

AGREEMENT TO INCORPORATE

Whereas, COMPANY and DISTRIBUTOR have previously entered into a Distributor Agreement pursuant to which DISTRIBUTOR acquired certain Distribution Rights; and

Whereas, COMPANY desires to encourage distributors who have not yet incorporated their businesses to so incorporate and DISTRIBUTOR wishes to incorporate its business;

Therefore, in consideration of these premises, and the terms contained herein, the parties mutually agree as follows:

1. As additional consideration for DISTRIBUTOR so organizing its business, within two (2) weeks after completion of the requirements set forth immediately below, Class 2 (branded soft variety bread) and Class 4 (branded buns) products will be sold to distributor at an additional **two percent (2%)** margin above the then-established standard discount/margin for such products.
2. DISTRIBUTOR shall assign the Distributor Agreement to such Corporation, personally guarantee performance of the Corporation, and execute the documents reflecting such assignment and guarantee by executing the Assignment Agreement and Personal Guarantee attached hereto as **Exhibit 1**. Additionally, DISTRIBUTOR shall provide COMPANY with written proof, such as a Certificate of Incorporation from the Secretary of State, that the Corporation has been established and registered under applicable state laws.
3. DISTRIBUTOR agrees to at all times retain at least 51% of the ownership of such Corporation, and the Corporation must at all times be registered and in good standing with the applicable state. Non-compliance with these requirements may, depending on the particular circumstances, constitute a non-curable breach of the Agreement.
4. Upon completion of the incorporation process, DISTRIBUTOR shall no longer be treated as a “statutory employee.” Neither shall DISTRIBUTOR be required to submit the financial records to COMPANY due to such “statutory employee” status, nor shall COMPANY be obligated to reimburse DISTRIBUTOR for any CPA costs associated with obtaining such records.
5. Should any portion, word, clause, sentence or paragraph of this Agreement be declared void or unenforceable, such portions shall be modified or deleted in such a manner as to make this Agreement as modified legal and enforceable to the fullest extent permitted under applicable law.
6. Except as specifically set forth herein, the Distributor Agreement, including any prior amendments thereto, remains in full force and effect except as specifically amended by the terms herein. Such Distributor Agreement, including any prior amendments thereto, and this Agreement to Incorporate set forth the entire agreement between the parties as of the date this Agreement to Incorporate is executed and may not be modified except by written agreement of the parties or as otherwise set forth in the Distributor Agreement.
7. DISTRIBUTOR is hereby advised to consult with a financial, tax, and/or legal advisor, at DISTRIBUTOR’s discretion and by signing below affirms DISTRIBUTOR has had the opportunity to discuss this Agreement to Incorporate with his lawyers in the *Rehberg* lawsuit.

The parties acknowledge that each has executed this Agreement to Incorporate voluntarily, that each understands the provisions herein, and that no promise or inducement not contained herein has been made regarding this Agreement to Incorporate.

DISTRIBUTOR

COMPANY

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

WITNESS: _____

EXHIBIT 1

ASSIGNMENT AGREEMENT AND PERSONAL GUARANTEE

This Assignment Agreement and Personal Guarantee ("Assignment Agreement") is entered into by and between

_____(COMPANY), _____(DISTRIBUTOR), and _____
_____("CORPORATION").

Whereas, DISTRIBUTOR desires to incorporate the distributorship business pursuant to Agreement to Incorporate recently executed by DISTRIBUTOR and COMPANY ("Agreement"); and

Whereas, DISTRIBUTOR warrants and represents that he/she has complied with all of the requirements set forth in the Agreement to Incorporate, and will comply at all times with all such requirements while the Distributor Agreement remains in effect; and

Whereas, COMPANY consents to the incorporation and approves DISTRIBUTOR's proposed Assignment of the Distributor Agreement to CORPORATION subject to the conditions outlined herein;

Therefore, the parties, for and in consideration of the preceding premises, the terms and conditions herein contained, and for other good and valuable consideration, the sufficiency of which is hereby specifically acknowledged, mutually agree as follows:

1. DISTRIBUTOR hereby assigns and conveys to CORPORATION the Distributor Agreement entered into by DISTRIBUTOR and COMPANY on _____, and any and all subsequent amendments and/or addendums thereto ("Distributor Agreement"), a true and correct copy of which is attached hereto as Exhibit 1.

2. CORPORATION hereby accepts DISTRIBUTOR's assignment of the Distributor Agreement and assumes and covenants to perform all of the obligations thereunder. CORPORATION shall own the distribution rights described in the Distributor Agreement in accordance with the terms and conditions set forth herein.

3. DISTRIBUTOR hereby irrevocably, unconditionally and personally guarantees the timely and complete performance of CORPORATION to each and every obligation and duty imposed on it by the Distributor Agreement.

4. If any term, condition or obligation of the Distributor Agreement is not complied with, performed, or paid by CORPORATION as required therein, including any terms, conditions or obligations due following termination thereof, DISTRIBUTOR will be personally responsible and liable for any amounts due and owing due to CORPORATION's breach of the Distributor Agreement or as otherwise required by the terms and conditions thereunder.

5. DISTRIBUTOR shall also pay to COMPANY upon demand all costs and expenses, including but not limited to reasonable attorney fees, which may be incurred by COMPANY in the enforcement and/or collection of monies due hereunder.

6. Subject to the conditions outlined herein, COMPANY hereby approves DISTRIBUTOR's proposed assignment of the Distributor Agreement to CORPORATION.

IN WITNESS WHEREOF, the parties execute this Assignment Agreement and Personal Guarantee this _____
day of _____.

DISTRIBUTOR

COMPANY

By: _____

By: _____
Its: _____

CORPORATION

By: _____
Its: _____

WITNESSES:

