, are being acquired for investment and that such Holder will not offer, sell or otherwise dispose of this Warrant, or any Shares issuable upon exercise of this Warrant, except under circumstances which will not result in a violation of the Securities Act, or any applicable state securities laws. This Warrant and all Shares issued upon exercise of this Warrant (unless registered under the Securities Act and any applicable state securities laws) shall be stamped or imprinted with a legend in substantially the following form:

"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY APPLICABLE STATE SECURITIES LAW AND MAY NOT BE SOLD, OFFERED FOR SALE, MORTGAGED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR AN EXEMPTION THEREFROM, AND, IF REQUESTED BY THE COMPANY, THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY TO THAT EFFECT. THIS WARRANT HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE."

(b) Transferability. Subject to compliance with applicable federal and state securities laws, this Warrant and all rights hereunder are transferable in whole or in part by the Holder to any person or entity upon

written notice to the Company. The transfer shall be recorded on the books of the Company upon the surrender of this Warrant, properly endorsed for transfer by delivery of an Assignment Form in substantially the form attached hereto as Exhibit B, to the Company at the address set forth in Section 15 hereof, and the payment to the Company of all transfer taxes and other governmental charges imposed on such transfer. In the event of a partial transfer, the Company shall issue to the holders one or more appropriate new warrants.

12. Restricted Securities. The Holder understands that this Warrant and the Shares issuable upon exercise of this Warrant, will not be registered at the time of their issuance under the Securities Act. The Holder represents that it is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment, and has the ability to suffer the total loss of the investment. The Holder further represents that it has had the opportunity to ask questions of and receive answers from the Company concerning the terms and conditions of this Warrant, the business of the Company, and to obtain additional information to such Holder's satisfaction. The Holder further represents that it is an "accredited investor" within the meaning of Regulation D under the Securities Act, as presently in effect. The Holder further represents that this Warrant is being acquired for the account of the Holder for investment only and not with a view to, or with any intention of, a distribution or resale thereof, in whole or in part, or the grant of any participation therein.

13. Successors and Assigns. The terms and provisions of this Warrant shall inure to the benefit of, and be binding upon, the Company and the Holders hereof and their respective successors and assigns.

14. Amendments and Waivers. Any term of this Warrant may be amended and the observance of any term of this Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), with the written consent of the Company and the Holder.

15. Notices. All notices required under this Warrant shall be deemed to have been given or made for all purposes (i) upon personal delivery, (ii) upon confirmation receipt that the communication was successfully sent to the applicable number if sent by facsimile, (iii) one day after being sent, when sent by professional overnight courier service, or (iv) three business days after posting when sent by registered or certified mail. Notices to the Company shall be sent to the address of the Company set forth below (or at such other place as the Company shall notify the Holder hereof in writing) and notices to the Holder shall be sent to the address of the Holder set forth below (or at such other place as the Holder shall notify the Company hereof in writing):

To the Company: GALAXY NUTRITIONAL FOODS, INC.
2441 Viscount Road
Orlando, Florida 23809
Telecopier: (407) 855-1099
Attn: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 S. Orange Avenue
SunTrust Center, Suite 2300
Telecopier: (407) 841-0168
Attn: Jeffrey E. Decker, Esq.

To the Holder as provided on the signature page of this Warrant.

16. Captions. The section and subsection headings of this Warrant are inserted for convenience only and shall not constitute a part of this Warrant in construing or interpreting any provision hereof.

17. Governing Law. This Warrant shall be governed by the laws of the State of Florida, without regard to the choice or conflict of laws principles thereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have caused this Warrant to be duly executed as of the date first set forth above.

COMPANY

GALAXY NUTRITIONAL FOODS, INC.

By: _____
Name: Christopher J. New
Title: Chief Executive Officer

HOLDER

SouthTrust Bank, N. A.

By: _____

Holder's address for its principal place of
business is as follows:

Holder's address for notice purposes (if
different than above):

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EXHIBIT A

NOTICE OF EXERCISE

To: GALAXY NUTRITIONAL FOODS, INC.

The undersigned hereby elects to [check applicable
subsection]:

(a) Purchase _____ Shares (as defined in the
attached Warrant) of GALAXY NUTRITIONAL FOODS, INC.,
pursuant to the terms of the attached Warrant and
payment of the Exercise Price per Share required under
such Warrant accompanies this notice;

OR

(b) Exercise the attached Warrant or portion
thereof for all of _____ Shares under the Warrant
pursuant to the net exercise provisions of Section 4 of
such Warrant.

The Holder represents that it is experienced in evaluating
companies such as the Company, has such knowledge and experience in
financial and business matters as to be capable of evaluating the merits
and risks of its investment, and has the ability to suffer the total loss
of the investment. The Holder further represents that it has had the
opportunity to ask questions of and receive answers from the Company
concerning the terms and conditions of this Warrant, the business of the
Company, and to obtain additional information to such Holder's
satisfaction. The Holder further represents that it is an "accredited
investor" within the meaning of Regulation D under the Securities Act, as
presently in effect. The undersigned hereby represents and warrants that
the undersigned is acquiring such shares for its own account for investment
purposes only, and not for resale or with a view to distribution of such
shares or any part thereof.

Date: _____ WARRANTHOLDER:

By: _____
Name: _____
Address: _____

Name in which shares should be registered:

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EXHIBIT B

ASSIGNMENT FORM

TO: GALAXY NUTRITIONAL FOODS, INC.

The undersigned hereby assigns and transfers unto
_____ of
_____ (Please typewrite or print
in block letters) the right to purchase _____ Shares (as defined in

the Warrant) of GALAXY NUTRITIONAL FOODS, INC. subject to the Warrant, dated as of _____, by and between GALAXY NUTRITIONAL FOODS, INC. and the undersigned (the "Warrant").

This assignment complies with the provisions of Section 11 of the Warrant and is accompanied by funds sufficient to pay all applicable transfer taxes.

In addition, the undersigned and/or its assignee will provide such evidence as is reasonably requested by, GALAXY NUTRITIONAL FOODS INC., to evidence compliance with applicable securities laws as contemplated by Sections 11 and 12 of the Warrant.

Date: _____

By:

(Print Name of Signatory)

(Title of Signatory)

Filename: ex108-603.txt
Type: EX-10.8
Comment/Description: Securities Purchase Agreement

(this header is not part of the document)

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Fromageries Bel S.A., a corporation organized under the laws of France, whose address is 16, Bd Malesherbes 75008, Paris, France (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale to Buyer of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock at a purchase price of \$2 million;

D. The parties hereto intend that, as a condition to the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock on or before September 30, 2003 for an aggregate purchase price of no more than \$10 million to the Other Buyers; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual

covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$2 million (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) ninety-five percent (95%) of the average closing price of the Common Stock on the Principal Market (as defined below) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. At least one (1) business day prior to Closing (the date of which the Company shall notify Buyer in writing), Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement. If the Company fails to effect the FINOVA Repayment within three (3) business days of the Buyer depositing the Escrow Amount with Escrow Agent, then, at the request of the Buyer at any time until the Escrow Agent initiates the disbursement of funds under the Escrow Agreement to effect the FINOVA Repayment, the Company shall execute with the Buyer and deliver to the Escrow Agent joint written instructions instructing the Escrow Agent to distribute all of the Escrow Amount to whatever account is designated by Buyer.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The parties acknowledge that the FINOVA Repayment is being funded, in part, with the Purchase Price, with the balance of the FINOVA Repayment provided substantially from an asset based loan from Textron Financial Corporation (the "Textron Loan"), and a term loan from SouthTrust Bank (the "SouthTrust Loan"). The terms of the Textron Loan and the SouthTrust Loan shall be consummated under terms no less favorable to the Company than as set forth on Annex A. The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Deliveries by the Company. The Company shall direct its stock transfer agent to agent to deliver one or more certificates representing the Securities being purchased by Buyer, registered in the name of Buyer (the "Stock Certificates") and to provide Buyer's counsel with a photocopy of the Certificates along with a written confirmation from the stock transfer agent that it will deliver the original Stock Certificates to Buyer's counsel at the address set forth in Section 7.f. on the following business day. The Securities shall be newly issued shares.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof within the meaning of the 1933 Act; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act or in reliance upon an exemption from such registration under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under an exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company

nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the Country of France.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties; provided, however, that such indemnification obligation on the part of Buyer shall not exceed the amount of the Purchase Price. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium,

liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares are issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which are issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements. The Common Stock is not subject to preemptive or other similar rights of any stockholders of the Company.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their

respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading. The SEC Documents contain all material information in connection with the business of the Company and its subsidiaries required to be included therein. All liabilities, contingent and other, of the Company are set forth in the financial statements as of December 31, 2002 contained in the Form 10-Q of the Company for such quarterly period ended, excepting only liabilities incurred in the ordinary course of business subsequent to December 31, 2002, and liabilities of the type not required under generally accepted accounting principles to be reflected in such financial statements. Since December 31, 2002, there has been no occurrence of any event that would have a Material Adverse Effect upon the financial condition of the Company from the financial condition stated in such financial statements other than as disclosed in the SEC Documents.

h. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

i. Exempt Transaction. Subject to the accuracy of Buyer's representations and warranties in Section 2 of this Agreement, the offer, sale, and issuance of the shares of Common Stock to Buyer in conformity with the terms of this Agreement constitute transactions exempt from the registration requirements of Section 5 of the Securities Act and from the registration or qualification requirements of the laws of any applicable state or United States jurisdiction.

j. S-3 Eligibility. The Company is eligible, and will take all commercially reasonable action required to continue to be eligible, to register securities for resale with the SEC under Form S-3 promulgated under the Securities Act.

k. Indemnification. The Company acknowledges that the Company understands the meaning and legal consequences of the representations and warranties in this Section 3, and that Buyer has relied upon such representations and warranties, and the Company hereby agrees to indemnify and hold harmless Buyer and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of a material breach of any such representations or warranties; provided, however, that such indemnification obligation on the part of the Company shall not exceed the amount of the Purchase Price. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by the Company shall in any manner be deemed to constitute a waiver of any rights granted to the Company under federal or state securities laws.

4. COVENANTS; CONDITIONS TO CLOSE

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Board Seat. Buyer shall designate a representative (the

"Designee") which shall be appointed to the Company's Board of Directors until the next annual meeting of the shareholders. During such time as the Distribution Agreement (as defined below) is in full force and effect, the Company shall nominate the Designee for consideration of the shareholders as a proposed member of the Company's Board of Directors (which shall be initial Designee as provided below unless Buyer notifies the Company in writing of a change of Designee prior to the Company's filing of its preliminary proxy statement or, in the case a preliminary proxy statement is not required for the applicable meeting, the Company's definitive proxy statement) for each annual (or other) meeting of shareholders at which the Designee's seat shall become open for election. The initial Designee shall be Patrice Videlier.

d. Closing Conditions. The obligation of Buyer to close the transaction contemplated by this Agreement is subject to the satisfaction on or prior to the date of Closing of the following conditions:

(i) The execution and delivery to Buyer by the Company of the Registration Rights Agreement;

(ii) The execution and delivery to Buyer by the Company, Textron Financial Corporation, SouthTrust Bank and the Other Buyers of the Escrow Agreement;

(iii) The execution and delivery to Buyer by the Company of a Master Distribution and License Agreement (the "Distribution Agreement") in form and substance satisfactory to Buyer; and

(iv) Satisfaction of the covenant set forth in Section 4.c. hereof regarding the appointment of the initial Designee to the Company's Board of Directors.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature

page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to the Buyer: Fromageries Bel S.A.
16, Bd Malesherbes 75008
Paris, France
Telephone: 00 33 1 40 07 76 00
Telecopy: 00 33 1 40 07 75 17
Attention: Eric de Poncins

And Fromageries Bel S.A.
16, Bd Malesherbes 75008
Paris, France
Telephone: 00 33 1 40 07 72 72
Telecopy: 00 33 1 40 07 74 00
Attention: Michel Troussier

With a copy to: Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131
Telephone: (305) 579-0756
Telecopy: (305) 579-0717
Attention: Robert L. Grossman, Esq.

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Company contained in Section 3 shall survive the Closing for a period of one (1)

year thereafter. The representations and warranties of Buyer contained in Section 2 shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company reasonably determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$20,000, the Company shall pay the reasonable fees, costs, expenses and disbursements of Buyer's legal counsel and other professionals arising in connection with the negotiation, execution and consummation of this Agreement and the Registration Rights Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New, Chief Executive Officer

"Buyer"

FROMAGERIES BEL S.A.

By: /s/ Eric de Poncins

Eric de Poncins, Vice President of Strategy and Development

By: /s/ Michel Troussier

Michel Troussier, Vice President of Finance

<PAGE>

ANNEX A

Textron Loan Terms

Minimum Loan Amount : \$7,000,000
Term: No less than 36 months
Interest Rate (non-default): Not to exceed the prime rate plus 4%

SouthTrust Loan Terms

Minimum Loan Amount: \$2,000,000 increase
Term: No less than 60 months
Interest Rate (non-default): Not to exceed the prime rate plus 2%

Filename: ex109-603.txt
Type: EX-10.9
Comment/Description: Registration Rights Agreement

(this header is not part of the document)

REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Fromageries Bel, with headquarters located at 16, Bd Malesherbes 75008, Paris, France (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") for an aggregate purchase price of \$2 million; and

B. To induce the Buyer to execute and deliver, and as a condition to the effectiveness of, the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that .a. the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such

approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time before a Registration Statement that is required to be filed under this Agreement is declared effective, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall each such time send to the Investor who is entitled to registration rights under this Section 2 written notice at least twenty (20) days prior to the anticipated filing date of such Registration Statement of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering. If as a result of the proration

provisions of this Section 2.c., the Investor is not entitled to include all such Registrable Securities in such registration, such Investor may elect to withdraw its request to include any Registrable Securities in such registration.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement continuously effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed on the American Stock Exchange and on each additional national securities exchange or inter-dealer quotation system of a registered national securities association on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such

Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

i. The Company shall (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of all jurisdictions requiring blue sky registration or qualification, (ii) prepare and file in such jurisdictions such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof at all times during the Registration Period, (iii) take all such other lawful actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all such other lawful actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions.

j. In connection with any underwritten offering, the Company shall obtain opinions of counsel to the Company (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the lead underwriter) addressed to the underwriters, covering such matters as are customarily covered in opinions requested in secondary underwritten offerings (it being agreed that the matters to be covered by such opinions shall include, without limitation, as of the date of the opinion and as of the date the Registration Statement is first declared effective or most recent post-effective amendment thereto, as the case may be, the absence from the Registration Statement and the Prospectus, including any documents incorporated by reference therein, of an untrue statement of a material fact or the omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading, subject to customary limitations, exceptions and qualifications).

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least ten (10) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement. If at least four days prior to the anticipated filing date the Company has not received the requested information from the Investor or its counsel, then the Company shall send the Investor and its Counsel a reminder of such information request. If at least two days prior to the anticipated filing date the Company still has not received the requested information from the Investor or its Counsel, then the Company may file the Registration Statement without including Registrable Securities of the Investor.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3.d. or 3.e., the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3.d. or 3.e. and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements, and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, except as expressly provided for in the Securities Purchase Agreement, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6.d. with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6a.: (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3.c. hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3.c. hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6.a., the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6.b. shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6.b. for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6.b. with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law or is otherwise unavailable or insufficient to hold harmless an indemnified party, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation

(within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4.c. of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Investor to sell such securities pursuant to Rule 144 without registration. Notwithstanding the foregoing, the Company shall furnish to the Investor, without request, the Company's annual and quarterly reports filed with the SEC during the one year period after the date hereof.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investor to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment, (ii) the Company is, within a reasonable time after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (a) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and (vi) such transferee shall be an "accredited investor" as that term defined in Rule 501 of Regulation D promulgated under the 1933 Act.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.

2441 Viscount Road
Orlando, Florida 23809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to the Buyer: Fromageries Bel S.A.
16, Bd Malesherbes 75008
Paris, France
Telephone: 00 33 1 40 07 76 00
Telecopy: 00 33 1 40 07 75 17
Attention: Eric de Poncins

And Fromageries Bel S.A.
16, Bd Malesherbes 75008
Paris, France
Telephone: 00 33 1 40 07 72 72
Telecopy: 00 33 1 40 07 74 00
Attention: Michel Troussier

With a copy to: Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131
Telephone: (305) 579-0756
Telecopy: (305) 579-0717
Attention: Robert L. Grossman, Esq.

Each party shall provide notice to the other party of any change in address.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New, Chief Executive Officer

"Buyer"

FROMAGERIES BEL S.A.

By: /s/ Eric de Poncins

Eric de Poncins, Vice President of Strategy
and Development

By: /s/ Michel Troussier

Michel Troussier, Vice President of Finance

Filename: ex1010-603.txt
Type: EX-10.10
Comment/Description: Securities Purchase Agreement

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SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Fred DeLuca, whose address is 325 Bic Drive, Milford, CT 06460 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from

the Company.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$1,000,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE

REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of Connecticut.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital

stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more

identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: Fred DeLuca
325 Bic Drive
Milford, CT 06460
Attention: David Worrell
Telephone: (203) 877-4281
Telecopy: (203) 876-6689

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or

cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

/s/ Fred DeLuca

Fred DeLuca

Filename: ex1011-603.txt
Type: EX-10.11
Comment/Description: Registration Rights Agreement

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Fred DeLuca, whose address is 325 Bic Drive, Milford, CT 06460 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company

shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such

supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the

Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty

of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in

accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

/s/ Fred DeLuca

Fred DeLuca

Filename: ex1012-603.txt
Type: EX-10.12
Comment/Description: Securities Purchase Agreement

(this header is not part of the document)

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May

21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Apollo Capital Management Group, L.P., a Delaware limited partnership, with its principal place of business at 645 18th Avenue, St. Petersburg, FL 33704 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$250,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital

Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations,

declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of Florida.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so

to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules,

forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: Apollo Capital Management Group, L.P.

645 18th Avenue
St. Petersburg, FL 33704
Telephone: (727) 895-5005
Telecopy: (727) 896-8514
Attention: Kyle Krueger

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

APOLLO CAPITAL MANAGEMENT GROUP, L.P.

By: /s/ Kyle Krueger

Kyle Krueger
Managing General Partner

Type: EX-10.13
Comment/Description: Registration Rights Agreement

(this header is not part of the document)

REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Apollo Capital Management Group, L.P., a Delaware limited partnership, with its principal place of business at 645 18th Avenue, St. Petersburg, FL 33704 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective

as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the

Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and

registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged

untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the

Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with

respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

APOLLO CAPITAL MANAGEMENT GROUP, L.P.

By: /s/ Kyle Krueger

Kyle Krueger
Managing General Partner

Filename: ex1014-603.txt
Type: EX-10.14
Comment/Description: Securities Purchase Agreement

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SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Apollo MicroCap Partners, L.P., a Delaware limited partnership, with its principal place of business at 645 18th Avenue, St. Petersburg, FL 33704 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual

covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$250,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF

COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of Florida.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to

securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results

of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature

page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: Apollo MicroCap Partners, L.P.
645 18th Avenue
St. Petersburg, FL 33704
Telephone: (727) 895-5005
Telecopy: (727) 896-8514
Attention: Kyle Krueger

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry

out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

<PAGE>

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

APOLLO MICROCAP PARTNERS, L.P.

By: /s/ Kyle Krueger

Kyle Krueger
Managing General Partner

Filename: ex1015-603.txt
Type: EX-10.15
Comment/Description: Registration Rights Agreement

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Apollo MicroCap Partners, L.P., a Delaware limited partnership, with its principal place of business at 645 18th Avenue, St. Petersburg, FL 33704 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and

the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with

the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect,

includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a

certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior

written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law;

provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

APOLLO MICROCAP PARTNERS, L.P.

By: /s/ Kyle Krueger

Kyle Krueger
Managing General Partner

Filename: ex1016-603.txt
Type: EX-10.16

Comment/Description: Securities Purchase Agreement

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SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Ruggieri of Windermere Family Limited Partnership, with its principal address at 9922 Lake Louise Drive, Windermere, FL 34786 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$150,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price

(the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of Florida.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the

Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend

specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099

Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: Ruggieri of Windermere Family Limited Partnership
9922 Lake Louise Drive
Windermere, FL 34786
Telephone: (407) 876-6789
Telecopy: (407) 876-5261
Attention: Mr. John Ruggieri

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

<PAGE>

IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

RUGGIERI OF WINDERMERE
FAMILY LIMITED PARTNERSHIP

By: J&S Ruggieri, LLC, as general partner

By: /s/ John Ruggieri

John Ruggieri, President

Filename: ex1017-603.txt
Type: EX-10.17
Comment/Description: Registration Rights Agreement

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Ruggieri of Windermere Family Limited Partnership, with its principal address at 9922 Lake Louise Drive, Windermere, FL 34786 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection

with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed

on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold

harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant

to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without

registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

<PAGE>

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

RUGGIERI OF WINDERMERE
FAMILY LIMITED PARTNERSHIP

By: J&S Ruggieri, LLC, as general partner

By: /s/ John Ruggieri

John Ruggieri, President

Filename: ex1018-603.txt
Type: EX-10.18
Comment/Description: Securities Purchase Agreement

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SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and Ruggieri Financial Pension Plan, with its principal address at 9922 Lake Louise Drive, Windermere, FL 34786 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in

substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$100,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of Florida.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares

of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the

case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: Ruggieri Financial Pension Plan
9922 Lake Louise Drive
Windermere, FL 34786
Telephone: (407) 876-6789
Telecopy: (407) 876-5261
Attention: Mr. John Ruggieri

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that

the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

RUGGIERI FINANCIAL PENSION PLAN

By: /s/ John Ruggieri

John Ruggieri, Administrator

Filename: ex1019-603.txt
Type: EX-10.19
Comment/Description: Registration Rights Agreement

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and Ruggieri Financial Pension Plan, with its principal address at 9922 Lake Louise Drive, Windermere, FL 34786 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the

"Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared

effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration

Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the

Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any

preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable

Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

RUGGIERI FINANCIAL PENSION PLAN

By: /s/ John Ruggieri

John Ruggieri
Administrator

Filename: ex1020-603.txt
Type: EX-10.20
Comment/Description: Securities Purchase Agreement

(this header is not part of the document)

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with its principal place of business at 2441 Viscount Row, Orlando, FL 32809 (the "Company"), and David Lipka, whose address is 19 Oakwood Circle, Roslyn, NY 11576 (the "Buyer").

PRELIMINARY STATEMENTS

A. The Company has authorized the sale of a certain number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock") on the terms and subject to the conditions set forth in this Agreement;

B. The Company and Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Rule 506 under Regulation D ("Regulation D") as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

C. Buyer wishes to purchase, in the amounts and upon the terms and conditions stated in this Agreement, shares of Common Stock;

D. Upon the closing of the transactions contemplated hereby, the parties hereto will execute and deliver a Registration Rights Agreement in substantially the form attached hereto as Exhibit A (the "Registration Rights Agreement") pursuant to which the Company agrees to provide certain registration rights under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

E. The Company intends to enter into other agreements substantially in the form of this Agreement and Registration Rights Agreement with certain other buyers (the "Other Buyers") and expect to complete the sale of shares of Common Stock to them; however, the Buyer's obligations hereunder are not expressly conditioned on the purchase by any or all of the Other Buyers of the Common Stock that they may agree to purchase from the Company.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. PREAMBLES; PURCHASE AND SALE OF COMMON STOCK; CLOSING

a. Preliminary Statements. The above preliminary statements, recitals, definitions, preamble and provisions are true and correct and are incorporated herein as fully as if set forth herein.

b. Purchase of Common Stock. Subject to the terms and conditions set forth in this Agreement, the Company agrees to issue and sell to Buyer, and Buyer agrees to purchase from the Company such number of shares of Common Stock (the "Securities") as shall be determined by dividing the aggregate purchase price of \$100,000 (the "Purchase Price") by the per share purchase price (with any fractional shares being rounded up to the next whole share). The per share purchase price shall be equal to the lesser of (x) 95% of the average of the closing bid price of the Common Stock on the Principal Market (as defined below) (as reported by Bloomberg L.P.) for the Trading Days (as defined below) occurring during the thirty (30) consecutive calendar days ending on the calendar day immediately prior to the date of Closing (as defined below), or (y) \$1.80. The term "Principal Market" shall mean the American Stock Exchange, the New York Stock Exchange, the NASDAQ National Market, or the NASDAQ SmallCap Market, whichever is at the time the principal trading exchange or market for the Common Stock, based upon share volume, or if the Common Stock is not traded on an exchange or market, the OTC Bulletin Board or its successor (as of the date hereof the Principal Market is the American Stock Exchange). The

term "Trading Day" shall mean any day during which the Common Stock is traded on the Principal Market. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing (as defined below).

c. Escrow. Within two (2) business days following Buyer's execution of this Agreement, Buyer shall deliver to Gibraltar Bank, F.S.B., as escrow agent ("Escrow Agent"), an amount equal to the Purchase Price (the "Escrow Amount") by wire transfer of immediately available United States Dollars in accordance with the instructions set forth in the Escrow Agreement dated as of the date hereof by and among the Company, Buyer and Escrow Agent (the "Escrow Agreement"). Escrow Agent shall hold and disburse the Escrow Amount in accordance with the terms and conditions of the Escrow Agreement.

d. The Closing. The closing ("Closing") of the sale and purchase of the Securities under this Agreement is contingent upon the Company's repayment in full of the existing debt owed to (x) FINOVA Capital Corporation pursuant to that certain Security Agreement dated as of November 1, 1996, as amended, and (y) FINOVA Mezzanine Capital Inc. pursuant to that certain Loan Agreement dated as of September 30, 1999, as amended (the "FINOVA Repayment"). The FINOVA Repayment shall be subject to and in accordance with the terms of the Escrow Agreement. The Closing shall take place at the offices of Baker & Hostetler LLP, 200 South Orange Avenue, Suite 2300, SunTrust Center, Orlando, Florida 32801, as of the date of the FINOVA Repayment. The consummation of the transaction and the payment of the Purchase Price shall occur at Closing, as follows:

(i) Release of Escrow Amount. Escrow Agent shall release the Escrow Amount as provided in the Escrow Agreement.

(ii) Delivery of Stock Certificate(s). Against payment to the Company of the Purchase Price therefor, the Company shall direct its stock transfer agent to deliver to Buyer one or more stock certificates, duly executed on behalf of the Company, representing the Securities being purchased by Buyer, registered in the name of Buyer, such delivery to Buyer to be made not later than five (5) business days after the Closing.

2. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to the Company that:

a. Investment Purpose. The Securities are being acquired by Buyer in good faith solely for its own account, for investment purposes only, and are not being purchased for resale, resyndication, distribution, subdivision or fractionalization thereof; Buyer has no contract or arrangement with any person to sell, transfer or pledge to any person the Securities or any part thereof, any interest therein or any rights thereto; Buyer has no present plans to enter into any such contract or arrangement; and Buyer understands that as a result it must bear the economic risk of the investment for an indefinite period of time because the Securities have not been registered under the 1933 Act, and, therefore, cannot be sold unless they are subsequently registered under the 1933 Act.

b. Accredited Investor Status. Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

c. Reliance on Exemptions. Buyer understands that the Securities are being offered and sold to it under the exemption from the registration requirements of the United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of Buyer to acquire the Securities.

d. Information. Buyer understands and acknowledges that it is purchasing the Securities without being furnished any offering literature, prospectus or other materials other than copies of the SEC Documents (as defined hereinbelow), that this transaction has not been scrutinized by the SEC or by any administrative agency charged with the administration of the securities laws of any state, that all documents, records and books, pertaining to the Company, its business, finances and operations, and this investment have been made available to Buyer, and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, and that the books and records of the Company will be available upon reasonable notice for inspection by Buyer during reasonable business hours at the Company's principal place of business. Buyer and its advisors and representatives, including its attorney, its accountant and/or its purchaser representative, if any, have reviewed the SEC Documents and been afforded the opportunity to ask questions of the Company and have received complete and satisfactory answers to any such inquiries. Buyer understands that its investment in the Securities is speculative and involves a high degree of risk of loss and that Buyer must

be prepared to lose its entire investment in the Company. Buyer has sought such accounting, legal and tax advice, as it has considered necessary to an informed investment decision with respect to its acquisition of the Securities. Buyer, or Buyer together with its purchaser representative, if any, have such knowledge and experience in financial and business matters that it and such representative are capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision.

e. Governmental Review. Buyer understands that no United States federal or state agency or any other government or governmental agency has approved or disapproved or passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities, nor have such authorities passed upon or endorsed the merits of the offering of the Securities or the accuracy or adequacy of any of the information provided by the Company to Buyer regarding the Company, the Securities or any other matter, and that the Company is relying on the truth and accuracy of the representations, declarations and warranties herein made by Buyer in offering the Securities for sale to it without having first registered the same under the 1933 Act.

f. Transfer or Resale. Buyer understands that, except as provided in the Registration Rights Agreement, (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be transferred unless (a) subsequently registered thereunder, or (b) Buyer shall have provided the Company with a statement of the circumstances surrounding the proposed disposition and shall have delivered to the Company an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, to the effect (1) that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration and (2) that appropriate action necessary for compliance with the 1933 Act has been taken; (ii) any sale of such Securities made in reliance on Rule 144 promulgated under the 1933 Act may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any resale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

g. Legends. Buyer understands that the stock certificates representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order shall be placed against transfer of such stock certificates):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE REOFFERED, SOLD, TRANSFERRED, PLEDGED, OR ASSIGNED IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER SAID ACT AND THE STATE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION THEREOF, OR (B) AN OPINION OF COUNSEL, REASONABLY SATISFACTORY IN FORM, SCOPE AND SUBSTANCE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR THE SECURITIES ACT OR BLUE SKY ACT OF ANY STATE HAVING JURISDICTION WITH RESPECT THERETO.

h. Authorization; Enforcement. This Agreement, the Escrow Agreement and the Registration Rights Agreement have been duly and validly authorized, executed and delivered on behalf of Buyer and are valid and binding agreements of Buyer enforceable in accordance with their terms, subject as to enforceability to general principles of equity and to bankruptcy, insolvency, moratorium, and other similar laws affecting the enforcement of creditors' rights generally.

i. Domicile. If Buyer is an individual, Buyer is a resident of, or if Buyer is an entity, Buyer's principal place of business is located in, the State of New York.

j. Indemnification. Buyer acknowledges that Buyer understands the meaning and legal consequences of the representations and warranties in this Section 2, and that the Company has relied upon such representations and warranties, and Buyer hereby agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, agents and representatives from and against any and all claims, demands, losses, damages, expenses or liabilities (including attorneys' fees) due to or arising out of, directly or indirectly, a breach of any such representations or warranties. Notwithstanding the foregoing, however, no representation, warranty, acknowledgment or agreement made herein by Buyer

shall in any manner be deemed to constitute a waiver of any rights granted to such Buyer under federal or state securities laws.

k. Short Position and Market Purchases. Buyer is not purchasing the Securities for the purpose of covering any short position in the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that:

a. Organization and Qualification. The Company is a corporation duly organized and existing in good standing under the laws of the State of Delaware, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where the failure so to qualify would have a material adverse effect on the operations, properties or financial condition of the Company taken as a whole (a "Material Adverse Effect").

b. Authorization; Enforcement. (i) The Company has the requisite corporate power and authority to enter into and perform this Agreement and the Registration Rights Agreement and to issue the Securities in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required, (iii) this Agreement and the Registration Rights Agreement have been duly executed and delivered by the Company, and (iv) this Agreement and the Registration Rights Agreement constitute the valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies or by other equitable principles of general application.

c. Capitalization. As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 85,000,000 shares of Common Stock of which 12,761,685 shares were issued and outstanding, and (ii) 1,000,000 shares of preferred stock, \$.01 par value, of which 200,000 shares have been designated "Series A Preferred Stock," 57,384 of which were issued and outstanding. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as set forth in the SEC Documents (as defined herein) or in Schedule 3.c. attached hereto, as of the date of this Agreement (i) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company, or arrangements by which the Company is or may become bound to issue additional shares of capital stock of the Company, and (ii) there are no agreements or arrangements under which the Company is obligated to register the sale of any of its securities under the 1933 Act other than agreements with respect to securities which have been previously registered or are subject to current registration statements.

d. Issuance of Securities. The Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable, and free from all taxes, liens and charges with respect to the issue thereof.

e. No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby will not (i) result in any violation of the Company's Certificate of Incorporation, as amended, as in effect on the date hereof ("Certificate of Incorporation") or the Company's Bylaws, as in effect on the date hereof (the "Bylaws") or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). The business of the Company is not being conducted in violation of any law, ordinance, regulation of any governmental entity, except for possible violations which either singly or in the aggregate do not have a Material Adverse Effect. Except as required under the 1933 Act and any applicable state securities

laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement in accordance with the terms hereof.

f. Common Stock. The Company has registered its Common Stock pursuant to Section 12(b) or (g) of the 1934 Act (as defined below) and is in full compliance with all reporting requirements of the 1934 Act, and the Company is in compliance with all requirements for the continued listing or quotation of its Common Stock, and such Common Stock is currently listed or quoted on, the Principal Market. As of the date hereof, the Principal Market is the American Stock Exchange, and except as set forth in the SEC Documents, the Company has not received any notice regarding, and to its knowledge there is no threat of, the termination or discontinuance of the eligibility of the Common Stock for such posting or listing.

g. SEC Documents, Financial Statements. During the Company's last two (2) fiscal years, the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). The Company has delivered to Buyer true and complete copies of the SEC Documents, except for such exhibits, schedules and incorporated documents. As of their respective dates, subject to, with respect to certain SEC Documents, the filing of an amendment to such SEC Documents, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to Buyer and referred to in Section 2(d) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

h. No Material Adverse Change. Since December 31, 2002, there has not been any material adverse change in the Company's business, results of operations, or financial condition, other than changes resulting from general economic conditions or general economic trends, except as reflected in the SEC Documents filed at least five (5) days prior to the date hereof.

i. Absence of Litigation. Except as disclosed in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the Company, threatened against the Company, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect or which would adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, this Agreement or any of the documents contemplated herein.

4. COVENANTS

a. Form D. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to Buyer promptly after such filing.

b. Reporting Status. Until the earlier of (i) the date as of which Buyer may sell all the Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (ii) the date on which Buyer has sold all of the Securities, the Company shall file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would permit such termination. Buyer shall give notice to the Company when it has sold all of the Securities.

c. Listing of Securities. The Company shall cause the Securities to be listed on the Principal Market prior to the Closing.

5. TRANSFER AGENT INSTRUCTIONS

Buyer acknowledges that the Securities shall be "restricted" securities, that the Stock Certificates shall bear the restrictive legend specified in Section 2(g) of this Agreement, and that stop-transfer instructions have been given by the Company to its transfer agent with respect to the Securities. If Buyer provides the Company with an opinion of counsel, reasonably satisfactory in form, scope and substance to the Company, that registration of a resale by Buyer of any of the Securities is not required under the 1933 Act or any applicable state securities or blue sky laws, the Company shall permit the transfer and promptly instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Buyer.

6. TERMINATION

a. Termination. This Agreement may be terminated as follows:

(i) at any time prior to Closing, by mutual written consent of all of the parties to this Agreement, whereupon Buyer and the Company shall deliver to Escrow Agent joint written instructions to release the Escrow Amount to Buyer;

(ii) at any time after July 15, 2003, by Buyer, if the Closing has not been effected on or prior to such date and if Buyer is not then in breach of any term of this Agreement, pursuant to written notice by Buyer to the Company and the Escrow Agent; or

(iii) at any time after July 15, 2003, by the Company, if the Closing has not been effected on or prior to such date, if the Company is not then in breach of any term of this Agreement, pursuant to written notice by the Company to Buyer and the Escrow Agent.

b. Effect of Termination. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 6.a., provided, however, that the provisions of Sections 6.c. and 7 hereof shall survive any termination of this Agreement.

c. Treatment of Escrow Amount Upon Termination. If this Agreement is terminated pursuant to its terms, the Escrow Amount shall be treated as set forth in the Escrow Agreement.

7. GOVERNING LAW; MISCELLANEOUS

a. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the principles of conflict of laws.

b. Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause three (3) additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

c. Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement or the validity or enforceability of this Agreement in any other jurisdiction.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

f. Notices. Any notices required or permitted to be given under the terms of this Agreement shall be sent by mail or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, certified or registered, return receipt

requested, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be:

If to the Company: Galaxy Nutritional Foods, Inc.
2441 Viscount Row
Orlando, FL 32809
Telephone: (407) 855-5500
Telecopy: (407) 855-1099
Attention: Mr. Christopher J. New

With a copy to: Baker & Hostetler LLP
200 South Orange Avenue
Orlando, FL 32801
Telephone: (407) 649-4000
Telecopy: (407) 841-0168
Attention: Jeffrey E. Decker, Esq.

If to Buyer: David Lipka
19 Oakwood Circle
Roslyn, NY 11576
Telephone: (516) 627-1955
Telecopy: (516) 627-2730

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other (which consent may be withheld for any reason in the sole discretion of the party from whom consent is sought).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Buyer and the Company contained in Sections 2 and 3, respectively, shall survive the Closing for a period of one (1) year thereafter, provided however that the representations and warranties of Buyer contained in Sections 2.a., 2.b. and 2.h. shall survive the Closing indefinitely.

k. Publicity. The Company and Buyer shall have the right to approve before issuance any press releases or any other public statements with respect to the transactions contemplated hereby; provided, however, that the Company shall be entitled, without the prior approval of Buyer, to make any press release with respect to such transactions as the Company determines is required by applicable law and regulations.

l. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

m. Expenses. Subject to a maximum of \$5,000.00, the Company shall pay the reasonable fees, expenses and disbursements of Buyer's legal counsel arising in connection with the negotiation, execution and consummation of this Agreement, the Escrow Agreement, the Registration Rights Agreement and the agreements and transactions contemplated by such agreements.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Buyer and the Company have caused this Securities Purchase Agreement to be duly executed as of the date first written above.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

/s/ David Lipka

David Lipka

Filename: ex1021-603.txt
Type: EX-10.21
Comment/Description: Registration Rights Agreement

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REGISTRATION RIGHTS AGREEMENT

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 21, 2003, by and between Galaxy Nutritional Foods, Inc., a Delaware corporation, with headquarters located at 2441 Viscount Road, Orlando, Florida 32809 (the "Company"), and David Lipka, whose address is 19 Oakwood Circle, Roslyn, NY 11576 (the "Buyer").

PRELIMINARY STATEMENTS

A. In connection with the Securities Purchase Agreement by and between the parties of even date herewith (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to the Buyer shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"); and

B. To induce the Buyer to execute and deliver the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "1933 Act"), and applicable state securities laws.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. DEFINITIONS.

a. As used in this Agreement, the following terms shall have the following meanings:

(i) "Investor" means the Buyer and any transferee or assignee thereof who agrees to become bound by the provisions of this Agreement in accordance with Section 9 hereof.

(ii) "register," "registered," and "registration" refer to a registration effected by preparing and filing a Registration Statement or Statements in compliance with the 1933 Act and pursuant to Rule 415 under the 1933 Act or any successor rule providing for offering securities on a continuous basis ("Rule 415"), and the declaration or ordering of effectiveness of such Registration Statement by the United States Securities and Exchange Commission (the "SEC").

(iii) "Registrable Securities" means the Securities (as defined in the Securities Purchase Agreement).

(iv) "Registration Period" means the period commencing on the date on which the Registration Statement filed pursuant to this Agreement is declared effective by the SEC and expiring on the date that (A) the Investor may sell all of the Registrable Securities without restriction pursuant to Rule 144(k) promulgated under the 1933 Act, or (B) the Investor has sold all of the Registrable Securities.

(v) "Registration Statement" means a registration statement of the Company under the 1933 Act.

b. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Securities Purchase Agreement.

2. REGISTRATION RIGHTS.

a. Mandatory Registration. The Company shall prepare and file with the SEC a Registration Statement on Form S-3 (or, if such form is unavailable for such a registration, on such other form as is available for such a registration) covering the resale of the Registrable Securities. The Registration Statement (and each amendment or supplement thereto) shall be provided to the Buyer and its counsel no later than five business days prior to its filing or other submission, and shall be subject to approval by Buyer and its counsel within such five business day period, such approval not to be unreasonably withheld. The Company will use its reasonable efforts to cause such Registration Statement to become effective as promptly as practicable but not later than 180 days after Closing, as defined in the Securities Purchase Agreement (the "Effective Date Deadline"). The Company shall notify the Investor in writing by facsimile transmission or email notice that such Registration Statement has been declared effective by the SEC promptly following the Company becoming aware of such declaration by the SEC.

b. Registration Default. If the Registration Statement covering the Registrable Securities required to be filed by the Company pursuant to Section 2.a. is not declared effective by the SEC by the Effective Date Deadline, then the Company shall make the payments to the Investor as provided in the next sentence as liquidated damages and not as a penalty. The amount to be paid by the Company to the Investor shall be determined as of each Computation Date (as defined below), and such amount shall be equal to 2.5% (the "Liquidated Damage Rate") of the product of (i) the per share purchase price of the Securities under the Securities Purchase Agreement and (ii) the number of shares of Registrable Securities then held by the Investor, for the period from the Effective Date Deadline to the first Computation Date, and for each 30-day period of any subsequent Computation Dates thereafter, in each case calculated on a pro rata basis to the date on which the Registration Statement is declared effective by the SEC (the "Periodic Amount"). The full Periodic Amount shall be paid by the Company to the Investor by wire transfer of immediately available funds within three business days after each Computation Date or three business days after the date on which the Registration Statement is declared effective by the SEC, whichever occurs earlier.

As used in this Section 2.b., "Computation Date" means the date which is 30 days after the Effective Date Deadline and, if the Registration Statement to be filed by the Company pursuant to Section 2(a) has not theretofore been declared effective by the SEC, each date which is 30 days after the previous Computation Date until such Registration Statement is so declared effective.

c. Piggy-Back Registrations. If at any time prior to filing a Registration Statement under this Agreement, the Company shall file with the SEC a Registration Statement relating to an offering for its own account or the account of others under the 1933 Act of any of its equity securities (other than on Form S-4 or Form S-8 or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), the Company shall send to the Investor who is entitled to registration rights under this Section 2 written notice of the intended filing of such Registration Statement and, if within twenty (20) days after receipt of such notice, the Investor shall so request in writing, the Company shall include in such Registration Statement all or any part of the Registrable Securities the Investor requests to be registered, except that if, in connection with any underwritten public offering for the account of the Company the managing underwriter(s) thereof shall impose a limitation on the number of shares of Common Stock which may be included in the Registration Statement because, in such underwriter(s)' judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Company shall be obligated to include in such Registration Statement only a limited portion of the Registrable Securities with respect to which the Investor has requested inclusion hereunder, such portion to be determined as hereinafter provided; provided that no portion of the equity securities which the Company is offering for its own account shall be excluded; provided, further that the Company shall be entitled to exclude Registrable Securities to the extent necessary to avoid breaching obligations existing prior to the date hereof to other stockholders of the Company. Subject to the foregoing, the Company shall not exclude any Registrable Securities unless the Company has first excluded all outstanding securities, the holders of which are not entitled to inclusion of such securities in such Registration Statement or are not entitled to pro rata inclusion with the Registrable Securities, and, after giving effect to the immediately preceding clause, any exclusion of Registrable Securities shall be made pro rata with holders of other securities having the right to include such securities in the Registration Statement other than holders of securities entitled to inclusion of their securities in such Registration Statement by reason of demand registration rights. The obligations of the Company under this Section 2 may be waived by the Investor. If an offering in connection

with which the Investor is entitled to registration under this Section 2. is an underwritten offering, then if the Investor's Registrable Securities are included in such Registration Statement the Investor shall, unless otherwise agreed by the Company, offer and sell such Registrable Securities in an underwritten offering using the same underwriter or underwriters and, subject to the provisions of this Agreement, on the same terms and conditions as other shares of Common Stock included in such underwritten offering.

3. OBLIGATIONS OF THE COMPANY.

In connection with the registration of the Registrable Securities, the Company shall have the following obligations:

a. A Registration Statement filed pursuant to this Agreement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

b. The Company shall prepare and file with the SEC such amendments (including post-effective amendments) and supplements to the Registration Statement and the prospectus used in connection with the Registration Statement as may be necessary to keep the Registration Statement effective at all times during the Registration Period, and, during the Registration Period, comply with the provisions of the 1933 Act with respect to the disposition of all Registrable Securities of the Company covered by the Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in the Registration Statement.

c. The Company shall furnish to the Investor if its Registrable Securities are included in the Registration Statement and its legal counsel (i) promptly after the same is prepared and publicly distributed, filed with the SEC, or received by the Company, one copy of the Registration Statement and any amendment thereto, each preliminary prospectus and prospectus and each amendment or supplement thereto, and (ii) such number of copies of a prospectus, including a preliminary prospectus, and all amendments and supplements thereto and such other documents as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities owned by the Investor.

d. As promptly as practicable after becoming aware of such event, the Company shall notify the Investor of the happening of any event, of which the Company has knowledge, as a result of which the prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and use its best efforts promptly to prepare a supplement or amendment to the Registration Statement to correct such untrue statement or omission, and deliver such number of copies of such supplement or amendment to the Investor as the Investor may reasonably request.

e. The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, and, if such an order is issued, to obtain the withdrawal of such order at the earliest possible moment and to notify the Investor if the Investor holds Registrable Securities being sold (or, in the event of an underwritten offering, the managing underwriters) of the issuance of such order and the resolution thereof.

f. The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) the Company determines disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Investor and allow the Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

g. The Company shall use its best efforts to cause all the Registrable Securities covered by the Registration Statement to be listed

on the American Stock Exchange and on each additional national securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange.

h. The Company shall cooperate with the Investor if it holds Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be offered pursuant to the Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the managing underwriter or underwriters, if any, or the Investor may reasonably request and registered in such names as the managing underwriter or underwriters, if any, or the Investor may request.

4. OBLIGATIONS OF THE INVESTOR.

In connection with the registration of the Registrable Securities, the Investor shall have the following obligations:

a. It shall be a condition precedent to the obligations of the Company to complete the registration of Registrable Securities pursuant to this Agreement that the Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) days prior to the first anticipated filing date of the Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor if the Investor elects to have any of the Investor's Registrable Securities included in the Registration Statement.

b. The Investor by the Investor's acceptance of the Registrable Securities agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of the Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from the Registration Statement.

c. The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) or 3(e), the Investor will immediately discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or 3(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

d. The Investor may not participate in any underwritten registration hereunder unless the Investor (i) agrees to sell the Investor's Registrable Securities on the basis provided in any underwriting arrangements, (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements (provided that all such agreements and documents shall be in substantially the same form as those executed by the Company and the other selling stockholders participating in such distribution), and (iii) agrees to pay its pro rata share of all underwriting discounts and commissions.

e. The Investor shall give notice to the Company when it has sold all of the Registrable Securities.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, the fees and disbursements of counsel for the Company, shall be borne by the Company. Notwithstanding the foregoing, the Investor shall be responsible for all expenses, fees and disbursements incurred by such Investor or on such Investor's behalf, including all fees and disbursements of counsel to the Investor.

6. INDEMNIFICATION.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

a. To the extent permitted by law, the Company will indemnify, hold

harmless and defend (i) the Investor who holds such Registrable Securities, and (ii) the directors, officers and each person who controls the Investor within the meaning of the 1933 Act or the Securities Exchange Act of 1934, as amended (the "1934 Act"), if any, (each, an "Indemnified Person"), against any losses, claims, damages, liabilities or expenses (joint or several) (collectively, "Claims") to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or the omission or alleged omission to state a material fact therein required to be stated or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading, or (iii) any violation or alleged violation by the Company of the 1933 Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to the restrictions set forth in Section 6(d) with respect to the number of legal counsel, the Company shall reimburse the Investor or controlling person, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by any Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (ii) with respect to any preliminary prospectus, shall not inure to the benefit of any such person from whom the person asserting any such Claim purchased the Registrable Securities that are the subject thereof (or to the benefit of any person controlling such person) if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected in the prospectus, as then amended or supplemented, if such prospectus was timely made available by the Company pursuant to Section 3(c) hereof; (iii) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company; and (iv) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Investor pursuant to Section 9.

b. In connection with any Registration Statement in which the Investor is participating, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner set forth in Section 6(a), the Company, each of its directors, officers, each of its officers who signs the Registration Statement, each person, if any, who controls the Company within the meaning of the 1933 Act or the 1934 Act, any underwriter and any other stockholder selling securities pursuant to the Registration Statement or any of its directors or officers or any person who controls such stockholder or underwriter within the meaning of the 1933 Act or the 1934 Act (collectively and together with an indemnified Person, an "Indemnified Party"), against any Claim to which any of them may become subject, under the 1933 Act, the 1934 Act or otherwise, insofar as such Claim arises out of or is based upon any Violation, in each case to the extent (and only to the extent) that such violation occurs in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or to the extent such Claim is based upon any violation or alleged violation by the Investor of the 1933 Act, 1934 Act or any other law; and the Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld; provided, further, however, that the Investor shall be liable under this Section 6(b) for only that amount of a Claim as does not exceed the net proceeds to the Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of the Registrable Securities by the Investor pursuant

to Section 9. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any preliminary prospectus shall not inure to the benefit of any Indemnified Party if the untrue statement or omission of material fact contained in the preliminary prospectus was corrected on a timely basis in the prospectus, as then amended or supplemented.

c. The Company shall be entitled to receive indemnities from underwriters, selling brokers, dealer managers and similar securities industry professionals participating in any distribution, to the same extent as provided above, with respect to information such persons so furnished in writing by such persons expressly for inclusion in the Registration Statement.

d. Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action (including any governmental action), such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action. The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as such expense, loss, damage or liability is incurred and is due and payable.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of such fraudulent misrepresentation, and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE 1934 ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the 1933 Act or any other similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

a. make and keep public information available, as those terms are understood and defined in Rule 144;

b. file with the SEC in a timely manner all reports and other documents required of the Company under the 1933 Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit the Company's obligations under Section 4(c) of the Securities Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

c. furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, the 1933 Act and the 1934 Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the investors to sell such securities pursuant to Rule 144 without

registration.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The rights to have the Company register Registrable Securities pursuant to this Agreement shall be automatically assignable by the Investors to any transferee of all or any portion of Registrable Securities if: (i) the Investor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company promptly after such assignment, (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned, (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein, and (v) such transfer shall have been made in accordance with the applicable requirements of the Securities Purchase Agreement, and applicable law, including federal and state securities laws.

10. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 10 shall be binding upon the Investor and the Company.

11. MISCELLANEOUS.

a. A person or entity is deemed to be a holder of Registrable Securities whenever such person or entity owns of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more persons or entities with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

b. Any notices required or permitted to be given under the terms of this Agreement shall be sent by registered or certified mail, return receipt requested, or delivered personally or by courier and shall be effective five days after being placed in the mail, if mailed, or upon receipt, if delivered personally or by courier, in each case addressed to a party. The addresses for such communications shall be as set forth in the Securities Purchase Agreement or, in respect of any party, at such other address of which such party shall notify the other parties in writing.

c. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

d. This Agreement shall be enforced, governed by and construed in accordance with the laws of the State of Florida applicable to agreements made and to be performed entirely within such State. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. This Agreement and the Securities Purchase Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the Securities Purchase Agreement supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

f. Subject to the requirements of Section 9 hereof, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

g. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

h. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

i. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

<PAGE>

IN WITNESS WHEREOF, the parties have caused this Registration Rights Agreement to be duly executed as of day and year first above written.

"Company"

GALAXY NUTRITIONAL FOODS, INC.

By: /s/ Christopher J. New

Christopher J. New
Chief Executive Officer

"Buyer"

/s/ David Lipka

David Lipka

Filename: ex1022-603.txt
Type: EX-10.22
Comment/Description: Master Distribution and License Agreement

(this header is not part of the document)

MASTER DISTRIBUTION AND LICENSE AGREEMENT

This Agreement is effective as of May 22, 2003,

by and between

Galaxy Nutritional Foods, Inc., a corporation organized and existing under the laws of Delaware having its office at 2441 Viscount Row, Orlando FL, 32809, U.S.A. (hereinafter "Galaxy") and Fromageries Bel S.A, a corporation organized and existing under the laws of France having its main office at 16, Boulevard Malesherbes 75008, Paris, France (hereinafter "BEL"),

Whereas Galaxy has developed a range of healthy cheese and dairy related and dairy alternative products and is the exclusive owner of certain property rights, Know how (as hereinafter defined) and technology, relating to the manufacture, marketing and sale of these products and has the right to grant license and distribution rights therefor.

Whereas BEL has developed an international range of cheese and other dairy products and desires to obtain an exclusive license from Galaxy (i) to distribute and sell the Products (as hereinafter defined) in the Territory (as hereinafter defined) and (ii) to manufacture the Products for sale in the Territory upon the exercise of an option to so manufacture.

Whereas Galaxy has agreed to grant BEL the license for the use of certain related confidential information, Know how and technology, all for use in the sale, distribution and manufacturing of the Products in the Territory under and subject to the terms contained herein.

Whereas Galaxy is willing to supply the Products to BEL and BEL is willing to purchase the Products from Galaxy to the extent BEL is not manufacturing such Products itself under the Manufacturing and License Agreement.

Whereas Galaxy is willing to appoint BEL its exclusive distributor of the Products in the Territory (as hereinafter defined) and BEL desires to market, distribute and sell directly or indirectly the Products in the Territory.

Whereas Galaxy desires to grant to BEL and BEL desires to accept from Galaxy an option to manufacture some or all of the Products for distribution and sale in the Territory under the Manufacturing and License Agreement.

Now, therefore, in consideration of premises herein contained, and such other valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties hereto agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following respective meanings:

1.1 Products

The term "Products" means all of Galaxy's healthy cheese and dairy-related and dairy alternative food products. A full listing of Galaxy's current Products is provided in Exhibit 1 of this Agreement. The Products will also include some or all of the healthy cheese and dairy-related and dairy alternative food products developed by Galaxy after the execution of this Agreement, including any products, if any, specifically developed or adapted for BEL, as mutually agreed by the parties. The parties acknowledge and agree that the Ultra Smoothie products made with Tropicana juices, and other products made by Galaxy under licenses of any third party shall not be included in Products. Galaxy reserves the right to change or modify any of the Products, and to discontinue the manufacturing of any Product any time BEL is not ordering on the basis of the Minimum Production Quantities from Galaxy as discussed in Exhibit 4 of this Agreement.

1.2 Trademarks

The term "Trademarks" means the trademarks, brands names, service marks, trade names, trade dress and logos and all registrations related thereto owned by BEL under which the Products shall be marketed and distributed.

Galaxy's logo "Galaxy Nutritional Foods Smart Choice Cheese Product" (the "Logo"), which represents the concept of "smart choice technology," is to be used on a principal display panel for all Products sold pursuant to this Agreement. This Logo shall also be used and displayed on each and every package of the Products according to the scheme set forth in Exhibit 2 attached hereto.

1.3 Territory

The term "Territory" means

- (i) European Union states consisting of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom;
- (ii) Other European countries consisting of Albania, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Estonia, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Macedonia, Malta, Slovenia, Switzerland, Turkey, Ukraine, Yugoslavia, and Norway; and
- (iii) Microstates and territories consisting of Andorra, Monaco, San Marino, Vatican, and Channel Islands CGB,

and any such additional countries as may be agreed upon by both parties from time to time, upon request of BEL. BEL will be invited to propose additional territorial rights, which proposal may be granted in Galaxy's reasonable discretion, however; at this time, Galaxy is not granting to BEL a right of first refusal to sell Products in any country, state or territory outside the territories noted in items (i), (ii) and (iii) above.

1.4 Affiliate

The term "Affiliate: of, or a Person "Affiliated" with, a specified Person, is a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified. For the purpose of this definition, "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, direct or indirect control of at least fifty (50%) of the voting stock or other ownership interest of a Person or direct or indirect power to direct or cause management to elect or appoint at least fifty percent (50%) of the members of the corporate governing bodies shall conclusively establish control. For purposes of this definition, the term "Person" shall mean any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit

corporation, entity or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof)..

1.5. Patents

The term "Patents and patent applications" means the patents, patent applications, patent disclosures and inventions and all registrations related thereto now or hereinafter owned by Galaxy or BEL relating to the Products sold in the Territory.

1.6. Know How

The term "Know how" means all secret and confidential data and all technical and manufacturing information, knowledge research, studies, development, process, formulae, technology, formulations, sourcing of raw materials, manufacturing information, quality insurance specifications, and generally all intellectual and industrial property rights, including patent applications and patents, the rights to which are owned by Galaxy, relating to the registration, manufacturing, packaging, and sale of the Products and all related documentation.

2. GRANT OF RIGHTS

Galaxy hereby grants to BEL, subject to the terms and conditions of this Agreement, the exclusive right and license, with full right to grant sublicenses to BEL's Affiliates, to use the Know-How and to market, promote, distribute and sell the Products throughout the Territory. Further, Galaxy hereby grants to BEL the right to appoint one or more sub-distributors of the Products within the Territory, provided that such persons or entities are disclosed to Galaxy in writing in advance.

This license does not authorize BEL to, and BEL shall not, directly or indirectly, export to or to distribute or sell the Products in any part of the world other than the Territory, unless specifically authorized by Galaxy in writing.

During the term of this Agreement, BEL and its Affiliates shall not distribute, market, sell or manufacture any Products in the same categories as the Products, except to the extent BEL is already manufacturing, distributing, marketing or selling such Products.

During the term of this Agreement, Galaxy shall not negotiate or take any other steps towards the grant or the promise to grant any right to anyone other than BEL through letter of intent, option agreement or agreement concerning, within the Territory, (i) the distribution, selling or manufacture of the Products or (ii) the use of the Know-How.

3. APPOINTMENT OF DISTRIBUTOR

3.1. Galaxy hereby appoints BEL and BEL hereby accepts such appointment as Galaxy's sole and exclusive distributor of the Products in the Territory. This sole and exclusive appointment means that Galaxy shall appoint no other distributor or representative of the Products within the Territory and that Galaxy shall not sell the Products directly into the Territory or to anyone Galaxy reasonably believes will sell the Products into the Territory.

3.2. BEL and its Affiliates shall use best efforts to promote, market, distribute and sell the Products in the Territory, either directly, or through its Affiliates, or with respect to countries where no BEL Affiliate exists, through third party distributors, which third party distributors are reasonably acceptable to Galaxy.

3.3. BEL shall use its best efforts to ensure that each of its Affiliates and distributors that promotes, markets, distributes and sells the Products in the Territories shall comply with those duties, obligations and warranties stated in this Agreement applicable to BEL.

3.4. BEL shall use its best efforts to ensure that any agreement between BEL and BEL's Affiliates, and/or distributors in connection with the promotion, marketing, distribution and sale of Products in the Territories, shall be fully consistent with the terms of this Agreement.

3.5. Nothing in this Agreement shall be construed as giving BEL and its Affiliates, any right to use the Know how or any other information and data received hereunder for purposes other than those of developing, marketing, distributing, promoting and selling the Products in the Territory except to the extent otherwise provided in Section 5 hereof.

3.6. BEL may communicate to its customers information commonly requested on Product specifications and formulae / ingredient list to the extent required by applicable law, agreements to which BEL or its Affiliates are obligated or industry customs; provided in all instances that BEL fully complies with the confidentiality obligations in Section 17.3.

- 3.7. Subject to Section 9.2 hereof, Galaxy shall sell to BEL, and BEL shall purchase and accept only from Galaxy, at the prices and upon the terms and conditions provided in this Agreement, such amount of the Products as BEL may request from time to time.
- 3.8. Galaxy agrees not to sell, authorize or appoint others to sell the Products in the Territory by any means (including, but not limited to, by electronic commerce via the Internet) and agrees not to knowingly sell any of the Products, directly or indirectly, to anyone other than to BEL or its Affiliates or distributors for delivery or resale within the Territory, including any sales to anyone outside the Territory for delivery or resale within the Territory (including, but not limited to, electronic commerce via the Internet). Notwithstanding the foregoing, Galaxy shall be permitted to sell to its existing distributors within the Territory until such time as those distributors may be transitioned to BEL through the mutual efforts of Galaxy and BEL.
- 3.9. Galaxy agrees to immediately notify BEL if any of the Products require special or other licenses to export and to update such information promptly upon changes, additions or deletions to such requirements.
- 3.10. BEL agrees to immediately notify Galaxy if any of the Products being sold by BEL require special labelling for lawful and safe use, sale and consumption within the pertinent country or countries of the Territory where the Product will be shipped, sold, used or consumed and to update such information upon changes, additions or deletions to such requirements.

4. TERM

This Agreement shall become effective on the date first written above and shall remain in effect for a period of ten (10) years (the "Initial Term"), provided that neither party has given the other party written notice of its intent to terminate this Agreement pursuant to Sections 5 or 17 of this Agreement ("Termination Notice"). Subsequent to the expiration of the Initial Term, this Agreement shall be renewed automatically for successive renewal terms of three (3) years each, which renewal will terminate in the event either party provides the other party with a Termination Notice.

5. MANUFACTURING LICENSE RIGHTS

Galaxy hereby grants to BEL an exclusive option upon the exercise of which from time to time by BEL, BEL, in addition to its rights to promote, market, distribute and sell the Products in the Territory pursuant to this Agreement, shall be permitted to also manufacture one or more of the Products as BEL may designate for promotion, marketing, distribution and/or sale in the Territory, including Products improvements conceived, proposed or developed by Galaxy. Said option shall be exclusive to BEL and may be exercised by BEL an unlimited number of times at any time and from time to time during the Initial Term and any subsequent renewal terms with respect to any or all of the Products. Notwithstanding anything stated herein to the contrary and as an exception to the term of the option stated herein and as an exception to the Initial Term, within sixty (60) days of the fourth anniversary of this Agreement, the parties shall elect, by each notifying the other in writing of its selection, in its reasonable discretion, to proceed in one of the following manners:

(i) the parties may mutually agree to continue operating under the terms of this Agreement, including retaining BEL's option to manufacture certain or all of the Products from time to time; provided that at that time the parties develop and commit to certain performance metrics (the "Performance Metrics") developed in good faith and in accordance with an analysis by the parties of the relevant markets, to be updated by the parties annually, with respect to any Products Galaxy manufactures for BEL to distribute in the Territory, the failure of which to attain will permit either party to terminate this Agreement but not BEL's option to manufacture set forth above (such Performance Metrics to be developed by the Designee (as defined in section 5) in the event the parties are unable to agree);

(ii) the parties may mutually agree to terminate this Agreement in accordance with the provisions of Section 17.1.1 below;

(iii) the parties may mutually agree to convert this Agreement into the Manufacturing and License Agreement (defined below) with a corresponding exercise by BEL of its option to manufacture whatever Products BEL designates; provided that conversion of this Agreement into the Manufacturing and License Agreement shall not foreclose BEL's ability to designate in the future other Products it desires to manufacture; or

(iv) either BEL or Galaxy may elect to terminate this Agreement in the event that either party in its sole discretion is not satisfied with the performance of the other party or with the amount of sales or income from

the sales of the Products hereunder; provided, however, that if Galaxy elects to terminate this Agreement, BEL shall be given the opportunity to first exercise its option to designate which Products, if any, it wishes to manufacture and distribute itself and if BEL elects to manufacture any of the Products at this time it will enter into the Manufacturing and License Agreement with Galaxy and shall have no further ability to designate other Products in the future to so manufacture beyond those designated pursuant to this clause (iv).

Furthermore, in addition to BEL's ability to exercise the option from time to time during the term of this Agreement or at the fourth anniversary of this Agreement as provided above, upon a change of control of Galaxy, notice of which shall be given by Galaxy to BEL within one (1) month of such change, BEL may exercise its option right and this Agreement will automatically convert into and be controlled and governed by the terms of the Manufacturing and License Agreement.

In the event that either party elects to terminate this Agreement by so selecting to terminate under item (ii), (iii), or (iv) above, such termination shall be effective one year from the date notice of such termination is provided to the other party.

If BEL exercises such option to manufacture or have manufactured all or some of the Products, Galaxy shall within sixty (60) days of the exercise of such option, communicate and grant to BEL the right to use the Know-How to manufacture the Products for sale and distribution in the Territory for which the option is exercised, in conformity with the specifications and the technical documentation communicated by Galaxy to BEL. The Manufacturing and License Agreement will provide that Galaxy will undertake to inform BEL about any change or modification of the Know-How. In addition, during the term of the Manufacturing and License Agreement, Galaxy shall disclose to BEL any modifications or improvements to the Know-How made by Galaxy, namely to allow compliance with local regulations. In addition, Galaxy will agree to reasonably accept any recommended changes BEL recommends to the Know How.

The terms and conditions which shall govern such license of manufacturing shall be set forth in a manufacturing and license agreement which the parties hereto will undertake to negotiate in good faith during the period between the execution of this Agreement and the exercise of the option described in this Section 5 (the "Manufacturing and License Agreement"). If BEL exercises such option with respect to some or all of the Products, and enters into the Manufacturing and License Agreement with Galaxy, this Agreement shall terminate. Notwithstanding this termination, however, it is understood and expressly acknowledged by the parties that BEL's exercise of its option to manufacture some or all of the Products shall not preclude BEL's continued right to distribute those Products that BEL does not elect to manufacture in a manner consistent with BEL's performance under and the terms and conditions of this Agreement to the date of such election.

Subsequent to BEL's exercise of its option to manufacture any of the Products, and in lieu of the applicable Minimum Production Obligation for such Product or Products and associated payments therefor, BEL shall pay to Galaxy a royalty of three to five percent (3% to 5%) (the "Royalty Rate") of the Aggregate Net Sales (as hereinafter defined) by BEL of the Products manufactured by BEL for distribution and sale in the Territory; provided that aggregate annual royalties paid by BEL to Galaxy shall, in no event, be less than certain minimum royalties (the "Annual Minimum Royalty"). The Annual Minimum Royalty shall be allocated among each of the countries, states or territories in the Territory (the "Per Country Allocation"). The Royalty Rate applicable to each Product, the Annual Minimum Royalty and the Per Country Allocations shall be set forth in the Manufacturing and License Agreement or schedules thereto. The schedules to the Manufacturing and License Agreement may or may not be subject to revision on an annual basis by the parties as provided by the terms of the Manufacturing and License Agreement.

To the extent BEL has failed, by an anniversary of this Agreement (a "Royalty Payment Date"), to make royalty payments to Galaxy in an aggregate amount for the applicable year equal to or in excess of the Annual Minimum Royalty, BEL shall make a payment to Galaxy within 30 days of the Royalty Payment Date (the "Late Payment Date") in an amount equal to the difference between the Annual Minimum Royalty and the aggregate royalty payments made by BEL to Galaxy for that year (the "Minimum Royalty Shortfall"). If BEL fails to pay to Galaxy the Minimum Royalty Shortfall, if due, by the Late Payment Date, BEL shall provide notice to Galaxy of which of the Per Country Allocations BEL has paid and, with respect to those countries, states or territories represented by unpaid Per Country Allocations, at Galaxy's reasonable discretion, BEL may lose its exclusive right to use, market and distribute the Product(s) in the countries, states or territories represented by such unpaid Per Country Allocations and thereby have such distribution rights on a non-exclusive basis and Galaxy shall have the rights with respect to such countries, states or territories to appoint another distributor or representative and to sell direct. BEL shall

lose such exclusive rights after receiving three months notice via registered mail from Galaxy indicating Galaxy's exercise of its discretion to have BEL surrender such exclusive rights. BEL shall retain its exclusive distribution rights with respect to those countries, states and territories for which it has complied with such Per Country Allocations.

BEL shall make written reports to Galaxy within sixty (60) days after the last day of each calendar year. The reports shall state (i) a description and calculation of the total aggregate sales, which shall include any and all income, receipts, revenues or other consideration from the sale, exchange or transfer of Products manufactured by BEL ("Aggregate Sales"), less any discounts, returns, rebates, sales tax, excise tax, value added tax, freight, insurance or other out-of-pocket expenses of Products paid from or to be paid from Aggregate Sales of Products ("Aggregate Net Sales") sold in the preceding year in the Territory, and (ii) all royalties accrued, for the past year. Within fifteen (15) days of BEL's providing such report to Galaxy, BEL shall remit to Galaxy in U.S. dollars the royalties due under the Manufacturing and License Agreement at the Royalty Rate on the Products included in such report. BEL shall keep sufficient records of the sales of the Products to enable an independent certified accountant, designated by Galaxy and reasonably acceptable to BEL, to audit BEL's records of such sales at any reasonable time during normal business hours. Any such audit shall be preceded by thirty (30) days written notice from Galaxy to BEL. Such audit shall be conducted at Galaxy's sole expense unless such audit reveals a discrepancy in favor of Galaxy of five per cent (5%) or more in the Gross Royalty Payment due (without regard to offsets or credits which may be claimed against such sum), in which case the expense of such audit shall be borne by BEL. The term "Gross Royalty Payment" means the Aggregate Net Sales multiplied by the Royalty Rate. BEL shall withhold from such royalties and pay to the French tax authorities or any other corresponding tax authority all withholding taxes required by law applicable to royalties payable to Galaxy. BEL shall retain the ability to purchase Products from Galaxy for resale whether or not BEL has elected to manufacture that particular Product itself and, to the extent BEL distributes or sells Products in the Territory which were manufactured by Galaxy instead of BEL, BEL's payment to Galaxy for such products shall not be governed by these royalty provisions but by the provisions set forth in Section 9 hereof.

The royalty provisions provided above shall be set forth in the Manufacturing and License Agreement and shall not be subject to change except by the mutual agreement of the parties hereto.

The Manufacturing and License Agreement shall provide that the parties shall provide each other with all reasonable cooperation which the other party may request in connection with the performance of the Manufacturing and License Agreement, including but not limited to the following :

(i) assistance, including the sharing of testing and other records in order to enable the Products to be manufactured, distributed, used or sold in the Territory;

(ii) the provision of technical consultation (in-person, telephonic, and written, as requested during the term of the Manufacturing and License Agreement) relating to the manufacture of the Products;

(iii) access to any improvements in or enhancements to the Galaxy Know-How or which is developed or discovered by the parties during the term of the Manufacturing and License Agreement; and

(iv) establishment of certain commercial relationships with third parties in certain countries, states and territories in the Territory as may be deemed by the parties to be desirable to manufacture, promote, market, distribute and/or sell the Products in the Territory.

Such cooperation will be acknowledged in the Manufacturing and License Agreement to constitute a significant portion of the consideration being delivered by each of the parties under the Manufacturing and License Agreement.

The Manufacturing and License Agreement will contain customary representations and warranties, including representations and warranties pertaining to Galaxy's ownership of the Know-How and other intellectual property rights concerning the manufacturing of the Products, as well as the lack of Galaxy's infringement on the rights of others or the infringement of others upon the Know-How. The Manufacturing and License Agreement will also provide that Galaxy will take all necessary and appropriate measures to maintain and protect all portions of Galaxy's Know-How, including registration, renewal, preservation and enforcement against any infringing person.

The Manufacturing and License Agreement shall include a schedule of Products which BEL has elected to manufacture. To the extent BEL is

permitted by the provisions of this Section 5 to make additional elections from time to time to manufacture additional Products, such schedule shall be amended to add these additional Products upon BEL's providing of written notice to Galaxy notifying Galaxy that BEL is electing to add such products to the schedule.

The parties hereby expressly acknowledge their intent to negotiate in good faith the terms of the Manufacturing and License Agreement. In the event that BEL and Galaxy cannot agree on a particular term or provision that is required to appear in the Manufacturing and License Agreement, then BEL and Galaxy shall resolve such dispute by referring the matter to a neutral third party (the "Designee"). Within three months of the execution of this Agreement, BEL and Galaxy shall mutually compile and rank a list of three candidates from which such Designee may be selected. Upon the occurrence of such a dispute, BEL and Galaxy shall contact the first person on such list and negotiate with such person to retain them to settle such disputes with all costs and fees incurred in connection with such retention to be borne equally between BEL and Galaxy. If the first person on such list is not available for whatever reason, BEL and Galaxy shall refer the matter to the second person on the list and, if such second person is not available for whatever reason, to the third person on the list. In the event that none of the persons on the aforementioned list reach agreement to serve as the Designee and the parties are unable to agree on another person, then either party may commence proceedings under Section 17.10.2 of this Agreement. By accepting the position, the Designee explicitly recognizes such Designee is subject to a duty of good faith and shall resolve the issue or dispute in a manner consistent with the terms of this Agreement. Within 45 calendar days of being retained by the parties, such Designee shall review and investigate the positions of BEL and Galaxy concerning the issue or issues in dispute and inform BEL and Galaxy of his/her resolution of the dispute and such resolution shall be conclusively binding upon BEL and Galaxy and become a part of the Manufacturing and Distribution Agreement. The decision of the Designee shall be conclusive and shall be binding on the parties; provided, however, that notwithstanding anything to the contrary stated herein and notwithstanding the negotiations of the parties or decisions of the Designee regarding the drafting of the Manufacturing and License Agreement, the Manufacturing and License Agreement shall include and incorporate those terms and provisions set forth in Sections 1, 2, 3 (with the exception of Section 3.7), 4, 6, 7, 12.4, 13.8, 14.4, 14.5, 15, 16 and 17 hereof as well as the terms set forth in this Section 5 regarding the Manufacturing and License Agreement and, to the extent BEL has not elected to manufacture some of the Products but will instead only continue to sell and distribute such Products, the remaining provisions of this Agreement. Notwithstanding the foregoing, BEL shall have the right to begin manufacturing Products immediately upon the exercise of its option; and, until the Manufacturing and License Agreement is completed and executed by the parties, BEL's manufacturing and distribution of the Products shall be governed by the terms of this Agreement which shall function and be construed for all purposes as the Manufacturing and License Agreement and the applicable Royalty Rate for each Product shall be four percent (4%).

The parties acknowledge the difficulty of ascertaining the amount of damages to be incurred by BEL as a result of the violation of the provisions of this Section 5 by Galaxy and therefore agree that any breach of this Section 5 by Galaxy shall require Galaxy to pay to BEL as liquidated damages (and not as a penalty) an amount calculated by multiplying the highest historical Aggregate Net Sales during a calendar year in the period of time commencing from the beginning of the Initial Term and ending at the time of such breach by Galaxy of the Products in the Territory by BEL by the number of years remaining in the initial term since the time of such breach by Galaxy.

6. PROMOTIONAL MATERIALS AND MARKETING

- 6.1. BEL and its Affiliates or distributor in the Territory shall at all times comply in all material respects with all legal requirements in force, relating to the storage, distribution, marketing and sale of the Products.
- 6.2. BEL and its Affiliates or distributors shall promote, market, distribute and sell the Products in a manner consistent with the claims and consumer statement which shall be defined as part of the Annual Plan which will be mutually designed and developed by the parties.
- 6.3. Annual Plan : By January 1 of each year during the term of this Agreement, BEL shall develop and provide to Galaxy for its review an annual business and marketing plan (the "Annual Plan") for the Products and their distribution containing in reasonable detail the following information:

- (a) market data evolution and consumer information
- (b) sales objectives and the Performance Metrics;

- (c) actions on key elements of the products mix;
- (d) major marketing and sales activities programs;
- (e) Sales and Marketing budget; and
- (f) such other information as may be required pursuant to other sections of this Agreement.

Using such Annual Plan, the strategy of the marketing of the Products shall be mutually designed between the two parties and executed by BEL.

6.4. BEL and its Affiliates or distributors shall promote and distribute the products according to the Products' profile and positioning in line with the Annual Plan. BEL agrees to notify Galaxy within a reasonable time of any major factors, which have an effect on the marketing of the Products.

6.5. Galaxy shall immediately inform BEL of any inquiries received by Galaxy concerning the purchase of the Products for use in the Territory.

6.6. BEL shall immediately inform Galaxy of any inquiries received by BEL concerning the purchase of the Products for use outside the Territory.

7. TRADEMARKS

7.1. The Products shall be marketed, distributed, promoted and sold in the Territory by BEL under BEL's Trademarks to be specified in the Annual Plan for each country, which Trademarks shall be the exclusive property of BEL. The Logo shall be placed on each Product marketed, distributed, promoted and sold in the Territory by BEL, which Logo shall be the exclusive property of Galaxy.

7.2. Galaxy acknowledges, recognizes and agrees that BEL, or its successors or assigns, shall remain the owners of the Trademarks, that Galaxy shall not, by virtue of this Agreement or otherwise, acquire any rights in respect of the Trademarks in relation to the Products or/and the goodwill associated therewith and that all such rights and goodwill are, and shall at all times remain, vested in and inure to the benefit of BEL and its successors and/or assigns. BEL and its Affiliates will not alter, obscure, remove, conceal or otherwise interfere with any markings, names, labels or other indications of the source of origin of the Products which may be placed by Galaxy on the Products. Positioning of these elements on the pack will be discussed and agreed between both parties. BEL acknowledges, recognizes and agrees that Galaxy, or its successors or assigns, shall remain the owners of the Logo, that BEL shall not, by virtue of this Agreement or otherwise, acquire any rights in respect of the Logo in relation to the Products or/and the goodwill associated therewith and that all such rights and goodwill are, and shall at all times remain, vested in and inure to the benefit of Galaxy and its successors and/or assigns.

7.3. Galaxy shall not on its behalf or on behalf of any other party, in any country or jurisdiction, register or attempt to register any of the Trademarks or any other service mark, trademark, trade name, word or symbol which is confusingly similar to any of the Trademarks without BEL's prior written consent. BEL shall not on its behalf or on behalf of any other party, in any country or jurisdiction, register or attempt to register the Logo or any other service mark, trademark, trade name, word or symbol which is confusingly similar to the Logo without Galaxy's prior written consent.

7.4. Galaxy shall not be responsible for any payment of damages to third parties arising out of any action for infringement or alleged infringement of such third party's trademark rights by the use of the Trademarks by BEL, its Affiliates and/or distributors. BEL shall not be responsible for any payment of damages to third parties arising out of any action for infringement or alleged infringement of such third party's trademark rights by the use of the Logo by Galaxy or BEL.

7.5. To the extent the Trademarks or Logo appear on packaging relating to the Products, Galaxy shall cause the designation of "(R)" or "(TM)", whichever is appropriate, or such other customary symbol or legend which identifies correctly the status of the Trademarks and Logo to be placed adjacent to such Trademarks and Logo in connection with each use or display of the Trademarks and Logo on the Products.

7.6. Galaxy will fully cooperate with BEL, at BEL's expense, in efforts to maintain and enforce BEL's rights in the Trademarks; provided that, in the event the threat to such maintenance and enforcement is the responsibility or fault of Galaxy then Galaxy shall pay expenses incurred in connection with such maintenance and enforcement efforts. Galaxy will not do or permit to be done any action or thing which will in any way impair BEL's

rights in and to the Trademarks. Galaxy will not contest or assist any other party in contesting the validity of BEL's ownership of any of the Trademarks. BEL will fully cooperate with Galaxy, at Galaxy's expense, in efforts to maintain and enforce Galaxy's rights in the Logo; provided that, in the event the threat to such maintenance and enforcement is the responsibility or fault of BEL then BEL shall pay expenses incurred in connection with such maintenance and enforcement efforts. BEL will not do or permit to be done any action or thing which will in any way impair Galaxy's rights in and to the Logo. BEL will not contest or assist any other party in contesting the validity of Galaxy's ownership of the Logo.

8. SUPPLY OF THE PRODUCTS

8.1. Galaxy shall supply the Products directly to BEL and its Affiliates and/or third party distributors, for resale in the Territory, manufactured in accordance with the specifications to be defined together within the Annual Plan and according to Galaxy's general business practices or, with respect to new products developed by Galaxy for sale by BEL, in accordance with specifications to which the parties shall mutually agree in good faith and attach to this Agreement as a supplemental exhibit.

8.2. Unless and until BEL exercises its option to manufacture the Products, BEL and its Affiliates undertake to purchase all their requirements of the Products for resale in the Territory, exclusively from Galaxy under the terms of its Agreement. In the case of BEL manufacturing the products, BEL will no longer have this obligation and will be free to buy basic new material and packaging material on its own.

8.3. The Products will be supplied by Galaxy to BEL and Affiliates packed and labeled at BEL specifications as reasonably agreed with Galaxy.

9. PRICE AND TERMS OF PAYMENT

9.1. The Products will be supplied by Galaxy to BEL at prices which will be agreed in writing by the parties determined by reference to and in accordance with the pricing formula set forth on Exhibit 3. The price for any Product may be revised annually and may vary by country. The purchase prices shall be expressed in U.S. dollars.

9.2. BEL shall purchase the Products from Galaxy on the basis of the Minimum Production Quantities specified in the attached Exhibit 4. Galaxy agrees to use its best efforts to provide sufficient supply of the Products to fill all of BEL's orders that have been accepted by Galaxy in accordance with the procedures set forth in Section 10 and 11 hereof.

9.3. BEL may resell the Products in the Territory at such prices as BEL may in its sole discretion determine; provided that while BEL retains sole discretion in its decisions regarding resale pricing, BEL will inform and discuss with Galaxy such decisions.

9.4. All payment will be made by US dollars denominated irrevocable letters of credit from a bank reasonably acceptable to Galaxy. Letters of credit may be drawn upon by Galaxy upon delivery of goods to common carrier FOB US Port of shipment, provided that Galaxy provides proof of such delivery or certifies that such delivery was made to the bank upon which the letter of credit is being drawn. All fees incurred in connection with the issuance of the letters of credit shall be paid by Galaxy.

10. FORECASTS AND ORDERS

10.1. BEL and its Affiliates shall provide to Galaxy, within 10 days of the beginning of each calendar year concerning a twelve month plus extension for 1st Quarter of the next calendar year, a non-binding forecast of their requirements for the Products, for each country in the Territory by quarter, such forecast to be updated quarterly when significant changes occur.

10.2. BEL shall furnish to Galaxy, within 30 days of the beginning of each quarter, a three month forecast, for the following calendar quarter corresponding to its anticipated requirements for the Product for each country of the Territory.

10.3. BEL shall provide Galaxy with firm purchase orders for the Products required at least sixty (60) days prior to the required delivery date. All orders shall be subject to written confirmation by Galaxy. All purchase orders submitted by BEL and accepted by Galaxy for Products are and shall be subject to this Agreement and shall be

deemed to incorporate the terms and conditions of this Agreement, whether or not so specified in such purchase orders. Galaxy's acceptances of orders shall be evidenced by Galaxy signing and returning the acknowledgment copy of the order within two (2) days after receipt of the order, together with a pro-forma invoice for the Products covered by that order. All orders shall contain the information necessary for Galaxy to fulfill the order, which information shall include the following:

- (I) A reference to this Agreement and BEL's purchase order number;
- (II) A description and quantity of each of the Products required;
- (III) The address to which Products are to be directed and the address to which Galaxy's invoice is to be sent; and
- (IV) The requested delivery date.

Galaxy's General Terms and Conditions of Sale, as published from time to time by Galaxy (the "Terms and Conditions"), shall apply to Galaxy's sale of Products to BEL under this Agreement. The current effective version of the Terms and Conditions is attached hereto as Exhibit 5. Where in conflict, this Agreement shall control over the Terms and Conditions. Notwithstanding the foregoing, the terms and conditions of this Agreement shall take precedence over and govern in the event of conflict between the terms and conditions of this Agreement, the terms and conditions of any other documents and forms of the parties, including, without limitation, BEL's quotation request and purchase order forms, Galaxy's quotation form, and any confirmation, acknowledgment or other similar document. Any provision or data in any order, any subordinate document such as shipping releases, or any other document originated by either party, or contained in any documents or forms attached to or referenced in any of the above documents, which modifies, supplements or conflicts with the terms of this Agreement shall not be binding unless expressly agreed to in writing by the parties that such writing supercedes this Agreement.

10.4 Quantities of the Products to be shipped to BEL shall be confirmed to BEL within two (2) days after the receipt by Galaxy of a purchase order for same from BEL and shall be shipped to BEL within sixty (60) days after receipt by Galaxy of a purchase order for same from BEL.

11. SHIPMENTS

- 11.1. Galaxy shall cause all shipments of the Products to be delivered to BEL and its Affiliates or distributors (incoterms 2000) FOB, US port of shipment. Shipments shall be invoiced at any time after delivery is made.
- 11.2. Shipments of the Products shall be deemed accepted by BEL upon final release by BEL's quality control representatives at or before FOB, point of shipment. Final release shall be provided by BEL and its Affiliates, within 30 days after tender of delivery of the Products ordered, or BEL shall be deemed to have given unqualified acceptance of such Products and to have waived all of its claims of any kind with respect to said Products, except with respect to latent defects. In case of Products with latent defects, BEL shall provide written notice to Galaxy of such defects within 30 (thirty) days of the date it discovered or with reasonable diligence should have discovered such latent defects.
- 11.3. Any rejection of a shipment or question as to the quality of the Products delivered shall be supported by written notification or explanation. In such case, and provided BEL demonstrates that said Products have been properly handled and stored after tender of delivery, Galaxy shall assume all costs for return of the defective goods and supply of replacement goods, or other corrective action as may be agreed between Galaxy and BEL, it being understood that Galaxy's responsibilities hereunder shall be limited to replacement of said defective goods. Galaxy may demand at its own cost separate storage, inspection and dispatch of rejected goods. If Galaxy disputes the written notification from BEL, the parties shall submit samples of the rejected goods to a mutually acceptable independent laboratory for analysis. The decision of the independent laboratory in the matter shall be final. The party found to be in error shall bear the cost of any such analysis.
- 11.4. Risk of loss and title shall pass to BEL at the time of delivery of the Products to BEL's designated location or carrier at the U.S. port of shipment.

12. LABELLING AND PACKAGING

12.1. BEL and its Affiliates or distributors, shall be responsible for providing to Galaxy sufficient information for Galaxy to determine, produce and maintain the content of all labeling for the Products, including package inserts and promotional material throughout the Territory. BEL warrants that any statement or other information provided by BEL to Galaxy concerning the Products contained therein shall be in line with the approved legal requirements of the Products in each country, state or territory of the Territory and shall keep Galaxy free and harmless from any connected claim, damage, liability, loss and/or expense arising therefrom to the extent such damage arises as a consequence of such statement provided by BEL to Galaxy not being in conformity with such legal requirements.

12.2Galaxy will package the Products according to the packaging specifications, including labeling and insertion of package inserts and promotional material provided and directed by BEL and agreed to by Galaxy (within reasonable existing capabilities of Galaxy manufacturing processes) and will be responsible for any failures of the Products to be so packaged.

12.3. All packaging, insert sheet, labels, advertising and other materials relevant to the Products, shall bear the notice "Distributed under license of Galaxy USA", such notice to be approved by both parties before first printing and use thereof, such approval not to be unreasonably withheld.

12.4. BEL shall be responsible at its cost and expense for complying with all regulatory and governmental requirements applicable in the Territory to the distribution of the Products; provided, however, that until BEL exercises its option to manufacture the Products, BEL shall not be responsible for any cost or expense related to or concerning the quality of the Products or any other aspects related to and solely under the purview of the manufacturing of the Products.

13 QUALITY CONTROL

Galaxy acknowledges that the Trademarks indicate to the public that the Products offered for sale or sold bearing the Trademarks are of a commercially consistent quality and standard, and that BEL's use of the Trademarks pursuant to this Agreement must be in a manner that does not have a detrimental impact on BEL's reputation or the goodwill associated with BEL's business and the Trademarks. Galaxy agrees that it shall maintain a high standard of quality (at least as high as Galaxy presently maintains) with respect to the manufacture of the Products and packaging for the Products, as well as in all depictions, marketing and advertising of the Products. Galaxy shall comply with all applicable legal and regulatory requirements for the manufacturing of the Products and the conduct of its business and performance of its obligations hereunder. BEL acknowledges that the Logo indicates to the public that the Products offered for sale or sold bearing the Logo are of a commercially consistent quality and standard, and that Galaxy's use of the Logo pursuant to this Agreement must be in a manner that does not have a detrimental impact on Galaxy's reputation or the goodwill associated with Galaxy's business and the Logo. BEL agrees that it shall maintain at least as high a standard of quality as BEL presently maintains with respect to the promotion, marketing, distribution and sale of Products in the Territory. BEL shall comply with all applicable legal and regulatory requirements for the promotion, marketing, distribution and sale of Products and the conduct of its business and performance of its obligations hereunder.

13.1Galaxy shall permit BEL's quality control representatives, at reasonable times and on reasonable notice, to inspect those areas of Galaxy's production facility at which Galaxy shall be manufacturing and packing the Products for shipment to BEL. Galaxy shall be permitted to visit/review annually BEL's distribution facilities at reasonable times and upon reasonable notice.

13.2Galaxy shall manufacture, or have manufactured, the Products according to Good Manufacturing Practices and requirements applicable to the industry. Galaxy shall at any time be free to determine the manufacturer and the place of manufacture of the Products,. Prior to BEL manufacturing, Galaxy cannot be restricted to manufacturing Products outside the Territory.

13.3Galaxy shall provide to BEL all test procedures for the Products, necessary for BEL to verify the quality of the Products it purchases pursuant to this Agreement.

13.4BEL shall not make alterations or permit alterations to be made to the Products.

13.5Galaxy shall maintain at its principal place of business reserve samples for each lot according to applicable legal requirements, until

the expiration date of the Product sold to BEL. Records should be kept for three years following production date.

13.6 In the event of a recall of any Products required by a governmental agency or authority of competent jurisdiction or if recall of the Products is jointly deemed advisable by Galaxy and BEL, such recall shall be promptly implemented and administered by BEL and its Affiliates, in strict consultation with Galaxy in a manner which is appropriate and reasonable under the circumstances and in conformity with accepted trade practices. The cost of any such recall shall be borne by Galaxy to the extent Galaxy's negligence and/or fault caused the recall to be necessary. Galaxy will have no obligation to pay costs of recalls of Products caused by consequences of negligence and/or faults committed by third parties occurring after such Products are sold by BEL and BEL shall have no obligation to pay costs of recalls of Products caused by consequences of negligence and/or faults of Galaxy. In no circumstance shall BEL have any obligation to pay costs of any recalls of Products not manufactured by BEL. In no circumstance shall Galaxy have any obligation to pay costs of any recalls of Products not manufactured by Galaxy. The provisions and obligations of this section shall survive any expiration of termination of this Agreement.

13.7 Galaxy agrees that it will not permit any lien, security interest, pledge, assignment to a creditor, assignment obligation or other encumbrance or restriction of any kind to be imposed or placed on any of its rights under this Agreement and/or in and to the Products or permit execution against its rights hereunder of any judgment against Galaxy, or grant any power to any third party to do so, and shall not enter into any agreement which is otherwise inconsistent with Galaxy's obligations under this Agreement, without BEL's prior written consent.

13.8 In the event that BEL exercises its option to manufacture certain or all of the Products, Galaxy agrees to assist BEL by providing access to any necessary document or dossier in Galaxy's ownership or possession to enable BEL to make application to any food regulatory authority or governmental agency for BEL to be appointed as Manufacturer of the Products under any marketing authorization held by BEL or to continue any actual registration or to start up an application for marketing of the Products.

14. REPRESENTATIONS AND WARRANTIES

14.1 Galaxy warrants to BEL that each Product sold to BEL shall, at the time of delivery by Galaxy, conform to the specifications then in effect and shall meet all such specifications throughout the approved shelf-life in the Territory. Galaxy covenants to provide true and accurate copies of such specifications (including any revisions thereto) to BEL as soon as practicable.

14.2 Galaxy further warrants to BEL that, in the event any of the Products do not meet the specifications (subject to verification by the procedure provided in Section 11.2. upon delivery) Galaxy shall either replace the non-conforming Products or give BEL a credit against future purchases for the purchase price of such non conforming goods, at BEL's option.

14.3 Galaxy represents that it has General Product Liability Insurance in force, in respect of direct liability arising from a defect in Galaxy's manufacture of Products to its agreed specifications up to a limit of not less than One Million US Dollars (US\$1,000,000) combined single limit each occurrence and Two Million US Dollars (US\$2,000,000) in the aggregate and umbrella coverage in an amount equal to Ten Million US Dollars (US\$10,000,000). Galaxy represents that such insurance provides coverage of all normal risks incident to Galaxy's business and its respective properties and assets and are in character and amount at least equivalent to that carried by persons engaged in similar businesses and subject to the same or similar perils or hazards. The certificates of insurance listing the above-referenced coverage and a copy of the General Product Liability Insurance shall be provided to BEL prior to Galaxy's commencement of duties pursuant to this Agreement, but in no event more than 30 days after execution of this Agreement, and Galaxy shall require each carrier to give BEL no less than 30 days' notice of any prospective cancellation, restriction, limitation or modification of coverage or limits.

14.4 Galaxy hereby represents and warrants that (a) Galaxy is a corporation duly organized, validly existing and in good standing under the laws of Florida, with full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, (b) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby by Galaxy have been duly and validly authorized and no further corporate authorization is required on the part of Galaxy to consummate the transactions contemplated

hereby, (c) this Agreement and all other documents executed and delivered by Galaxy pursuant to this Agreement constitute the legal, valid and binding obligation of Galaxy, enforceable against Galaxy in accordance with their respective terms, (d) the individuals executing this Agreement on behalf of Galaxy have been duly authorized and empowered to execute this Agreement for the purpose of binding Galaxy to this Agreement, (e) Galaxy's performance of this Agreement does not require any third party consents or governmental approvals, filings, registrations or permits that have not already been obtained and will be maintained during the Initial Term and the execution, delivery and performance of this Agreement by Galaxy does not and will not violate any contract or other arrangement between Galaxy and any third party, or any applicable law or regulation and (f) the Products are and will be merchantable and fit for their intended purposes and do not infringe any third party intellectual property or other proprietary right, comply with all laws and regulations applicable within the Territory and all Product registrations and approvals necessary for the Products to be sold within the Territory have been obtained and will be maintained in effect by Galaxy during the Initial Term.

14.5BEL hereby represents and warrants that (a) BEL is a corporation duly organized, validly existing and in good standing under the laws of [France], with full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, (b) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby by BEL have been duly and validly authorized and no further corporate authorization is required on the part of BEL to consummate the transactions contemplated hereby, (c) this Agreement and all other documents executed and delivered by BEL pursuant to this Agreement constitute the legal, valid and binding obligation of BEL, enforceable against BEL in accordance with their respective terms, (d) the individuals executing this Agreement on behalf of BEL have been duly authorized and empowered to execute this Agreement for the purpose of binding BEL to this Agreement, (e) BEL's performance of this Agreement does not require any third party consents or governmental approvals, filings, registrations or permits that have not already been obtained and will be maintained during the term, and (f) the execution, delivery and performance of this Agreement by BEL does not and will not violate any contract or other arrangement between BEL and any third party, or any applicable law or regulation.

14.6BEL represents that it has General Product Liability Insurance in force in the Territory, in respect of direct liability arising from BEL's manufacture, handling, sale or distribution of Products to its agreed specifications up to a limit of not less than One Million US Dollars (US\$1,000,000) combined single limit each occurrence and Two Million US Dollars (US\$2,000,000) in the aggregate. BEL represents that such insurance provides coverage of all normal risks incident to BEL's business and its respective properties and assets and are in character and amount at least equivalent to that carried by persons engaged in similar businesses and subject to the same or similar perils or hazards. The certificates of insurance listing the required coverage and a copy of the Comprehensive General Liability Insurance shall be provided to Galaxy prior to BEL's commencement of duties pursuant to this Agreement, but in no event more than 30 days after execution of this Agreement, and BEL shall require each carrier to give Galaxy no less than 30 days' notice of any prospective cancellation, restriction, limitation or modification of coverage or limits.

15. INDEMNITY

15.1Notwithstanding provisions of Section 11.2., Galaxy agrees to defend, indemnify and hold BEL and its Affiliates or distributors, harmless from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorney's fees) that are related in any way to (i) failure of any Products supplied hereunder to conform to the applicable specifications as provided at Section 14.1. excluding any losses, damages, liabilities, costs and expenses resulting from any such non-compliance that shall result from any Products which shall be altered, changed, packed or otherwise treated by BEL, its Affiliates and/or distributors other than in accordance with Galaxy's instruction and specifications in a manner that causes the loss, damage, liability, cost or expense ; (ii) the manufacture of the Products by Galaxy ; (iii) the correct use by BEL and/or Affiliates of the Know-How ; (iv) any breach by Galaxy of any of its obligations or warranties under this Agreement; or (v) any damages to third parties arising out of any action for infringement or alleged infringement of such third party's trademark rights by the use of the Logo by BEL, its Affiliates and/or distributors.

15.2BEL agrees to defend, indemnify and hold Galaxy harmless from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorney's fees) that are related in any way to (i) failure by BEL or its Affiliates or distributors to comply with applicable rules and regulations of the Territory regarding the promotion, marketing, distribution or selling of the Products in the Territory; (ii) the storage,

transfer, or sale (including without limitation the distribution, promotion and marketing) or the manufacture of the Products by BEL or its Affiliates; (iii) any breach by BEL or its Affiliates or distributors of any of the obligations or warranties under this Agreement; or (iv) any damages to third parties arising out of any action for infringement or alleged infringement of such third party's trademark rights by the use of the Trademarks by BEL, its Affiliates and/or distributors.

15.3 BEL shall be responsible towards its customers for handling all matters concerning the Products. If such Products expire as a result of BEL's gross negligence or wrongful acts, BEL shall be responsible for any expired Product whether stored by BEL and/or its Affiliates or distributors or returned by wholesalers, retailers, to whom said Products have been sold by BEL or its Affiliates or distributors.

15.4 The parties agree that, in case of commencement of any action, suit, proceeding or investigation or threat thereof for which indemnification is requested to either party, then (a) said party shall promptly inform in writing the other, (b) the parties shall fully cooperate in the defense of said action, suit or proceeding and (c) either party shall not accept any settlement without the other party's consent (which shall not be unreasonably withheld).

15.5 Notwithstanding any other provision of this Agreement, and without prejudice to the general rules established by mandatory laws of the various countries of the Territory on each party's liabilities towards third parties (as described at Sections 15.1 and 15.2. here above), in no event shall damages to be paid by one party to the other extend to indirect, special, incidental or consequential damages (including without limitation loss of profits or revenues), regardless of whether such damages were foreseeable or not.

15.6 The remedies set forth herein are the exclusive remedies of the parties as to the stated subject matter.

15.7 The provisions and obligations of this Section 15 shall survive any expiration or termination of this Agreement.

15.8 BEL agrees to maintain General Product Liability Insurance in amount and type maintained by comparable distributors (and to the extent BEL manufactures Products, comparable manufacturers) of similar Products in similar circumstances during the term of this Agreement.

15.9 The representations, warranties and covenants provided in Section 14 and Section 15 hereof, shall survive for four (4) years after the termination of this Agreement for any reason.

16. BEL'S OBLIGATIONS

BEL shall be obliged to :

16.1. Adhere to the terms and conditions of the Manufacturing and License Agreement .

16.2. Ensure that, except where Galaxy fails to provide sufficient supply of the Products to meet BEL's needs, the distributed Products are and will continue to be produced directly by Galaxy and/or, if BEL exercises its option to manufacture the Products, ensure that the quality of such products meets the standards to be set and agreed upon in the final Manufacturing and License Agreement.

16.3. Ensure that the distribution or, to the extent BEL exercises its option to manufacture the Products, manufacture of the Products does not infringe or violate any existing intellectual property rights of any third party. To the extent that the Products incorporate any third party Know-How that BEL is aware of or has been made aware of by Galaxy, the Products, to the extent manufactured by BEL, shall mention the licensor of such Know-How and list the specifications thereof in sufficient detail as would be necessary for any subsequent licensee of the specifications to be able to obtain a license for such Know-How from the applicable licensor.

16.4. Refrain from sub-licensing the distribution or manufacturing of the Products, except to its Affiliates and distributors. Nothing contained herein shall limit the right of BEL to appoint sales and marketing agents and distributors in respect of the distribution of the Products, provided that BEL retains control over the actual distribution / manufacture processes of the Products and that all such agents and distributors agree to be bound by the terms and conditions of the Agreement applicable to them.

17. GENERAL PROVISIONS

17.1. Termination

17.1.1. Notwithstanding any other provision of this Agreement, this Agreement may be terminated by either party, if:

- A. The other party commits a material breach of any of its material obligations under this Agreement, which shall not have been remedied within thirty (30) days from the party's giving of written notice of such breach.
- B. The other party becomes insolvent, makes an assignment for the benefit of its creditors, or is placed in receivership, liquidation, or bankruptcy ; or
- C. The other party has suffered an event of "force majeure", as defined in Section 17.4.1 hereof, which has prevented such party's performance of its obligations under this Agreement for a continuous period of six (6) months or longer.

Termination under A. and C. above may apply to a part (i.e. one or more of the countries, states or territories of the Territory) or the whole of the Territory, depending on the country, state or territory to which the breach or the "force majeure" events refer as mutually determined by the parties which determination shall be made in accordance with the dispute resolution mechanism set forth in Section 17.10.2 in the event the parties cannot agree. In the event that either Galaxy or BEL terminates this Agreement under A, B or C, BEL will have the ability at the time of such termination to elect to convert the Agreement to the Manufacturing and License Agreement and begin manufacturing in accordance with the provisions of Section 5 hereof.

17.1.2. In accordance with Section 5 hereof, upon a change of control of Galaxy, notice of which shall be given by Galaxy to BEL within one (1) month of such change of control, BEL shall have the option to elect to begin manufacturing and to automatically convert this Agreement into and be controlled and governed by the terms of the Manufacturing and License Agreement once executed by the parties.

17.1.3. BEL may terminate the Agreement at any time when a change of the current management team of Galaxy occurs and such new management team is, in BEL's opinion, not of a quality that is comparable to that of the current management team; provided that BEL will have the ability at the time of such termination to elect to convert the Agreement to the Manufacturing and License Agreement and begin manufacturing in accordance with the provisions of Section 5 hereof.

17.1.4. The right of either party to terminate this Agreement, as provided in Section 17.1.2., shall not be affected in any way by its waiver of, or failure to take action with respect to, any other default or by the granting of any time or other indulgence.

17.1.5. Termination or expiration of this Agreement for any reason shall not relieve either party of any liability or obligations which accrued under this Agreement prior to such termination or expiration.

17.2. Consequences of Termination or Expiration

17.2.1. Upon termination or expiration of this Agreement for any reason :

- A. BEL shall promptly cease distributing, selling and promoting the Products, provided that BEL shall have the right to dispose of its inventory of the Products
- B. Any work in progress and/or outstanding orders for the Products at the time of termination or expiration shall be completed by Galaxy in accordance with the terms of this Agreement and all such Products, along with any remaining stocks of products in Galaxy's possession shall be delivered and invoiced to and paid for by BEL at the then current prices and in accordance with the terms of this Agreement ;
- C. In case of termination of the Agreement, the costs and disposal of any/all packaging will be the responsibility of the party who initiated the termination, so long as Galaxy has not purchased packaging in excess of the forecast provided by BEL in which event such costs shall be the responsibility of Galaxy regardless of who initiated the termination.

17.3. Confidentiality

17.3.1. BEL will hold, and will use its reasonable efforts to cause its Affiliates, and their respective representatives to hold, in strict confidence from any person (other than any such Affiliate or representative), unless (i) compelled to disclose by judicial or administrative process or by other requirements of law, (ii) disclosed in connection with obtaining the necessary approvals of this Agreement and the transactions contemplated hereby from customers or governmental or regulatory authorities, or (iii) disclosed in an action or proceeding

brought by a party hereto in pursuit of its rights or in the exercise of its remedies hereunder, all documents and information concerning Galaxy or any of its Affiliates furnished to BEL by Galaxy or its representatives in connection with this Agreement or the transactions contemplated hereby, except to the extent that such documents or information can be shown to have been (a) previously known by BEL, (b) in the public domain (either prior to or after the furnishing of such documents or information hereunder) through no fault of such receiving party or (c) later acquired by BEL from another source if such source is not under an obligation to another party hereto to keep such documents and information confidential. In the event this Agreement is terminated, upon the request of Galaxy, BEL will, and will cause its Affiliates and their respective Representatives to, promptly (and in no event later than five Business Days after such request) redeliver or cause to be redelivered all copies of documents and information furnished by Galaxy in connection with this Agreement or the transactions contemplated hereby and destroy or cause to be destroyed all notes, memoranda, summaries, analyses, compilations and other writings related thereto or based thereon prepared by Galaxy.

17.3.2. Galaxy will hold, and will use its reasonable efforts to cause its Affiliates, and their respective representatives to hold, in strict confidence from any person (other than any such Affiliate or representative), unless (i) compelled to disclose by judicial or administrative process or by other requirements of law, (ii) disclosed in connection with obtaining the necessary approvals of this Agreement and the transactions contemplated hereby from customers or governmental or regulatory authorities, or (iii) disclosed in an action or proceeding brought by a party hereto in pursuit of its rights or in the exercise of its remedies hereunder, all documents and information concerning BEL or any of its Affiliates furnished to Galaxy by BEL or its representatives in connection with this Agreement or the transactions contemplated hereby, except to the extent that such documents or information can be shown to have been (a) previously known by Galaxy, (b) in the public domain (either prior to or after the furnishing of such documents or information hereunder) through no fault of such receiving party or (c) later acquired by Galaxy from another source if such source is not under an obligation to another party hereto to keep such documents and information confidential. In the event this Agreement is terminated, upon the request of BEL, Galaxy will, and will cause its Affiliates and their respective Representatives to, promptly (and in no event later than five Business Days after such request) redeliver or cause to be redelivered all copies of documents and information furnished by BEL in connection with this Agreement or the transactions contemplated hereby and destroy or cause to be destroyed all notes, memoranda, summaries, analyses, compilations and other writings related thereto or based thereon prepared by BEL.

17.3.3. Except to the extent that disclosure may be required by law, or except to the extent otherwise agreed by the parties in writing, the parties agree not to disclose the terms of this Agreement to any third parties.

17.4. "Force majeure"

17.4.1. The performance by either party of any covenant or obligation on its part to be performed under this Agreement shall be excused by floods, strikes or other labour disturbances, riots, fire, accidents, war, acts of terrorism, embargoes, delays of carriers, inability to obtain materials from normal sources, failure of power or of natural sources of supply, acts, injunctions, or restraints of government (whether or not now threatened), or any cause preventing such performance whether similar or dissimilar to the foregoing beyond the reasonable control of the party bound by such covenants or obligations ("force majeure") ; provided, however, that the party affected shall not have procured such force majeure, shall have used reasonable diligence to avoid such force majeure or ameliorate its effects, and shall continue to take all commercially reasonable actions within its power to comply as fully as possible with the terms of this Agreement, subject to the ability of the party to terminate the Agreement pursuant to Section 17.1.1 hereof.

17.4.2 Inability to supply

17.4.2.1. If for any reason (including "force majeure" as defined in Section 17.4.) Galaxy foresees an inability to supply, directly or indirectly, with its requirements for the Products, then Galaxy shall promptly notify BEL. BEL and Galaxy shall meet at either party's request as soon as possible to attempt to resolve the problem of supply.

17.4.2.2. In the event that Galaxy is unable to supply BEL, directly or indirectly, with sufficient quantities of the Products to meet any order of BEL that corresponds to BEL's previous forecasts as accepted by Galaxy, Galaxy shall exert commercially reasonable efforts to obtain another source of supply from an Affiliate or third party to meet BEL's requirements. If Galaxy fails to obtain such other source of supply, BEL may use its own efforts to locate a source that is satisfactory to BEL in its sole

discretion, and Galaxy shall have no further liability to BEL with respect to the particular order. Notwithstanding anything stated herein to the contrary, Galaxy shall use its best efforts to satisfy any order BEL submits that is accepted by Galaxy.

17.4.2.3. In the event, and for such time, that BEL, notwithstanding the provisions of Sections 17.4.2.1. and 17.4.2.2. is unable to supply or arrange for the supply of BEL's requirements for the Products, then Galaxy or Galaxy's nominee will allocate its production of the Products between BEL and Galaxy's other customers for the Products (including Galaxy) in the same ratio as all the various parties' respective utilization of Galaxy's output of the products in the 12 (twelve) months preceding the shortage of supply.

17.5. Assignment

This Agreement shall not be assigned by either party without the written consent of the other party, provided, however, that either party may assign this Agreement to an Affiliate without the other party's consent by giving the other party at least sixty (60) days advance notice in writing. In the event Galaxy assigns its rights and responsibilities under this Agreement to an Affiliate then, prior to such assignment, Galaxy shall execute and provide to BEL a guaranty in both form and substance reasonably acceptable to BEL pursuant to the terms of which Galaxy shall agree to guaranty the performance by Affiliate of Galaxy's responsibilities and obligations under this Agreement. In the event BEL assigns its rights and responsibilities under this Agreement to an Affiliate then, prior to such assignment, BEL shall execute and provide to Galaxy a guaranty in both form and substance reasonably acceptable to Galaxy pursuant to the terms of which BEL shall agree to guaranty the performance by Affiliate of BEL's responsibilities and obligations under this Agreement. Violation of the provisions of this Section 17.5 shall render such assignment null and void and of no legal effect.

17.6. Non-waiver and other remedies

The failure of either party to insist upon the strict and punctual performance of every provision of this Agreement shall not constitute waiver of nor estoppel against asserting the right to require such performance, nor shall a waiver and estoppel in one instance constitute a waiver or estoppel with respect to any other breach, whether of a similar nature or otherwise.

17.7. Unenforceable terms

If a court of competent jurisdiction adjudges any provision of this Agreement to be invalid or unenforceable, the remaining provisions shall not be affected thereby, and the parties shall in good faith attempt to amend this Agreement to eliminate such invalidity or unenforceability, without thereby affecting the intent of the parties as expressed herein.

17.8. Notice

17.8.1. All notices or other communications which shall or may be given pursuant to this Agreement shall be effective upon receipt and shall be in writing and delivered personally or by registered or certified mail, or telefax, addressed as follows :

If to GALAXY NUTRITIONAL INC
2441 Viscount Row
ORLANDO FL. 32809
USA

If to FROMAGERIES BEL SA
4, rue d'Anjou
75008 PARIS
France

With a copy to: Greenberg Traurig, P.A.
(except for purchase 1221 Brickell Avenue
orders and shipping Miami, Florida 33131
releases) Facsimile No.: 305-579-0717
Attn: Robert Grossman, Esq

17.8.2. Either party may change its address for purposes of this Section by giving written notice of such change to the other party.

17.9. Agency and representation

The legal relationship between the parties shall not be construed such that either party is deemed a partner or agent of the other party, nor will it confer upon either party the right or power to bind the other party in any contract or to the performance of any obligations with the other as an

independent contractor.

17.10 Governing law dispute resolution

17.10.1. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, and the parties consent to the jurisdiction of the state or federal court situated in Manhattan County, New York.

17.10.2. If the parties should have a material dispute arising out of or relating to this Agreement or the parties' respective rights and duties hereunder, then the parties will resolve such dispute in the following manner: (i) any party may at any time deliver to the other a written dispute notice setting forth a brief description of the issue for which such notice initiates the dispute resolution mechanism contemplated by this Section, (ii) during the thirty (30) day period following the delivery of the notice described above, appropriate representatives of the various parties will meet and seek to resolve the disputed issue through negotiation, (iii) if representatives of the parties are unable to resolve the disputed issue through negotiation, then within ten (10) days after the period described above, the parties will refer the issue (to the exclusion of a court of law) to final and binding arbitration in Orlando, Florida, if initiated by BEL and Paris, France, if initiated by Galaxy, in accordance with the then existing rules of conciliation and arbitration (the "Rules") of the International Chamber of Commerce (the "Chamber"), and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof; provided, however, that the law applicable to any controversy shall be the law of the State of New York, regardless of principles of conflicts of laws. In any arbitration pursuant to this Agreement, (i) discovery shall be allowed and governed by the New York Rules of Civil Procedure and (ii) the award or decision shall be rendered by a majority of the members of a Board of Arbitration consisting of three (3) members, one of whom shall be appointed by each party and the third of whom shall be the chairman of the panel and be appointed by mutual agreement of said two party-appointed arbitrators. In the event of failure of said two arbitrators to agree within thirty (30) days after the commencement of the arbitration proceeding upon the appointment of the third arbitrator, the third arbitrator shall be appointed by the Chamber in accordance with the Rules. In the event that either party shall fail to appoint an arbitrator within ten (10) days after the commencement of the arbitration proceedings, such arbitrator and the third arbitrator shall be appointed by the Chamber in accordance with the Rules. Nothing set forth above shall be interpreted to prevent the parties from agreeing in writing to submit any dispute to a single arbitrator in lieu of a three (3) member Board of Arbitration. Upon the completion of the selection of the Board of Arbitration (or if the parties agree otherwise in writing, a single arbitrator), an award or decision shall be rendered within no more than thirty (30) days. Notwithstanding the foregoing, the request by either party for preliminary or permanent injunctive relief, whether prohibitive or mandatory, shall not be subject to arbitration and may be adjudicated by the courts of the State of New York or the U.S. District Court located in New York, New York, by the courts located wherever the party or entity asking for injunctive relief is located, or by the courts located where the action which gave rise to the claim occurred.

17.11. Amendments

No amendment, addition or deletion to this Agreement shall be effective unless in writing and executed by both parties.

17.12. Headings

The section headings throughout this Agreement are for convenience and reference only, and the words contained in them shall in no way be held to explain, modify, amplify, or aid in the interpretation, constriction, or meaning of the provisions of this Agreement.

17.13. Withholding tax

With respect to withholding taxes applicable to any payment to be made by BEL to Galaxy in application of article of the bilateral treaty signed between France and USA on ..., as amended on ..., the parties agree to comply with the requirements set forth in Form (and any subsequent amendment thereof) in due time in order to avoid double taxation. BEL shall withhold such taxes from any payments made to Galaxy.

17.14. Language

All communications made or given pursuant to this Agreement shall be in the

English language. This English version of this Agreement shall be controlling and take precedence over any translation hereof.

18. MISCELLANEOUS REGULATORY PROVISIONS

18.1 Anti-Boycott and Embargo Regulations Compliance

Each of BEL and Galaxy acknowledges that it is familiar with the various U.S. anti-boycott and embargo regulations of the U.S. Department of Commerce and the U.S. Department of the Treasury. Each of BEL and Galaxy agrees to comply with the terms therefor, as applicable, and to supply no information to any person or entity about the other or the other's personnel's race, religion, sex or national origin, business relationships with boycotted countries or blacklisted persons, or associations with charitable or fraternal organizations.

18.2 Foreign Corrupt Practices Act Compliance

Galaxy has apprised BEL of the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act, as amended 15 U.S.C. 78 dd et seq., ("FCPA" or the << Act >>). BEL has reviewed with Galaxy the requirements of the FCPA, the transactions prohibited under the Act, and the penalties for violation thereof. BEL acknowledges such appraisal and the receipt of a copy of the FCPA. The FCPA makes it illegal to corruptly make, offer or agree to offer anything of value, either directly or through an intermediary, to any foreign official, foreign political party or official thereof, or foreign candidate for governmental office in order to obtain, retain or direct business to any business enterprise or person, or to obtain an improper advantage. Each of BEL and Galaxy represents that it understands the purposes, prohibitions and penalties stated in the FCPA. Each of BEL and Galaxy and their Affiliates and/or distributors represents and warrants that it has not committed any violation of the FCPA, and shall not commit any act that would place any of the parties to this Agreement in jeopardy under the FCPA. Violations of the FCPA by any party to this Agreement and/or their Affiliates will not be suggested, encouraged or condoned.

18.3 Export Administration Regulations Compliance

In conformity with the requirements of U.S. Export Administration Regulations ("EAR") and other applicable laws and regulations of the U.S. Government concerning exports and foreign activities, each of BEL and Galaxy hereby agrees and gives assurance to the other that it shall not knowingly export or re-export any commodity or otherwise disclose, directly or indirectly, any data or information received from the other which is not otherwise available to the general public, nor permit said data or information to be disclosed re-exported to, or used in the following countries: Cuba, Iran, Iraq, Libya, North Korea, the Sudan, and Syria, and any Taliban controlled areas of Afghanistan, or other countries, persons or entities, for any end-uses, including those related, directly or indirectly, to nuclear, chemical or biological weapons or missiles, for which export restrictions would apply or may be designated from time to time under applicable U.S. law and regulation. Each of BEL and Galaxy represents and warrants that it understands the purposes, prohibitions and penalties of these laws and regulations. Neither BEL nor Galaxy shall commit any act that would place any party to this Agreement in jeopardy under these laws and regulations.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first written above.

GALAXY NUTRITIONAL FOODS, INC

FROMAGERIES BEL SA

/s/ Christopher J. New

/s/ Michel P. Troussier

Name : Christopher J. New
Title : Chief Executive
Officer

Name : Michel P. Troussier
Title : Director of Finance

/s/ Eric de Poncins

Name : Eric de Poncins
Title : Head of Strategy & Development

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Exhibit 1

Galaxy's Current Products

Formagg(R)
Grand Design
Galaxy Nutritional Foods(R)
Labella's(R)& Design

Lite Bakery(R)
The Lite Bakery(R)& Design
Lite "n" Less(R)& Design
Pizza and Dessert that Doesn't Hurt(R)
Soy Singles(R)
Soyco(R)
Soyco(R)& Design
Soymage(R)
Veggie Nature's Alternative to Milk(TM)
Veggy Singles(R)
Wholesome Valley(R)

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Exhibit 2

Galaxy's Logo

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Exhibit 3

Pricing Schedule

Prices will be determined by the following:

"Cost" is defined as: Cost of Goods Sold, an allocation of research and development, General and Administrative Expenses, and Freight to US Port of shipment.

"Cost of Goods Sold" is determined using the following formula:

```
      opening inventory
+ additions during the year*
-----
= goods available for sale
- year- end inventory
-----
= cost of goods sold
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*Additions during the year includes costs for raw materials and parts, costs of labor (including both direct labor costs for production workers and indirect costs for employees who perform general factory functions), cost of materials and supplies used in the manufacturing process such as hardware, lubricants, abrasives, etc., and cost of overhead, which includes rent, utilities, insurance, depreciation, taxes, and maintenance for the production facility, as well as the cost of supervisory personnel.

"General and Administrative Expense" is defined as expenses incurred in the general administration of Galaxy, including salaries for executives and administrative staff, expenses for rent and utilities, travel expenses, costs of writing and filing reports, costs of accounting and administering funds, insurance and advertising.

The price of any Product shall be determined as follows:

Price = (M)x(Cost)

M = margin multiplier shall be set on a country-by-country basis with a target of 1.10 (except that during the first 24 months of this Agreement Galaxy may agree to an amount less than 1.10 but in no event less than 1.00). At no time during this Agreement will the margin multiplier be set below 1.00.

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Exhibit 4

Minimum Production Quantities for Purchase

The following lists the 16 most purchased Products and the respective minimum quantities for purchase. During the first 24 months of this Agreement, Galaxy may accept orders for any Product in quantities less than such minimum quantity for that Product provided that Galaxy shall have no obligation to accept any such order if, as determined by Galaxy, the cost of producing such order exceeds the price for that order.

Minimum shipping container is 20ft POD.

Top 16 SKU's and their respective minimum run/one shift quantities:

1. 66722 Veggie Ched Slice 12 units/8oz. - 3500 cases.

2. 66717 Veggie Yel Am Slice 12/8oz. - 3500 cases
3. 66718 Veggie Pep Jack Slice 12/8oz. - 3500 cases
4. 66721 Veggie Swiss Slice 12/8oz. - 3500 cases
5. 66720 Veggie Mozz Slice 12/8oz. - 3500 cases
6. 66719 Veggie Prov Slice 12/8oz. - 3500 cases
7. 66771 Veggie Ched Shred 12/8.5oz. - 2400 cases
8. 66770 Veggie Mozz Shred 12/8.5oz. - 2400 cases
9. 66773 Veggie Parm/Mozz/Romano Shred 12/6.5oz. - 2400 cases
10. 66774 Veggie MJ/Ched Shred 12/8.5oz. - 2400 cases
11. 66779 Veggie Cream Cheese 12/8oz. - 1350 cases
12. 66723 Veggie Butter 12/8oz. - 1350 cases
13. 66785 Veggie Pep Jack Chunk 12/8oz. - 1840 cases
14. 66737 Veggie Ched Chunk 12/8oz. - 1840 cases
15. 66754 Veggie Mozz Chunk 12/8oz. - 1840 cases
16. 66753 Veggie Parm Topping 12/8oz. - 640 cases

The Minimum Production Quantities for all other Products (on SKU basis) shall be as determined by Galaxy from time to time.

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Exhibit 5

GALAXY NUTRITIONAL FOODS

GENERAL TERMS AND CONDITIONS OF SALE

1. TERMS EXCLUSIVE: This document, together with the quotation and documents specified therein, constitutes the complete, exclusive and final agreement of the Buyer identified herein ("Buyer") and Galaxy Nutritional Foods, Inc. ("Seller") and may not be added to, modified, superseded or altered except by written agreement or modification signed by Seller's president, vice president or home office sales manager, notwithstanding any other additional or modifying terms or conditions which may now or in the future appear on Buyer's acknowledgment or other forms (all of which are objected to by Seller without future notification), and notwithstanding any shipments, tenders of delivery, acceptance of payments, or other similar acts of Seller. Notification of objection to additional (or different) terms is given hereby. Buyer's acceptance of any performance by Seller shall be taken as Buyer's acceptance of these terms and conditions.

NO PERSON (EXCEPT AN OFFICER OF SELLER) IS AUTHORIZED TO BIND SELLER TO ANY ORDER EXCEPT ACCORDING TO THE TERMS AND CONDITIONS ON BOTH SIDES HEREOF.

2. DELIVERY: Unless otherwise specified herein, delivery of the Products specified herein ("Products") will be F.O.B. U.S.A. port of shipment. Buyer shall be responsible for obtaining all necessary licenses, permits and/or approvals from the appropriate authorities or governmental agencies for Buyer to purchase and receive and for Seller to deliver the Products. Any delivery date specified herein is approximate only. Acceptance of shipment by a common carrier, designated shipper or licensed public truckman, [allocation of Products to Buyer at premises other than Seller's,] delivery to Buyer's representative or designee (if Seller's trucks and drivers effect such delivery), or mailing of an invoice by Seller to Buyer, whichever of the foregoing first occurs, shall constitute tender of delivery. Upon tender of delivery, title shall pass to Buyer, subject to Seller's right of stoppage in transit and to any interest of Seller reserved to secure Buyer's payment or performance. In the instance of Products held subject to Buyer's instructions or Products for which Buyer has failed to supply shipping instructions, Seller may invoice Buyer for the Products and Buyer agrees to make payment at the maturity of the invoice so rendered. Products invoiced and held at any location, for whatever reason, shall be at Buyer's risk and Seller may charge for (but is not obligated to carry) insurance and storage at prevailing rates. Buyer will accept and pay for partial deliveries in accordance with contract prices and terms. If Buyer has expressed an intention not to accept delivery in accordance with any order, no tender of the Products shall be necessary but Seller may, at its option, give notice in writing to Buyer that Seller is ready and willing to deliver and such notice shall constitute a valid tender of delivery.

3. PRICES: Unless otherwise specified herein, prices do not include applicable taxes, excises, duties, quotation fees or other governmental impositions which Seller may be required to pay or collect under any existing or future law, and any such additional charge shall be paid by and/or for the account of Buyer.

4. PAYMENT, SECURITY INTEREST: If the terms of payment include

any discount for prompt payment, such discount terms shall be strictly enforced by Seller. If there is no specific contrary agreement upon terms of payment stated herein, payment shall be due and payable within 30 days of the date of the invoice. Any payment not made to Seller when due shall be subject to interest at an annual rate of the greater of 18% or the highest amount allowed by law on the unpaid balance until paid. Buyer shall have no right to offset any amount whatsoever against any payment or other obligation which Buyer may owe to Seller under the terms hereof. Seller reserves a security interest in the Products to secure Buyer's payment of the purchase price and any other charges owed by Buyer, and Buyer agrees that Seller may (but is not obligated to) take such action as Seller deems advisable to evidence and perfect such interest and that Buyer will cooperate with Seller in the taking of such actions including, without limitation, the signing by Buyer of financing statements.

5. CASUALTY AND AVAILABILITY OF SUPPLIES: Delivery of the Products is contingent upon Seller's ability to obtain the supplies, raw materials and services through its regular and usual sources of supply. If by reason of any contingency beyond Seller's control, including (but not limited to) war, governmental requests, restrictions or regulations, fire, flood, casualty, accident, or other acts of God, strikes or other difficulties with employees, delay or inability to obtain labor, material and service through Seller's usual sources, failure or refusal of any carrier to transport materials, delay in transport thereof, or any other similar occurrence, Seller is not able to meet anticipated deliveries, Seller shall not be liable therefor and may, in its discretion without prior notice to Buyer, postpone the delivery date(s) under this document for a time which is reasonable under all the circumstances. In the event that Buyer defers shipment for more than 15 days, in addition to all other rights of Seller hereunder, Buyer shall be responsible for storage charges.

6. INSPECTIONS, ACCEPTANCE, AND RETURNS: Each delivery shall be inspected by Buyer for observable damage and/or non-conformity at the time of delivery. Failure to so inspect shall constitute a waiver of Buyer's rights of inspection and shall constitute an unqualified acceptance of the Products. If, after such inspection, Buyer attempts to reject any Products, Buyer shall fully specify all claimed damage or non-conformity in a notice of rejection sent to Seller within ten days of Buyer's receipt of the Products. Buyer's failure to so specify shall constitute an unqualified acceptance of the Products and a waiver of that damage or non-conformity. No Products shall be returned to Seller without Seller's prior written agreement and any Products returned by Buyer shall be returned in the same condition as when delivery was effected by Seller. Seller reserves the right to assess a return or restocking charge for Products returned for reasons other than damage or non-conformity.

7. LIMITED WARRANTY, WARRANTY DISCLAIMERS AND LIMITATIONS OF REMEDIES AND LIABILITIES: Seller warrants that the Products manufactured by Seller will be free from defects for the period ending on the applicable expiration date. Any Products determined by Seller to be defective at time of delivery will be replaced, at Seller's option at Seller's U.S.A. port of shipment, shipment prepaid by Buyer, provided Buyer has acted in accordance with Paragraph 6 hereof. No item shall be deemed defective if such item conforms to approval samples, test runs, or previously accepted items or otherwise reasonably accommodates Buyer's intended purpose. Seller does not warrant against defects caused by erosion, corrosion, misuse or improper use or handling or storage, use of the Products not in compliance with instructions, or any alteration, in the judgment of Seller, adversely affects the Products.

Except as set forth above, Seller makes NO OTHER WARRANTIES concerning the Products whatsoever. SELLER DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS WARRANTIES AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE concerning the Products. Buyer acknowledges and agrees that Seller's obligation described in this Paragraph 6 is the sole remedy bargained for by Buyer IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES. In no event will Seller's liability exceed the paid purchase price of the Products. Seller's obligations described in this Paragraph shall be BUYER'S SOLE AND EXCLUSIVE REMEDY AGAINST SELLER FOR ANY LIABILITY WITH RESPECT TO THE PRODUCTS WHETHER ANY CLAIM FOR RECOVERY IS BASED UPON OR ARISES OUT OF THEORIES OF CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHERWISE. Buyer agrees that NO OTHER REMEDY SHALL BE AVAILABLE to Buyer and that IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, including without limitation loss of income, loss of time, loss of sales, cost or replacement items, claims asserted by Buyer's customers, injury to personal property, or injury to any person, whether or not occasioned by Seller's negligence. No accommodation by Seller to Buyer, whether by attempt, effort or promise to repair or replace, and whether for sales policy or otherwise shall establish any additional liability of Seller or any contract term inconsistent with the terms herein.

A suit based on any cause of action must be commenced within one year

from the date of delivery.

8. CANCELLATION: Seller may cancel or terminate all or part of the contract arising from or evidenced by this document immediately upon the happening of any of the following: Buyer's material delinquency of any of its obligations hereunder or with respect to any other order or transaction with Seller; the insolvency of Buyer; the appointment of a receiver under Title 11 U.S.C., as amended (the "Bankruptcy Code"), or the commencement of a case under any chapter of the Bankruptcy Code for, by or against Buyer; Buyer's suspension or termination of business or assignment for the benefit of creditors; or any event, whether or not similar to the foregoing, which in Seller's good faith belief materially impairs the prospect of payment or performance by Buyer hereunder. Seller's rights to cancel or terminate set forth herein may be exercised by Seller without liability.

10. STATUTORY COMPLIANCE: Seller continues to attempt to comply with all applicable laws, standards and specifications. However, Seller is not responsible for compliance with any laws, standards or specifications applicable to the Products, their delivery, use, handling, labeling, transportation or disposal, whether of general or particular application, unless Buyer has furnished specific written notice thereof prior to Seller's entry of Buyer's order and the President of Seller acknowledges in writing receipt and acceptance as a part of the order such law, standard or specification.

11. PERMISSIBLE VARIATIONS: Seller has the right, without giving notice to Buyer, prior to the delivery of Products to Buyer to make any changes in the composition of the Products which, in the opinion of Seller, does not affect the general characteristics or properties of the Products. In addition, Seller may make any change or variation in the Products which is within governmental or industry standards or specifications applicable at the time of manufacture without giving notice to Buyer. Buyer will accept any Products which may incorporate any changes in the composition or specifications, and any increase in price resulting from such change will be paid by Buyer.

12. REPRESENTATIONS BY AGENT OR REPRESENTATIVE: The terms of this document shall govern the liability and obligations of Seller in regard to the sale of Products, whether the sale was procured directly by Seller or indirectly through an authorized sales representative. No agent, employee or representative of Seller has any authority to bind Seller to any additional or contrary affirmation or representation concerning the Products sold under this document. Unless an affirmation or representation is specifically included within this document or is in writing signed by an officer of Seller, it shall not be enforceable by Buyer or by any person claiming by or through Buyer.

13. TERMINATION: Buyer may terminate the sales contract, in whole or in part, for Buyer's convenience upon written notice to Seller, in which event Seller shall be entitled to reasonable termination charges consisting of a percentage of the contract price reflecting the percentage of the work performed prior to receipt of Buyer's notice of termination plus actual costs resulting from termination (including, but not limited to, unrecoverable fixed overhead such as termination and reassignment expenses).

14. OWNERSHIP: The specifications, drawings, manufacturing data and other information between Buyer and Seller in connection with the contract are the property of the originating party and are disclosed in confidence in the condition that they are not to be reproduced, copied, or used for any purpose detrimental to the interest of the other.

15. INSURANCE: Seller's standard Insurance Statement shall apply, which Seller shall furnish to Buyer upon request.

16. MISCELLANEOUS: All sales are subject to approval by Seller's credit department. Orders entered on Seller's books cannot be countermanded nor deliveries deferred except with Seller's written consent and upon terms that will indemnify Seller against all loss. The contract arising hereunder will be governed by the local laws of the State of Florida. If any of the provisions hereof shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

No right or interest in the contract arising from this document shall be assigned by Buyer and no delegation of any obligation owed by Buyer shall be made without the prior written permission of Seller.

The individual rights and remedies of Seller reserved herein shall be cumulative and additional to any other or further remedies provided in law or equity. Waiver by Seller of performance or inaction with respect to Buyer's breach of any provision hereof, or failure of Seller to enforce any provision hereof which may establish a defense or

limitation of liability, shall not be deemed a waiver of future compliance therewith or a course of performance modifying such provision, and such provision shall remain in full force and effect as written.

As used herein, "Buyer" and "Seller" include the respective heirs, executors, personal representatives, successors and permitted assigns of each.

Where these General Terms and Conditions of Sale conflict with that certain Master Distribution and License Agreement (the << Distribution Agreement >>, dated May 22, 2003, by and among Buyer and Seller, the terms of the Distribution Agreement shall take precedence and control.

IN ALL CASES CLERICAL ERRORS ARE SUBJECT TO CORRECTION.

Form # _____
Rev. Date _____

Special Terms and Conditions of International Sales

For sales where the Buyer is in a country other than the United States of America, the following shall apply in addition to (and shall take precedence where in direct conflict with) the GENERAL TERMS AND CONDITIONS OF SALE of Galaxy Nutritional Foods, Inc. ("Seller"). Where these Special Terms and Conditions of International Sales conflict with that certain Master Distribution and License Agreement (the <<Distribution Agreement >>, dated May 22, 2003, by and among Buyer and Seller, the terms of the Distribution Agreement shall take precedence and control.

1. Shipment: Delivery will be FOB US Port of Shipment (INCO Terms 2000). All shipments hereunder will be made in the Seller's standard shipping packages to Buyer at Buyer's address as set forth in this Agreement. Unless otherwise instructed in writing by Buyer, Seller will select the carrier(s). Title and risk of loss to the Products purchased under this Agreement shall pass to Buyer upon delivery thereof to the first carrier.

2. Taxes and Duties: Buyer shall bear all applicable federal, state, municipal and other government taxes (such as sales, value added, use, or similar taxes); all customs duties, and similar charges (any agent appointed for the purpose of importation of the Products shall be the agent of Buyer not Seller); and all personal property taxes assessable on or with respect to the Products.

3. Customs Clearance: Buyer shall perform the functions necessary to clear the Products through all non-United States customs and similar controls, and it shall arrange for the transportation of the Products from the Port of Entry to the Buyer.

4. Acceptance: Buyer shall inspect all Products promptly upon receipt thereof at the shipping destination and may reject any Products which fail in any significant respect to meet its specifications prevailing on the date of delivery. Products not rejected by written notification to Seller within 30 days of receipt shall be deemed to have been accepted. Upon Seller's request, rejected Products shall be returned freight prepaid to Seller's place of manufacture and shall be shipped within 10 days of Seller's request. After receipt by Seller of properly rejected Products, Seller shall, at its option replace properly rejected Products. Seller will prepay transportation charges back to Buyer and shall reimburse Buyer for any reasonable costs of transportation incurred by Buyer in connection with the return to Seller of properly rejected Products. Otherwise, Buyer shall pay transportation charges in both directions.

5. Payment: All payments for Products ordered hereunder shall be made within 30 days of the date of Seller's invoice to Buyer, in U.S. Dollars. All exchange, interest, banking, collection or other charges shall be at the sole expense of Buyer. Otherwise, payment terms in the Terms and Conditions of Sale of Seller apply.

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Comment/Description: Press Release

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[GALAXY NUTRITIONAL FOODS LOGO]

FOR IMMEDIATE RELEASE:
June 2, 2003

CONTACT:
Dawn M. Robert, Investor Relations
Galaxy Nutritional Foods, Inc.
(407) 854-0433

GALAXY NUTRITIONAL FOODS ANNOUNCES
FINANCIAL RESTRUCTURING

FINOVA CAPITAL & FINOVA MEZZANINE LOANS REMOVED;
TEXTRON FINANCIAL PROVIDES NEW ASSET-BASED LOAN;
SOUTHTRUST BANK PROVIDES ADDITIONAL FUNDING

ORLANDO, Florida (June 2, 2003) - Galaxy Nutritional Foods (AMEX: GXY), the leading producer of nutritious plant-based dairy alternatives for the retail and foodservice markets, today announced that Textron Financial Corporation ("Textron Financial") has replaced Finova Capital Corporation ("Finova Capital") as the Company's asset-based lender.

The new revolving line of credit from Textron Financial has a maximum facility amount of \$7.5 million and an interest rate that is 2.25% lower than the rate previously charged by Finova Capital, whose line was due to mature July 1, 2003.

The Company will benefit from improved cash availability based on the higher advance rates provided by Textron Financial on eligible raw materials and finished goods inventory (an increase of 21% over the most recent advance rate previously provided by Finova Capital) as well as on eligible accounts receivable (an increase of 5% over the advance rate previously provided by Finova Capital). The Textron Financial line of credit will be used for working capital to support growth initiatives.

According to Christopher Gouskos, President of Textron Financial's Business Credit Division, "we are looking forward to becoming one of Galaxy's financial partners and think it is a great fit for both companies". Gouskos further added, "Our relationship with Galaxy is indicative of our desire to find solid companies who, for whatever reason, found themselves caught up in the credit crunch and provide them with much needed working capital".

The Company also announced that SouthTrust Bank ("SouthTrust") has increased its lending position in the Company with a new \$2 million loan. The new loan was used to repay one-half of the Company's \$4 million subordinated debt with Finova Mezzanine Capital, Inc. ("Finova Mezzanine"). The remaining \$2 million balance of the subordinated debt with Finova Mezzanine was repaid through private placement proceeds, the details of which were also announced today. The Company has an \$8.1 million equipment loan outstanding with SouthTrust which was renewed and consolidated with the new \$2 million loan. The new consolidated \$10.1 million loan extends the maturity date on the original loan from March 2005 to June 2009 with a more favorable amortization. This new consolidated loan bears interest at the rate of prime plus 1%, an increase of 1% over the prior term loan.

Additionally, the Company has restructured its \$501,000 bridge loan with SouthTrust by extending the maturity date from October 2003 to April 2004 and providing for a fully amortizing payment schedule over the term of the loan. This will enable the company to have a streamlined payoff of this loan versus a balloon payment.

The financial restructuring encompassed by the above transactions and the private placements also announced today, all of which closed May 30, 2003, will enable the Company to greatly improve its balance sheet position by reducing its short-term debt, as a percentage of total debt, from 58% to 38%.

Christopher J. New, Galaxy's CEO, said, "It is a pleasure to have two strong partners such as Textron Financial and SouthTrust Bank. We welcome Textron Financial as a new partner with whom we hope to enjoy a mutually beneficial relationship for many years to come. SouthTrust has remained a steadfast partner displaying great confidence in our ability by expanding their relationship with Galaxy. We thank them for their continued commitment to our company."

"Today's announcement is a very exciting one for Galaxy," Mr. New continued. "It is the result of many months of hard work by everyone involved. These events will play a major role in our ability to grow our business efficiently as a result of the additional working capital, reduced debt service and more favorable debt structure which will be provided by these transactions."

ABOUT GALAXY NUTRITIONAL FOODS, INC.

Galaxy Nutritional Foods(R) is the leading producer of health-promoting plant-based dairy and dairy-related alternatives for the retail and foodservice

markets. An exclusive, new and technologically advanced, safer "hot process" is used to produce these phytonutrient-enriched products, made from nature's best grains - soy, rice and oats. Veggie products are low fat and fat free (saturated fat and trans-fatty acid free), cholesterol and lactose free, are growth hormone and antibiotic free, and have more calcium, vitamins and other minerals than conventional dairy products. Because they are made with plant proteins, the products are more environmentally friendly and economically efficient than dairy products derived solely from animal proteins. Galaxy's products are part of the healthy and natural foods category, the fastest growing segment of the retail food market. Galaxy brand names include: Galaxy Nutritional Foods(R); Veggie(R); Nature's Alternative(TM); Veggie Lite Bakery(TM); Veggie Cafe(TM); Soyco(R); Soymage(R); Wholesome Valley(R); Lite Bakery(R); and formagg(R). For more information, please visit Galaxy's website at: www.galaxyfoods.com. This press release contains "forward-looking" statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties, or other factors which may cause actual results, performance or achievements of the company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Readers are cautioned not to place undue reliance on those forward-looking statements, which speak only as of the date hereof. The company undertakes no obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date hereof or to reflect unanticipated events or developments.

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[GALAXY NUTRITIONAL FOODS LOGO]

FOR IMMEDIATE RELEASE:
June 2, 2003

CONTACT:
Dawn M. Robert, Investor Relations
Galaxy Nutritional Foods, Inc.
(407) 854-0433

GALAXY NUTRITIONAL FOODS
SECURES \$3.85 MILLION
EQUITY RAISE

FROMAGERIES BEL S.A. & SUBWAY(R) FOUNDER FRED DELUCA ARE AMONG THE INVESTORS

ORLANDO, Florida (June 2, 2003) - Galaxy Nutritional Foods (AMEX:GXY), a leading producer of nutritious plant-based dairy alternatives for the retail and foodservice markets, announced the completion of private placements of its common stock for an aggregate amount of \$3,850,000.

In transactions that closed May 30, 2003, several investors purchased an aggregate of 2,138,891 shares of common stock at a per share purchase price of \$1.80. \$2 million of the proceeds from these transactions were used to repay one-half of the principal of the Company's \$4 million subordinated debt with Finova Mezzanine Capital, Inc. The balance of the principal of the subordinated debt was repaid through a \$2 million loan from SouthTrust Bank, the details of which were also announced today. The remaining private placement proceeds will be used for working capital purposes primarily for restocking inventory levels and marketing initiatives.

Fromageries Bel S.A., the number one branded cheese company in Europe with sales of \$2.3 billion, was the largest investor in the private placements with a \$2 million investment. Fromageries Bel is a leading producer of innovative branded cheeses that are sold in nearly one hundred countries throughout the world. Their portfolio of more than twenty international and domestic brands includes Mini Babybel, The Laughing Cow, Kaukauna, Bonbel, Kiri, Port-Salut, Sylphide, and recently acquired Leerdammer.

An additional \$1.85 million was provided through private placements by several additional investors. Mr. Fred DeLuca, the Founder and Chairman of Subway(R), increased his previous ownership position in Galaxy. Apollo Capital Management Group, L.P. and Apollo MicroCap Partners, L.P., investment funds based in St. Petersburg, Florida, Mr. John S. Ruggieri, Galaxy's Vice President of Manufacturing, and Mr. David H. Lipka, a Director of the Company, also participated in the private placements.

Galaxy CEO, Christopher J. New stated, "We expect that the private placements reported today combined with the beneficial terms provided by our new asset-based lender, Textron Financial, along with the increased support from SouthTrust Bank, will fuel our strategic growth plan for fiscal 2004. We thank all of the investors who participated in the private placements and appreciate the confidence that they and others have shown in Galaxy and its management team. We will now be in a position to operate more effectively and efficiently."

The securities purchased in this private placement have not been registered under the Securities Act of 1933, as amended. The securities have been acquired for investment and may not be re-offered, sold, transferred, pledged, or assigned without an effective registration statement for the securities under the Securities Act of 1933 and the state securities act or blue sky act of any state having jurisdiction thereof, or an opinion of counsel that registration is not required under said act or the securities act or blue sky act of any state having jurisdiction with respect thereto.

ABOUT GALAXY NUTRITIONAL FOODS(R), INC.

Galaxy Nutritional Foods(R) is the leading producer of health-promoting plant-based dairy and dairy-related alternatives for the retail and foodservice markets. An exclusive, new and technologically advanced, safer "hot process" is used to produce these phytonutrient-enriched products, made from nature's best grains - soy, rice and oats. Veggie products are low fat and fat free (saturated fat and trans-fatty acid free), cholesterol and lactose free, are growth hormone and antibiotic free, and have more calcium, vitamins and other minerals than conventional dairy products. Because they are made with plant proteins, the products are more environmentally friendly and economically efficient than dairy products derived solely from animal proteins. Galaxy's products are part of the healthy and natural foods category, the fastest growing segment of the retail food market. Galaxy brand names include: Galaxy Nutritional Foods(R); Veggie(R); Nature's Alternative(TM); Veggie Lite Bakery(TM); Veggie Cafe(TM); Soyco(R); Soymage(R); Wholesome Valley(R); Lite Bakery(R); and formagg(R). For more information, please visit Galaxy's website at: www.galaxyfoods.com. This press release contains "forward-looking" statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties, or other factors which may cause actual results, performance or achievements of the company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Readers are cautioned not to place undue reliance on those forward-looking statements, which speak only as of the date hereof. The company undertakes no obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date hereof or to reflect unanticipated events or developments.

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[GALAXY NUTRITIONAL FOODS LOGO]

FOR IMMEDIATE RELEASE:
June 2, 2003

CONTACT:
Dawn M. Robert, Investor Relations
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(407) 854-0433

GALAXY NUTRITIONAL FOODS ALIGNS WITH STRATEGIC PARTNER,
FROMAGERIES BEL S.A.

COMPANY ENTERS INTO MASTER DISTRIBUTION AND LICENSING AGREEMENT;
FROMAGERIES BEL'S SENIOR V.P. OF MARKETING JOINS GALAXY'S BOARD OF DIRECTORS

ORLANDO, Florida (June 2, 2003) - Galaxy Nutritional Foods (AMEX: GXY), the leading producer of nutritious plant-based dairy alternatives for the retail and foodservice markets, today announced that they have entered into a master distribution and licensing agreement with Fromageries Bel S.A.

Under the terms of the agreement, Fromageries Bel has the exclusive rights to distribute certain Galaxy products to the fifteen European Union States and to more than twenty-one other European countries and territories. The two companies will share key learnings and marketing strategies and Fromageries Bel will create and support commercial plans for the development and distribution of

these products within their exclusive territories.

The Company also announced the appointment of Mr. Patrice M. A. Videlier, the Senior Vice President of Marketing for Fromageries Bel S.A., to the Company's Board of Directors. Mr. Videlier has been a senior executive with Fromageries Bel since joining them in 1990. His various positions include: Vice President of Strategic Marketing and New Product Development; Vice President of Natural Cheese Division; Vice President in charge of marketing and sales of Bel's European Division; and Vice President of Bel's International Worldwide Division. He has also served as a director of Fromageries Bel since 1990. From 1969 to 1989, Mr. Videlier was a senior marketing executive for the Unilever Company.

Patrice Videlier commented, "The company, Fromageries Bel, which has been traditionally focusing its activity on milk-based products with very strong, branded properties, is seeking to be present in the fast growing market of which Galaxy has acquired a strong expertise and significant market share".

Christopher J. New, Galaxy's CEO, stated, "We are very pleased to have developed this exciting strategic partnership with Fromageries Bel. Not only have they invested in our future through the private placements, which we also announced today, but they have also demonstrated a strong belief and confidence in the position of Galaxy's products by entering into this distribution agreement. Our management team is anxious to share knowledge with Bel's well-respected and winning team and we expect that both companies will benefit greatly from this relationship,"

Charles L. Jarvie, Galaxy's Chairman of the Board stated, "We enthusiastically welcome Patrice Videlier to our Board of Directors. He brings a wealth of knowledge and experience in branded cheese marketing and sales to Galaxy and will undoubtedly provide us with great marketing insight for both the U.S. and international markets. Patrice's background will be a terrific complement to the expertise of Galaxy's other outside Directors, who are some of the foremost experts in their fields," Mr. Jarvie concluded.

ABOUT FROMAGERIES BEL S.A.

Fromageries Bel, with sales of approximately \$2.3 billion, is the number one branded cheese company in Europe. They are a family-owned company, and leading producer of innovative branded cheeses that are sold in nearly one hundred countries throughout the world. Their portfolio of more than twenty international and domestic brands includes Mini Babybel, The Laughing Cow, Kaukauna, Bonbel, Kiri, Port-Salut, Sylphide, and the recently acquired Leerdammer. Bel/Kaukauna Cheese U.S.A., is a leader in the refrigerated cheese spreads category and has recently added Connoisseur brand, an upscale line of spreadable European-style cheeses. Fromageries Bel, operates twenty-two production plants throughout the world, produces 235,000 tons of branded cheese, and has a workforce of approximately 9,300 persons.

ABOUT GALAXY NUTRITIONAL FOODS(R), INC.

Galaxy Nutritional Foods(R) is the leading producer of health-promoting plant-based dairy and dairy-related alternatives for the retail and foodservice markets. An exclusive, new and technologically advanced, safer "hot process" is used to produce these phytonutrient-enriched products, made from nature's best grains - soy, rice and oats. Veggie products are low fat and fat free (saturated fat and trans-fatty acid free), cholesterol and lactose free, are growth hormone and antibiotic free, and have more calcium, vitamins and other minerals than conventional dairy products. Because they are made with plant proteins, the products are more environmentally friendly and economically efficient than dairy products derived solely from animal proteins. Galaxy's products are part of the healthy and natural foods category, the fastest growing segment of the retail food market. Galaxy brand names include: Galaxy Nutritional Foods(R); Veggie(R); Nature's Alternative(TM); Veggie Lite Bakery(TM); Veggie Cafe(TM); Soyco(R); Soymage(R); Wholesome Valley(R); Lite Bakery(R); and formagg(R). For more information, please visit Galaxy's website at: www.galaxyfoods.com.

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