
**UNITED STATES
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): June 27, 2005

TREEHOUSE FOODS, INC.

(Exact Name of Registrant as Specified in Charter)

Commission File Number:001-32504

Delaware

(State or Other Jurisdiction of Incorporation)

1333 Butterfield Road, Suite 490
Downers Grove, Illinois

(Address of Principal Executive Offices)

20-2311383

(IRS Employer Identification No.)

60515

(Zip Code)

Registrant's telephone number, including area code: (630) 512-0592

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-
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Item 1.01 Entry into a Material Definitive Agreement

Effective as of the close of business on June 27, 2005, the separation of the business of TreeHouse Foods, Inc. (the “Company”) from Dean Foods Company (“Dean”) and the distribution of the common stock of the Company to the stockholders of Dean was completed in a tax free spin-off (the “Distribution”). In connection with the Distribution, the Company entered into certain agreements with Dean to effect the separation of its business and the distribution of its common stock and to define responsibility for obligations arising before and after the date of the Distribution, including, among others, obligations relating to employees, transition services and taxes.

On June 27, 2005, the Company entered into a Distribution Agreement (the “Distribution Agreement”) with Dean. The Distribution Agreement provided for, among other things, the principal corporate transactions required to effect the separation of the Company’s business from Dean, the distribution of the Company’s common stock to the holders of record of Dean common stock and certain other agreements governing the relationship between the Company and Dean after the date of Distribution. The transfers from Dean to the Company will occur prior to the distribution of the Company’s common stock and will be made on an “as is, where is” basis without any representations or warranties, and the Company will bear the economic and legal risks of the transfer. The Company will generally assume and agree to perform and fulfill all of the liabilities arising out of the ownership or use of the transferred assets or the operation of the transferred business both before and after the transfer.

On June 27, 2005, the Company entered into a Transition Services Agreement (the “Transition Services Agreement”) with Dean pursuant to which Dean will provide a variety of transitional corporate services to the Company for a period of time following the distribution. These services include certain employee benefits administration and payroll, information technology and other administrative services. Each service will be made available to the Company on an as-needed basis through December 31, 2005, or such shorter or longer periods as may be provided in the Transition Services Agreement. The fees charged for the services will generally be based upon the fair market value of providing the services. The Company will be permitted to terminate the provision of a particular service upon no less than 30 days notice to Dean. In addition, either the Company or Dean will be permitted to terminate the Transition Services Agreement for cause or upon certain changes of ownership relating to the other party as set forth in the Transition Services Agreement.

On June 27, 2005, the Company entered into an Employee Matters Agreement (the “Employee Matters Agreement”) with Dean which provides for each company’s respective obligations to employees and former employees who are or were associated with the Company’s business and for other employment and employee benefits matters.

On June 27, 2005, the Company entered into a Tax Sharing Agreement (the “Tax Sharing Agreement”) with Dean. The Tax Sharing Agreement generally governs Dean and the Company’s respective rights, responsibilities and obligations after the Distribution with respect to taxes attributable to the Company’s business, as well as any taxes incurred by Dean as a result

of the failure of the distribution to qualify for tax-free treatment under Section 355 of the Internal Revenue Code of 1986, as amended.

On June 27, 2005, the Company entered into two Trademark License Agreements (the “Trademark License Agreements”) with Dean. Pursuant to the Trademark License Agreements, Dean granted to the Company a royalty-free license to use the *Dean* ® and *Fieldcrest* ® trademarks until the Company’s current supply of packaging materials is depleted and the Company granted to Dean a perpetual, royalty-free license to use the *Rod’s* ® trademark in connection with Dean’s operations. The Trademark License Agreements contain standard provisions, including those dealing with quality control and termination upon, among other things, material breach or bankruptcy.

On June 27, 2005, the Company assumed the lease of Dean’s City of Industry South plant located in City of Industry, California, where Dean manufactured the foodservice salad dressings that were transferred to the Company in connection with the Distribution. In addition to salad dressings, Dean processes various other product lines at this production facility that were not transferred to the Company. Production of all products, except salad dressings, is being transferred out of this production facility and into other Dean facilities and the Company expects this transfer to be completed by the second quarter of 2007. Following the distribution, the production of *Mocha Mix* ® and *Second Nature* ® will be transitioned from two other Dean production facilities to the City of Industry plant. The Company expects the transition of production into the City of Industry plant to be completed during the third quarter of 2005. On June 27, 2005, the Company entered into a Co-pack Agreement (the “Co-pack Agreement”) with Dean for the production of these products. Pursuant to the Co-pack Agreement, Dean will supply *Mocha Mix* ® and *Second Nature* ® products to the Company until July 31, 2005 (subject to an extension until September 30, 2005 in certain circumstances), and the Company will supply certain products currently produced at the Company’s City of Industry South plant, including imitation sour cream and dip products, to Dean for a period of two years after date of the Distribution.

Copies of the Distribution Agreement, the Transition Services Agreement, the Employee Matters Agreement, the Tax Sharing Agreement, the Trademark License Agreements, and the Co-Pack Agreement are attached hereto as Exhibits 2.1, 10.1, 10.2, 10.3, 10.4, 10.5, and 10.6 to this Current Report on Form 8-K, respectively, and are incorporated herein by reference.

A copy of the press release announcing the completion of the Distribution is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information included in Item 2.03 of this Current Report on Form 8-K is also incorporated by reference into this Item 1.01 of this Current Report on Form 8-K.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information included in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into Item 2.01 of this Current Report on Form 8-K.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

On June 27, 2005, the Company entered into a Credit Agreement (the “Credit Agreement”) by and among the Company, as Borrower, Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, the other Lenders party thereto, Banc of America Securities LLC and J.P. Morgan Securities Inc., as Joint Lead Arrangers and Joint Book Managers, and JPMorgan Chase Bank, N.A. as Syndication Agent. The unsecured revolving Credit Agreement provides for borrowings of up to \$400 million (which under certain circumstances may be increased to \$500 million at the option of the Company) and will terminate on June 25, 2010. Proceeds from the Credit Agreement may be used for working capital and general corporate purposes, including acquisition financing, and to pay fees and expenses in connection with the Distribution. The Credit Agreement contains various financial and other restrictive covenants and requires that the Company maintain certain financial ratios, including a leverage and interest coverage ratio.

Interest is payable quarterly or at the end of the applicable interest period in arrears on any outstanding borrowings at a customary Eurodollar rate plus the applicable margin or at a customary base rate. The underlying rate is defined as either the rate offered in the interbank Eurodollar market or the higher of the prime lending rate of the administrative agent or federal funds rate plus 0.5%. The applicable margin for Eurodollar loans is based on the Company’s consolidated leverage ratio and ranges from 0.50% to 0.80%. In addition, a facility fee based on the Company’s consolidated leverage ratio and ranging from 0.125% to 0.20% is due quarterly on all commitments under the Credit Agreement.

The Credit Agreement contains limitations on liens, investments, the incurrence of subsidiary indebtedness, mergers, dispositions of assets, acquisitions, material lines of business, transactions with affiliates. The Credit Agreement also restricts certain payments, including dividends, and prohibits certain agreements restricting the ability of the Company’s subsidiaries to make certain payments and to guarantee the Company’s obligations under the credit facility. The Credit Agreement contains standard default triggers, including without limitation, failure to pay principal, interest or other amounts due and payable under the Credit Agreement and related loan documents; failure to maintain compliance with the financial and other covenants contained in the Credit Agreement; incorrect or misleading representations or warranties; default on certain of the Company’s other debt; the existence of bankruptcy or insolvency proceedings; insolvency; existence of certain material judgments; failure to maintain compliance with ERISA; the invalidity of certain provisions in any loan document; and a change of control.

The obligations of the Company under the Credit Agreement are guaranteed by a Company subsidiary, Bay Valley Foods, LLC.

A copy of the press release announcing the Company’s entering into the revolving credit facility is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders

At 12:00 a.m. on June 27, 2005, in connection with the Distribution, the Company effectuated a 256.677327 for 1 stock split of the Company's issued and outstanding common stock. Prior to the Distribution, the Company's total issued and outstanding shares of common stock was approximately 120,000. After the Distribution, the total number of the Company's issued and outstanding shares of common stock was approximately 30,801,279 shares. The Company's common stock continues to be \$0.01 par value.

In connection with the Distribution, the Board of Directors of the Company adopted a stockholder rights plan that become effective June 27, 2005 and declared a dividend distribution of one right ("Right") for each outstanding share of the Company's common stock to stockholders of record as of 12:01 a.m. on June 27, 2005.

The Rights Agreement between the Company and The Bank of New York, as Rights Agent, specifying the terms of the Rights, the form of Certificate of Designation of Series A Junior Participating Preferred Stock, and the form of Rights Certificate, are attached hereto as Exhibits 4.1, 4.2 and 4.3 and are incorporated herein by reference.

The disclosure under Item 2.03 of this Current Report on Form 8-K relating to the restriction on dividends contained in the Credit Agreement is also responsive to this Item 3.03 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits:

| Exhibit Number | Exhibit Description |
|---------------------------|--|
| 2.1 | Distribution Agreement |
| 4.1 | Rights Agreement between TreeHouse Foods, Inc. and The Bank of New York, as rights agent |
| 4.2 | Form of Certificate of Designation of Series A Junior Participating Preferred Stock (attached as an Exhibit to the Rights Agreement filed as Exhibit 4.1 hereto) |
| 4.3 | Form of Rights Certificate (attached as an Exhibit to the Rights Agreement filed as Exhibit 4.1 hereto) |
| 10.1 | Transition Services Agreement |
| 10.2 | Employee Matters Agreement |
| 10.3 | Tax Sharing Agreement |
| 10.4 | Trademark License Agreement between Dean Foods Company and TreeHouse Foods, Inc. |

| Exhibit Number | Exhibit Description |
|---------------------------|--|
| 10.5 | Trademark License Agreement between TreeHouse Foods, Inc. and Dean Foods Company, Dean Intellectual Property Services II, L.P. and Dean Specialty Intellectual Property Services, L.P. |
| 10.6 | Co-Pack Agreement between Dean Foods Company and TreeHouse Foods, Inc. |
| 99.1 | Press Release dated June 27, 2005 |

SIGNATURES

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

TreeHouse Foods, Inc.

Date: June 27, 2005

By: /s/ Thomas E. O'Neill

Thomas E. O'Neill

General Counsel, Senior Vice President, Chief
Administrative Officer and officer duly
authorized to sign on behalf of the registrant

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| 99.1 | Press Release dated June 27, 2005 |

Distribution Agreement

Dated as of June 27, 2005

Between

Dean Foods Company

and

TreeHouse Foods, Inc.

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DISTRIBUTION AGREEMENT

THIS DISTRIBUTION AGREEMENT is made on June 27, 2005 by and between Dean Foods Company, a Delaware corporation (“**Dean**”), and TreeHouse Foods, Inc., a Delaware corporation (“**TreeHouse**”).

WHEREAS, Dean, through its subsidiaries, operates the Specialty Foods Group, *MochaMix*®, *SecondNature*®, and food service dressings businesses (collectively, the “**Transferred Businesses**”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to transfer and assign, or cause to be transferred and assigned, to TreeHouse substantially all the business, operations, assets and liabilities related to the Transferred Businesses;

WHEREAS, Dean desires to transfer and assign, or cause to be transferred or assigned, to the TreeHouse Parties the assets and properties of the Transferred Businesses and the TreeHouse Parties desire to accept the transfer and assignment of such assets and to assume, or cause to be assumed, the liabilities and obligations arising out of or relating to the Transferred Businesses (the “**Contribution**”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to distribute on a pro rata basis to the holders of Dean’s common stock, par value \$0.01 per share (the “**Dean Common Stock**”), without any consideration being paid by the holders of such Dean Common Stock, all of the outstanding shares of TreeHouse common stock, par value \$0.01 per share (together with the preferred share purchase rights associated therewith, the “**TreeHouse Common Stock**”), then owned by Dean (the “**Distribution**”);

WHEREAS, for federal income tax purposes, the Distribution is intended to qualify under Section 355 of the Internal Revenue Code of 1986, as amended (the “**Code**”); and

WHEREAS, it is appropriate and desirable to set forth the principal transactions required to effect the Contribution and Distribution and certain other agreements that will govern the relationship of Dean and TreeHouse following the Distribution.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto hereby agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1.1.

“ Actions ” means any action, claim, demand, suit, arbitration, inquiry, subpoena, discovery request, proceeding or investigation by or before any court or grand jury, any governmental or other regulatory or administrative entity, agency or commission or any arbitration tribunal, domestic or foreign.

“ Affiliate ” means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such Person. For the purpose of this definition, the term “control” means the power to direct the management of an entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” has the meaning correlative to the foregoing. After the Distribution, TreeHouse and Dean shall not be deemed to be under common control for purposes hereof due solely to the fact that TreeHouse and Dean have common stockholders.

“ Agent ” means The Bank of New York, the distribution agent appointed by Dean to distribute shares of TreeHouse Common Stock pursuant to the Distribution.

“ Agreement ” has the meaning set forth in the first paragraph of this Agreement.

“ Assumed Actions ” has the meaning set forth in Section 6.8(a).

“ Assumed Liabilities ” has the meaning set forth in Section 2.3.

“ Balance Sheet ” has the meaning set forth in Section 2.1(a).

“ Co-Pack Agreement ” means the Co-Pack Agreement, dated the date hereof, between Dean and TreeHouse.

“ Code ” has the meaning set forth in the Recitals.

“ Contracts ” has the meaning set forth in Section 2.1(h).

“ Contribution ” has the meaning set forth in the Recitals.

“ Conveyancing Instruments ” has the meaning set forth in Section 4.1.

“ Copyrights ” means United States and foreign copyrights, both registered and unregistered, along with the registrations and applications to register any such copyrights.

“ Corporate Transactions ” means, collectively, each of the mergers, transfers, conveyances, contributions, distributions, dividends, assignments, redemptions and other transactions described or contemplated by the Information Statement and the Private Letter Ruling (or in the various Private Letter Ruling request submissions made to the IRS in connection therewith).

“ Dean ” has the meaning set forth in the first paragraph of this Agreement.

“ Dean Common Stock ” has the meaning set forth in the Recitals.

“ Dean Indemnified Parties ” has the meaning set forth in Section 10.2.

“Dean Parties” means Dean and its Subsidiaries (including those formed or acquired after the date hereof).

“Dean Policies” has the meaning set forth in Section 8.2.

“Distribution” has the meaning set forth in the Recitals.

“Distribution Date” means the date on which the Distribution is paid to holders of Dean Common Stock on the Record Date.

“Employee Matters Agreement” means the Employee Matters Agreement, dated the date hereof, between Dean and TreeHouse.

“Employment Agreements” means the Employment Agreements, dated as of January 27, 2005, between TreeHouse and each of the Management Investors.

“Environmental Permits” has the meaning set forth in Section 6.1(b).

“Escalation Notice” has the meaning set forth in Section 11.1(a).

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Expenses” means any and all expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals).

“Foreign Exchange Rate” means, with respect to any currency other than United States dollars, as of any date of determination, the average of the opening bid and asked rates on such date at which such currency may be exchanged for United States dollars as quoted by Citibank, N.A. (or any successor thereto or other major money center commercial bank agreed to by the Parties).

“Governmental Authority” means any foreign, federal, state, local or other government, governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral body.

“Indemnified Party” has the meaning set forth in Section 10.5(a).

“Indemnifying Party” has the meaning set forth in Section 10.5(a).

“Indemnity Payment” has the meaning set forth in Section 10.5(a).

“Information” has the meaning set forth in Section 12.1(a).

“Information Statement” has the meaning set forth in Section 6.7.

“Insurance Charges” has the meaning set forth in Section 8.6.

“ Intercompany Agreements ” means any Contract between Dean or one of its Subsidiaries and TreeHouse or one of its Subsidiaries entered into prior to the Distribution excluding this Agreement and the Operating Agreements.

“ IRS ” means the Internal Revenue Service.

“ Letters of Credit ” has the meaning set forth in Section 8.9.

“ Liability ” means any and all debts, liabilities and obligations, absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising (unless otherwise specified in this Agreement), including all costs and expenses relating thereto, and including, without limitation, those debts, liabilities and obligations arising under any law, rule, regulation, Action, threatened Action, order or consent decree of any Governmental Authority or any award of any arbitrator of any kind, and those arising under any contract, commitment or undertaking.

“ Losses ” means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, fees, expenses, deficiencies, claims or other charges, absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown (including, without limitation, the costs and expenses of any and all Actions, threatened Actions, demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened Actions).

“ Management Investors ” means Sam K. Reed, David B. Vermynen, E. Nichol McCully, Thomas E. O’Neill, and Harry J. Walsh.

“ Material Governmental Approvals and Consents ” means any material notices, reports or other filings to be made with or to, or any material consents, registrations, approvals, permits, clearances or authorizations to be obtained from, any Governmental Authority.

“ Non-Permitted Names ” has the meaning set forth in Section 6.9.

“ NYSE ” means the New York Stock Exchange, Inc.

“ Operating Agreements ” means the Transition Services Agreement, the Employee Matters Agreement, the Tax Sharing Agreement, the Trademark License Agreements, the Co-Pack Agreement, and any other agreement regarding the ongoing business and service relationships between the Dean Parties and TreeHouse following the Distribution.

“ Owned Real Property ” has the meaning set forth in Section 2.1(d)(i).

“ Party ” means Dean or TreeHouse.

“ Patents ” means United States and foreign patents and applications for patents, including any continuations, continuations-in-part, divisions, renewals, reissues and extensions thereof.

“ Payment Period ” has the meaning set forth in Section 6.6.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or Governmental Authority.

“Personal Property Leases” has the meaning set forth in Section 2.1(e).

“Prime Rate” means the prime rate as published in The Wall Street Journal on the last day of the applicable Payment Period.

“Private Letter Ruling” means the private letter ruling received by Dean from the IRS on April 29, 2005.

“Privilege” has the meaning set forth in Section 12.8(a).

“Privileged Information” has the meaning set forth in Section 12.8(a).

“Real Estate Leases” has the meaning set forth in Section 2.1(d)(ii).

“Receivables” has the meaning set forth in Section 2.1(b)(i).

“Record Date” means the date determined by the Board of Directors of Dean as the record date for the Distribution.

“Registration Statement” has the meaning set forth in Section 6.7.

“Retained Assets” has the meaning set forth in Section 2.2.

“Retained Business” means the business of Dean and its Subsidiaries other than the Transferred Businesses.

“Retained Contracts” has the meaning set forth in Section 2.1(h).

“Retained Liabilities” has the meaning set forth in Section 2.4.

“Retained Names” has the meaning set forth in Section 2.2(e).

“SEC” means the United States Securities and Exchange Commission.

“Self Insurance Costs” has the meaning set forth in Section 8.9.

“Shared Contracts” means any Contract with a third Person that directly benefits both Dean and TreeHouse following the Distribution.

“Software” means computer software programs, in source code and object code form, including, without limitation, all related source diagrams, flow charts, specifications, documentation and all other materials and documentation necessary to allow a reasonably skilled third party programmer or technician to maintain, support or enhance the Software.

“ Specified Employee Liabilities ” means the following Liabilities of any Dean Party:

- (a) any termination or severance payments or benefits owing or becoming payable to any Business Employee;
- (b) any liability resulting from any collective bargaining agreement entered into between any Dean Party and a union representing a Business Employee, any liability resulting from TreeHouse’s failure to assume any such collective bargaining agreement, or any liability resulting from any negotiation or any amendments or modifications to such collective bargaining agreements that TreeHouse negotiates or implements;
- (c) any liability resulting from any Multiemployer Plan relating to the Transferred Businesses, including, but not limited to, any contribution required to be made to such Multiemployer Plan or any liability to such Multiemployer Plan that occurs as a result of the Distribution;
- (d) any liability resulting from any Dean Welfare Plan or Non-ERISA Benefit Arrangement related to any Business Employee, including, but not limited to, any claims payable on or after the Distribution Date, any liability related to the continuation of coverage of Business Employees under the Dean Welfare Plans, and any premium payments due as of the Distribution Date;
- (e) any liability resulting from any TreeHouse Welfare Plan;
- (f) any liability resulting from any TreeHouse flexible spending account plan or any liability resulting from any Dean flexible spending account plan related to any Business Employee;
- (g) any claims by any Business Employee for (i) weekly indemnity and short-term disability benefits and (ii) long-term disability benefits;
- (h) any liability resulting from any agreement, including, but not limited to, confidentiality and non-compete agreements, entered into between any Dean Party and Business Employees;
- (i) any liability resulting from any agreement entered into between any Dean Party and independent contractors providing services to the Transferred Businesses;
- (j) any liability resulting from any wages, salary, incentive compensation, commissions and bonuses payable to Business Employees;
- (k) any liability resulting from any immigration-related rights, obligations and liabilities related to Business Employees, including, but not limited to, all obligations, liabilities and undertakings of any labor condition applications filed on behalf of H-1B employees;

(l) any claims of discrimination in employment or employment practices, for any reason, including, without limitation, age, gender, race, religion or other legally protected category brought by Business Employees;

(m) any claims by Business Employees for workers' compensation;

(n) any liability resulting from any vacation, sick, personal, bereavement or flex day or holiday accrued by Business Employees;

(o) any liability resulting from any TreeHouse 401(k) Plan, TreeHouse Union 401(k) Plan, TreeHouse Pension Plan or TreeHouse Deferred Compensation Plan; and

(p) any liability resulting from any Dean 401(k) Plan, Dean Union 401(k) Plan or Dean Pension Plan related to any Business Employee.

All capitalized terms used in the preceding definition not defined in this Agreement shall have the meanings set forth in the Employee Matters Agreement. Notwithstanding the foregoing, "Specified Employee Liabilities" do not include any liabilities or claims described in paragraphs (a), (b), (h), (j), (k), (l) and (m) above that did not arise out of or in connection with, involve or in any way relate to, directly or indirectly, any Business Employee's employment by any of the Transferred Businesses.

"Stockholders Agreement" means the Stockholders Agreement dated as of January 27, 2005, among TreeHouse, Dean, the Management Investors and each other Person who becomes a party thereto.

"Subsidiary" means, when used with reference to any Person, any corporation or other organization whether incorporated or unincorporated of which at least a majority of the securities or interests having by the terms thereof ordinary voting power to elect at least a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries. After the Distribution, TreeHouse and Dean shall not be deemed to be under common control for purposes hereof due solely to the fact that TreeHouse and Dean have common stockholders.

"Taxes" means all federal, state, local or foreign taxes, charges, fees, duties, levies, imposts, rates or assessments, including, but not limited to, income, gross receipts, excise, property, sales, use, license, capital stock, transfer, franchise, payroll, withholding, social security, value added or other taxes, including any interest, penalties or additions to tax attributable thereto, and a "Tax" shall mean any one of such Taxes.

"Tax Sharing Agreement" means the Tax Sharing Agreement, dated the date hereof, between Dean and TreeHouse.

"Third Party Claim" has the meaning set forth in Section 10.6(a).

"Third Party Consents" has the meaning set forth in Section 6.4(a).

"Trademark License Agreements" means (a) the Trademark License Agreement, dated the date hereof, between Dean and TreeHouse and (b) the Trademark License Agreement, dated the date hereof, between TreeHouse and Dean, Dean Intellectual Property Services II, L.P., a Delaware limited partnership and Dean Specialty Intellectual Property Services, L.P., a Delaware limited partnership.

“ Trademarks ” means all United States, state and foreign trademarks, service marks, logos, trade dress and trade names, domain names, websites and all other trade identities whether registered or unregistered, including all goodwill associated with the foregoing, and all registrations and pending applications to register the foregoing.

“ Transferred Actions ” has the meaning set forth in Section 6.8(b).

“ Transferred Assets ” has the meaning set forth in Section 2.1.

“ Transferred Businesses ” has the meaning set forth in the recitals.

“ Transferred Intellectual Property ” has the meaning set forth in Section 2.1(g).

“ Transition Services Agreement ” means the Transition Services Agreement, dated the date hereof, between Dean and TreeHouse.

“ TreeHouse ” has the meaning set forth in the first paragraph of this Agreement.

“ TreeHouse Common Stock ” has the meaning set forth in the recitals.

“ TreeHouse Distributable Share ” means for each holder of record of Dean Common Stock as of the close of business on the Record Date one share of TreeHouse Common Stock for every five (5) shares of Dean Common Stock outstanding and held of record by such holder at such time.

“ TreeHouse Indemnified Parties ” has the meaning set forth in Section 10.3.

“ TreeHouse Parties ” means TreeHouse and its Subsidiaries (including those formed or acquired after the date hereof).

“ TreeHouse Share(s) ” mean(s) each share of TreeHouse Common Stock.

Section 1.2 Interpretation. (a) In this Agreement, unless the context clearly indicates otherwise:

(i) words used in the singular include the plural and words used in the plural include the singular;

(ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(iii) reference to any gender includes the other gender;

(iv) the word “including” means “including but not limited to”;

(v) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;

(vi) the words “herein,” “hereunder,” “hereof,” “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(vii) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(viii) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(ix) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including”;

(x) accounting terms used herein shall have the meanings historically ascribed to them by Dean and its Subsidiaries based upon Dean’s internal financial policies and procedures in effect prior to the date of this Agreement;

(xi) if there is any conflict between the provisions of the body of this Agreement and the Exhibits or Schedules hereto, the provisions of the body of this Agreement shall control unless explicitly stated otherwise in such Exhibit or Schedule;

(xii) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(xiii) any portion of this Agreement obligating a Party to take any action or refrain from taking any action, as the case may be, shall mean that such Party shall also be obligated to cause its relevant Subsidiaries to take such action or refrain from taking such action, as the case may be; and

(xiv) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States.

(b) This Agreement was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against either Party shall not apply to any construction or interpretation hereof.

ARTICLE II. BUSINESS SEPARATION

Section 2.1 Transfer of Transferred Businesses . As more fully set forth in this Article II and subject to the terms and conditions of this Agreement and the Operating Agreements, prior to the Distribution, Dean shall, and shall cause its Subsidiaries to, convey, assign, transfer, contribute and set over, or cause to be conveyed, assigned, transferred, contributed and set over,

to the TreeHouse Parties, and Dean and TreeHouse shall cause the TreeHouse Parties to accept and receive, all right, title and interest of Dean and its Subsidiaries in and to the properties, assets and rights of every nature, kind and description, tangible and intangible (including goodwill), whether real, personal or mixed, whether accrued, contingent or otherwise, that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses (other than the Retained Assets) (all of such assets being hereinafter referred to as the “**Transferred Assets**”), including the following:

(a) *Balance Sheet Assets* . All assets reflected or disclosed on the unaudited balance sheet of the Transferred Businesses as of March 31, 2005 attached as Exhibit A hereto (the “**Balance Sheet**”) that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses, subject to acquisitions, dispositions and adjustments in the operation of the Transferred Businesses from the date of the Balance Sheet through the Distribution Date;

(b) *Receivables* .

(i) All accounts receivable, notes receivable, lease receivables, prepayments (other than prepaid insurance), advances and other receivables arising out of or produced by the Transferred Businesses and owing by any Persons (the “**Receivables**”); and

(ii) All cash payments received after the Distribution Date on account of the Receivables;

(c) *Inventories* . All supplies, packaging, work-in-process and other inventories that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses;

(d) *Owned Real Property and Real Estate Leases* .

(i) Those certain parcels of land described on Schedule 2.1(d)(i) (the “**Owned Real Property**”) and any and all improvements, fixtures, machinery, equipment and other property located on the premises demised under such Owned Real Property; and

(ii) Those certain real estate leases set forth on Schedule 2.1(d)(ii) (the “**Real Estate Leases**”) and any and all improvements, fixtures, machinery, equipment and other property located on the premises demised under such Real Estate Leases;

(e) *Personal Property Leases* . Those certain machinery, equipment or other tangible personal property leases (the “**Personal Property Leases**”) set forth on Schedule 2.1(e);

(f) *Equipment* . All fixtures, machinery, installations, equipment, computers, furniture, tools, spare parts, supplies, automobiles, trucks, materials, and other personal property that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses;

(g) *Intellectual Property* . (i) All Copyrights, Patents and Trademarks set forth on Schedule 2.1(g); (ii) all Software used primarily in the Transferred Businesses, including the Software set forth on Schedule 2.1(g); (iii) all business and technical information, non-patented inventions, including the patent disclosures set forth on Schedule 2.1(g), discoveries, processes, formulations, trade secrets, know-how and technical data that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses made or conceived by employees, consultants or contractors of Dean or its Subsidiaries as to which Dean or its Subsidiaries have rights under any agreement or otherwise relating to the foregoing; (iv) all business and technical information, non-patented inventions, discoveries, processes, formulations, trade secrets, know-how and technical data that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses made or conceived by third parties as to which Dean or its Subsidiaries have rights pursuant to executory agreements with said third parties relating to the foregoing; and (v) all permits, grants, contracts, agreements and licenses running to or from Dean or its Subsidiaries relating to the foregoing; and all rights that are associated with the foregoing (collectively, the “ **Transferred Intellectual Property** ”);

(h) *Contracts* . Except for the Contracts listed on Schedule 2.1(h) (the “ **Retained Contracts** ”), all of the contracts, agreements, arrangements, leases (other than Real Estate Leases and Personal Property Leases), manufacturers’ warranties, memoranda, understandings and offers open for acceptance of any nature, whether written or oral that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses (the “ **Contracts** ”), including the following:

(i) all Contracts related to acquisitions or divestitures of assets or stock, except to the extent indicated on Schedule 2.1(h)(i) ;

(ii) all supplier Contracts, including those set forth on Schedule 2.1(h)(ii) ;

(iii) all Contracts with third parties relating to services provided to, or for the benefit of, the Transferred Businesses, including those set forth on Schedule 2.1(h)(iii) ; and

(iv) the Shared Contracts set forth on Schedule 2.1(h)(iv) ; and

(v) any Contracts set forth on Schedule 2.1(h)(v).

(i) *Permits and Licenses* . All permits, approvals, licenses, franchises, authorizations or other rights granted by any Governmental Authority held or applied for by Dean and its Subsidiaries and that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses or that relate primarily to the Transferred Assets, and all other consents, grants and other rights that are used primarily for the lawful ownership of the Transferred Assets or the operation of the Transferred Businesses, in each case to the extent legally transferable to TreeHouse;

(j) *Claims and Indemnities* . All rights, claims, demands, causes of action, judgments, decrees and rights to indemnity or contribution, whether absolute or contingent, contractual or otherwise, in favor of Dean or any of its Subsidiaries relating primarily to the Transferred Businesses, including the right to sue, recover and retain such recoveries and the right to continue in the name of Dean and its Subsidiaries any pending actions relating to the foregoing, and to recover and retain any damages therefrom (including all manufacturers’

warranties or guarantees related primarily to the Transferred Assets and all manufacturers' or third party service or replacement programs related primarily to the Transferred Assets);

(k) *Books and Records* . All books and records (including all records pertaining to customers, suppliers and personnel), wherever located, that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses;

(l) *Supplies* . All office supplies, production supplies, spare parts, purchase orders, forms, labels, shipping material, art work, catalogues, sales brochures, operating manuals and advertising and promotional material and all other printed or written material that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses;

(m) *Employee Benefit Assets* . Assets relating to the provision of benefits to present or former employees of the Transferred Businesses (including, without limitation, pension and other post-retirement benefit assets) or relating to the Specified Employee Liabilities; and

(n) *Other Assets* . All other assets, tangible or intangible, including all goodwill, that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses, other than e-mail addresses.

Section 2.2 *Retained Assets* . Notwithstanding anything to the contrary herein, the following assets (the “ **Retained Assets** ”) are not, and shall not be deemed to be, Transferred Assets:

(a) cash and cash equivalents, any cash on hand or in bank accounts, certificates of deposit, commercial paper and similar securities, except for (i) deposits securing bonds, letters of credit, leases and all other obligations that primarily relate to, or are primarily held for use in connection with, the Transferred Businesses, and (ii) bank accounts of TreeHouse (it being understood and agreed that on or prior to the Distribution Date, Dean will sweep, and will be entitled to retain, any and all available cash in the bank accounts of TreeHouse);

(b) the Retained Contracts;

(c) any amounts accrued on the books and records of Dean or its Subsidiaries with respect to any Retained Liabilities;

(d) any right, title or interest in and to any prepaid insurance premiums for the Dean Policies existing immediately prior to the Distribution;

(e) the trade names “Dean,” “Carb Conquest” and “Fieldcrest” (and any derivatives of any such trade name) and associated logos (collectively, the “ **Retained Names** ”) and all Trademarks other than the Trademarks set forth on Schedule 2.1(g);

(f) all Copyrights and Patents other than those set forth on Schedule 2.1(g); and

(g) all assets of Dean and its Subsidiaries other than the Transferred Assets.

Section 2.3 Assumption of Liabilities. In connection with the transactions contemplated by Section 2.1, and except as set forth in Section 2.4, TreeHouse shall, and shall cause the TreeHouse Parties to, assume on a joint and several basis with TreeHouse, and to pay, comply with and discharge all contractual and other Liabilities of Dean or its Subsidiaries arising out of the ownership or use of the Transferred Assets or the operation of the Transferred Businesses, whether due or to become due, including:

(a) all Liabilities of Dean and its Subsidiaries that are reflected, disclosed or reserved for on the Balance Sheet, as such Liabilities may be increased or decreased in the operation of the Transferred Businesses from the date of the Balance Sheet through the Distribution Date;

(b) all Liabilities of Dean and its Subsidiaries under or related to the Real Estate Leases, the Personal Property Leases and the Contracts, such assumption to occur as (i) assignee if such Real Estate Leases, Personal Property Leases and Contracts are assignable and are assigned or otherwise transferred to TreeHouse, or (ii) subcontractor, sublessee or sublicensee as provided in Section 6.2 if such assignment of such Real Estate Leases, Personal Property Leases and Contracts and/or proceeds thereof is prohibited by law, by the terms thereof or not permitted by the other contracting party;

(c) all Liabilities of any Dean Party related to the Business Employees (as defined in the Employee Matters Agreement) including, without limitation, the Specified Employee Liabilities;

(d) all Liabilities of Dean and its Subsidiaries related to any and all Actions asserting a violation of any law, rule or regulation arising out of the operations of the Transferred Businesses or the ownership or use of the Transferred Assets, whether before or after the Distribution Date and all Liabilities relating to Assumed Actions;

(e) all Liabilities for which TreeHouse is liable in accordance with the terms of the Operating Agreements;

(f) if registration of the TreeHouse Common Stock occurs and trading of the TreeHouse Common Stock commences, up to \$10,000,000 of fees and expenses incurred by Dean and TreeHouse in connection with (i) drafting, negotiating and implementing this Agreement, the Stockholders Agreement, the Employment Agreements or any of the Operating Agreements and (ii) planning, analyzing and executing the Distribution; and

(g) all other Liabilities of Dean and its Subsidiaries arising out of the ownership or use of the Transferred Assets or the operation of the Transferred Businesses, whether existing on the date hereof or arising at any time or from time to time after the date hereof, and whether based on circumstances, events or actions arising heretofore or hereafter, whether or not such Liabilities shall have been disclosed herein, and whether or not reflected on the books and records of Dean and its Subsidiaries or TreeHouse and its Subsidiaries or the Balance Sheet.

The Liabilities described in this Section 2.3 are referred to in this Agreement collectively as the “ **Assumed Liabilities** .”

Section 2.4 Retained Liabilities . Notwithstanding anything to the contrary in this Agreement, neither TreeHouse nor any of the other TreeHouse Parties shall assume any of the following Liabilities of the Dean Parties (the “ **Retained Liabilities** ”):

- (a) Liabilities consisting of indebtedness for borrowed money (other than capital lease obligations) to, or guarantees for any such indebtedness of, Dean, any of its Affiliates (other than TreeHouse) or any third party;
- (b) Liabilities for which Dean is liable in accordance with the terms of the Operating Agreements; and
- (c) Liabilities arising out of the ownership or use of the Retained Assets or the operation of the Retained Business.

Section 2.5 Termination of Existing Intercompany Agreements . Except as otherwise expressly provided in this Agreement, the Operating Agreements, the Stockholders Agreement or as set forth on Schedule 2.5 , and except for all receivables accrued in the ordinary course of business of the Dean Parties and TreeHouse, all Intercompany Agreements and all other intercompany arrangements and course of dealings, whether or not in writing and whether or not binding, in effect immediately prior to the Distribution Date, shall be terminated and be of no further force and effect from and after the Distribution Date.

Section 2.6 Shared Contracts . (a) Notwithstanding anything in this Agreement to the contrary, with respect to Liabilities pursuant to, arising under or relating to any Shared Contract, such Liabilities shall be allocated between the Dean Parties, on the one hand, and the TreeHouse Parties on the other hand, as follows:

- (i) first, if a Liability is incurred exclusively in respect of a benefit received by one Party, the Party receiving such benefit shall be responsible for such Liability; and
 - (ii) second, if a Liability cannot be so allocated under clause (i), such Liability shall be allocated between the Parties based on the relative proportions of total benefit received under the relevant Shared Contract. Notwithstanding the foregoing, each Party shall be responsible for any and all Liabilities arising out of or resulting from its breach of the relevant Shared Contract.
- (b) If any of the Dean Parties, on the one hand, or any of the TreeHouse Parties, on the other hand, receive any benefit or payment under any Shared Contract that was intended for the other Party, the Party receiving such benefit or payment will use commercially reasonable efforts to deliver, transfer or otherwise afford such benefit or payment to the other Party.
- (c) With respect to any Shared Contract that is transferred to TreeHouse pursuant to Section 2.1(h)(iv), TreeHouse shall exercise and exploit its rights under such Shared Contracts and take such other action as may be reasonably requested by Dean and at Dean’s expense in order to place Dean in the same position it would have been if such Contract had not been transferred as contemplated hereby on the Distribution Date.

(d) With respect to any Shared Contract that is not transferred to TreeHouse pursuant to Section 2.1(h)(iv) and is instead retained by Dean, Dean shall exercise and exploit its rights under such Shared Contracts and take such other action as may be reasonably requested by TreeHouse and at TreeHouse's expense in order to place TreeHouse in the same position it would have been if such Contract had been transferred on the Distribution Date.

Section 2.7 Corporate Transactions. On or prior to the Distribution Date (but in any event prior to the Distribution), each of Dean and TreeHouse will, and will cause each of their respective Subsidiaries to, as applicable, take such commercially reasonable action or actions as are necessary to consummate the Corporate Transactions. Notwithstanding the foregoing, each of the Parties agrees that, at any time prior to the Distribution, the Corporate Transactions may be amended, modified or supplemented in any manner determined in good faith to be appropriate or necessary by Dean, including to qualify any of such transactions as a non-taxable transaction under the Code.

Section 2.8 Tax Matters. Notwithstanding anything in this Agreement to the contrary, the assumption or retention of any liabilities for Taxes and the transfer, retention or ownership of any Tax assets such as Tax refunds, Tax credits, or Tax attributes shall be governed exclusively by the Tax Sharing Agreement and to the extent there is any inconsistency between this Agreement and the Tax Sharing Agreement as to any Tax matter the terms of the Tax Sharing Agreement shall control.

ARTICLE III. THE DISTRIBUTION

Section 3.1 Issuance and Delivery of TreeHouse Shares. TreeHouse shall issue to Dean the number of TreeHouse Shares required so that the total number of TreeHouse Shares held by Dean immediately prior to the Distribution is equal to the total number of TreeHouse Shares distributable by Dean pursuant to Section 3.2. Dean shall deliver to the Agent one or more stock certificates representing all TreeHouse Shares held by Dean, together with one or more stock power(s) endorsed in blank and, with respect to any uncertificated shares to be distributed pursuant to Section 3.2, shall take such steps as are necessary to permit such shares to be distributed in the manner described in Section 3.2. The Agent will distribute such shares in the manner described in Section 3.2.

Section 3.2 Distribution of TreeHouse Shares. Dean shall instruct the Agent to distribute the TreeHouse Distributable Share to each holder of record of Dean Common Stock at the close of business on the Record Date. Each distributed TreeHouse Share shall be validly issued, fully paid and nonassessable and free of preemptive rights. The shares of TreeHouse Common Stock distributed shall be distributed as uncertificated shares registered in book-entry form through the direct registration system. Except as required by applicable law, no certificates therefor shall be distributed. The Agent shall deliver an account statement to each holder of TreeHouse Common Stock reflecting such holder's ownership interest in shares of TreeHouse Common Stock.

Section 3.3 Treatment of Fractional Shares. No certificates or scrip representing fractional TreeHouse Shares shall be issued in the Distribution. In lieu of receiving fractional

shares, each holder of Dean Common Stock who would otherwise be entitled to receive a fractional TreeHouse Share pursuant to the Distribution will receive cash for such fractional share. Dean and TreeHouse shall instruct the Agent to determine the number of whole TreeHouse Shares and fractional TreeHouse Shares allocable to each holder of record of Dean Common Stock as of the close of business on Record Date, to aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in the open market at the then prevailing prices on behalf of holders who would otherwise be entitled to receive fractional share interests, and to distribute to each such holder such holder's ratable share of the total proceeds of such sale after making appropriate deductions of any amounts required for U.S. federal tax withholding purposes and after deducting any taxes attributable to the sale of such fractional share interests.

Section 3.4 Dean Board Action . The Dean Board of Directors shall, in its discretion, establish the Record Date and the Distribution Date and all appropriate procedures in connection with the Distribution. The Board of Directors of Dean shall also have the right to adjust the TreeHouse Distributable Share at any time prior to the Distribution. The consummation of the transactions provided for in this Article III shall only be effected after the Distribution has been declared by the Dean Board of Directors.

Section 3.5 Additional Approvals . Dean shall cooperate with TreeHouse in effecting any actions which are reasonably necessary or desirable to be taken by TreeHouse to effectuate the transactions referenced in or contemplated by this Agreement in a manner consistent with the terms hereof, including the preparation and implementation of appropriate plans, agreements and arrangements for employees of the Transferred Businesses and non-employee members of TreeHouse's Board of Directors.

ARTICLE IV. BUSINESS SEPARATION CLOSING MATTERS

Section 4.1 Delivery of Instruments of Conveyance . In order to effectuate the transactions contemplated by Article II, the Parties shall execute and deliver, or cause to be executed and delivered, prior to or as of the Distribution such deeds, bills of sale, instruments of assumption, instruments of assignment, stock powers, certificates of title and other instruments of assignment, transfer, assumption and conveyance (collectively, the “**Conveyancing Instruments**”) as the Parties shall reasonably deem necessary or appropriate to effect such transactions.

Section 4.2 Delivery of Other Agreements . Prior to or as of the Distribution, the Parties shall execute and deliver, or shall cause to be executed and delivered, each of the Operating Agreements.

Section 4.3 Provision of Corporate Records . Prior to or as promptly as practicable after the Distribution, Dean shall deliver to TreeHouse all corporate books and records of the TreeHouse Parties and copies of all corporate books and records of the Dean Parties relating to the Transferred Businesses.

**ARTICLE V.
NO REPRESENTATIONS AND WARRANTIES**

Section 5.1 No Dean Representations or Warranties. Dean does not represent or warrant in any way (i) as to the value or freedom from encumbrance of, or any other matter concerning, any of the Transferred Assets or Assumed Liabilities or (ii) as to the legal sufficiency to convey title to any of the Transferred Assets on the execution, delivery and filing of the Conveyancing Instruments. ALL TRANSFERRED ASSETS ARE BEING TRANSFERRED ON AN “AS IS, WHERE IS” BASIS WITHOUT ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, MARKETABILITY, TITLE, VALUE, FREEDOM FROM ENCUMBRANCE OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, and the TreeHouse Parties shall bear the economic and legal risks that any conveyances of the Transferred Assets shall prove to be insufficient or that the TreeHouse Parties’ title to any such Transferred Assets shall be other than good and marketable and free of encumbrances. Without limiting the Dean Parties’ obligations set forth in any other provision of this Agreement, Dean does not represent or warrant that the obtaining of the consents or approvals, the execution and delivery of any amendatory agreements and the making of the filings and applications contemplated by this Agreement shall satisfy the provisions of all applicable agreements or the requirements of all applicable laws or judgments, and, subject to Section 6.3, the TreeHouse Parties shall bear the economic and legal risk that any necessary consents or approvals are not obtained or that any requirements of law or judgments are not complied with.

**ARTICLE VI.
CERTAIN COVENANTS**

Section 6.1 Material Governmental Approvals and Consents; Transition Environmental Matters. (a) The Parties will use commercially reasonable efforts to obtain any Material Governmental Approvals and Consents required by the transactions contemplated by this Agreement. Except with respect to Environmental Permits (which are addressed exclusively in Section 6.1(b) below), if and to the extent that the Parties do not obtain any Material Governmental Approval and Consent, unless prohibited by law or the terms of the applicable Material Governmental Approval and Consent, (i) the relevant Dean Party shall continue to be bound thereby, if applicable, and the purported transfer or assignment to any TreeHouse Party shall automatically be deemed deferred until such time as all legal impediments are removed and all necessary approvals or consents have been obtained; (ii) the TreeHouse Parties shall pay, perform and discharge fully all of the obligations of the Dean Parties thereunder from and after the Distribution, or such earlier time as such transfer or assignment would otherwise have taken place, and indemnify the Dean Parties for all Losses arising out of such performance by such TreeHouse Party; and (iii) the Dean Parties shall exercise or exploit their rights and options under all such Material Governmental Approvals and Consents and take such other action as may be reasonably requested by TreeHouse and at TreeHouse’s expense in order to place TreeHouse in the same position it would have been if such approval or consent had been obtained on or prior to the Distribution Date. If and when any such Material Governmental Approval and Consent shall be obtained, the applicable Dean Party shall promptly assign or transfer (to the extent permissible) all of its rights and obligations thereunder to the applicable TreeHouse Party

without payment of further consideration, and the TreeHouse Party shall, without the payment of any further consideration therefor, assume such rights and obligations.

(b) From and after the Distribution Date, TreeHouse shall have sole responsibility (to the extent allowed by applicable law) for compliance with all terms and conditions of all environmental permits, licenses and other such authorizations held by the Dean Parties in respect of the Transferred Businesses (the “**Environmental Permits**”). During any interim period from and after the Distribution Date through completion of the transfer and/or reissuance to the TreeHouse Parties of any Environmental Permit, Dean shall provide the TreeHouse Parties (to the extent allowed by applicable law) with the benefits of such Environmental Permit and the TreeHouse Parties shall pay, perform, discharge and comply with fully all of the obligations of the Dean Parties thereunder from and after the Distribution Date, and TreeHouse shall indemnify the Dean Parties for all Losses arising out of such performance by such TreeHouse Party. The Dean Parties shall otherwise exercise or exploit their rights and options under all such Environmental Permits only as reasonably directed by TreeHouse and at TreeHouse’s expense.

Section 6.2 Non-Assignable Contracts. If and to the extent that any Dean Party does not obtain any consent, approval or amendment necessary for the transfer or assignment to any TreeHouse Party of any Contract or other rights relating to the Transferred Businesses that would otherwise be transferred or assigned to such TreeHouse Party as contemplated by this Agreement or any other agreement or document contemplated hereby, (i) such Dean Party shall continue to be bound thereby and the purported transfer or assignment to such TreeHouse Party shall automatically be deemed deferred until such time as all legal impediments are removed and all necessary consents have been obtained, and (ii) unless not permitted by the terms thereof or by law, the TreeHouse Parties shall pay, perform and discharge fully all of the obligations of the Dean Parties thereunder from and after the Distribution, or such earlier time as such transfer or assignment would otherwise have taken place, and indemnify the Dean Parties for all Losses arising out of such performance by such TreeHouse Party. The Dean Parties shall, without further consideration therefor, pay and remit to the applicable TreeHouse Party promptly all monies, rights and other considerations received in respect of such performance. The Dean Parties shall exercise or exploit their rights and options under all such Contracts and take such other action as may be reasonably requested by TreeHouse and at TreeHouse’s expense in order to place TreeHouse in the same position it would have been if such Contract had been transferred as contemplated hereby on the Distribution Date. If and when any such consent, approval or amendment shall be obtained or such Contract or other right or agreement shall otherwise become transferable or assignable or be able to be novated, the Dean Parties shall promptly assign or transfer and novate (to the extent permissible) all of their rights and obligations thereunder to the applicable TreeHouse Party without payment of further consideration, and the TreeHouse Party shall, without the payment of any further consideration therefor, assume such rights and obligations. To the extent that the transfer or assignment of any Contract or other right (or the proceeds thereof) pursuant to this Section 6.2 is prohibited by law or the terms thereof, this Section 6.2 shall operate to create a subcontract with the applicable TreeHouse Party to perform each relevant Contract or other right, agreement or document at a subcontract price equal to the monies, rights and other consideration received by the Dean Parties with respect to the performance by such TreeHouse Party. For purposes of this Section 6.2, “Contract” shall be deemed to include Real Estate Leases and Personal Property Leases.

Section 6.3 Novation of Assumed Liabilities. (a) Except as otherwise specifically provided in Section 2.6 with respect to Shared Contracts and elsewhere in this Agreement, it is expressly understood and agreed to by the Parties that upon the assumption by the TreeHouse Parties of the Assumed Liabilities, the Dean Parties and their respective officers, directors and employees shall be released unconditionally by the TreeHouse Parties from any and all Liabilities, whether joint, several or joint and several, for the discharge, performance or observance of any of the Assumed Liabilities, so that the TreeHouse Parties will be solely responsible for such Assumed Liabilities.

(b) The TreeHouse Parties, at the reasonable request of any Dean Party, shall use commercially reasonable efforts to obtain, or cause to be obtained, any consent, approval, release, substitution or amendment required to novate or assign all obligations under the Assumed Liabilities, or to obtain in writing the unconditional release of all parties to such arrangements other than the TreeHouse Parties.

(c) If a TreeHouse Party is unable to obtain any such consent, approval, release, substitution or amendment required to novate or assign an obligation under an Assumed Liability, the applicable Dean Party shall continue to be bound by such Assumed Liability and, unless not permitted by law or the terms thereof, the TreeHouse Parties shall, as agent or subcontractor for the Dean Parties, pay, perform and discharge fully all of the obligations or other Liabilities of the Dean Parties thereunder from and after the Distribution Date. The TreeHouse Parties shall indemnify and hold harmless the Dean Parties against any Liabilities arising in connection with such Assumed Liability. Except as otherwise set forth in this Agreement, the Dean Parties shall, without further consideration, pay and remit, or cause to be paid or remitted, to the applicable TreeHouse Party promptly the after-tax amount of all money, rights and other consideration received by it in respect of such performance (unless any such consideration is a Retained Asset). If and when any such consent, approval, release, substitution or amendment shall be obtained or such Assumed Liability shall otherwise become assignable or be able to be novated, the applicable Dean Party shall thereafter assign, or cause to be assigned, all of their rights, obligations and other Liabilities thereunder to the applicable TreeHouse Party, without payment of further consideration, and the TreeHouse Parties shall, without the payment of any further consideration, assume such rights and obligations.

Section 6.4 Further Assurances. (a) In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable laws, regulations and agreements to consummate and make effective the Contribution, the Distribution and the other agreements and documents contemplated hereby. Without limiting the generality of the foregoing, each Party shall cooperate with the other Party to execute and deliver, or use commercially reasonable efforts to cause to be executed and delivered, all instruments, including instruments of conveyance, assignment and transfer, and to make all filings with, and to obtain all consents, approvals or authorizations of, any Governmental Authority or any other Person under any permit, license, Contract or other instrument, and to take all such other actions as such Party may reasonably be requested to take by the other Party from time to time, consistent with the terms of this Agreement, in order to confirm the title of the TreeHouse Parties to all of the Transferred Assets, to put the applicable TreeHouse Party in actual possession and operating control thereof and to

permit the applicable TreeHouse Party to exercise all rights with respect thereto and to effectuate the provisions and purposes of this Agreement and the other agreements and documents contemplated hereby or thereby, including (i) the obtaining of all necessary actions or non-actions, waivers, consents and approvals from Governmental Authorities and the making of all necessary registrations and filings (including filings with Governmental Authorities) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any Governmental Authority, (ii) the obtaining of all necessary consents, approvals or waivers from third parties (“**Third Party Consents**”), (iii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated hereby, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Authority vacated or reversed and (iv) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement. Notwithstanding the foregoing, the Parties shall fully cooperate and use commercially reasonable efforts to obtain all consents and approvals, to enter into all amendatory agreements and to make all filings and applications that may be required for the consummation of the transactions contemplated by this Agreement.

(b) If, as a result of mistake or oversight, any asset required for the conduct of the Transferred Businesses in all material respects in the manner in which the Transferred Businesses had been conducted immediately prior to the Distribution Date is not transferred to the applicable TreeHouse Party, or any asset required for the conduct of the Retained Business in all material respects in the manner in which the Retained Business had been conducted immediately prior to the Distribution Date is transferred to any TreeHouse Party, Dean and TreeHouse shall negotiate in good faith after the Distribution to determine whether such asset should be transferred to a TreeHouse Party or to a Dean Party, as the case may be, and the terms and conditions upon which such asset shall be made available to a TreeHouse Party or to a Dean Party, as the case may be. Unless expressly provided to the contrary in this Agreement or any Operating Agreement, if, as a result of mistake or oversight, any Liability arising out of or relating to the Transferred Businesses is retained by any Dean Party, or any Liability arising out of or relating to the Retained Business is assumed by any TreeHouse Party, Dean and TreeHouse shall negotiate in good faith after the Distribution to determine whether such Liability should be transferred to a TreeHouse Party or a Dean Party, as the case may be, and/or the terms and conditions upon which any such Liability shall be transferred.

Section 6.5 Collection of Accounts Receivable. (a) Following the Distribution, the Dean Parties shall be entitled to control all collection actions related to the Retained Business and the TreeHouse Parties shall be entitled to control all collection actions related to the Transferred Businesses (except for accounts receivable arising out of or produced by the *MochaMix*®, *SecondNature*® and foodservice dressings businesses, for which, in each case, the collection and remittance to TreeHouse will be performed by Dean in accordance with the terms of the Transition Services Agreement), in each case including the determination of what actions are necessary or appropriate and when and how to take any such action.

(b) If, after the Distribution, any TreeHouse Party shall receive any remittance from any account debtors with respect to the accounts receivable arising out of the Retained Business

or other amounts due any Dean Party in respect of services rendered by any Dean Party after the Distribution, or any Dean Party shall receive any remittance from any account debtors with respect to the accounts receivable arising out of the Transferred Businesses or other amounts due any TreeHouse Party in respect of services rendered by any TreeHouse Party after the Distribution, such Party shall receive and deposit such remittance and hold the same for the benefit of the other Party. The Parties shall reconcile any amounts held under this Section 6.5 on a monthly basis, with the difference between the amounts held by each Party for the benefit of the other being settled by a cash payment to be made as soon as practicable following such reconciliation and, in any event, no later than five business days following the completion of such reconciliation.

(c) Each Party shall deliver to the other such schedules and other information with respect to accounts receivable as each shall reasonably request from time to time in order to permit such Parties to reconcile their respective records and to monitor the collection of all accounts receivable. Each Party shall afford the other reasonable access to its books and records relating to any accounts receivable.

Section 6.6 Late Payments. Except as expressly provided to the contrary in this Agreement or in any Operating Agreement, any amount not paid when due pursuant to this Agreement or any Operating Agreement (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within 30 days of the date of such bill, invoice or other demand) (the “Payment Period”) shall accrue interest at a rate per annum equal to the Prime Rate plus 2%.

Section 6.7 Registration and Listing. Prior to the Distribution:

(a) Dean and TreeHouse shall cooperate with respect to the preparation of the registration statement on Form 10, including such amendments or supplements thereto as may be necessary (together, the “**Registration Statement**”), to effect the registration of the TreeHouse Common Stock under the Exchange Act. The Registration Statement shall include an information statement to be sent by Dean to its stockholders in connection with the Distribution (the “**Information Statement**”). TreeHouse and Dean shall use commercially reasonable efforts to cause the Registration Statement to become and remain effective under the Exchange Act as soon as reasonably practicable. As soon as practicable, after the Registration Statement becomes effective, Dean shall mail the Information Statement to the holders of Dean Common Stock.

(b) The Parties shall use commercially reasonable efforts to take all such action as may be necessary or appropriate under state and foreign securities and “Blue Sky” laws in connection with the transactions contemplated by this Agreement.

(c) Dean and TreeHouse shall prepare, and TreeHouse shall file and seek to make effective, an application for the listing of the TreeHouse Common Stock, subject to official notice of issuance. Dean shall, to the extent commercially reasonable, give notice of the Record Date in compliance with Rule 10b-17 of the Exchange Act.

(d) The Parties shall cooperate in preparing, filing with the SEC and causing to become effective any registration statements or amendments thereto that are necessary or appropriate in order to effect the transactions contemplated hereby.

Section 6.8 Litigation. (a) As of the Distribution, TreeHouse shall assume and, except as provided in Article VIII, pay all Liabilities that may result from the Assumed Actions and, subject to subsection (c) below, all fees and costs relating to the defense of the Assumed Actions, including reasonable attorneys' fees and costs. "**Assumed Actions**" means those cases, claims and investigations (i) in which any Dean Party or any Affiliate of a Dean Party, other than TreeHouse and its Subsidiaries, is a defendant or the party against whom the claim or investigation is directed, and (ii) which relates to the Transferred Businesses (other than with respect to Retained Liabilities), including those listed on Schedule 6.8(a).

(b) On the Distribution Date, the Dean Parties shall transfer the Transferred Actions to TreeHouse, and TreeHouse shall receive and have the benefit of all of the proceeds of such Transferred Actions. "**Transferred Actions**" means those cases and claims (i) in which any Dean Party or any of its Affiliates is a plaintiff or claimant, and (ii) which relates to the Transferred Businesses (other than with respect to the Retained Assets), including those listed on Schedule 6.8(b).

(c) On the Distribution Date, TreeHouse shall assume and shall diligently conduct, at its sole cost and expense, the defense of all Assumed Actions; *provided*, that Dean shall have the right to participate in such proceedings and to be represented by attorneys of its own choosing and at its sole cost and expense. In no event shall TreeHouse settle or compromise any such Assumed Action or Transferred Action without the express prior written consent of Dean unless (i) there is no finding or admission of any violation of any law or any violation of the rights of any Person by any Dean Party, (ii) there is no relief (either monetary or non-monetary) binding upon any Dean Party, and (iii) no Dean Party shall have any Liability with respect to any such settlement or compromise.

(d) Each Party agrees that at all times from and after the Distribution, if an Action is commenced by a third party naming both Parties as defendants thereto and with respect to which one Party is a nominal defendant, then the other Party shall use commercially reasonable efforts to cause such nominal defendant to be removed from such Action.

(e) Notwithstanding the foregoing, the Parties have agreed to handle certain matters in accordance with the agreement set forth on Schedule 6.8(e).

Section 6.9 Signs; Use of Company Name. Except as otherwise contemplated by this Agreement or any of the Operating Agreements, prior to December 31, 2005, the Parties, at TreeHouse's expense, shall remove (or, if necessary, on an interim basis cover up) any and all exterior and interior signs and identifiers on the Transferred Assets that refer or pertain to any Dean Party or the Retained Business, or that refer or pertain to TreeHouse or the Transferred Businesses on the Retained Assets. After such period, (i) the TreeHouse Parties shall not use or display any Retained Name, or any variations thereof, or other trademarks, any trade names, logos or identifiers using any of such names or otherwise owned by or licensed to any Dean Party that have not been assigned or licensed to TreeHouse, and (ii) the Dean Parties shall not

use or display any trademarks, trade names, logos or identifiers owned by or licensed to TreeHouse that have not been assigned or licensed to a Dean Party (collectively, the “**Non-Permitted Names**”), without the prior written consent of the other Party; *provided*, that notwithstanding the foregoing, nothing contained in this Agreement shall prevent either Party from using the other’s name in public filings with Governmental Authorities, materials intended for distribution to either Party’s stockholders or any other communication in any medium that describes the relationship between the Parties, including materials distributed to employees relating to the transition of employee benefit plans; and *provided further*, that TreeHouse shall be permitted to use its inventories of packaging and promotional materials and other supplies existing on the Distribution Date that bear any Retained Name.

ARTICLE VII. CONDITIONS TO THE DISTRIBUTION

The obligation of Dean to effect the Distribution is subject to the satisfaction or the waiver by Dean of each of the following conditions:

Section 7.1 Approval by Dean Board of Directors. This Agreement and the transactions contemplated hereby, including the declaration of the Distribution, shall have been duly approved by the Board of Directors of Dean in accordance with applicable law and the certificate of incorporation and by-laws of Dean.

Section 7.2 IRS Private Letter Ruling. The Private Letter Ruling shall remain in effect as of the Distribution Date.

Section 7.3 Compliance with State and Foreign Securities and “Blue Sky” Laws. The Parties shall have taken all such action as may be necessary or appropriate under state and foreign securities and “blue sky” laws in connection with the Distribution.

Section 7.4 SEC Filings and Approvals. The Parties shall have prepared and TreeHouse shall, to the extent required under applicable law, have filed with the SEC any such documentation and no action letter requests that Dean reasonably determines are necessary or desirable to effectuate the Distribution, and each Party shall have obtained all necessary approvals or no action letters from the SEC.

Section 7.5 Effectiveness of Registration Statement; No Stop Order. The Registration Statement shall have been declared effective by the SEC, and no stop order suspending the effectiveness of the Registration Statement shall have been initiated or, to the knowledge of either of the Parties, threatened by the SEC.

Section 7.6 Dissemination of Information to Dean Stockholders. Prior to the Distribution, the Parties shall have prepared and mailed to the holders of Dean Common Stock such information concerning TreeHouse, its business, operations and management, the Distribution and such other matters as Dean shall reasonably determine and as may be required by law.

Section 7.7 Approval of NYSE Listing Application. The TreeHouse Common Stock to be distributed in the Distribution shall have been approved for listing on the NYSE, subject to official notice of issuance.

Section 7.8 Operating Agreements. Each of the Operating Agreements shall have been executed and delivered, and each of such agreements shall be in full force and effect.

Section 7.9 Consents. All Material Governmental Approvals and Consents required to permit the valid consummation of the Distribution shall have been obtained and be in full force and effect.

Section 7.10 No Actions. No order, injunction or decree issued by any court or agency of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Distribution or the other transactions contemplated by this Agreement (including a stop order with respect to the effectiveness of the Registration Statement) shall be in effect and no other event outside the control of Dean shall have occurred or failed to occur that prevents the consummation of the Distribution or the other transactions contemplated by this Agreement.

Section 7.11 No Material Adverse Effect. No other event or developments shall have occurred that, in the judgment of the Dean Board of Directors, would result in the Distribution having a material adverse effect on Dean or its stockholders.

Section 7.12 Opinions. Dean or TreeHouse, as the case may be, shall have received any and all legal opinions, in a form reasonably satisfactory to the Board of Directors of the applicable entity, as such Board of Directors shall determine in good faith to be reasonably necessary for it to authorize the consummation of the Distribution.

Section 7.13 Other Actions. Such other reasonable and customary actions as Dean shall determine to be reasonably necessary in order to assure the successful completion of the Distribution shall have been taken.

Section 7.14 Satisfaction of Conditions. The satisfaction of the foregoing conditions are for the sole benefit of Dean and shall not give rise to or create any duty on the part of Dean or the Dean Board of Directors to waive or not waive any such condition, to effect the Distribution or in any way limit Dean's power of termination set forth in Section 13.11.

ARTICLE VIII. INSURANCE MATTERS

Section 8.1 Insurance Prior to the Distribution Date. Except as may otherwise be expressly provided in this Article VIII, Dean and its Subsidiaries shall not have any Liability whatsoever as a result of the insurance policies and practices of Dean in effect at any time prior to the Distribution Date, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy and the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise.

Section 8.2 Ownership of Existing Policies and Programs . Dean or one or more of the other Dean Parties shall continue to own all property damage and business interruption, and liability insurance policies and programs, including, without limitation, primary and excess general liability, executive liability, automobile, workers' compensation, property damage and business interruption, crime and surety insurance policies, in effect on or before the Distribution Date (collectively, the “ **Dean Policies** ” and individually, a “ **Dean Policy** ”). Subject to the provisions of this Agreement, the Dean Parties shall retain all of their respective rights, benefits and privileges, if any, under the Dean Policies. Nothing contained herein shall be construed to be an attempted assignment of or a change to any part of the ownership of the Dean Policies. With respect to any claim relating to the Transferred Businesses or the Transferred Assets, Dean shall have sole responsibility for claims administration and financial administration of the policies set forth on Schedule 8.3 and such administration shall be governed solely by the terms of Sections 8.5 and 8.6

Section 8.3 Maintenance of Insurance for TreeHouse . Through the Distribution Date, Dean will maintain in full force and effect its existing insurance to the extent that it applies to the Transferred Assets or the Transferred Businesses, which insurance policies are set forth on Schedule 8.3 .

Section 8.4 Acquisition and Maintenance of Post-Distribution Insurance by TreeHouse . Commencing on and as of the Distribution Date, TreeHouse shall be responsible for establishing and maintaining separate property damage and business interruption and liability insurance policies and programs (including, primary and excess general liability, executive liability, automobile, workers' compensation, property damage and business interruption, crime, surety and other similar insurance policies) for activities and claims involving any TreeHouse Party or any of their Affiliates, in each case with commercially reasonable limits and deductibles. Each of the TreeHouse Parties and each of their Affiliates, as appropriate, shall be responsible for all administrative and financial matters relating to insurance policies established and maintained by the TreeHouse Parties and each of their Affiliates for claims relating to any period on or after the Distribution Date involving any TreeHouse Party or any of its Affiliates.

Section 8.5 Property Damage and Business Interruption Insurance Claims Administration for Pre-Distribution Claims . For property damage and business interruption losses related to the Transferred Assets or the Transferred Businesses which occur prior to the Distribution Date, Dean shall, at TreeHouse's request and to the extent consistent with Dean's past practice, prepare and process claims, including claims that are payable to the Dean Parties in whole or in part because of insurance or reinsurance in support of property damage and business interruption insurance maintained by Dean prior to the Distribution Date. Any amounts received by Dean (net of any costs, expenses, deductibles and other similar payments made by Dean) with respect to any such unresolved claims in existence on the Distribution Date that are settled subsequent to the Distribution Date shall be paid to TreeHouse within 5 business days of receipt thereof by Dean.

Section 8.6 Liability and Workers Compensation Insurance Claims Administration for Post-Distribution Claims . The Dean Parties shall have the sole right, responsibility and authority for liability and workers compensation claims administration and financial administration of pre-Distribution claims that relate to or affect the Dean Policies or that are uninsured due to the terms

of the Dean Policies. Upon notification by a TreeHouse Party or any of its Affiliates of a claim relating to a TreeHouse Party or any of its Affiliates under one or more of the Dean Policies, Dean shall cooperate with TreeHouse in asserting and pursuing coverage and payment for such claim by the appropriate insurance carrier(s). Except as set forth in Section 10.6, Dean shall have sole power and authority to make binding decisions, determinations, commitments and stipulations on its own behalf and on behalf of the TreeHouse Parties and their Affiliates, which decisions, determinations, commitments and stipulations shall be final and conclusive if reasonably made to maximize the overall economic benefit of the Dean Policies. The TreeHouse Parties and their Affiliates shall assume responsibility for, and shall pay to the appropriate insurance carriers or otherwise, any premiums, retrospectively-rated premiums, defense costs, indemnity payments, deductibles, retentions or uninsured costs arising from liability or workers compensation losses, which are uninsured because of coverage terms or conditions of the policies covering such losses, or other charges (collectively, “ **Insurance Charges** ”) whenever arising, which shall become due and payable under the terms and conditions of any applicable Dean Policy in respect of any liabilities, losses, claims, actions or occurrences, whenever arising or becoming known, arising out of the ownership, use or operation of any of the assets, businesses, operations or liabilities of any TreeHouse Party or any of its Affiliates, when the same relate to the period prior to, on or after the Distribution Date. To the extent that the terms of any applicable Dean Policy provide that any Dean Party shall have an obligation to pay or guarantee the payment of any Insurance Charges relating to any TreeHouse Party, Dean shall be entitled to demand that TreeHouse make such payment directly to the Person or entity entitled thereto. In connection with any such demand, Dean shall submit to TreeHouse a copy of any invoice or listing of claims received by Dean pertaining to such Insurance Charges together with appropriate supporting documentation. In the event that TreeHouse fails to pay any such Insurance Charges when due and payable, whether at the request of the Person entitled to payment or upon demand by Dean, any Dean Party may (but shall not be required to) pay such insurance charges for and on behalf of the TreeHouse Parties and, thereafter, the TreeHouse Parties shall forthwith reimburse Dean for such payment within 30 days. Subject to the other provisions of this Article VIII, the retention by Dean of the Dean Policies and the responsibility for claims administration and financial administration of such policies are in no way intended to limit, inhibit or preclude any right of TreeHouse, Dean or any other insured to insurance coverage for any insured claims under the Dean Policies.

Section 8.7 Non-Waiver of Rights to Coverage . An insurance carrier that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto, or, solely by virtue of the provisions of this Article VIII, have any subrogation rights with respect thereto. It is expressly understood and agreed that no insurance carrier or any third party shall be entitled to a benefit (i.e. a benefit they would not be entitled to receive had no Distribution occurred or in the absence of the provisions of this Article VIII) by virtue of the provisions hereof.

Section 8.8 Scope of Affected Policies of Insurance . The provisions of this Article VIII relate solely to matters involving property, damage and business interruption, and liability insurance policies and programs, including, without limitation, primary and excess general liability, executive liability, automobile, workers’ compensation, property damage and business interruption, crime and surety insurance policies, and shall not be construed to affect any obligation of or impose any obligation on the Parties with respect to any life, health and accident,

dental or medical or any other insurance policies applicable to any of the officers, directors, employees or other representatives of the Parties or their Affiliates.

Section 8.9 Letter of Credit Reimbursement. With respect to those states in which Dean is required to maintain standby letters of credit relating to workers compensation claims by employees of the Transferred Businesses (the “Letters of Credit”), TreeHouse shall reimburse Dean, on and after the Distribution Date, for all costs and expenses incurred by Dean in respect of the Letters of Credit (including any expenses incurred in arranging for such Letters of Credit). In addition, with respect to those states in which Dean maintains qualified self insurance programs relating to workers compensation claims by employees of the Transferred Businesses, TreeHouse shall reimburse Dean, on and after the Distribution Date, for the allocated portion of costs and expenses incurred by Dean in respect of such self insurance programs and any corresponding collateral (the “Self Insurance Costs”). For each twelve (12) month period (which initial period shall commence on the Distribution Date and end on the one-year anniversary thereof), Dean shall submit an invoice summarizing the costs and expenses by jurisdiction in respect of the Letters of Credit and the Self Insurance Costs to TreeHouse. Payment shall be made by TreeHouse no later than thirty (30) days after the invoice date. In addition, in the event any Letter of Credit is drawn by the beneficiary thereof, TreeHouse shall reimburse Dean for the amount of such drawing within five (5) days of Dean’s demand therefor. The obligations of TreeHouse set forth in this Section 8.9 shall survive the Distribution Date indefinitely.

ARTICLE IX. EXPENSES

Section 9.1 Allocation of Expenses. If registration of the TreeHouse Common Stock occurs and trading of the TreeHouse Common Stock commences on the NYSE, TreeHouse shall be responsible for, and shall pay, up to \$10,000,000 of fees and expenses incurred by Dean and TreeHouse in connection with (i) drafting, negotiating and implementing this Agreement, the Stockholders Agreement, the Employment Agreements or any of the Operating Agreements and (ii) planning, analyzing and executing the Distribution. No later than ninety (90) days after the Distribution Date (or the termination of this Agreement, if earlier), Dean shall notify TreeHouse in writing of the fees and expenses to be reimbursed by TreeHouse pursuant to this Section 9.1, and TreeHouse shall promptly remit payment of such fees and expenses to Dean. Notwithstanding the foregoing, Dean shall be responsible for, and shall not be entitled to reimbursement of, its costs incurred in connection with the transfer of production out of the City of Industry South plant located in City of Industry, California to other Dean facilities.

ARTICLE X. INDEMNIFICATION

Section 10.1 Release of Pre-Distribution Claims.

(a) Except as provided in Section 10.1(b), effective as of the Distribution Date, each Party does hereby, on behalf of itself and its respective Subsidiaries and Affiliates, successors and assigns and all Persons who at any time prior to the Distribution Date have been shareholders, directors, officers, agents or employees of either Party (in each case, in their respective capacities as such), remise, release and forever discharge the other Party, its respective

Subsidiaries and Affiliates, successors and assigns and all Persons who at any time prior to the Distribution Date have been shareholders, directors, officers, agents or employees of such Party (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Distribution Date, including in connection with the transactions and all other activities to implement the Distribution.

(b) Nothing contained in Section 10.1(a) shall impair any right of any Person identified in Section 10.1(a) to enforce this Agreement, the Stockholders Agreement, the Employment Agreements, the Operating Agreements, any Shared Contract or the agreement set forth on Schedule 6.8(e). Nothing contained in Section 10.1(a) shall release any Person from:

(i) any Liability provided in or resulting from any agreement, arrangement, commitment or understanding of the Parties that is specified in Section 2.5 or the Schedule thereto as not to terminate as of the Distribution Date, or any other Liability specified in Section 2.5 as not to terminate as of the Distribution Date;

(ii) any Liability, contingent or otherwise, assumed, transferred, assigned, retained or allocated to a Party, its Subsidiaries or Affiliates in accordance with this Agreement, or any other Liability of any Party, its Subsidiaries or Affiliates under this Agreement;

(iii) any Liability that any Indemnified Party may have with respect to indemnification or contribution pursuant to this Agreement for claims brought against the Parties or their respective Subsidiaries or Affiliates by third Persons, which Liability shall be governed by the provisions of this Article X and, if applicable, the appropriate provisions of the Operating Agreements; or

(iv) any Liability the release of which would result in the release of any Person other than a Person released pursuant to Section 10.1(a).

(c) Neither Party shall make, nor permit any of its Subsidiaries or Affiliates to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against the other Party, or any other Person released pursuant to Section 10.1(a), with respect to any Liability released pursuant to Section 10.1(a).

(d) It is the intent of each of the Parties by virtue of the provisions of this Section 10.1 to provide for a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Distribution Date, between the Parties (including any contractual agreements or arrangements existing or alleged to exist between the Parties on or before the Distribution Date), except as expressly set forth in Section 10.1(b). At any time, at the reasonable request of either Party, the other Party shall execute and deliver releases reflecting the provisions hereof.

Section 10.2 Indemnification by TreeHouse . Except for matters explicitly covered by the agreement set forth on Schedule 6.8(e) or as provided in Section 10.5 and except as expressly provided in the Operating Agreements, TreeHouse shall, and shall cause each of the other TreeHouse Parties to, indemnify, defend and hold harmless the Dean Parties and each of their Affiliates, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “**Dean Indemnified Parties**”), from and against any and all Expenses or Losses incurred or suffered by one or more of the Dean Indemnified Parties, in connection with, relating to, arising out of or due to, directly or indirectly, any of the following items:

(a) any claim that the information included in the Registration Statement or the Information Statement set forth on Schedule 10.2(a) under the heading “TreeHouse Information” is or was false or misleading with respect to any material fact or omits or omitted to state any 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, regardless of whether the occurrence, action or other event giving rise to the applicable matter took place prior to or subsequent to the Distribution Date;

(b) the Transferred Businesses as conducted by the Dean Parties or their Affiliates or predecessors on or at any time prior to the Distribution Date;

(c) the Transferred Assets;

(d) the Assumed Liabilities;

(e) the Transferred Businesses not being operated in the ordinary course of business after the Distribution as a result of any action or failure to act by any TreeHouse Party, or any of the persons who served (or would have served had such person not retired or his employment been terminated voluntarily or involuntarily) or is serving, in each case, after the Distribution, as a director, officer or employee of any TreeHouse Party;

(f) the use by any TreeHouse Party after the Distribution of any Retained Name or any variation thereof, or other Trademarks, tradenames, logos or identifiers using any of such names or otherwise owned by or licensed to any Dean Party;

(g) the breach by any TreeHouse Party of any covenant or agreement set forth in this Agreement, any Operating Agreement or any Conveyancing Instrument, in each case, regardless of when or where the loss, claim, accident, occurrence, event or happening giving rise to the Expense or Loss took place, or whether any such loss, claim, accident, occurrence, event or happening is known or unknown, or reported or unreported; and

(h) the matters set forth on Schedule 10.2(h).

Section 10.3 Indemnification by Dean . Except for matters explicitly covered by the agreement set forth on Schedule 6.8(e) or as provided in Section 10.5 and except as expressly provided in the Operating Agreements, Dean shall indemnify, defend and hold harmless TreeHouse and each of its Affiliates, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “**TreeHouse Indemnified Parties**”), from and against any and all Expenses or Losses incurred or suffered by one or more of the TreeHouse Indemnified Parties in connection with, relating to, arising out of or due to, directly or indirectly, any of the following items:

(a) the business (other than the Transferred Businesses) conducted by the Dean Parties or their Affiliates or predecessors on or at any time prior to the Distribution Date;

(b) the assets owned by Dean or its Subsidiaries other than the Transferred Assets;

(c) the Liabilities (including the Retained Liabilities) of the Dean Parties other than the Assumed Liabilities;

(d) the breach by any Dean Party of any covenant or agreement set forth in this Agreement, any Operating Agreement or any Conveyancing Instrument, in each case, regardless of when or where the loss, claim, accident, occurrence, event or happening giving rise to the Expense or Loss took place, or whether any such loss, claim, accident, occurrence, event or happening is known or unknown, or reported or unreported; and

(e) any claim that the information included in the Registration Statement or the Information Statement set forth on Schedule 10.2(a) under the heading “Dean Information” is or was false or misleading with respect to any material fact or omits or omitted to state any 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, regardless of whether the occurrence, action or other event giving rise to the applicable matter took place prior to or subsequent to the Distribution Date.

Section 10.4 Applicability of and Limitation on Indemnification . EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE INDEMNITY OBLIGATION UNDER THIS ARTICLE X SHALL APPLY NOTWITHSTANDING ANY INVESTIGATION MADE BY OR ON BEHALF OF ANY INDEMNIFIED PARTY AND SHALL APPLY WITHOUT REGARD TO WHETHER THE LOSS OR EXPENSE FOR WHICH INDEMNITY IS CLAIMED HEREUNDER IS BASED ON STRICT LIABILITY, ABSOLUTE LIABILITY, ANY OTHER THEORY OF LIABILITY OR ARISES AS AN OBLIGATION FOR CONTRIBUTION.

Section 10.5 Adjustment of Indemnifiable Losses .

(a) The amount that any Party or any of its Affiliates (an “ **Indemnifying Party** ”) is required to pay to any Person entitled to indemnification hereunder (an “ **Indemnified Party** ”) shall be reduced by any insurance proceeds and other amounts actually recovered by or on behalf of such Indemnified Party in reduction of the related Expense or Loss. If an Indemnified Party receives a payment (an “ **Indemnity Payment** ”) required by this Agreement from an Indemnifying Party in respect of any Expense or Loss and subsequently actually receives Insurance Proceeds or other amounts in respect of such Expense or Loss, then such Indemnified Party shall pay to the Indemnifying Party a sum equal to the lesser of (1) the after-tax amount of such Insurance Proceeds or other amounts actually received or (2) the net amount of Indemnity Payments actually received previously. The Indemnified Party agrees that the Indemnifying Party shall be subrogated to such Indemnified Party under any insurance policy.

(b) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto, or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto.

(c) Indemnity Payments (i) shall be increased to take into account any tax cost incurred by the Indemnified Party as a result of the receipt or accrual of Indemnity Payments hereunder, and (ii) shall be reduced to take into account any tax benefit actually realized by the Indemnified Party arising from incurrence or payment by the Indemnified Party of the related Expense or Loss. The parties intend that amounts paid by Dean to or for the benefit of TreeHouse, or by TreeHouse to or for the benefit of Dean, under this Article X shall be treated by the Parties, for all applicable tax purposes, as relating back to the time immediately before the Distribution as an adjustment to capital (i.e., a capital contribution or distribution), and accordingly as being not deductible by the payor and, to the fullest extent permitted by law, not includible in the taxable income of the recipient. The parties shall not take any position inconsistent with such intended tax treatment, except to the extent that a final determination (as defined in Section 1313 of the Code) with respect to the recipient party causes any such payment not to be so treated.

(d) In the event that an Indemnity Payment shall be denominated in a currency other than United States dollars, the amount of such payment shall be translated into United States dollars using the Foreign Exchange Rate for such currency determined in accordance with the following rules:

(i) with respect to an Expense or a Loss arising from payment by a financial institution under a guarantee, comfort letter, letter of credit, foreign exchange contract or similar instrument, the Foreign Exchange Rate for such currency shall be determined as of the date on which such financial institution shall have been reimbursed;

(ii) with respect to an Expense or a Loss covered by insurance, the Foreign Exchange Rate for such currency shall be the Foreign Exchange Rate employed by the insurance company providing such insurance in settling such Expense or Loss with the Indemnifying Party; and

(iii) with respect to an Expense or a Loss not covered by clause (i) or (ii) above, the Foreign Exchange Rate for such currency shall be determined as of the date that notice of the claim with respect to such Expense or Loss shall be given to the Indemnified Party.

Section 10.6 Procedures for Indemnification of Third Party Claims.

(a) If any third party shall make any claim or commence any arbitration proceeding or suit (collectively, a “**Third Party Claim**”) against any one or more of the Indemnified Parties with respect to which an Indemnified Party intends to make any claim for indemnification against a TreeHouse Party under Section 10.2 or against a Dean Party under Section 10.3, such Indemnified Party shall promptly give written notice to the Indemnifying Party describing such Third Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnified Party to provide notice in accordance with this Section 10.6(a) shall not relieve the related Indemnifying Party of its obligations under this Article X, except to the extent that such Indemnifying Party is actually prejudiced by such failure to provide notice.

(b) The Indemnifying Party shall have 30 days after receipt of the notice referred to in Section 10.6(a) to notify the Indemnified Party that it elects to conduct and control the defense of

such Third Party Claim. If the Indemnifying Party does not give the foregoing notice, the Indemnified Party shall have the right to defend, contest, settle or compromise such Third Party Claim in the exercise of its exclusive discretion subject to the provisions of Section 10.6(c), and the Indemnifying Party shall, upon request from any of the Indemnified Parties, promptly pay to such Indemnified Parties in accordance with the other terms of this Section 10.6(b) the amount of any Expense or Loss resulting from their liability to the third party claimant. If the Indemnifying Party gives the foregoing notice, the Indemnifying Party shall have the right to undertake, conduct and control, through counsel reasonably acceptable to the Indemnified Party, and at its sole expense, the conduct and settlement of such Third Party Claim, and the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith, provided that (i) the Indemnifying Party shall not thereby permit any lien, encumbrance or other adverse charge to thereafter attach to any asset of any Indemnified Party; (ii) the Indemnifying Party shall not thereby permit any injunction against any Indemnified Party; (iii) the Indemnifying Party shall permit the Indemnified Party and counsel chosen by the Indemnified Party and reasonably acceptable to the Indemnifying Party to monitor such conduct or settlement and shall provide the Indemnified Party and such counsel with such information regarding such Third Party Claim as either of them may reasonably request (which request may be general or specific), but the fees and expenses of such counsel chosen by the Indemnified Party (including allocated costs of in-house counsel and other personnel) shall be borne by the Indemnified Party unless (A) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel or (B) the named parties to any such Third Party Claim include the Indemnified Party and the Indemnifying Party and in the reasonable opinion of counsel to the Indemnified Party representation of both parties by the same counsel would be inappropriate due to actual or likely conflicts of interest between them, in either of which cases the reasonable fees and disbursements of counsel for such Indemnified Party (including allocated costs of in-house counsel and other personnel) shall be paid by the Indemnifying Party; and (iv) the Indemnifying Party shall agree promptly to reimburse to the extent required under this Article X the Indemnified Party for the full amount of any Expense or Loss resulting from such Third Party Claim and all related expenses incurred by the Indemnified Party. In no event shall the Indemnifying Party, without the prior written consent of the Indemnified Party, settle or compromise any claim or consent to the entry of any judgment that does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all liability in respect of such claim.

If the Indemnifying Party shall not have undertaken the conduct and control of the defense of any Third Party Claim as provided above, the Indemnifying Party shall nevertheless be entitled through counsel chosen by the Indemnifying Party and reasonably acceptable to the Indemnified Party to monitor the conduct or settlement of such claim by the Indemnified Party, and the Indemnified Party shall provide the Indemnifying Party and such counsel with such information regarding such Third Party Claim as either of them may reasonably request (which request may be general or specific), but all costs and expenses incurred in connection with such monitoring shall be borne by the Indemnifying Party.

(c) So long as the Indemnifying Party is contesting any such Third Party Claim in good faith, the Indemnified Party shall not pay or settle any such Third Party Claim. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such Third Party Claim, provided that in such event the Indemnified Party shall waive any right

to indemnify therefor by the Indemnifying Party, and no amount in respect thereof shall be claimed as an Expense or a Loss under this Article X.

If the Indemnified Party determines in its reasonable good faith judgment that the Indemnifying Party is not contesting such Third Party Claim in good faith, the Indemnified Party shall have the right to undertake control of the defense of such Third Party Claim upon five days written notice to the Indemnifying Party and thereafter to defend, contest, settle or compromise such Third Party Claim in the exercise of its exclusive discretion.

If the Indemnified Party shall have undertaken the conduct and control of the defense of any Third Party Claim as provided above, the Indemnified Party, on not less than 45 days prior written notice to the Indemnifying Party, may make settlement (including payment in full) of such Third Party Claim, and such settlement shall be binding upon the Parties for the purposes hereof, unless within said 45-day period the Indemnifying Party shall have requested the Indemnified Party to contest such Third Party Claim at the expense of the Indemnifying Party. In such event, the Indemnified Party shall promptly comply with such request and the Indemnifying Party shall have the right to direct the defense of such claim or any litigation based thereon subject to all of the conditions of Section 10.6(b). Notwithstanding anything in this Section 10.6 (c) to the contrary, if the Indemnified Party, in the good-faith belief that a claim may materially and adversely affect it other than as a result of money damages or other money payments, advises the Indemnifying Party that it has determined to settle a claim, the Indemnified Party shall have the right to do so at its own cost and expense, without any requirement to contest such claim at the request of the Indemnifying Party, but without any right under the provisions of this Article X for indemnification by the Indemnifying Party.

(d) To the extent that, with respect to any claim governed by Section 9 of the Tax Sharing Agreement, there is any inconsistency between the provisions of such Section 9 and of this Section 10.6, the provisions of Section 9 of the Tax Sharing Agreement shall control with respect to the conduct, defense and settlement of such claim.

Section 10.7 Procedures for Indemnification of Direct Claims. Any claim for indemnification on account of an Expense or a Loss made directly by the Indemnified Party against the Indemnifying Party and that does not result from a Third Party Claim shall be asserted by written notice from the Indemnified Party to the Indemnifying Party specifically claiming indemnification hereunder. Such Indemnifying Party shall have a period of 45 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 45-day period, such Indemnifying Party shall be deemed to have accepted responsibility to make payment and shall have no further right to contest the validity of such claim. If such Indemnifying Party does respond within such 45-day period and rejects such claim in whole or in part, such Indemnified Party shall be free to pursue resolution as provided in Article XI.

Section 10.8 Contribution. If the indemnification provided for in this Article X is unavailable to an Indemnified Party in respect of any Expense or Loss arising out of or related to information contained in the Registration Statement or the Information Statement, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Expense or Loss in such

proportion as is appropriate to reflect the relative fault of the TreeHouse Indemnified Parties, on the one hand, or the Dean Indemnified Parties, on the other hand, in connection with the statements or omissions that resulted in such Expense or Loss. The relative fault of any TreeHouse Indemnified Party, on the one hand, and of any Dean Indemnified Party, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission of a material fact relates to information supplied by the Transferred Businesses or a TreeHouse Indemnified Party, on the one hand, or by the Retained Business or a Dean Indemnified Party, on the other hand.

Section 10.9 Remedies Cumulative. The remedies provided in this Article X shall be cumulative and, subject to the provisions of Article XI, shall not preclude assertion by an Indemnified Party of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

Section 10.10 Survival. All covenants and agreements of the Parties contained in this Agreement relating to indemnification shall survive the Distribution Date indefinitely, unless a specific survival or other applicable period is expressly set forth herein.

ARTICLE XI. DISPUTE RESOLUTION

Section 11.1 Escalation and Mediation

(a) The Parties agree to use commercially reasonable efforts to resolve expeditiously any dispute, controversy or claim between them with respect to the matters covered hereby that may arise from time to time on a mutually acceptable negotiated basis. In furtherance of the foregoing, any Party involved in a dispute, controversy or claim may deliver a notice (an “**Escalation Notice**”) demanding an in-person meeting involving representatives of the Parties at a senior level of management of the Parties (or if the Parties agree, of the appropriate strategic business unit or division within such entity). A copy of any such Escalation Notice shall be given to the General Counsel, or like officer or official, of each Party involved in the dispute, controversy or claim (which copy shall state that it is an Escalation Notice pursuant to this Agreement). Any agenda, location or procedures for such discussions or negotiations between the Parties may be established by the Parties from time to time; *provided, however*, that the Parties shall use commercially reasonable efforts to meet within 30 days of the Escalation Notice.

(b) The Parties may agree to retain a mediator, acceptable to both Parties, to aid the Parties in their discussions and negotiations by informally providing advice to the Parties. Any opinion expressed by the mediator shall be strictly advisory and shall not be binding on the Parties, nor shall any opinion expressed by the mediator be admissible in any action or proceeding. The mediator shall be selected by the Party that did not deliver the applicable Escalation Notice from the list of individuals to be supplied to the Parties by JAMS/Endispute, the American Arbitration Association or such entity mutually agreeable to the Parties. Costs of the mediator shall be borne equally by the Parties involved in the matter, except that each Party shall be responsible for its own expenses.

Section 11.2 Continuity of Service and Performance. Unless otherwise agreed in writing, the Parties will continue to provide service and honor all other commitments under this Agreement and each Operating Agreement during the course of dispute resolution pursuant to the provisions of this Article XI with respect to all matters not subject to such dispute, controversy or claim.

Section 11.3 Choice of Forum. Any mediation hereunder shall take place in the State of Delaware, unless otherwise agreed in writing by the Parties.

Section 11.4 Ability to Pursue Other Legal Remedies. For the avoidance of doubt, nothing in this Article XI shall prevent any Party from pursuing any and all remedies available to it in connection with a dispute relating to this Agreement, the Stockholders Agreement or any of the Operating Agreements if the Parties are unable to otherwise resolve such dispute in accordance with the foregoing procedures.

ARTICLE XII. ACCESS TO INFORMATION AND SERVICES

Section 12.1 Agreement for Exchange of Information. (a) At all times from and after the Distribution Date for a period of five years, as soon as reasonably practicable after written request: (i) Dean shall afford to TreeHouse, its Subsidiaries and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours, at TreeHouse's expense and provide copies of, all records, books, contracts, instruments, data, documents and other information (collectively, "**Information**") in the possession or under the control of Dean immediately following the Distribution Date that relates to TreeHouse, the Transferred Businesses or the employees of the Transferred Businesses; and (ii) TreeHouse shall afford to Dean, its Subsidiaries and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours to, or, at Dean's expense, provide copies of, all Information in the possession or under the control of TreeHouse immediately following the Distribution Date that relates to Dean, the Retained Business or the employees of Dean; *provided*, that in the event that either Party determines that any such provision of or access to Information could be commercially detrimental, violate any law or agreement or waive any attorney-client privilege, the Parties shall take all reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence.

(b) Either Party may request Information under Section 12.1(a), (i) to comply with reporting, disclosure, filing or other requirements imposed on the requesting party (including under applicable securities or tax laws) by a Governmental Authority having jurisdiction over the requesting party, (ii) for use in any other judicial, regulatory, administrative, tax or other proceeding or in order to satisfy audit, accounting, claims defense, regulatory filings, litigation, tax or other similar requirements, (iii) for use in compensation, benefit or welfare plan administration or other bona fide business purposes or (iv) to comply with its obligations under this Agreement or any Operating Agreement. The rights and obligations under this Article XII are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange or confidential treatment of Information set forth in this Agreement or any Operating Agreement or Shared Contract.

Section 12.2 Ownership of Information. Any Information owned by one Party that is provided to a requesting Party pursuant to Section 12.1 shall be deemed to remain the property of the providing Party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise in any such Information.

Section 12.3 Compensation for Providing Information. The Party requesting Information agrees to reimburse the providing Party for the reasonable costs, if any, of creating, gathering and copying such Information, to the extent that such costs are incurred for the benefit of the requesting Party. Except as otherwise specifically provided in this Agreement, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

Section 12.4 Retention of Records. To facilitate the possible exchange of Information pursuant to this Article XII after the Distribution Date, the Parties agree to use commercially reasonable efforts to retain all Information in their respective possession or control on the Distribution Date in accordance with the policies and procedures of Dean as in effect on the Distribution Date or such other procedures as may reasonably be adopted by the applicable Party after the Distribution Date. No party will destroy, or permit any of its Subsidiaries or Affiliates to destroy, any Information that the other Party may have the right to obtain pursuant to this Agreement prior to the fifth anniversary of the date hereof, and thereafter without first using commercially reasonable efforts to notify the other Party of the proposed destruction and giving the other Party the opportunity to take possession of such Information prior to such destruction; *provided*, that in the case of any Information relating to taxes, the parties' obligations with respect to record retention will be as set forth in Section 10.02(b) of the Tax Sharing Agreement.

Section 12.5 Limitation of Liability. No Party shall have any liability to the other Party (i) if any Information exchanged or provided pursuant to this Agreement that is an estimate or forecast, or that is based on an estimate or forecast, is found to be inaccurate, in the absence of gross negligence or willful misconduct by the Party providing such Information, or (ii) if any Information is destroyed after commercially reasonable efforts to comply with the provisions of Section 12.4.

Section 12.6 Production of Witnesses. At all times from and after the Distribution Date, each Party shall use commercially reasonable efforts to make available to the other Party (without cost (other than reimbursement of actual out-of-pocket expenses) to, and upon prior written request of, the other Party) its directors, officers, employees and agents as witnesses to the extent that the same may reasonably be required by the other Party in connection with any Action (except in the case of any Action by one Party against the other Party) in which the requesting Party may from time to time be involved with respect to the Transferred Businesses, the Retained Business or any transactions contemplated hereby.

Section 12.7 Confidentiality. From and after the Distribution Date, each of Dean and TreeHouse shall hold, and shall cause their respective directors, officers, employees, agents, consultants, advisors and other representatives to hold, in strict confidence, with at least the same degree of care that applies to Dean's confidential and proprietary information pursuant to policies in effect as of the Distribution Date or such other procedures as may reasonably be adopted by the applicable Party after the Distribution Date, all non-public information

concerning or belonging to the other Party or any of its Subsidiaries or Affiliates obtained by it prior to the Distribution Date, accessed by it pursuant to Section 12.1, or furnished to it by the other Party or any of its Subsidiaries or Affiliates pursuant to this Agreement or any agreement or document contemplated hereby, including, without limitation, any trade secrets, technology, know-how and other non-public, proprietary intellectual property rights licensed pursuant to the Trademark License Agreements and shall not release or disclose such information to any other Person, except their representatives, who shall be bound by the provisions of this Section 12.7; *provided, however*, that Dean and TreeHouse and their respective directors, officers, employees, agents, consultants, advisors and other representatives may disclose such information if, and only to the extent that, (i) a disclosure of such information is compelled by judicial or administrative process or, in the opinion of such Party's counsel, by other requirements of law (in which case the disclosing Party will provide, to the extent practicable under the circumstances, advance written notice to the other Party of its intent to make such disclosure), or (ii) such Party can show that such information (A) is published or is or has otherwise become available to the general public as part of the public domain without breach of this Agreement; (B) has been furnished or made known to the recipient without any obligation to keep it confidential by a third party under circumstances which are not known to the recipient to involve a breach of the third party's obligations to a Party hereto; (C) was developed independently of information furnished to the recipient under this Agreement; or (D) in the case of information furnished after the Distribution Date, was not known to the recipient at the time of the Distribution but became known to the recipient prior to the time of receipt thereof from the other Party.

Section 12.8 Privileged Matters. (a) Each of Dean and TreeHouse agrees to maintain, preserve and assert all privileges, including, without limitation, privileges arising under or relating to the attorney-client relationship (which shall include without limitation the attorney-client and work product privileges), not heretofore waived, that relate to the Transferred Businesses and the Transferred Assets for any period prior to the Distribution Date (“**Privilege**” or “**Privileges**”). Each Party acknowledges and agrees that any costs associated with asserting any Privilege shall be borne by the Party requesting that such privilege be asserted. Each Party agrees that it shall not waive any Privilege that could be asserted under applicable law without the prior written consent of the other Party. The rights and obligations created by this Section 12.8 shall apply to all information relating to the Transferred Businesses as to which, but for the Distribution, either Party would have been entitled to assert or did assert the protection of a Privilege (“**Privileged Information**”), including without limitation, (i) any and all information generated prior to the Distribution Date but which, after the Distribution, is in the possession of either Party; and (ii) all information generated, received or arising after the Distribution Date that refers to or relates to Privileged Information generated, received or arising prior to the Distribution Date.

(b) Upon receipt by either Party of any subpoena, discovery or other request that may call for the production or disclosure of Privileged Information or if either Party obtains knowledge that any current or former employee of Dean or TreeHouse has received any subpoena, discovery or other request that may call for the production or disclosure of Privileged Information, such Party shall notify promptly the other Party of the existence of the request and shall provide the other Party a reasonable opportunity to review the information and to assert any rights it may have under this Section 12.8 or otherwise to prevent the production or disclosure of Privileged Information. Each Party agrees that it will not produce or disclose any information

that may be covered by a Privilege under this Section 12.8 unless (i) the other Party has provided its written consent to such production or disclosure (which consent shall not be unreasonably withheld), or (ii) a court of competent jurisdiction has entered a final, nonappealable order finding that the information is not entitled to protection under any applicable Privilege.

(c) Dean's transfer of books and records and other information to TreeHouse, and Dean's agreement to permit TreeHouse to possess Privileged Information existing or generated prior to the Distribution Date, are made in reliance on TreeHouse's agreement, as set forth in Sections 12.7 and 12.8, to maintain the confidentiality of Privileged Information and to assert and maintain all applicable Privileges. The access to information being granted pursuant to Section 12.1, the agreement to provide witnesses and individuals pursuant to Section 12.6 and the transfer of Privileged Information to TreeHouse pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Section 12.8 or otherwise. Nothing in this Agreement shall operate to reduce, minimize or condition the rights granted to Dean in, or the obligations imposed upon TreeHouse by, this Section 12.8.

ARTICLE XIII. MISCELLANEOUS

Section 13.1 Entire Agreement. This Agreement and the Operating Agreements, including the Schedules and Exhibits referred to herein and therein and the documents delivered pursuant hereto and thereto, constitute the entire agreement between the Parties with respect to the subject matter contained herein or therein, and supersede all prior agreements, negotiations, discussions, understandings, writings and commitments between the Parties with respect to such subject matter.

Section 13.2 Choice of Law and Forum. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware and the federal laws of the United States of America applicable therein, as though all acts and omissions related hereto occurred in Delaware.

Section 13.3 Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the Parties.

Section 13.4 Waiver. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the Party or Parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently given for the purposes of this Agreement if, as to any Party, it is in writing signed by an authorized representative of such Party. The failure of any Party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way to affect the validity of this Agreement or any part hereof or the right of any Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

Section 13.5 Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable law, but in case any

one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

Section 13.6 Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by and delivered to each of the Parties.

Section 13.7 Successors and Assigns. This Agreement and each Operating Agreement shall be binding upon and inure to the benefit of the Parties hereto and thereto, respectively, and their successors and permitted assigns; *provided, however*, that the rights of either Party under this Agreement and each Operating Agreement shall not be assignable by such Party without the prior written consent of the other Party. The successors and permitted assigns hereunder shall include, without limitation, any permitted assignee as well as the successors in interest to such permitted assignee (whether by merger, liquidation (including successive mergers or liquidations) or otherwise).

Section 13.8 Third Party Beneficiaries. Except to the extent otherwise provided in Article X or in any Operating Agreement, the provisions of this Agreement and each Operating Agreement are solely for the benefit of the Parties and their respective Affiliates, successors and permitted assigns and shall not confer upon any third Person any remedy, claim, liability, reimbursement or other right in excess of those existing without reference to this Agreement or any Operating Agreement. Nothing in this Agreement or any Operating Agreement shall obligate Dean or TreeHouse to assist any TreeHouse employee to enforce any rights such employee may have with respect to any of the employee benefits described in this Agreement.

Section 13.9 Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (b) confirmed delivery of a standard overnight courier or when delivered by hand or (c) the expiration of five business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to Dean, to:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, Texas 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 663-6000
Fax: (202) 663-6363
Attention: Erika L. Robinson

If to TreeHouse, to:

TreeHouse Foods, Inc.
857-897 School Place
P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131
Fax: (920) 497-4604
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Winston and Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Fax: (312) 558-5700
Attention: Bruce A. Toth

Either party may, by written notice to the other parties, change the address or the party to which any notice, request, instruction or other documents is to be delivered.

Section 13.10 Performance. Each Party shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary or Affiliate of such Party.

Section 13.11 Termination. Notwithstanding any provisions hereof, this Agreement may be terminated and the Distribution abandoned at any time prior to the Distribution Date by and in the sole discretion of the Board of Directors of Dean without the prior the approval of any Person but subject to the rights of the parties under the Stockholders Agreement. In the event of such termination, this Agreement shall forthwith become void and no Person shall have any liability to any other Person by reason of this Agreement.

[*signature page follows*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the date first above written.

DEAN FOODS COMPANY

By: /s/ Edward F. Fugger
Name: Edward F. Fugger
Title: Vice President - Corporate Development

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill
Name: Thomas E. O'Neill
Title: Senior Vice President

TREEHOUSE FOODS, INC.

and

THE BANK OF NEW YORK, as Rights Agent

RIGHTS AGREEMENT

dated as of June 27, 2005

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RIGHTS AGREEMENT DATED AS OF JUNE 27, 2005 ("AGREEMENT"), BETWEEN
TREEHOUSE FOODS, INC., A DELAWARE CORPORATION (THE "COMPANY"),
AND THE BANK OF NEW YORK, AS RIGHTS AGENT (THE "RIGHTS AGENT").

The Board of Directors of the Company has authorized and declared a dividend of one preferred share purchase right (a "Right") for each share of Common Stock (as hereinafter defined) of the Company outstanding as of 12:01 a.m. (Chicago time) on June 27, 2005 (the "Record Date"), each Right representing the right to purchase one one-hundredth (subject to adjustment) of a share of Preferred Stock (as hereinafter defined), upon the terms and subject to the conditions herein set forth, and has further authorized and directed the issuance of one Right (subject to adjustment as provided herein) with respect to each share of Common Stock that shall become outstanding between the Record Date and the earlier of the Distribution Date and the Expiration Date (as such terms are hereinafter defined); provided, however, that Rights may be issued with respect to shares of Common Stock that shall become outstanding after the Distribution Date and prior to the Expiration Date in accordance with Section 22.

Accordingly, in consideration of the premises and the mutual agreements herein set forth, the parties hereby agree as follows:

Section 1. Certain Definitions. For purposes of this Agreement, the following terms have the meaning indicated:

(a) "Acquiring Person" shall mean any Person (as such term is hereinafter defined) who or which shall be the Beneficial Owner (as such term is hereinafter defined) of 15% or more of the shares of Common Stock then outstanding, but shall not include an Exempt Person (as such term is hereinafter defined); provided, however, that (i) if the Board of Directors of the Company determines in good faith that a Person who would otherwise be an "Acquiring Person" became the Beneficial Owner of a number of shares of Common Stock such that the Person would otherwise qualify as an "Acquiring Person" inadvertently (including, without limitation, because (A) such Person was unaware that it beneficially owned a percentage of Common Stock that would otherwise cause such Person to be an "Acquiring Person" or (B) such Person was aware of the extent of its Beneficial Ownership of Common Stock but had no actual knowledge of the consequences of such Beneficial Ownership under this Agreement) and without any intention of changing or influencing control of the Company, then such Person shall not be deemed to be or to have become an "Acquiring Person" for any purposes of this Agreement unless and until such Person shall have failed to divest itself, as soon as practicable (as determined, in good faith, by the Board of Directors of the Company), of Beneficial Ownership of a sufficient number of shares of Common Stock so that such Person would no longer otherwise qualify as an "Acquiring Person"; (ii) if, as of the date hereof or prior to the first public announcement of the adoption of this Agreement, any Person is or becomes the Beneficial Owner of 15% or more of the shares of Common Stock outstanding, such Person shall not be deemed to be or to become an "Acquiring Person" unless and until such time as such Person shall, after the first public announcement of the

adoption of this Agreement, become the Beneficial Owner of additional shares of Common Stock (other than pursuant to a dividend or distribution paid or made by the Company on the outstanding Common Stock or pursuant to a split or subdivision of the outstanding Common Stock), unless, upon becoming the Beneficial Owner of such additional shares of Common Stock, such Person is not then the Beneficial Owner of 15% or more of the shares of Common Stock then outstanding; and (iii) no Person shall become an “Acquiring Person” as the result of an acquisition of shares of Common Stock by the Company which, by reducing the number of shares outstanding, increases the proportionate number of shares of Common Stock beneficially owned by such Person to 15% or more of the shares of Common Stock then outstanding, provided, however, that if a Person shall become the Beneficial Owner of 15% or more of the shares of Common Stock then outstanding by reason of such share acquisitions by the Company and shall thereafter become the Beneficial Owner of any additional shares of Common Stock (other than pursuant to a dividend or distribution paid or made by the Company on the outstanding Common Stock or pursuant to a split or subdivision of the outstanding Common Stock), then such Person shall be deemed to be an “Acquiring Person” unless upon becoming the Beneficial Owner of such additional shares of Common Stock such Person does not beneficially own 15% or more of the shares of Common Stock then outstanding. For all purposes of this Agreement, any calculation of the number of shares of Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Common Stock of which any Person is the Beneficial Owner, shall be made in accordance with the last sentence of Rule 13d-3(d)(1)(i) of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as in effect on the date hereof.

(b) “Affiliate” and “Associate” shall have the meaning ascribed to such term in Rule 12b-2 of the General Rules and Regulations under the Exchange Act, as in effect on the date of this Agreement.

(c) A Person shall be deemed the “Beneficial Owner” of and shall be deemed to “beneficially own” any securities:

(i) which such Person or any of such Person’s Affiliates or Associates beneficially owns, directly or indirectly, within the meaning of Rule 13d-3 of the General Rules and Regulations under the Exchange Act as in effect on the date hereof;

(ii) which such Person or any of such Person’s Affiliates or Associates has (A) the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities), or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; provided, however, that a Person shall not be deemed the Beneficial Owner of, or to beneficially own, (x) securities tendered pursuant to a tender or exchange offer made by or on behalf of such Person or any of such Person’s Affiliates or Associates until such tendered securities

are accepted for purchase, (y) securities which such Person has a right to acquire upon the exercise of Rights at any time prior to the time that any Person becomes an Acquiring Person or (z) securities issuable upon the exercise of Rights from and after the time that any Person becomes an Acquiring Person if such Rights were acquired by such Person or any of such Person's Affiliates or Associates prior to the Distribution Date or pursuant to Section 3(a) or Section 22 hereof ("Original Rights") or pursuant to Section 11(i) or Section 11(n) with respect to an adjustment to Original Rights; or (B) the right to vote pursuant to any agreement, arrangement or understanding; provided, however, that a Person shall not be deemed the Beneficial Owner of, or to beneficially own, any security by reason of such agreement, arrangement or understanding if the agreement, arrangement or understanding to vote such security (1) arises solely from a revocable proxy or consent given to such Person in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable rules and regulations promulgated under the Exchange Act and (2) is not also then reportable on Schedule 13D under the Exchange Act (or any comparable or successor report); or

(iii) which are beneficially owned, directly or indirectly, by any other Person with which such Person or any of such Person's Affiliates or Associates has any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities) for the purpose of acquiring, holding, voting (except to the extent contemplated by the proviso to Section 1(c)(ii)(B)) or disposing of such securities of the Company;

provided, however, that no Person who is an officer, director or employee of an Exempt Person shall be deemed, solely by reason of such Person's status or authority as such, to be the "Beneficial Owner" of, to have "Beneficial Ownership" of or to "beneficially own" any securities that are "beneficially owned" (as defined in this Section 1(c)), including, without limitation, in a fiduciary capacity, by an Exempt Person or by any other such officer, director or employee of an Exempt Person.

(d) "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Illinois are authorized or obligated by law or executive order to close.

(e) "Close of Business" on any given date shall mean 5:00 P.M., Chicago time, on such date; provided, however, that if such date is not a Business Day it shall mean 5:00 P.M., Chicago time, on the next succeeding Business Day.

(f) "Common Stock" when used with reference to the Company shall mean the Common Stock, presently par value \$.01 per share, of the Company. "Common Stock" when used with reference to any Person other than the Company shall mean the capital stock (or the equivalent equity interest) with the greatest voting power of such other Person or, if such other Person is a Subsidiary (as such term is hereinafter defined) of

another Person, the Person or Persons which ultimately control such first-mentioned Person.

(g) “Common Stock Equivalents” shall have the meaning set forth in Section 11(a)(iii) hereof.

(h) “Current Value” shall have the meaning set forth in Section 11(a)(iii) hereof.

(i) “Distribution Date” shall have the meaning set forth in Section 3 hereof.

(j) “Equivalent Preferred Shares” shall have the meaning set forth in Section 11(b) hereof.

(k) “Exempt Person” shall mean the Company or any Subsidiary of the Company, in each case including, without limitation, in its fiduciary capacity, or any employee benefit plan of the Company or of any Subsidiary of the Company, or any entity or trustee holding Common Stock for or pursuant to the terms of any such plan or for the purpose of funding any such plan or funding other employee benefits for employees of the Company or of any Subsidiary of the Company.

(l) “Exchange Ratio” shall have the meaning set forth in Section 24 hereof.

(m) “Expiration Date” shall have the meaning set forth in Section 7 hereof.

(n) “Final Expiration Date” shall have the meaning set forth in Section 7 hereof.

(o) “Flip-In Event” shall have the meaning set forth in Section 11(a)(ii) hereof.

(p) “NASDAQ” shall mean The Nasdaq Stock Market.

(q) “New York Stock Exchange” shall mean The New York Stock Exchange, Inc.

(r) “Person” shall mean any individual, firm, corporation, limited liability company, partnership, trust or other entity, and shall include any successor (by merger or otherwise) thereof or thereto.

(s) “Preferred Stock” shall mean the Series A Junior Participating Preferred Stock, par value \$.01 per share, of the Company having the rights and

preferences set forth in the Form of Certificate of Designations attached to this Agreement as Exhibit A.

(t) “Principal Party” shall have the meaning set forth in Section 13(b) hereof.

(u) “Purchase Price” shall have the meaning set forth in Section 7(b) hereof.

(v) “Record Date” shall have the meaning set forth in the first paragraph hereof.

(w) “Redemption Date” shall have the meaning set forth in Section 7 hereof.

(x) “Redemption Price” shall have the meaning set forth in Section 23 hereof.

(y) “Right” shall have the meaning set forth in the first paragraph hereof.

(z) “Right Certificate” shall have the meaning set forth in Section 3 hereof.

(aa) “Securities Act” shall mean the Securities Act of 1933, as amended.

(bb) “Section 11(a)(ii) Trigger Date” shall have the meaning set forth in Section 11(a)(iii) hereof.

(cc) “Shares Acquisition Date” shall mean the first date of public announcement (which, for purposes of this definition, shall include, without limitation, a report filed pursuant to Section 13(d) of the Exchange Act) by the Company or an Acquiring Person that an Acquiring Person has become such, or such earlier date as a majority of the Board of Directors of the Company shall become aware of the existence of an Acquiring Person.

(dd) “Spread” shall have the meaning set forth in Section 11(a)(iii) hereof.

(ee) “Subsidiary” of any Person shall mean any corporation or other entity of which securities or other ownership interests having ordinary voting power sufficient to elect a majority of the board of directors or other persons performing similar functions are beneficially owned, directly or indirectly, by such Person, and any corporation or other entity that is otherwise controlled by such Person.

(ff) “Substitution Period” shall have the meaning set forth in Section 11(a)(iii) hereof.

(gg) “Summary of Rights” shall have the meaning set forth in Section 3 hereof.

(hh) “Trading Day” shall have the meaning set forth in Section 11(d)(i) hereof.

Section 2. Appointment of Rights Agent . The Company hereby appoints the Rights Agent to act as agent for the Company in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. The Company may from time to time appoint such co-Rights Agents as it may deem necessary or desirable.

Section 3. Issue of Right Certificates .

(a) Until the Close of Business on the earlier of (i) the tenth day after the Shares Acquisition Date or (ii) the tenth Business Day (or such later date as may be determined by action of the Board of Directors of the Company prior to such time as any Person becomes an Acquiring Person) after the date of the commencement by any Person (other than an Exempt Person) of, or of the first public announcement of the intention of such Person (other than an Exempt Person) to commence, a tender or exchange offer the consummation of which would result in any Person (other than an Exempt Person) becoming the Beneficial Owner of shares of Common Stock aggregating 15% or more of the Common Stock then outstanding (the earlier of such dates being herein referred to as the “Distribution Date”, (x) the Rights will be evidenced (subject to the provisions of Section 3(b) hereof) by the certificates for Common Stock registered in the names of the holders thereof and not by separate Right Certificates, and (y) the Rights will be transferable only in connection with the transfer of Common Stock. As soon as practicable after the Distribution Date, the Company will prepare and execute, the Rights Agent will countersign and the Company will send or cause to be sent (and the Rights Agent will, if requested, send) by first-class, insured, postage-prepaid mail, to each record holder of Common Stock as of the close of business on the Distribution Date (other than any Acquiring Person or any Associate or Affiliate of an Acquiring Person), at the address of such holder shown on the records of the Company, a Right Certificate, in substantially the form of Exhibit B hereto (a “Right Certificate”), evidencing one Right (subject to adjustment as provided herein) for each share of Common Stock so held. As of the Distribution Date, the Rights will be evidenced solely by such Right Certificates.

(b) The Company will send a copy of a Summary of Rights to Purchase Shares of Preferred Stock, in substantially the form of Exhibit C hereto (the “Summary of Rights”), by postage-prepaid mail, to each record holder of Common Stock as of the Close of Business on the Record Date (other than any Acquiring Person or any Associate or Affiliate of any Acquiring Person), at the address of such holder shown on the records of the Company. With respect to certificates for Common Stock outstanding as of the Record Date, until the Distribution Date, the Rights will be evidenced by such certificates registered in the names of the holders thereof together with a copy of the Summary of

Rights attached thereto. Until the Distribution Date (or, if earlier, the Expiration Date), the surrender for transfer of any certificate for Common Stock outstanding on the Record Date, with or without a copy of the Summary of Rights, shall also constitute the transfer of the Rights associated with the Common Stock represented thereby.

(c) Rights shall be issued in respect of all shares of Common Stock issued or disposed of (including, without limitation, upon disposition of Common Stock out of treasury stock or issuance or reissuance of Common Stock out of authorized but unissued shares) after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date, or in certain circumstances provided in Section 22 hereof, after the Distribution Date. Certificates issued for Common Stock (including, without limitation, upon transfer of outstanding Common Stock, disposition of Common Stock out of treasury stock or issuance or reissuance of Common Stock out of authorized but unissued shares) after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date shall have impressed on, printed on, written on or otherwise affixed to them substantially the following legend:

This certificate also evidences and entitles the holder hereof to certain Rights as set forth in a Rights Agreement between TreeHouse Foods, Inc. and The Bank of New York, as Rights Agent, dated as of June 27, 2005 and as amended from time to time (the "Agreement"), the terms of which are hereby incorporated herein by reference and a copy of which is on file at the principal executive offices of TreeHouse Foods, Inc. Under certain circumstances, as set forth in the Agreement, such Rights will be evidenced by separate certificates and will no longer be evidenced by this certificate. TreeHouse Foods, Inc. will mail to the holder of this certificate a copy of the Agreement without charge after receipt of a written request therefor. Under certain circumstances, as set forth in the Agreement, Rights beneficially owned by or transferred to any Person who is or becomes an Acquiring Person (as defined in the Agreement) and certain transferees thereof will become null and void and will no longer be transferable.

With respect to such certificates containing the foregoing legend, until the Distribution Date, the Rights associated with the Common Stock represented by such certificates shall be evidenced by such certificates alone, and the surrender for transfer of any such certificate, except as otherwise provided herein, shall also constitute the transfer of the Rights associated with the Common Stock represented thereby. In the event that the Company purchases or otherwise acquires any Common Stock after the Record Date but prior to the Distribution Date, any Rights associated with such Common Stock shall be deemed canceled and retired so that the Company shall not be entitled to exercise any Rights associated with the Common Stock which are no longer outstanding.

Notwithstanding this paragraph (c), the omission of a legend shall not affect the enforceability of any part of this Agreement or the rights of any holder of the Rights.

Section 4. Form of Right Certificates . The Right Certificates (and the forms of election to purchase shares and of assignment to be printed on the reverse thereof) shall be substantially the same as Exhibit B hereto and may have such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any applicable law or with any applicable rule or regulation made pursuant thereto or with any rule or regulation of any applicable stock exchange or interdealer quotation system on which the Rights may from time to time be listed or quoted, or to conform to usage. Subject to the provisions of this Agreement, the Right Certificates shall entitle the holders thereof to purchase such number of one one-hundredths of a share of Preferred Stock as shall be set forth therein at the Purchase Price, but the number of such one one-hundredths of a share of Preferred Stock and the Purchase Price shall be subject to adjustment as provided herein.

Section 5. Countersignature and Registration .

(a) The Right Certificates shall be executed on behalf of the Company by the President of the Company, either manually or by facsimile signature, shall have affixed thereto the Company's seal or a facsimile thereof and shall be attested by the Secretary of the Company, either manually or by facsimile signature. The Right Certificates shall be manually countersigned by the Rights Agent and shall not be valid for any purpose unless countersigned. In case any officer of the Company who shall have signed any of the Right Certificates shall cease to be such officer of the Company before countersignature by the Rights Agent and issuance and delivery by the Company, such Right Certificates, nevertheless, may be countersigned by the Rights Agent and issued and delivered by the Company with the same force and effect as though the Person who signed such Right Certificates had not ceased to be such officer of the Company; and any Right Certificate may be signed on behalf of the Company by any Person who, at the actual date of the execution of such Right Certificate, shall be a proper officer of the Company to sign such Right Certificate, although at the date of the execution of this Agreement any such Person was not such an officer.

(b) Following the Distribution Date, the Rights Agent will keep or cause to be kept, at an office or agency designated for such purpose, books for registration and transfer of the Right Certificates issued hereunder. Such books shall show the names and addresses of the respective holders of the Right Certificates, the number of Rights evidenced on its face by each of the Right Certificates and the date of each of the Right Certificates.

Section 6. Transfer, Split Up, Combination and Exchange of Right Certificates; Mutilated, Destroyed, Lost or Stolen Right Certificates .

(a) Subject to the provisions of this Agreement, at any time after the Distribution Date and prior to the Expiration Date, any Right Certificate or Right Certificates may be transferred, split up, combined or exchanged for another Right Certificate or Right Certificates, entitling the registered holder to purchase a like number of one one-hundredths of a share of Preferred Stock as the Right Certificate or Right Certificates surrendered then entitled such holder to purchase. Any registered holder desiring to transfer, split up, combine or exchange any Right Certificate or Right Certificates shall make such request in writing delivered to the Rights Agent, and shall surrender the Right Certificate or Right Certificates to be transferred, split up, combined or exchanged at the office or agency of the Rights Agent designated for such purpose. Thereupon the Rights Agent shall countersign and deliver to the Person entitled thereto a Right Certificate or Right Certificates, as the case may be, as so requested. The Company may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer, split up, combination or exchange of Right Certificates.

(b) Subject to the provisions of this Agreement, at any time after the Distribution Date and prior to the Expiration Date, upon receipt by the Company and the Rights Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Right Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to them, and, at the Company's or the Rights Agent's request, reimbursement to the Company and the Rights Agent of all reasonable expenses incidental thereto, and upon surrender to the Rights Agent and cancellation of the Right Certificate if mutilated, the Company will make and deliver a new Right Certificate of like tenor to the Rights Agent for delivery to the registered holder in lieu of the Right Certificate so lost, stolen, destroyed or mutilated.

Section 7. Exercise of Rights, Purchase Price; Expiration Date of Rights .

(a) Except as otherwise provided herein, the Rights shall become exercisable on the Distribution Date, and thereafter the registered holder of any Right Certificate may, subject to Section 11(a)(ii) hereof and except as otherwise provided herein, exercise the Rights evidenced thereby in whole or in part upon surrender of the Right Certificate, with the form of election to purchase on the reverse side thereof duly executed, to the Rights Agent at the office or agency of the Rights Agent designated for such purpose, together with payment of the aggregate Purchase Price with respect to the total number of one one-hundredths of a share of Preferred Stock (or other securities, cash or other assets, as the case may be) as to which the Rights are exercised, at any time which is both after the Distribution Date and prior to the time (the "Expiration Date") that is the earliest of (i) the Close of Business on June 27, 2010 (the "Final Expiration Date"), (ii) the time at which the Rights are redeemed as provided in Section 23 hereof (the "Redemption Date") or (iii) the time at which such Rights are exchanged as provided in Section 24 hereof.

(b) The purchase price (the “Purchase Price”) shall be initially equal to four (4) times the last sale price, regular way, on the Trading Day (as defined in Section 11(d)) immediately following the date hereof, or in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported by the principal consolidated transaction reporting system with respect to securities listed on the New York Stock Exchange, for each one one-hundredth of a share of Preferred Stock purchasable upon the exercise of a Right. The Purchase Price and the number of one one-hundredths of a share of Preferred Stock or other securities or property to be acquired upon exercise of a Right shall be subject to adjustment from time to time as provided in Sections 11 and 13 hereof and shall be payable in lawful money of the United States of America in accordance with paragraph (c) of this Section 7.

(c) Except as otherwise provided herein, upon receipt of a Right Certificate representing exercisable Rights, with the form of election to purchase duly executed, accompanied by payment of the aggregate Purchase Price for the shares of Preferred Stock to be purchased and an amount equal to any applicable transfer tax required to be paid by the holder of such Right Certificate in accordance with Section 9 hereof, in cash or by certified check, cashier’s check or money order payable to the order of the Company, the Rights Agent shall thereupon promptly (i) (A) requisition from any transfer agent of the Preferred Stock, or make available if the Rights Agent is the transfer agent for the Preferred Stock, certificates for the number of shares of Preferred Stock to be purchased, and the Company hereby irrevocably authorizes its transfer agent to comply with all such requests, or (B) requisition from a depositary agent appointed by the Company depositary receipts representing interests in such number of one one-hundredths of a share of Preferred Stock as are to be purchased (in which case certificates for the Preferred Stock represented by such receipts shall be deposited by the transfer agent with the depositary agent), and the Company hereby directs any such depositary agent to comply with such request, (ii) when appropriate, requisition from the Company the amount of cash to be paid in lieu of issuance of fractional shares in accordance with Section 14 hereof, (iii) promptly after receipt of such certificates or depositary receipts, cause the same to be delivered to or upon the order of the registered holder of such Right Certificate, registered in such name or names as may be designated by such holder and (iv) when appropriate, after receipt, promptly deliver such cash to or upon the order of the registered holder of such Right Certificate.

(d) Except as otherwise provided herein, in case the registered holder of any Right Certificate shall exercise less than all of the Rights evidenced thereby, a new Right Certificate evidencing Rights equivalent to the exercisable Rights remaining unexercised shall be issued by the Rights Agent to the registered holder of such Right Certificate or to his duly authorized assigns, subject to the provisions of Section 14 hereof.

(e) Notwithstanding anything in this Agreement to the contrary, neither the Rights Agent nor the Company shall be obligated to undertake any action with respect to a registered holder of Rights upon the occurrence of any purported transfer or exercise of Rights pursuant to Section 6 hereof or this Section 7 unless such registered holder shall

have (i) completed and signed the certificate contained in the form of assignment or form of election to purchase set forth on the reverse side of the Right Certificate surrendered for such transfer or exercise and (ii) provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) thereof as the Company shall reasonably request.

Section 8. Cancellation and Destruction of Right Certificates . All Right Certificates surrendered for the purpose of exercise, transfer, split up, combination or exchange shall, if surrendered to the Company or to any of its agents, be delivered to the Rights Agent for cancellation or in canceled form, or, if surrendered to the Rights Agent, shall be canceled by it, and no Right Certificates shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Agreement. The Company shall deliver to the Rights Agent for cancellation and retirement, and the Rights Agent shall so cancel and retire, any other Right Certificate purchased or acquired by the Company otherwise than upon the exercise thereof. The Rights Agent shall deliver all canceled Right Certificates to the Company, or shall, at the written request of the Company, destroy such canceled Right Certificates, and in such case shall deliver a certificate of destruction thereof to the Company.

Section 9. Availability of Shares of Preferred Stock .

(a) The Company covenants and agrees that it will cause to be reserved and kept available out of its authorized and unissued shares of Preferred Stock, or any shares of Preferred Stock held in its treasury, the number of shares of Preferred Stock that will be sufficient to permit the exercise in full of all outstanding Rights.

(b) So long as the shares of Preferred Stock issuable upon the exercise of Rights may be listed or admitted to trading on any national securities exchange, or quoted on NASDAQ, the Company shall use its best efforts to cause, from and after such time as the Rights become exercisable, all shares reserved for such issuance to be listed or admitted to trading on such exchange, or quoted on NASDAQ, upon official notice of issuance upon such exercise.

(c) From and after such time as the Rights become exercisable, the Company shall use its best efforts, if then necessary to permit the issuance of shares of Preferred Stock upon the exercise of Rights, to register and qualify such shares of Preferred Stock under the Securities Act and any applicable state securities or "Blue Sky" laws (to the extent exemptions therefrom are not available), cause such registration statement and qualifications to become effective as soon as possible after such filing and keep such registration and qualifications effective (with a prospectus at all times meeting the requirements of the Securities Act) until the earlier of the date as of which the Rights are no longer exercisable for such securities and the Expiration Date. The Company may temporarily suspend, for a period of time not to exceed 90 days, the exercisability of the Rights in order to prepare and file a registration statement under the Securities Act and permit it to become effective. Upon any such suspension, the Company shall issue a

public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. Notwithstanding any provision of this Agreement to the contrary, the Rights shall not be exercisable in any jurisdiction unless the requisite qualification in such jurisdiction shall have been obtained and until a registration statement under the Securities Act shall have been declared effective, unless an exemption therefrom is available.

(d) The Company covenants and agrees that it will take all such action as may be necessary to ensure that all shares of Preferred Stock delivered upon exercise of Rights shall, at the time of delivery of the certificates therefor (subject to payment of the Purchase Price), be duly and validly authorized and issued and fully paid and nonassessable shares.

(e) The Company further covenants and agrees that it will pay when due and payable any and all federal and state transfer taxes and charges which may be payable in respect of the issuance or delivery of the Right Certificates or of any shares of Preferred Stock upon the exercise of Rights. The Company shall not, however, be required to pay any transfer tax which may be payable in respect of any transfer or delivery of Right Certificates to a Person other than, or the issuance or delivery of certificates or depositary receipts for the Preferred Stock in a name other than that of, the registered holder of the Right Certificate evidencing Rights surrendered for exercise or to issue or deliver any certificates or depositary receipts for Preferred Stock upon the exercise of any Rights until any such tax shall have been paid (any such tax being payable by that holder of such Right Certificate at the time of surrender) or until it has been established to the Company's reasonable satisfaction that no such tax is due.

Section 10. Preferred Stock Record Date. Each Person in whose name any certificate for Preferred Stock is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of the shares of Preferred Stock represented thereby on, and such certificate shall be dated, the date upon which the Right Certificate evidencing such Rights was duly surrendered and payment of the Purchase Price (and any applicable transfer taxes) was made; provided, however, that if the date of such surrender and payment is a date upon which the Preferred Stock transfer books of the Company are closed, such Person shall be deemed to have become the record holder of such shares on, and such certificate shall be dated, the next succeeding Business Day on which the Preferred Stock transfer books of the Company are open. Prior to the exercise of the Rights evidenced thereby, the holder of a Right Certificate shall not be entitled to any rights of a holder of Preferred Stock for which the Rights shall be exercisable, including, without limitation, the right to vote or to receive dividends or other distributions, and shall not be entitled to receive any notice of any proceedings of the Company, except as provided herein.

Section 11. Adjustment of Purchase Price, Number and Kind of Shares and Number of Rights. The Purchase Price, the number of shares of Preferred Stock or other

securities or property purchasable upon exercise of each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 11.

(a)(i) In the event the Company shall at any time after the date of this Agreement (A) declare and pay a dividend on the Preferred Stock payable in shares of Preferred Stock, (B) subdivide the outstanding Preferred Stock, (C) combine the outstanding Preferred Stock into a smaller number of shares of Preferred Stock or (D) issue any shares of its capital stock in a reclassification of the Preferred Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), except as otherwise provided in this Section 11(a), the number and kind of shares of capital stock issuable upon exercise of a Right as of the record date for such dividend or the effective date of such subdivision, combination or reclassification shall be proportionately adjusted so that the holder of any Right exercised after such time shall be entitled to receive the aggregate number and kind of shares of capital stock which, if such Right had been exercised immediately prior to such date and at a time when the Preferred Stock transfer books of the Company were open, the holder would have owned upon such exercise and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification.

(ii) Subject to Section 24 of this Agreement, in the event any Person becomes an Acquiring Person (the first occurrence of such event being referred to hereinafter as the “Flip-In Event”), then (A) the Purchase Price shall be adjusted to be the Purchase Price in effect immediately prior to the Flip-In Event multiplied by the number of one one-hundredths of a share of Preferred Stock for which a Right was exercisable immediately prior to such Flip-In Event, whether or not such Right was then exercisable, and (B) each holder of a Right, except as otherwise provided in this Section 11(a)(ii) and Section 11(a)(iii) hereof, shall thereafter have the right to receive, upon exercise thereof at a price equal to the Purchase Price (as so adjusted), in accordance with the terms of this Agreement and in lieu of shares of Preferred Stock, such number of shares of Common Stock as shall equal the result obtained by dividing the Purchase Price (as so adjusted) by 50% of the current per share market price of the Common Stock (determined pursuant to Section 11(d) hereof) on the date of such Flip-In Event; provided, however, that the Purchase Price (as so adjusted) and the number of shares of Common Stock so receivable upon exercise of a Right shall, following the Flip-In Event, be subject to further adjustment as appropriate in accordance with Section 11(f) hereof. Notwithstanding anything in this Agreement to the contrary, however, from and after the Flip-In Event, any Rights that are beneficially owned by (x) any Acquiring Person (or any Affiliate or Associate of any Acquiring Person), (y) a transferee of any Acquiring Person (or any such Affiliate or Associate) who becomes a transferee after the Flip-In Event or (z) a transferee of any Acquiring Person (or any such Affiliate or Associate) who became a transferee prior to or concurrently with the Flip-In Event pursuant to either (I) a transfer from the Acquiring Person to holders of its equity securities or to any Person with whom it has any continuing agreement, arrangement or understanding regarding the transferred Rights or (II) a transfer which the Board of Directors of the Company has determined is part of a plan, arrangement or understanding which has the purpose or effect of avoiding the provisions of

this paragraph, and subsequent transferees of such Persons, shall be void without any further action and any holder of such Rights shall thereafter have no rights whatsoever with respect to such Rights under any provision of this Agreement. The Company shall use all reasonable efforts to ensure that the provisions of this Section 11(a)(ii) are complied with, but shall have no liability to any holder of Right Certificates or other Person as a result of its failure to make any determinations with respect to an Acquiring Person or its Affiliates, Associates or transferees hereunder. From and after the Flip-In Event, no Right Certificate shall be issued pursuant to Section 3 or Section 6 hereof that represents Rights that are or have become void pursuant to the provisions of this paragraph, and any Right Certificate delivered to the Rights Agent that represents Rights that are or have become void pursuant to the provisions of this paragraph shall be canceled. From and after the occurrence of an event specified in Section 13(a) hereof, any Rights that theretofore have not been exercised pursuant to this Section 11(a)(ii) shall thereafter be exercisable only in accordance with Section 13 and not pursuant to this Section 11(a)(ii).

(iii) The Company may at its option substitute for a share of Common Stock issuable upon the exercise of Rights in accordance with the foregoing subparagraph (ii) a number of shares of Preferred Stock or fraction thereof such that the current per share market price of one share of Preferred Stock multiplied by such number or fraction is equal to the current per share market price of one share of Common Stock. In the event that there shall not be sufficient shares of Common Stock issued but not outstanding or authorized but unissued to permit the exercise in full of the Rights in accordance with the foregoing subparagraph (ii), the Board of Directors of the Company shall, with respect to such deficiency, to the extent permitted by applicable law and any material agreements then in effect to which the Company is a party, (A) determine the excess (such excess, the "Spread") of (1) the value of the shares of Common Stock issuable upon the exercise of a Right in accordance with the foregoing subparagraph (ii) (the "Current Value") over (2) the Purchase Price (as adjusted in accordance with the foregoing subparagraph (ii)), and (B) with respect to each Right (other than Rights which have become void pursuant to the foregoing subparagraph (ii)), make adequate provision to substitute for the shares of Common Stock issuable in accordance with the foregoing subparagraph (ii) upon exercise of the Right and payment of the Purchase Price (as adjusted in accordance therewith), (1) cash, (2) a reduction in such Purchase Price, (3) shares of Preferred Stock or other equity securities of the Company (including, without limitation, shares or fractions of shares of preferred stock which, by virtue of having dividend, voting and liquidation rights substantially comparable to those of the shares of Common Stock, are deemed in good faith by the Board of Directors of the Company to have substantially the same value as the shares of Common Stock (such shares of Preferred Stock and shares or fractions of shares of preferred stock are hereinafter referred to as "Common Stock Equivalents")), (4) debt securities of the Company, (5) other assets, or (6) any combination of the foregoing, having a value which, when added to the value of the shares of Common Stock issued upon exercise of such Right, shall have an aggregate value equal to the Current Value (less the amount of any reduction in such Purchase Price), where such aggregate value has been determined by the Board of Directors of the Company upon the advice of a nationally recognized investment banking firm selected in good faith by the Board of Directors of the

Company; provided, however, that if the Company shall not make adequate provision to deliver value pursuant to clause (B) above within thirty (30) days following the Flip-In Event (the date of the Flip-In Event being the “Section 11(a)(ii) Trigger Date”), then the Company shall be obligated to deliver, to the extent permitted by applicable law and any material agreements then in effect to which the Company is a party, upon the surrender for exercise of a Right and without requiring payment of such Purchase Price, shares of Common Stock (to the extent available), and then, if necessary, such number or fractions of shares of Preferred Stock (to the extent available) and then, if necessary, cash, which shares and/or cash have an aggregate value equal to the Spread. If, upon the occurrence of the Flip-In Event, the Board of Directors of the Company shall determine in good faith that it is likely that sufficient additional shares of Common Stock could be authorized for issuance upon exercise in full of the Rights, then, if the Board of Directors of the Company so elects, the thirty (30) day period set forth above may be extended to the extent necessary, but not more than ninety (90) days after the Section 11(a)(ii) Trigger Date, in order that the Company may seek stockholder approval for the authorization of such additional shares (such thirty (30) day period, as it may be extended, is herein called the “Substitution Period”). To the extent that the Company determines that some action need be taken pursuant to the second and/or third sentence of this Section 11(a)(iii), the Company (x) shall provide, subject to Section 11(a)(ii) hereof and the last sentence of this Section 11(a)(iii) hereof, that such action shall apply uniformly to all outstanding Rights and (y) may suspend the exercisability of the Rights until the expiration of the Substitution Period in order to seek any authorization of additional shares and/or to decide the appropriate form of distribution to be made pursuant to such second sentence and to determine the value thereof. In the event of any such suspension, the Company shall issue a public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. For purposes of this Section 11(a)(iii), the value of the shares of Common Stock shall be the current per share market price (as determined pursuant to Section 11(d)(i)) on the Section 11(a)(ii) Trigger Date and the per share or fractional value of any “Common Stock Equivalent” shall be deemed to equal the current per share market price of the Common Stock. The Board of Directors of the Company may, but shall not be required to, establish procedures to allocate the right to receive shares of Common Stock upon the exercise of the Rights among holders of Rights pursuant to this Section 11(a)(iii).

(b) In case the Company shall fix a record date for the issuance of rights, options or warrants to all holders of Preferred Stock entitling them (for a period expiring within 45 calendar days after such record date) to subscribe for or purchase Preferred Stock (or shares having the same rights, privileges and preferences as the Preferred Stock (“Equivalent Preferred Shares”)) or securities convertible into Preferred Stock or Equivalent Preferred Shares at a price per share of Preferred Stock or Equivalent Preferred Shares (or having a conversion price per share, if a security convertible into shares of Preferred Stock or Equivalent Preferred Shares) less than the then current per share market price of the Preferred Stock (determined pursuant to Section 11(d) hereof) on such record date, the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a

fraction, the numerator of which shall be the number of shares of Preferred Stock and Equivalent Preferred Shares outstanding on such record date plus the number of shares of Preferred Stock and Equivalent Preferred Shares which the aggregate offering price of the total number of shares of Preferred Stock and/or Equivalent Preferred Shares so to be offered (and/or the aggregate initial conversion price of the convertible securities so to be offered) would purchase at such current market price, and the denominator of which shall be the number of shares of Preferred Stock and Equivalent Preferred Shares outstanding on such record date plus the number of additional shares of Preferred Stock and/or Equivalent Preferred Shares to be offered for subscription or purchase (or into which the convertible securities so to be offered are initially convertible); provided, however, that in no event shall the consideration to be paid upon the exercise of one Right be less than the aggregate par value of the shares of capital stock of the Company issuable upon exercise of one Right. In case such subscription price may be paid in a consideration part or all of which shall be in a form other than cash, the value of such consideration shall be as determined in good faith by the Board of Directors of the Company, whose determination shall be described in a statement filed with the Rights Agent. Shares of Preferred Stock and Equivalent Preferred Shares owned by or held for the account of the Company shall not be deemed outstanding for the purpose of any such computation. Such adjustment shall be made successively whenever such a record date is fixed; and in the event that such rights, options or warrants are not so issued, the Purchase Price shall be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(c) In case the Company shall fix a record date for the making of a distribution to all holders of the Preferred Stock (including any such distribution made in connection with a consolidation or merger in which the Company is the continuing or surviving corporation) of evidences of indebtedness or assets (other than a regular quarterly cash dividend or a dividend payable in Preferred Stock) or subscription rights or warrants (excluding those referred to in Section 11(b) hereof), the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the then current per share market price of the Preferred Stock (determined pursuant to Section 11(d) hereof) on such record date, less the fair market value (as determined in good faith by the Board of Directors of the Company whose determination shall be described in a statement filed with the Rights Agent) of the portion of the assets or evidences of indebtedness so to be distributed or of such subscription rights or warrants applicable to one share of Preferred Stock, and the denominator of which shall be such current per share market price (determined pursuant to Section 11(d) hereof) of the Preferred Stock; provided, however, that in no event shall the consideration to be paid upon the exercise of one Right be less than the aggregate par value of the shares of capital stock of the Company to be issued upon exercise of one Right. Such adjustments shall be made successively whenever such a record date is fixed; and in the event that such distribution is not so made, the Purchase Price shall again be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(d)(i) Except as otherwise provided herein, for the purpose of any computation hereunder, the “current per share market price” of any security (a “Security” for the purpose of this Section 11(d)(i)) on any date shall be deemed to be the average of the daily closing prices per share of such Security for the 30 consecutive Trading Days (as such term is hereinafter defined) immediately prior to such date; provided, however, that in the event that the current per share market price of the Security is determined during a period following the announcement by the issuer of such Security of (A) a dividend or distribution on such Security payable in shares of such Security or securities convertible into such shares, or (B) any subdivision, combination or reclassification of such Security, and prior to the expiration of 30 Trading Days after the ex-dividend date for such dividend or distribution, or the record date for such subdivision, combination or reclassification, then, and in each such case, the current per share market price shall be appropriately adjusted to reflect the current market price per share equivalent of such Security. The closing price for each day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported by the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the Security is not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Security is listed or admitted to trading or, if the Security is not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices on NASDAQ or in the over-the-counter market, as reported by NASDAQ or such other system then in use, or, if on any such date the Security is not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Security selected by the Board of Directors of the Company. The term “Trading Day” shall mean a day on which the principal national securities exchange on which the Security is listed or admitted to trading is open for the transaction of business or, if the Security is not listed or admitted to trading on any national securities exchange, a Business Day.

(ii) For the purpose of any computation hereunder, if the Preferred Stock is publicly traded, the “current per share market price” of the Preferred Stock shall be determined in accordance with the method set forth in Section 11(d)(i). If the Preferred Stock is not publicly traded but the Common Stock is publicly traded, the “current per share market price” of the Preferred Stock shall be conclusively deemed to be the current per share market price of the Common Stock as determined pursuant to Section 11(d)(i) multiplied by the then applicable Adjustment Number (as defined in and determined in accordance with the Certificate of Designation for the Preferred Stock). If neither the Common Stock nor the Preferred Stock is publicly traded, “current per share market price” shall mean the fair value per share as determined in good faith by the Board of Directors of the Company, whose determination shall be described in a statement filed with the Rights Agent.

(e) No adjustment in the Purchase Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Purchase Price; provided, however, that any adjustments which by reason of this Section 11(e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 11 shall be made to the nearest cent or to the nearest one hundred-thousandth of a share of Preferred Stock or one-hundredth of a share of Common Stock or other share or security as the case may be. Notwithstanding the first sentence of this Section 11(e), any adjustment required by this Section 11 shall be made no later than the earlier of (i) three years from the date of the transaction which requires such adjustment or (ii) the Expiration Date.

(f) If as a result of an adjustment made pursuant to Section 11(a) hereof, the holder of any Right thereafter exercised shall become entitled to receive any shares of capital stock of the Company other than the Preferred Stock, thereafter the Purchase Price and the number of such other shares so receivable upon exercise of a Right shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Preferred Stock contained in Sections 11(a), 11(b), 11(c), 11(e), 11(h), 11(i) and 11(m) hereof, as applicable, and the provisions of Sections 7, 9, 10, 13 and 14 hereof with respect to the Preferred Stock shall apply on like terms to any such other shares.

(g) All Rights originally issued by the Company subsequent to any adjustment made to the Purchase Price hereunder shall evidence the right to purchase, at the adjusted Purchase Price, the number of one one-hundredths of a share of Preferred Stock purchasable from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

(h) Unless the Company shall have exercised its election as provided in Section 11(i), upon each adjustment of the Purchase Price as a result of the calculations made in Sections 11(b) and 11(c), each Right outstanding immediately prior to the making of such adjustment shall thereafter evidence the right to purchase, at the adjusted Purchase Price, that number of one one-hundredths of a share of Preferred Stock (calculated to the nearest one hundred-thousandth of a share of Preferred Stock) obtained by (i) multiplying (x) the number of one one-hundredths of a share purchasable upon the exercise of a Right immediately prior to such adjustment by (y) the Purchase Price in effect immediately prior to such adjustment and (ii) dividing the product so obtained by the Purchase Price in effect immediately after such adjustment.

(i) The Company may elect on or after the date of any adjustment of the Purchase Price pursuant to Sections 11(b) or 11(c) hereof to adjust the number of Rights, in substitution for any adjustment in the number of one one-hundredths of a share of Preferred Stock purchasable upon the exercise of a Right. Each of the Rights outstanding after such adjustment of the number of Rights shall be exercisable for the number of one one-hundredths of a share of Preferred Stock for which a Right was exercisable immediately prior to such adjustment. Each Right held of record prior to such adjustment

of the number of Rights shall become that number of Rights (calculated to the nearest one-hundredth) obtained by dividing the Purchase Price in effect immediately prior to adjustment of the Purchase Price by the Purchase Price in effect immediately after adjustment of the Purchase Price. The Company shall make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. Such record date may be the date on which the Purchase Price is adjusted or any day thereafter, but, if the Right Certificates have been issued, shall be at least 10 days later than the date of the public announcement. If Right Certificates have been issued, upon each adjustment of the number of Rights pursuant to this Section 11(i), the Company may, as promptly as practicable, cause to be distributed to holders of record of Right Certificates on such record date Right Certificates evidencing, subject to Section 14 hereof, the additional Rights to which such holders shall be entitled as a result of such adjustment, or, at the option of the Company, shall cause to be distributed to such holders of record in substitution and replacement for the Right Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if required by the Company, new Right Certificates evidencing all the Rights to which such holders shall be entitled after such adjustment. Right Certificates so to be distributed shall be issued, executed and countersigned in the manner provided for herein and shall be registered in the names of the holders of record of Right Certificates on the record date specified in the public announcement.

(j) Irrespective of any adjustment or change in the Purchase Price or the number of one one-hundredths of a share of Preferred Stock issuable upon the exercise of a Right, the Right Certificates theretofore and thereafter issued may continue to express the Purchase Price and the number of one one-hundredths of a share of Preferred Stock which were expressed in the initial Right Certificates issued hereunder.

(k) Before taking any action that would cause an adjustment reducing the Purchase Price below the then par value, if any, of the fraction of Preferred Stock or other shares of capital stock issuable upon exercise of a Right, the Company shall take any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable shares of Preferred Stock or other such shares at such adjusted Purchase Price.

(l) In any case in which this Section 11 shall require that an adjustment in the Purchase Price be made effective as of a record date for a specified event, the Company may elect to defer until the occurrence of such event issuing to the holder of any Right exercised after such record date the Preferred Stock and other capital stock or securities of the Company, if any, issuable upon such exercise over and above the Preferred Stock and other capital stock or securities of the Company, if any, issuable upon such exercise on the basis of the Purchase Price in effect prior to such adjustment; provided, however, that the Company shall deliver to such holder a due bill or other appropriate instrument evidencing such holder's right to receive such additional shares upon the occurrence of the event requiring such adjustment.

(m) Anything in this Section 11 to the contrary notwithstanding, the Company shall be entitled to make such adjustments in the Purchase Price, in addition to those adjustments expressly required by this Section 11, as and to the extent that it in its sole discretion shall determine to be advisable in order that any consolidation or subdivision of the Preferred Stock, issuance wholly for cash of any shares of Preferred Stock at less than the current market price, issuance wholly for cash of Preferred Stock or securities which by their terms are convertible into or exchangeable for Preferred Stock, dividends on Preferred Stock payable in shares of Preferred Stock or issuance of rights, options or warrants referred to hereinabove in Section 11(b), hereafter made by the Company to holders of its Preferred Stock shall not be taxable to such holders.

(n) Anything in this Agreement to the contrary notwithstanding, in the event that at any time after the date of this Agreement and prior to the Distribution Date, the Company shall (i) declare and pay any dividend on the Common Stock payable in Common Stock or (ii) effect a subdivision, combination or consolidation of the Common Stock (by reclassification or otherwise than by payment of a dividend payable in Common Stock) into a greater or lesser number of shares of Common Stock, then, in each such case, the number of Rights associated with each share of Common Stock then outstanding, or issued or delivered thereafter, shall be proportionately adjusted so that the number of Rights thereafter associated with each share of Common Stock following any such event shall equal the result obtained by multiplying the number of Rights associated with each share of Common Stock immediately prior to such event by a fraction the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to the occurrence of the event and the denominator of which shall be the total number of shares of Common Stock outstanding immediately following the occurrence of such event.

(o) The Company agrees that, after the earlier of the Distribution Date or the Shares Acquisition Date, it will not, except as permitted by Sections 23, 24 or 27 hereof, take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or eliminate the benefits intended to be afforded by the Rights.

Section 12. Certificate of Adjusted Purchase Price or Number of Shares. Whenever an adjustment is made as provided in Section 11 or 13 hereof, the Company shall promptly (a) prepare a certificate setting forth such adjustment, and a brief statement of the facts accounting for such adjustment, (b) file with the Rights Agent and with each transfer agent for the Common Stock and the Preferred Stock a copy of such certificate and (c) mail a brief summary thereof to each holder of a Right Certificate in accordance with Section 25 hereof (if so required under Section 25 hereof). The Rights Agent shall be fully protected in relying on any such certificate and on any adjustment therein contained and shall not be deemed to have knowledge of any such adjustment unless and until it shall have received such certificate.

Section 13. Consolidation, Merger or Sale or Transfer of Assets or Earning Power.

(a) In the event, directly or indirectly, at any time after the Flip-In Event (i) the Company shall consolidate with or shall merge into any other Person, (ii) any Person shall merge with and into the Company and the Company shall be the continuing or surviving corporation of such merger and, in connection with such merger, all or part of the Common Stock shall be changed into or exchanged for stock or other securities of any other Person (or of the Company) or cash or any other property, or (iii) the Company shall sell or otherwise transfer (or one or more of its Subsidiaries shall sell or otherwise transfer), in one or more transactions, assets or earning power aggregating 50% or more of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person (other than the Company or one or more wholly-owned Subsidiaries of the Company), then upon the first occurrence of such event, proper provision shall be made so that: (A) each holder of a Right (other than Rights which have become void pursuant to Section 11(a)(ii) hereof) shall thereafter have the right to receive, upon the exercise thereof at the Purchase Price (as theretofore adjusted in accordance with Section 11(a)(ii) hereof), in accordance with the terms of this Agreement and in lieu of shares of Preferred Stock or Common Stock of the Company, such number of validly authorized and issued, fully paid, non-assessable and freely tradeable shares of Common Stock of the Principal Party (as such term is hereinafter defined), not subject to any liens, encumbrances, rights of first refusal or other adverse claims, as shall equal the result obtained by dividing the Purchase Price (as theretofore adjusted in accordance with Section 11(a)(ii) hereof) by 50% of the current per share market price of the Common Stock of such Principal Party (determined pursuant to Section 11(d) hereof) on the date of consummation of such consolidation, merger, sale or transfer; provided, however, that the Purchase Price (as theretofore adjusted in accordance with Section 11(a)(ii) hereof) and the number of shares of Common Stock of such Principal Party so receivable upon exercise of a Right shall be subject to further adjustment as appropriate in accordance with Section 11(f) hereof to reflect any events occurring in respect of the Common Stock of such Principal Party after the occurrence of such consolidation, merger, sale or transfer; (B) such Principal Party shall thereafter be liable for, and shall assume, by virtue of such consolidation, merger, sale or transfer, all the obligations and duties of the Company pursuant to this Agreement; (C) the term "Company" shall thereafter be deemed to refer to such Principal Party; and (D) such Principal Party shall take such steps (including, but not limited to, the reservation of a sufficient number of its shares of Common Stock in accordance with Section 9 hereof) in connection with such consummation of any such transaction as may be necessary to assure that the provisions hereof shall thereafter be applicable, as nearly as reasonably may be, in relation to the shares of its Common Stock thereafter deliverable upon the exercise of the Rights; provided that, upon the subsequent occurrence of any consolidation, merger, sale or transfer of assets or other extraordinary transaction in respect of such Principal Party, each holder of a Right shall thereupon be entitled to receive, upon exercise of a Right and payment of the Purchase Price as provided in this Section 13(a), such cash, shares, rights, warrants and other property which such holder would have been entitled to receive had such holder, at the time of such transaction, owned the Common Stock of the Principal

Party receivable upon the exercise of a Right pursuant to this Section 13(a), and such Principal Party shall take such steps (including, but not limited to, reservation of shares of stock) as may be necessary to permit the subsequent exercise of the Rights in accordance with the terms hereof for such cash, shares, rights, warrants and other property.

(b) "Principal Party" shall mean:

(i) in the case of any transaction described in (i) or (ii) of the first sentence of Section 13(a) hereof: (A) the Person that is the issuer of the securities into which the shares of Common Stock are converted in such merger or consolidation, or, if there is more than one such issuer, the issuer the shares of Common Stock of which have the greatest aggregate market value of shares outstanding, or (B) if no securities are so issued, (x) the Person that is the other party to the merger, if such Person survives said merger, or, if there is more than one such Person, the Person the shares of Common Stock of which have the greatest aggregate market value of shares outstanding or (y) if the Person that is the other party to the merger does not survive the merger, the Person that does survive the merger (including the Company if it survives) or (z) the Person resulting from the consolidation; and

(ii) in the case of any transaction described in (iii) of the first sentence of Section 13(a) hereof, the Person that is the party receiving the greatest portion of the assets or earning power transferred pursuant to such transaction or transactions, or, if each Person that is a party to such transaction or transactions receives the same portion of the assets or earning power so transferred or if the Person receiving the greatest portion of the assets or earning power cannot be determined, whichever of such Persons is the issuer of Common Stock having the greatest aggregate market value of shares outstanding;

provided, however, that in any such case described in the foregoing clause (b)(i) or (b)(ii), if the Common Stock of such Person is not at such time or has not been continuously over the preceding 12-month period registered under Section 12 of the Exchange Act, then (1) if such Person is a direct or indirect Subsidiary of another Person the Common Stock of which is and has been so registered, the term "Principal Party" shall refer to such other Person, or (2) if such Person is a Subsidiary, directly or indirectly, of more than one Person, the Common Stock of all of which is and has been so registered, the term "Principal Party" shall refer to whichever of such Persons is the issuer of Common Stock having the greatest aggregate market value of shares outstanding, or (3) if such Person is owned, directly or indirectly, by a joint venture formed by two or more Persons that are not owned, directly or indirectly, by the same Person, the rules set forth in clauses (1) and (2) above shall apply to each of the owners having an interest in the venture as if the Person owned by the joint venture was a Subsidiary of both or all of such joint venturers, and the Principal Party in each such case shall bear the obligations set forth in this Section 13 in the same ratio as its interest in such Person bears to the total of such interests.

(c) The Company shall not consummate any consolidation, merger, sale or transfer referred to in Section 13(a) hereof unless prior thereto the Company and the

Principal Party involved therein shall have executed and delivered to the Rights Agent an agreement confirming that the requirements of Sections 13(a) and (b) hereof shall promptly be performed in accordance with their terms and that such consolidation, merger, sale or transfer of assets shall not result in a default by the Principal Party under this Agreement as the same shall have been assumed by the Principal Party pursuant to Sections 13(a) and (b) hereof and providing that, as soon as practicable after executing such agreement pursuant to this Section 13, the Principal Party will:

- (i) prepare and file a registration statement under the Securities Act, if necessary, with respect to the Rights and the securities purchasable upon exercise of the Rights on an appropriate form, use its best efforts to cause such registration statement to become effective as soon as practicable after such filing and use its best efforts to cause such registration statement to remain effective (with a prospectus at all times meeting the requirements of the Securities Act) until the Expiration Date and similarly comply with applicable state securities laws;
 - (ii) use its best efforts, if the Common Stock of the Principal Party shall be listed or admitted to trading on the New York Stock Exchange or on another national securities exchange, to list or admit to trading (or continue the listing of) the Rights and the securities purchasable upon exercise of the Rights on the New York Stock Exchange or such securities exchange, or, if the Common Stock of the Principal Party shall not be listed or admitted to trading on the New York Stock Exchange or a national securities exchange, to cause the Rights and the securities receivable upon exercise of the Rights to be authorized for quotation on NASDAQ or on such other system then in use;
 - (iii) deliver to holders of the Rights historical financial statements for the Principal Party which comply in all respects with the requirements for registration on Form 10 (or any successor form) under the Exchange Act; and
 - (iv) obtain waivers of any rights of first refusal or preemptive rights in respect of the Common Stock of the Principal Party subject to purchase upon exercise of outstanding Rights.
- (d) In case the Principal Party has a provision in any of its authorized securities or in its certificate of incorporation or by-laws or any other instrument governing its affairs, which provision would have the effect of (i) causing such Principal Party to issue (other than to holders of Rights pursuant to this Section 13), in connection with, or as a consequence of, the consummation of a transaction referred to in this Section 13, shares of Common Stock or Common Stock Equivalents of such Principal Party at less than the then current market price per share thereof (determined pursuant to Section 11(d) hereof) or securities exercisable for, or convertible into, Common Stock or Common Stock Equivalents of such Principal Party at less than such then current market price, or (ii) providing for any special payment, tax or similar provision in connection with the issuance of the Common Stock of such Principal Party pursuant to the provisions of Section 13, then, in such event, the Company hereby agrees with each holder of Rights that it shall not

consummate any such transaction unless prior thereto the Company and such Principal Party shall have executed and delivered to the Rights Agent a supplemental agreement providing that the provision in question of such Principal Party shall have been canceled, waived or amended, or that the authorized securities shall be redeemed, so that the applicable provision will have no effect in connection with, or as a consequence of, the consummation of the proposed transaction.

(e) The Company covenants and agrees that it shall not, at any time after the Flip-In Event, enter into any transaction of the type described in clauses (i) through (iii) of Section 13(a) hereof if (i) at the time of or immediately after such consolidation, merger, sale, transfer or other transaction there are any rights, warrants or other instruments or securities outstanding or agreements in effect which would substantially diminish or otherwise eliminate the benefits intended to be afforded by the Rights, (ii) prior to, simultaneously with or immediately after such consolidation, merger, sale, transfer or other transaction, the stockholders of the Person who constitutes, or would constitute, the Principal Party for purposes of Section 13(b) hereof shall have received a distribution of Rights previously owned by such Person or any of its Affiliates or Associates or (iii) the form or nature of organization of the Principal Party would preclude or limit the exercisability of the Rights.

Section 14. Fractional Rights and Fractional Shares .

(a) The Company shall not be required to issue fractions of Rights (except prior to the Distribution Date in accordance with Section 11(n) hereof) or to distribute Right Certificates which evidence fractional Rights. In lieu of such fractional Rights, there shall be paid to the registered holders of the Right Certificates with regard to which such fractional Rights would otherwise be issuable, an amount in cash equal to the same fraction of the current market value of a whole Right. For the purposes of this Section 14(a), the current market value of a whole Right shall be the closing price of the Rights for the Trading Day immediately prior to the date on which such fractional Rights would have been otherwise issuable. The closing price for any day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the Rights are not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Rights are listed or admitted to trading or, if the Rights are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices on NASDAQ or in the over-the-counter market, as reported by NASDAQ or such other system then in use or, if on any such date the Rights are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Rights selected by the Board of Directors of the Company. If on any such date no such market

maker is making a market in the Rights, the fair value of the Rights on such date as determined in good faith by the Board of Directors of the Company shall be used.

(b) The Company shall not be required to issue fractions of Preferred Stock (other than fractions which are integral multiples of one one-hundredth of a share of Preferred Stock) or to distribute certificates which evidence fractional shares of Preferred Stock (other than fractions which are integral multiples of one one-hundredth of a share of Preferred Stock) upon the exercise or exchange of Rights. Interests in fractions of Preferred Stock in integral multiples of one one-hundredth of a share of Preferred Stock may, at the election of the Company, be evidenced by depositary receipts, pursuant to an appropriate agreement between the Company and a depositary selected by it; provided that such agreement shall provide that the holders of such depositary receipts shall have all the rights, privileges and preferences to which they are entitled as beneficial owners of the Preferred Stock represented by such depositary receipts. In lieu of fractional shares of Preferred Stock that are not integral multiples of one one-hundredth of a share of Preferred Stock, the Company shall pay to the registered holders of Right Certificates at the time such Rights are exercised or exchanged as herein provided an amount in cash equal to the same fraction of the current market value of a whole share of Preferred Stock (as determined in accordance with Section 14(a) hereof) for the Trading Day immediately prior to the date of such exercise or exchange.

(c) The Company shall not be required to issue fractions of shares of Common Stock or to distribute certificates which evidence fractional shares of Common Stock upon the exercise or exchange of Rights. In lieu of such fractional shares of Common Stock, the Company shall pay to the registered holders of the Right Certificates with regard to which such fractional shares of Common Stock would otherwise be issuable an amount in cash equal to the same fraction of the current market value of a whole share of Common Stock (as determined in accordance with Section 14(a) hereof) for the Trading Day immediately prior to the date of such exercise or exchange.

(d) The holder of a Right by the acceptance of the Right expressly waives his right to receive any fractional Rights or any fractional shares upon exercise or exchange of a Right (except as provided above).

Section 15. Rights of Action. All rights of action in respect of this Agreement, excepting the rights of action given to the Rights Agent under Section 18 hereof, are vested in the respective registered holders of the Right Certificates (and, prior to the Distribution Date, the registered holders of the Common Stock); and any registered holder of any Right Certificate (or, prior to the Distribution Date, of the Common Stock), without the consent of the Rights Agent or of the holder of any other Right Certificate (or, prior to the Distribution Date, of the Common Stock), on his own behalf and for his own benefit, may enforce, and may institute and maintain any suit, action or proceeding against the Company to enforce, or otherwise act in respect of, his right to exercise the Rights evidenced by such Right Certificate (or, prior to the Distribution Date, such Common Stock) in the manner provided therein and in this Agreement. Without limiting the

foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of, the obligations of any Person subject to this Agreement.

Section 16. Agreement of Right Holders. Every holder of a Right, by accepting the same, consents and agrees with the Company and the Rights Agent and with every other holder of a Right that:

- (a) prior to the Distribution Date, the Rights will be transferable only in connection with the transfer of the Common Stock;
- (b) after the Distribution Date, the Right Certificates are transferable only on the registry books of the Rights Agent if surrendered at the office or agency of the Rights Agent designated for such purpose, duly endorsed or accompanied by a proper instrument of transfer; and
- (c) the Company and the Rights Agent may deem and treat the Person in whose name the Right Certificate (or, prior to the Distribution Date, the Common Stock certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on the Right Certificates or the Common Stock certificate made by anyone other than the Company or the Rights Agent) for all purposes whatsoever, and neither the Company nor the Rights Agent, subject to Section 7(e) hereof, shall be affected by any notice to the contrary.

Section 17. Right Certificate Holder Not Deemed a Stockholder. No holder, as such, of any Right Certificate shall be entitled to vote, receive dividends or be deemed for any purpose the holder of the Preferred Stock or any other securities of the Company which may at any time be issuable on the exercise or exchange of the Rights represented thereby, nor shall anything contained herein or in any Right Certificate be construed to confer upon the holder of any Right Certificate, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in this Agreement), or to receive dividends or subscription rights, or otherwise, until the Rights evidenced by such Right Certificate shall have been exercised or exchanged in accordance with the provisions hereof.

Section 18. Concerning the Rights Agent.

- (a) The Company agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and counsel fees and other disbursements incurred in the administration and execution of this Agreement and the exercise and performance of its

duties hereunder. The Company also agrees to indemnify the Rights Agent for, and to hold it harmless against, any loss, liability or expense, incurred without gross negligence or willful misconduct on the part of the Rights Agent, for anything done or omitted by the Rights Agent in connection with the acceptance and administration of this Agreement, including the costs and expenses of defending against any claim of liability arising therefrom, directly or indirectly.

(b) The Rights Agent shall be protected and shall incur no liability for, or in respect of any action taken, suffered or omitted by it in connection with, its administration of this Agreement in reliance upon any Right Certificate or certificate for the Preferred Stock or Common Stock or for other securities of the Company, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons, or otherwise upon the advice of counsel as set forth in Section 20 hereof.

Section 19. Merger or Consolidation or Change of Name of Rights Agent .

(a) Any corporation into which the Rights Agent or any successor Rights Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Rights Agent or any successor Rights Agent shall be a party, or any corporation succeeding to the stock transfer or corporate trust powers of the Rights Agent or any successor Rights Agent, shall be the successor to the Rights Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided that such corporation would be eligible for appointment as a successor Rights Agent under the provisions of Section 21 hereof. In case at the time such successor Rights Agent shall succeed to the agency created by this Agreement, any of the Right Certificates shall have been countersigned but not delivered, any such successor Rights Agent may adopt the countersignature of the predecessor Rights Agent and deliver such Right Certificates so countersigned; and in case at that time any of the Right Certificates shall not have been countersigned, any successor Rights Agent may countersign such Right Certificates either in the name of the predecessor Rights Agent or in the name of the successor Rights Agent; and in all such cases such Right Certificates shall have the full force provided in the Right Certificates and in this Agreement.

(b) In case at any time the name of the Rights Agent shall be changed and at such time any of the Right Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Right Certificates so countersigned; and in case at that time any of the Right Certificates shall not have been countersigned, the Rights Agent may countersign such Right Certificates either in its prior name or in its changed name and in all such cases such Right Certificates shall have the full force provided in the Right Certificates and in this Agreement.

Section 20. Duties of Rights Agent. The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, by all of which the Company and the holders of Right Certificates, by their acceptance thereof, shall be bound:

(a) The Rights Agent may consult with legal counsel (who may be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion.

(b) Whenever in the performance of its duties under this Agreement the Rights Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by the President and the Secretary of the Company and delivered to the Rights Agent; and such certificate shall be full authorization to the Rights Agent for any action taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate.

(c) The Rights Agent shall be liable hereunder to the Company and any other Person only for its own gross negligence or willful misconduct; provided, however, that the Rights Agent shall not be liable for special, consequential, punitive or indirect damages.

(d) The Rights Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the Right Certificates (except its countersignature thereof) or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(e) The Rights Agent shall not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution hereof by the Rights Agent) or in respect of the validity or execution of any Right Certificate (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Right Certificate; nor shall it be responsible for any change in the exercisability of the Rights (including the Rights becoming void pursuant to Section 11(a)(ii) hereof) or any adjustment in the terms of the Rights provided for in Sections 3, 11, 13, 23 and 24, or the ascertaining of the existence of facts that would require any such change or adjustment (except with respect to the exercise of Rights evidenced by Right Certificates after receipt of a certificate furnished pursuant to Section 12, describing such change or adjustment); nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any shares of Preferred Stock or other securities to be issued pursuant to this Agreement or any Right Certificate or as to whether any shares of Preferred Stock or other securities will, when issued, be validly authorized and issued, fully paid and nonassessable.

(f) The Company agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement.

(g) The Rights Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from any person reasonably believed by the Rights Agent to be one of the President or the Secretary of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered by it in good faith in accordance with instructions of any such officer or for any delay in acting while waiting for those instructions. Any application by the Rights Agent for written instructions from the Company may, at the option of the Rights Agent, set forth in writing any action proposed to be taken or omitted by the Rights Agent under this Agreement and the date on and/or after which such action shall be taken or such omission shall be effective. The Rights Agent shall not be liable for any action taken by, or omission of, the Rights Agent in accordance with a proposal included in any such application on or after the date specified in such application (which date shall not be less than five Business Days after the date any officer of the Company actually receives such application unless any such officer shall have consented in writing to an earlier date) unless, prior to taking any such action (or the effective date in the case of an omission), the Rights Agent shall have received written instructions in response to such application specifying the action to be taken or omitted.

(h) The Rights Agent and any stockholder, director, officer or employee of the Rights Agent may buy, sell or deal in any of the Rights or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Rights Agent under this Agreement. Nothing herein shall preclude the Rights Agent from acting in any other capacity for the Company or for any other legal entity.

(i) The Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys or agents or for any loss to the Company resulting from any such act, default, neglect or misconduct, provided reasonable care was exercised in the selection and continued employment thereof.

(j) If, with respect to any Rights Certificate surrendered to the Rights Agent for exercise or transfer, the certificate contained in the form of assignment or the form of election to purchase set forth on the reverse thereof, as the case may be, has not been completed to certify the holder is not an Acquiring Person (or an Affiliate or Associate thereof) or a transferee thereof, the Rights Agent shall not take any further action

with respect to such requested exercise or transfer without first consulting with the Company.

Section 21. Change of Rights Agent . The Rights Agent or any successor Rights Agent may resign and be discharged from its duties under this Agreement upon 30 days' notice in writing mailed to the Company and to each transfer agent of the Common Stock or Preferred Stock by registered or certified mail, and, following the Distribution Date, to the holders of the Right Certificates by first-class mail. The Company may remove the Rights Agent or any successor Rights Agent upon 30 days' notice in writing, mailed to the Rights Agent or successor Rights Agent, as the case may be, and to each transfer agent of the Common Stock or Preferred Stock by registered or certified mail, and, following the Distribution Date, to the holders of the Right Certificates by first-class mail. If the Rights Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Rights Agent. If the Company shall fail to make such appointment within a period of 30 days after giving notice of such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent or by the holder of a Right Certificate (who shall, with such notice, submit his Right Certificate for inspection by the Company), then the registered holder of any Right Certificate may apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Company or by such a court, shall be a corporation organized and doing business under the laws of the United States or the laws of any state of the United States or the District of Columbia, in good standing, having an office in the State of Illinois or the State of New York, which is authorized under such laws to exercise corporate trust or stock transfer powers and is subject to supervision or examination by federal or state authority and which has at the time of its appointment as Rights Agent a combined capital and surplus of at least \$50 million. After appointment, the successor Rights Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Company shall file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Common Stock or Preferred Stock, and, following the Distribution Date, mail a notice thereof in writing to the registered holders of the Right Certificates. Failure to give any notice provided for in this Section 21, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent, as the case may be.

Section 22. Issuance of New Right Certificates . Notwithstanding any of the provisions of this Agreement or of the Rights to the contrary, the Company may, at its option, issue new Right Certificates evidencing Rights in such forms as may be approved by its Board of Directors to reflect any adjustment or change in the Purchase Price and the number or kind or class of shares or other securities or property purchasable under the Right Certificates made in accordance with the provisions of this Agreement. In addition,

in connection with the issuance or sale of Common Stock following the Distribution Date and prior to the Expiration Date, the Company may with respect to shares of Common Stock so issued or sold pursuant to (i) the exercise of stock options, (ii) under any employee plan or arrangement, (iii) upon the exercise, conversion or exchange of securities, notes or debentures issued by the Company or (iv) a contractual obligation of the Company, in each case existing prior to the Distribution Date, issue Rights Certificates representing the appropriate number of Rights in connection with such issuance or sale.

Section 23. Redemption.

(a) The Board of Directors of the Company may, at any time prior to the Flip-In Event, redeem all but not less than all the then outstanding Rights at a redemption price of \$.01 per Right, appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring in respect of the Common Stock after the date hereof (the redemption price being hereinafter referred to as the "Redemption Price"). The redemption of the Rights may be made effective at such time, on such basis and with such conditions as the Board of Directors of the Company in its sole discretion may establish. The Redemption Price shall be payable, at the option of the Company, in cash, shares of Common Stock, or such other form of consideration as the Board of Directors of the Company shall determine.

(b) Immediately upon the action of the Board of Directors of the Company ordering the redemption of the Rights pursuant to paragraph (a) of this Section 23 (or at such later time as the Board of Directors of the Company may establish for the effectiveness of such redemption), and without any further action and without any notice, the right to exercise the Rights will terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price. The Company shall promptly give public notice of any such redemption; provided, however, that the failure to give, or any defect in, any such notice shall not affect the validity of such redemption. Within 10 days after such action of the Board of Directors of the Company ordering the redemption of the Rights (or such later time as the Board of Directors of the Company may establish for the effectiveness of such redemption), the Company shall mail a notice of redemption to all the holders of the then outstanding Rights at their last addresses as they appear upon the registry books of the Rights Agent or, prior to the Distribution Date, on the registry books of the transfer agent for the Common Stock. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption shall state the method by which the payment of the Redemption Price will be made.

Section 24. Exchange.

(a) The Board of Directors of the Company may, at its option, at any time after the Flip-In Event, exchange all or part of the then outstanding and exercisable Rights (which shall not include Rights that have become void pursuant to the provisions of Section 11(a)(ii) hereof) for Common Stock at an exchange ratio of one share of Common

Stock per Right, appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring in respect of the Common Stock after the date hereof (such amount per Right being hereinafter referred to as the "Exchange Ratio"). Notwithstanding the foregoing, the Board of Directors of the Company shall not be empowered to effect such exchange at any time after an Acquiring Person shall have become the Beneficial Owner of shares of Common Stock aggregating 50% or more of the shares of Common Stock then outstanding. From and after the occurrence of an event specified in Section 13(a) hereof, any Rights that theretofore have not been exchanged pursuant to this Section 24(a) shall thereafter be exercisable only in accordance with Section 13 and may not be exchanged pursuant to this Section 24(a). The exchange of the Rights by the Board of Directors of the Company may be made effective at such time, on such basis and with such conditions as the Board of Directors of the Company in its sole discretion may establish.

(b) Immediately upon the effectiveness of the action of the Board of Directors of the Company ordering the exchange of any Rights pursuant to paragraph (a) of this Section 24 and without any further action and without any notice, the right to exercise such Rights shall terminate and the only right thereafter of a holder of such Rights shall be to receive that number of shares of Common Stock equal to the number of such Rights held by such holder multiplied by the Exchange Ratio. The Company shall promptly give public notice of any such exchange; provided, however, that the failure to give, or any defect in, such notice shall not affect the validity of such exchange. The Company shall promptly mail a notice of any such exchange to all of the holders of the Rights so exchanged at their last addresses as they appear upon the registry books of the Rights Agent. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of exchange will state the method by which the exchange of the shares of Common Stock for Rights will be effected and, in the event of any partial exchange, the number of Rights which will be exchanged. Any partial exchange shall be effected pro rata based on the number of Rights (other than Rights which have become void pursuant to the provisions of Section 11(a)(ii) hereof) held by each holder of Rights.

(c) The Company may at its option substitute, and, in the event that there shall not be sufficient shares of Common Stock issued but not outstanding or authorized but unissued to permit an exchange of Rights for Common Stock as contemplated in accordance with this Section 24, the Company shall substitute to the extent of such insufficiency, for each share of Common Stock that would otherwise be issuable upon exchange of a Right, a number of shares of Preferred Stock or fraction thereof (or Equivalent Preferred Shares, as such term is defined in Section 11(b)) such that the current per share market price (determined pursuant to Section 11(d) hereof) of one share of Preferred Stock (or Equivalent Preferred Share) multiplied by such number or fraction is equal to the current per share market price of one share of Common Stock (determined pursuant to Section 11(d) hereof) as of the date of such exchange.

Section 25. Notice of Certain Events .

(a) In case the Company shall at any time after the earlier of the Distribution Date or the Shares Acquisition Date propose (i) to pay any dividend payable in stock of any class to the holders of its Preferred Stock or to make any other distribution to the holders of its Preferred Stock (other than a regular quarterly cash dividend), (ii) to offer to the holders of its Preferred Stock rights or warrants to subscribe for or to purchase any additional shares of Preferred Stock or shares of stock of any class or any other securities, rights or options, (iii) to effect any reclassification of its Preferred Stock (other than a reclassification involving only the subdivision or combination of outstanding Preferred Stock), (iv) to effect the liquidation, dissolution or winding up of the Company, or (v) to pay any dividend on the Common Stock payable in Common Stock or to effect a subdivision, combination or consolidation of the Common Stock (by reclassification or otherwise than by payment of dividends in Common Stock), then, in each such case, the Company shall give to each holder of a Right Certificate, in accordance with Section 26 hereof, a notice of such proposed action, which shall specify the record date for the purposes of such dividend or distribution or offering of rights or warrants, or the date on which such liquidation, dissolution, winding up, reclassification, subdivision, combination or consolidation is to take place and the date of participation therein by the holders of the Common Stock and/or Preferred Stock, if any such date is to be fixed, and such notice shall be so given in the case of any action covered by clause (i) or (ii) above at least 10 days prior to the record date for determining holders of the Preferred Stock for purposes of such action, and in the case of any such other action, at least 10 days prior to the date of the taking of such proposed action or the date of participation therein by the holders of the Common Stock and/or Preferred Stock, whichever shall be the earlier.

(b) In case any event described in Section 11(a)(ii) or Section 13 shall occur then the Company shall as soon as practicable thereafter give to each holder of a Right Certificate (or if occurring prior to the Distribution Date, the holders of the Common Stock) in accordance with Section 26 hereof, a notice of the occurrence of such event, which notice shall describe such event and the consequences of such event to holders of Rights under Section 11(a)(ii) and Section 13 hereof.

Section 26. Notices. Notices or demands authorized by this Agreement to be given or made by the Rights Agent or by the holder of any Right Certificate to or on the Company shall be sufficiently given or made if sent by first-class mail, postage prepaid, addressed (until another address is filed in writing with the Rights Agent) as follows:

TreeHouse Foods, Inc.
1333 Butterfield Road
Suite 490
Downers Grove, IL 60545
Attention: General Counsel

Subject to the provisions of Section 21 hereof, any notice or demand authorized by this Agreement to be given or made by the Company or by the holder of any Right Certificate to or on the Rights Agent shall be sufficiently given or made if sent by first-class mail,

postage prepaid, addressed (until another address is filed in writing with the Company) as follows:

The Bank of New York
101 Barclay Street
New York, New York 10286
Attention: General Counsel

Notices or demands authorized by this Agreement to be given or made by the Company or the Rights Agent to the holder of any Right Certificate shall be sufficiently given or made if sent by first-class mail, postage prepaid, addressed to such holder at the address of such holder as shown on the registry books of the Company.

Section 27. Supplements and Amendments. Except as provided in the penultimate sentence of this Section 27, for so long as the Rights are then redeemable, the Company may in its sole and absolute discretion, and the Rights Agent shall if the Company so directs, supplement or amend any provision of this Agreement in any respect without the approval of any holders of the Rights. At any time when the Rights are no longer redeemable, except as provided in the penultimate sentence of this Section 27, the Company may, and the Rights Agent shall, if the Company so directs, supplement or amend this Agreement without the approval of any holders of Rights, provided that no such supplement or amendment may (a) adversely affect the interests of the holders of Rights as such (other than an Acquiring Person or an Affiliate or Associate of an Acquiring Person), (b) cause this Agreement again to become amendable other than in accordance with this sentence or (c) cause the Rights again to become redeemable. Notwithstanding anything contained in this Agreement to the contrary, no supplement or amendment shall be made which changes the Redemption Price. Upon the delivery of a certificate from an appropriate officer of the Company which states that the supplement or amendment is in compliance with the terms of this Section 27, the Rights Agent shall execute such supplement or amendment, provided that any supplement or amendment that does not amend Sections 18, 19, 20 or 21 hereof or this Section 27 in a manner adverse to the Rights Agent shall become effective immediately upon execution by the Company, whether or not also executed by the Rights Agent.

Section 28. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Rights Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

Section 29. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any Person other than the Company, the Rights Agent and the registered holders of the Right Certificates (and, prior to the Distribution Date, the Common Stock) any legal or equitable right, remedy or claim under this Agreement; but this Agreement shall be for the sole and exclusive benefit of the Company, the Rights Agent and the registered holders of the Right Certificates (and, prior to the Distribution Date, the Common Stock).

Section 30. Determinations and Actions by the Board of Directors . The Board of Directors of the Company shall have the exclusive power and authority to administer this Agreement and to exercise the rights and powers specifically granted to the Board of Directors of the Company or to the Company, or as may be necessary or advisable in the administration of this Agreement, including, without limitation, the right and power to (i) interpret the provisions of this Agreement and (ii) make all determinations deemed necessary or advisable for the administration of this Agreement (including, without limitation, a determination to redeem or not redeem the Rights or to amend or not amend this Agreement). All such actions, calculations, interpretations and determinations that are done or made by the Board of Directors of the Company in good faith shall be final, conclusive and binding on the Company, the Rights Agent, the holders of the Rights, as such, and all other parties.

Section 31. Severability . If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 32. Governing Law . This Agreement and each Right Certificate issued hereunder shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State.

Section 33. Jurisdiction, Waiver of Jury Trial . The parties agrees that, all actions and proceedings arising out of this Agreement or any of the transactions contemplated hereby, shall be brought in the United States District Court for the Southern District of New York or in a New York State Court in the County of New York and that, in connection with any such action or proceeding, submit to the jurisdiction of, and venue in, such court. Each of the parties hereto also irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of this Agreement or the transactions contemplated hereby.

Section 34. Counterparts . This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 35. Descriptive Headings . Descriptive headings of the several Sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

[signature page follows]

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

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill

Name: Thomas E. O'Neill

Title: Senior Vice President

THE BANK OF NEW YORK,
as Rights Agent

By: /s/ Rohan Bickram

Name: Rohan Bickram

Title: Assistant Treasurer

FORM OF
CERTIFICATE OF DESIGNATION

of

SERIES A JUNIOR PARTICIPATING PREFERRED STOCK

of

TREEHOUSE FOODS, INC.

Pursuant to Section 151 of the General Corporation Law
of the State of Delaware

TreeHouse Foods, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the “Corporation”), in accordance with the provisions of Section 103 thereof, DOES HEREBY CERTIFY:

That pursuant to the authority vested in the Board of Directors of the Corporation (the “Board of Directors”) in accordance with the provisions of the Certificate of Incorporation of the said Corporation, the said Board of Directors on June 7, 2005 adopted the following resolution creating a series of 10,000,000 shares of Preferred Stock designated as “Series A Junior Participating Preferred Stock”:

RESOLVED, that pursuant to the authority vested in the Board of Directors of this Corporation in accordance with the provisions of the Certificate of Incorporation, a series of Preferred Stock, par value \$.01 per share, of the Corporation be and hereby is created, and that the designation and number of shares thereof and the voting and other powers, preferences and relative, participating, optional or other rights of the shares of such series and the qualifications, limitations and restrictions thereof are as follows:

Series A Junior Participating Preferred Stock

1. *Designation and Amount.* There shall be a series of Preferred Stock that shall be designated as “Series A Junior Participating Preferred Stock,” and the number of shares constituting such series shall be 10,000,000. Such number of shares may be increased or decreased by resolution of the Board of Directors; provided, however, that no decrease shall reduce the number of shares of Series A Junior Participating Preferred Stock to less than the number of shares then issued and outstanding plus the number of shares issuable upon exercise of outstanding rights, options or warrants or upon conversion of outstanding securities issued by the Corporation.

2. Dividends and Distribution.

(A) Subject to the prior and superior rights of the holders of any shares of any class or series of stock of the Corporation ranking prior and superior to the shares of Series A Junior Participating Preferred Stock with respect to dividends, the holders of shares of Series A Junior Participating Preferred Stock, in preference to the holders of shares of any class or series of stock of the Corporation ranking junior to the Series A Junior Participating Preferred Stock in respect thereof, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the 1st day of March, June, September and December, in each year (each such date being referred to herein as a “Quarterly Dividend Payment Date”), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Junior Participating Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) \$1.00 or (b) the Adjustment Number (as defined below) times the aggregate per share amount of all cash dividends, and the Adjustment Number times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock, par value \$.01 per share, of the Corporation (the “Common Stock”) since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Junior Participating Preferred Stock. The “Adjustment Number” shall initially be 100. In the event the Corporation shall at any time after June 27, 2005 (i) declare and pay any dividend on Common Stock payable in shares of Common Stock, (ii) subdivide the outstanding Common Stock or (iii) combine the outstanding Common Stock into a smaller number of shares, then in each such case the Adjustment Number in effect immediately prior to such event shall be adjusted by multiplying such Adjustment Number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) The Corporation shall declare a dividend or distribution on the Series A Junior Participating Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock).

(C) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Junior Participating Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series A Junior Participating Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of

holders of shares of Series A Junior Participating Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Junior Participating Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be no more than 60 days prior to the date fixed for the payment thereof.

3. *Voting Rights.* The holders of shares of Series A Junior Participating Preferred Stock shall have the following voting rights:

(A) Each share of Series A Junior Participating Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Number on all matters submitted to a vote of the stockholders of the Corporation.

(B) Except as required by law, by Section 3(C) and by Section 10 hereof, holders of Series A Junior Participating Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

(C) If, at the time of any annual meeting of stockholders for the election of directors, the equivalent of six quarterly dividends (whether or not consecutive) payable on any share or shares of Series A Junior Participating Preferred Stock are in default, the number of directors constituting the Board of Directors of the Corporation shall be increased by two. In addition to voting together with the holders of Common Stock for the election of other directors of the Corporation, the holders of record of the Series A Junior Participating Preferred Stock, voting separately as a class to the exclusion of the holders of Common Stock, shall be entitled at said meeting of stockholders (and at each subsequent annual meeting of stockholders), unless all dividends in arrears on the Series A Junior Participating Preferred Stock have been paid or declared and set apart for payment prior thereto, to vote for the election of two directors of the Corporation, the holders of any Series A Junior Participating Preferred Stock being entitled to cast a number of votes per share of Series A Junior Participating Preferred Stock as is specified in paragraph (A) of this Section 3. Each such additional director shall not be a member of Class I, Class II or Class III of the Board of Directors of the Corporation, but shall serve until the next annual meeting of stockholders for the election of directors, or until his successor shall be elected and shall qualify, or until his right to hold such office terminates pursuant to the provisions of this Section 3(C). Until the default in payments of all dividends which permitted the election of said directors shall cease to exist, any director who shall have been so elected pursuant to the provisions of this Section 3(C) may be removed at any time, without cause, only by the affirmative vote of the holders of the

shares of Series A Junior Participating Preferred Stock at the time entitled to cast a majority of the votes entitled to be cast for the election of any such director at a special meeting of such holders called for that purpose, and any vacancy thereby created may be filled by the vote of such holders. If and when such default shall cease to exist, the holders of the Series A Junior Participating Preferred Stock shall be divested of the foregoing special voting rights, subject to reversion in the event of each and every subsequent like default in payments of dividends. Upon the termination of the foregoing special voting rights, the terms of office of all persons who may have been elected directors pursuant to said special voting rights shall forthwith terminate, and the number of directors constituting the Board of Directors shall be reduced by two. The voting rights granted by this Section 3(C) shall be in addition to any other voting rights granted to the holders of the Series A Junior Participating Preferred Stock in this Section 3.

4. Certain Restrictions.

(A) Whenever quarterly dividends or other dividends or distributions payable on the Series A Junior Participating Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series A Junior Participating Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Junior Participating Preferred Stock, except dividends paid ratably on the Series A Junior Participating Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled; or

(iii) purchase or otherwise acquire for consideration any shares of Series A Junior Participating Preferred Stock, or any shares of stock ranking on a parity with the Series A Junior Participating Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of Series A Junior Participating Preferred Stock, or to such holders and holders of any such shares ranking on a parity therewith, upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the

Corporation unless the Corporation could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

5. *Reacquired Shares.* Any shares of Series A Junior Participating Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired promptly after the acquisition thereof. All such shares shall upon their retirement become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to any conditions and restrictions on issuance set forth herein.

6. *Liquidation, Dissolution or Winding Up.* (A) Upon any liquidation, dissolution or winding up of the Corporation, voluntary or otherwise, no distribution shall be made to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Series A Junior Participating Preferred Stock shall have received an amount per share (the "Series A Liquidation Preference") equal to the greater of (i) \$1.00 plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (ii) the Adjustment Number times the per share amount of all cash and other property to be distributed in respect of the Common Stock upon such liquidation, dissolution or winding up of the Corporation.

(B) In the event, however, that there are not sufficient assets available to permit payment in full of the Series A Liquidation Preference and the liquidation preferences of all other classes and series of stock of the Corporation, if any, that rank on a parity with the Series A Junior Participating Preferred Stock in respect thereof, then the assets available for such distribution shall be distributed ratably to the holders of the Series A Junior Participating Preferred Stock and the holders of such parity shares in proportion to their respective liquidation preferences.

(C) Neither the merger or consolidation of the Corporation into or with another entity nor the merger or consolidation of any other entity into or with the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

7. *Consolidation, Merger, Etc.* In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the outstanding shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series A Junior Participating Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to the Adjustment Number times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged.

8. *No Redemption.* Shares of Series A Junior Participating Preferred Stock shall not be subject to redemption by the Corporation.

9. *Ranking.* The Series A Junior Participating Preferred Stock shall rank junior to all other series of the Preferred Stock as to the payment of dividends and as to the distribution of assets upon liquidation, dissolution or winding up, unless the terms of any such series shall provide otherwise, and shall rank senior to the Common Stock as to such matters.

10. *Amendment.* At any time that any shares of Series A Junior Participating Preferred Stock are outstanding, the Certificate of Incorporation of the Corporation shall not be amended, by merger, consolidation or otherwise, which would materially alter or change the powers, preferences or special rights of the Series A Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds of the outstanding shares of Series A Junior Participating Preferred Stock, voting separately as a class.

11. *Fractional Shares.* Series A Junior Participating Preferred Stock may be issued in fractions of a share that shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Junior Participating Preferred Stock.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Designation of Series A Junior Participating Preferred Stock this ____day of June, 2005.

TREEHOUSE FOODS, INC.

By: _____
Name: Thomas E. O'Neill
Title: Senior Vice President,
General Counsel and
Chief Administrative Officer

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Form of Right Certificate

Certificate No. R-_____

NOT EXERCISABLE AFTER JUNE 27, 2010 OR EARLIER IF REDEMPTION OR EXCHANGE OCCURS. THE RIGHTS ARE SUBJECT TO REDEMPTION AT \$.01 PER RIGHT AND TO EXCHANGE ON THE TERMS SET FORTH IN THE RIGHTS AGREEMENT. UNDER CERTAIN CIRCUMSTANCES, AS SET FORTH IN THE RIGHTS AGREEMENT, RIGHTS OWNED BY OR TRANSFERRED TO ANY PERSON WHO IS OR BECOMES AN ACQUIRING PERSON (AS DEFINED IN THE RIGHTS AGREEMENT) AND CERTAIN TRANSFEREES THEREOF WILL BECOME NULL AND VOID AND WILL NO LONGER BE TRANSFERABLE.

RIGHT CERTIFICATE

TREEHOUSE FOODS, INC.

This certifies that _____ or registered assigns, is the registered owner of the number of Rights set forth above, each of which entitles the owner thereof, subject to the terms, provisions and conditions of the Rights Agreement, dated as of June 27, 2005, as the same may be amended from time to time (the "Rights Agreement"), between TreeHouse Foods, Inc., a Delaware corporation (the "Company"), and The Bank of New York, as Rights Agent (the "Rights Agent"), to purchase from the Company at any time after the Distribution Date (as such term is defined in the Rights Agreement) and prior to 5:00 P.M., New York City time, on June 27, 2010 at the office or agency of the Rights Agent designated for such purpose, or of its successor as Rights Agent, one one-hundredth of a fully paid non-assessable share of Series A Junior Participating Preferred Stock, par value \$.01 per share (the "Preferred Stock"), of the Company at a purchase price of \$_____per one one-hundredth of a share of Preferred Stock (the "Purchase Price"), upon presentation and surrender of this Right Certificate with the Form of Election to Purchase duly executed. The number of Rights evidenced by this Rights Certificate (and the number of one one-hundredths of a share of Preferred Stock which may be purchased upon exercise hereof) set forth above, and the Purchase Price set forth above, are the number and Purchase Price as of June 27, 2005 based on the Preferred Stock as constituted at such date. As provided in the Rights Agreement, the Purchase Price, the number of one one-hundredths of a share of Preferred Stock (or other securities or property) which may be purchased upon the exercise of the Rights and the number of

Rights evidenced by this Right Certificate are subject to modification and adjustment upon the happening of certain events.

This Right Certificate is subject to all of the terms, provisions and conditions of the Rights Agreement, which terms, provisions and conditions are hereby incorporated herein by reference and made a part hereof and to which Rights Agreement reference is hereby made for a full description of the rights, limitations of rights, obligations, duties and immunities hereunder of the Rights Agent, the Company and the holders of the Right Certificates. Copies of the Rights Agreement are on file at the principal executive offices of the Company and the above-mentioned office or agency of the Rights Agent. The Company will mail to the holder of this Right Certificate a copy of the Rights Agreement without charge after receipt of a written request therefor.

This Right Certificate, with or without other Right Certificates, upon surrender at the office or agency of the Rights Agent designated for such purpose, may be exchanged for another Right Certificate or Right Certificates of like tenor and date evidencing Rights entitling the holder to purchase a like aggregate number of shares of Preferred Stock as the Rights evidenced by the Right Certificate or Right Certificates surrendered shall have entitled such holder to purchase. If this Right Certificate shall be exercised in part, the holder shall be entitled to receive upon surrender hereof another Right Certificate or Right Certificates for the number of whole Rights not exercised.

Subject to the provisions of the Rights Agreement, the Rights evidenced by this Certificate (i) may be redeemed by the Company at a redemption price of \$.01 per Right or (ii) may be exchanged in whole or in part for shares of the Company's Common Stock, par value \$.01 per share, or shares of Preferred Stock.

No fractional shares of Preferred Stock or Common Stock will be issued upon the exercise or exchange of any Right or Rights evidenced hereby (other than fractions of Preferred Stock which are integral multiples of one one-hundredth of a share of Preferred Stock, which may, at the election of the Company, be evidenced by depository receipts), but in lieu thereof a cash payment will be made, as provided in the Rights Agreement.

No holder of this Right Certificate, as such, shall be entitled to vote or receive dividends or be deemed for any purpose the holder of the Preferred Stock or of any other securities of the Company which may at any time be issuable on the exercise or exchange hereof, nor shall anything contained in the Rights Agreement or herein be construed to confer upon the holder hereof, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in the Rights Agreement) or to receive dividends or subscription rights, or otherwise, until

the Right or Rights evidenced by this Right Certificate shall have been exercised or exchanged as provided in the Rights Agreement.

This Right Certificate shall not be valid or obligatory for any purpose until it shall have been countersigned by the Rights Agent.

WITNESS the facsimile signature of the proper officers of the Company and its corporate seal. Dated as of _____, 200_.

TREEHOUSE FOODS, INC.

By: _____
[Title]

ATTEST:

[Title]

Countersigned:

THE BANK OF NEW YORK, as Rights Agent

By _____
[Title]

Form of Reverse Side of Right Certificate

FORM OF ASSIGNMENT

(To be executed by the registered holder if such holder desires to transfer the Right Certificate)

FOR VALUE RECEIVED _____ hereby sells, assigns and transfers unto

(Please print name and address of transferee)

_____ Rights represented by this Right Certificate, together with all right, title and interest therein, and does hereby irrevocably constitute and appoint _____ Attorney, to transfer said Rights on the books of the within-named Company, with full power of substitution.

Dated: _____

Signature

Signature Guaranteed:

Signatures must be guaranteed by a bank, trust company, broker, dealer or other eligible institution participating in a recognized signature guarantee medallion program.

(To be completed)

The undersigned hereby certifies that the Rights evidenced by this Right Certificate are not beneficially owned by, were not acquired by the undersigned from, and are not being assigned to an Acquiring Person or an Affiliate or Associate thereof (as defined in the Rights Agreement).

Signature

Form of Reverse Side of Right Certificate - continued

FORM OF ELECTION TO PURCHASE

(To be executed if holder desires to exercise
Rights represented by the Rights Certificate)

To XYZ CORPORATION:

The undersigned hereby irrevocably elects to exercise _____ Rights represented by this Right Certificate to purchase the shares of Preferred Stock (or other securities or property) issuable upon the exercise of such Rights and requests that certificates for such shares of Preferred Stock (or such other securities) be issued in the name of:

(Please print name and address)

If such number of Rights shall not be all the Rights evidenced by this Right Certificate, a new Right Certificate for the balance remaining of such Rights shall be registered in the name of and delivered to:

Please insert social security
or other identifying number

(Please print name and address)

Dated: _____

Signature

(Signature must conform to holder specified on Right Certificate)

Signature Guaranteed:

Signature must be guaranteed by a bank, trust company, broker, dealer or other eligible institution participating in a recognized signature guarantee medallion program.

Form of Reverse Side of Right Certificate – continued

(To be completed)

The undersigned certifies that the Rights evidenced by this Right Certificate are not beneficially owned by, and were not acquired by the undersigned from, an Acquiring Person or an Affiliate or Associate thereof (as defined in the Rights Agreement).

Signature

NOTICE

The signature in the Form of Assignment or Form of Election to Purchase, as the case may be, must conform to the name as written upon the face of this Right Certificate in every particular, without alteration or enlargement or any change whatsoever.

In the event the certification set forth above in the Form of Assignment or the Form of Election to Purchase, as the case may be, is not completed, such Assignment or Election to Purchase will not be honored.

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UNDER CERTAIN CIRCUMSTANCES, AS SET FORTH IN THE RIGHTS AGREEMENT, RIGHTS OWNED BY OR TRANSFERRED TO ANY PERSON WHO IS OR BECOMES AN ACQUIRING PERSON (AS DEFINED IN THE RIGHTS AGREEMENT) AND CERTAIN TRANSFEREES THEREOF WILL BECOME NULL AND VOID AND WILL NO LONGER BE TRANSFERABLE.

SUMMARY OF RIGHTS TO PURCHASE
SHARES OF PREFERRED STOCK OF
TREEHOUSE FOODS, INC.

On June 7, 2005, the Board of Directors of TreeHouse Foods, Inc. (the “Company”) declared a dividend of one preferred share purchase right (a “Right”) for each outstanding share of common stock, par value \$.01 per share, of the Company (the “Common Stock”). The dividend is payable on June 27, 2005 (the “Record Date”) to the stockholders of record on that date. Each Right entitles the registered holder to purchase from the Company one one-hundredth of a share of Series A Junior Participating Preferred Stock, par value \$.01 per share, of the Company (the “Preferred Stock”) at a price of \$_____ per one one-hundredth of a share of Preferred Stock (the “Purchase Price”), subject to adjustment. The description and terms of the Rights are set forth in a Rights Agreement dated as of June 27, 2005, as the same may be amended from time to time (the “Rights Agreement”), between the Company and The Bank of New York, as Rights Agent (the “Rights Agent”).

Until the earlier to occur of (i) 10 days following a public announcement that a person or group of affiliated or associated persons (with certain exceptions, an “Acquiring Person”) has acquired beneficial ownership of 15% or more of the outstanding shares of Common Stock or (ii) 10 business days (or such later date as may be determined by action of the Board of Directors of the Company prior to such time as any person or group of affiliated persons becomes an Acquiring Person) following the commencement of, or announcement of an intention to make, a tender offer or exchange offer the consummation of which would result in the beneficial ownership by a person or group of 15% or more of the outstanding shares of Common Stock (the earlier of such dates being called the “Distribution Date”), the Rights will be evidenced, with respect to any of the Common Stock certificates outstanding as of the Record Date, by such Common Stock certificate together with this Summary of Rights.

The Rights Agreement provides that, until the Distribution Date (or earlier expiration of the Rights), the Rights will be transferred with and only with the Common Stock. Until the Distribution Date (or earlier expiration of the Rights), new Common

Stock certificates issued after the Record Date upon transfer or new issuances of Common Stock will contain a notation incorporating the Rights Agreement by reference. Until the Distribution Date (or earlier expiration of the Rights), the surrender for transfer of any certificates for shares of Common Stock outstanding as of the Record Date, even without such notation or a copy of this Summary of Rights, will also constitute the transfer of the Rights associated with the shares of Common Stock represented by such certificate. As soon as practicable following the Distribution Date, separate certificates evidencing the Rights ("Right Certificates") will be mailed to holders of record of the Common Stock as of the close of business on the Distribution Date and such separate Right Certificates alone will evidence the Rights.

The Rights are not exercisable until the Distribution Date. The Rights will expire on June 27, 2010 (the "Final Expiration Date"), unless the Final Expiration Date is advanced or extended or unless the Rights are earlier redeemed or exchanged by the Company, in each case as described below.

The Purchase Price payable, and the number of shares of Preferred Stock or other securities or property issuable, upon exercise of the Rights is subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Preferred Stock, (ii) upon the grant to holders of the Preferred Stock of certain rights or warrants to subscribe for or purchase Preferred Stock at a price, or securities convertible into Preferred Stock with a conversion price, less than the then-current market price of the Preferred Stock or (iii) upon the distribution to holders of the Preferred Stock of evidences of indebtedness or assets (excluding regular periodic cash dividends or dividends payable in Preferred Stock) or of subscription rights or warrants (other than those referred to above).

The number of outstanding Rights is subject to adjustment in the event of a stock dividend on the Common Stock payable in shares of Common Stock or subdivisions, consolidations or combinations of the Common Stock occurring, in any such case, prior to the Distribution Date.

Shares of Preferred Stock purchasable upon exercise of the Rights will not be redeemable. Each share of Preferred Stock will be entitled, when, as and if declared, to a minimum preferential quarterly dividend payment of the greater of (a) \$1.00 per share, and (b) an amount equal to 100 times the dividend declared per share of Common Stock. In the event of liquidation, dissolution or winding up of the Company, the holders of the Preferred Stock will be entitled to a minimum preferential payment of the greater of (a) \$1.00 per share (plus any accrued but unpaid dividends), and (b) an amount equal to 100 times the payment made per share of Common Stock. Each share of Preferred Stock will have 100 votes, voting together with the Common Stock. Finally, in the event of any merger, consolidation or other transaction in which outstanding shares of Common Stock are converted or exchanged, each share of Preferred Stock will be entitled to receive 100

times the amount received per share of Common Stock. These rights are protected by customary antidilution provisions.

Because of the nature of the Preferred Stock's dividend, liquidation and voting rights, the value of the one one-hundredth interest in a share of Preferred Stock purchasable upon exercise of each Right should approximate the value of one share of Common Stock.

In the event that any person or group of affiliated or associated persons becomes an Acquiring Person, each holder of a Right, other than Rights beneficially owned by the Acquiring Person (which will thereupon become void), will thereafter have the right to receive upon exercise of a Right that number of shares of Common Stock having a market value of two times the exercise price of the Right.

In the event that, after a person or group has become an Acquiring Person, the Company is acquired in a merger or other business combination transaction or 50% or more of its consolidated assets or earning power are sold, proper provisions will be made so that each holder of a Right (other than Rights beneficially owned by an Acquiring Person which will have become void) will thereafter have the right to receive upon the exercise of a Right that number of shares of common stock of the person with whom the Company has engaged in the foregoing transaction (or its parent) that at the time of such transaction have a market value of two times the exercise price of the Right.

At any time after any person or group becomes an Acquiring Person and prior to the earlier of one of the events described in the previous paragraph or the acquisition by such Acquiring Person of 50% or more of the outstanding shares of Common Stock, the Board of Directors of the Company may exchange the Rights (other than Rights owned by such Acquiring Person which will have become void), in whole or in part, for shares of Common Stock or Preferred Stock (or a series of the Company's preferred stock having equivalent rights, preferences and privileges), at an exchange ratio of one share of Common Stock, or a fractional share of Preferred Stock (or other preferred stock) equivalent in value thereto, per Right.

With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments require an adjustment of at least 1% in such Purchase Price. No fractional shares of Preferred Stock or Common Stock will be issued (other than fractions of Preferred Stock which are integral multiples of one one-hundredth of a share of Preferred Stock, which may, at the election of the Company, be evidenced by depositary receipts), and in lieu thereof an adjustment in cash will be made based on the current market price of the Preferred Stock or the Common Stock.

At any time prior to the time an Acquiring Person becomes such, the Board of Directors of the Company may redeem the Rights in whole, but not in part, at a price of

\$.01 per Right (the “Redemption Price”) payable, at the option of the Company, in cash, shares of Common Stock or such other form of consideration as the Board of Directors of the Company shall determine. The redemption of the Rights may be made effective at such time, on such basis and with such conditions as the Board of Directors of the Company in its sole discretion may establish. Immediately upon any redemption of the Rights, the right to exercise the Rights will terminate and the only right of the holders of Rights will be to receive the Redemption Price.

For so long as the Rights are then redeemable, the Company may, except with respect to the Redemption Price, amend the Rights Agreement in any manner. After the Rights are no longer redeemable, the Company may, except with respect to the Redemption Price, amend the Rights Agreement in any manner that does not adversely affect the interests of holders of the Rights.

Until a Right is exercised or exchanged, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends.

A copy of the Rights Agreement has been filed with the Securities and Exchange Commission as an Exhibit to a Registration Statement on Form 10 dated June 14, 2005. A copy of the Rights Agreement is available free of charge from the Company. This summary description of the Rights does not purport to be complete and is qualified in its entirety by reference to the Rights Agreement, as the same may be amended from time to time, which is hereby incorporated herein by reference.

TRANSITION SERVICES AGREEMENT

THIS AGREEMENT (the “ **Agreement** ”) for the performance of transition services is dated as of June 27, 2005, between Dean Foods Company (“ **Dean** ”), a Delaware corporation, and TreeHouse Foods, Inc. (“ **TreeHouse** ”), a Delaware corporation.

WHEREAS, Dean, through its subsidiaries, operates the Specialty Foods Group, *MochaMix*®, *SecondNature*®, and food service dressings businesses (the “ **Transferred Businesses** ”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to transfer and assign, or cause to be transferred and assigned, to TreeHouse the business, operations, assets and liabilities related to the Transferred Businesses;

WHEREAS, Dean desires to transfer and assign, or cause to be transferred or assigned, to the TreeHouse Parties the assets and properties of the Transferred Businesses and the TreeHouse Parties desire to accept the transfer and assignment of such assets and to assume, or cause to be assumed, the liabilities and obligations arising out of or relating to the Transferred Businesses;

WHEREAS, the date on which the above transaction is to become effective is referred to as the “Distribution Date” as defined in that certain Distribution Agreement between Dean and TreeHouse, dated as of the date hereof (the “ **Distribution Agreement** ”); and

WHEREAS, the parties hereto deem it to be appropriate and in the best interests of TreeHouse and Dean that Dean provide certain services to TreeHouse to facilitate the transaction described above on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. Description of Dean Services. Dean shall, subject to the terms and provisions of this Agreement:

(a) provide TreeHouse with general services of a financial, technical, commercial, administrative and/or advisory nature, with respect to the Transferred Businesses, as set forth on Exhibit A hereto; and

(b) render such other specific services as TreeHouse may from time to time reasonably request, subject to Dean’s sole discretion and its being in a position to supply such additional services at the time of such request.

Unless otherwise specifically provided on Exhibit A, Dean will provide each of the services until December 31, 2005, or such later date as mutually agreed in writing by the parties. TreeHouse may, at its option, upon no less than thirty (30) days prior written notice to Dean (or such other period as the parties may mutually agree in writing), terminate all or any category of such services.

2. Consideration for Dean Services. TreeHouse shall pay Dean in accordance with this Section 2 and Dean shall accept as consideration for the services rendered to TreeHouse hereunder the following service charges:

(a) for the services rendered by Dean for or on behalf of TreeHouse pursuant to Section 1(a), TreeHouse will be charged Dean's cost for each applicable service;

(b) for the services rendered by Dean for or on behalf of TreeHouse pursuant to Section 1(b), TreeHouse will be charged certain fees to be negotiated and agreed to by the parties at the time such services are requested.

3. Terms of Payment. Dean shall submit in writing an invoice covering its charges to TreeHouse for services rendered hereunder. Such invoice shall be submitted on a monthly basis and shall contain a summary description of the charges and services rendered. Payment shall be made no later than thirty (30) days after the invoice date.

4. Method of Payment. All amounts payable by TreeHouse for the services described on Exhibit A shall be remitted to Dean in United States dollars in the form of a check or wire transfer to a bank designated in the invoice or otherwise in writing by Dean.

5. WARRANTIES. THIS IS A SERVICES AGREEMENT. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR GUARANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE OR FITNESS FOR A PARTICULAR PURPOSE.

6. Standard of Conduct; Limitation on Liability.

(a) Dean shall have no liability with respect to its furnishing of services hereunder to TreeHouse except on account of Dean's gross negligence or willful misconduct.

(b) In no event shall either party have any liability, whether based on contract, tort (including, without limitation, negligence), warranty or any other legal or equitable grounds, for any punitive, consequential, special, indirect or incidental loss or damage suffered by the other party arising from or related to this Agreement, including without limitation, loss of data, profits (excluding profits under this Agreement), interest or revenue, or use or interruption of business, even if such party is advised of the possibility of such losses or damages.

(c) In no event shall Dean's liability, whether based on contract, tort (including without limitation, negligence), warranty or any other legal or equitable grounds, exceed in the aggregate the amount of fees paid to Dean under this Agreement. In no event shall Dean have any liability of any kind under this Agreement to any third party.

7. Termination. This Agreement shall terminate on December 31, 2005, but may be terminated earlier in accordance with the following:

(a) upon the mutual written agreement of the parties;

(b) by either TreeHouse or Dean for material breach of any of the terms hereof by Dean or TreeHouse, as the case may be, if the breach is not remedied within thirty (30) days after written notice of breach is delivered to the defaulting party;

(c) by either TreeHouse or Dean forthwith, upon written notice to Dean or TreeHouse, as the case may be, if Dean or TreeHouse, as the case may be, shall become insolvent or shall make an assignment for the benefit of creditors, or shall be placed in receivership, reorganization, liquidation or bankruptcy;

(d) by Dean forthwith, upon written notice to TreeHouse, if, for any reason, the ownership or control of TreeHouse or any of TreeHouse's operations, becomes vested in, or is made subject to the control or direction of, any direct competitor of Dean; or

(e) by TreeHouse forthwith, upon written notice to Dean, if for any reason, the ownership or control of Dean or any of Dean's operations becomes vested in, or is made subject to the control or direction of, any direct competitor of TreeHouse.

Upon any such termination, Dean shall be compensated for all services performed to the date of termination in accordance with the provisions of this Agreement.

8. Performance. The services rendered by Dean hereunder shall be performed in the same manner and with the same skill and care as Dean employs in the service of its own business.

9. Independent Contractor. Dean is providing the services pursuant to this Agreement as an independent contractor and the parties hereby acknowledge that they do not intend to create a joint venture, partnership or any other type of agency between them.

10. Confidentiality. The specific terms and conditions of this Agreement and any information conveyed or otherwise received by or on behalf of a party in conjunction herewith are confidential and are subject to the terms of the confidentiality provisions of the Distribution Agreement.

11. Ownership of Information. Any information owned by one party or any of its subsidiaries that is provided to the other party or any of its subsidiaries pursuant to this Agreement shall remain the property of the providing party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such information. Upon termination of this Agreement or the earlier termination of any services provided hereunder, TreeHouse shall be obligated to return to Dean, as soon as reasonably practicable, any equipment or other property of Dean relating to the services provided hereunder which is in TreeHouse's control or possession and which is not a Transferred Asset under the Distribution Agreement.

12. Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the parties.

13. Force Majeure. Any delays in or failure of performance by any party hereto, other than the payment of money, shall not constitute a default hereunder if and to the extent

such delays or failures of performance are caused by occurrences beyond the reasonable control of such party, including, but not limited to: acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority; acts of war; riots or strikes or other concerted acts of personnel; power failure; or any causes, whether or not of the same class or kind as those specifically named above, which are not within the reasonable control of such party.

14. Assignment. This Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

15. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (b) confirmed delivery of a standard overnight courier or when delivered by hand or (c) the expiration of five business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to Dean, to:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, Texas 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 663-6000
Fax: (202) 663-6363
Attention: Erika L. Robinson

If to TreeHouse, to:

TreeHouse Foods Corp.
857-897 School Place
P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131

Fax: (920) 497-4604
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Winston and Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Fax: (312) 558-5700
Attention: Bruce A. Toth

Either party may, by written notice to the other parties, change the address or the party to which any notice, request, instruction or other documents is to be delivered.

16. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF DELAWARE.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

DEAN FOODS COMPANY

By: /s/ Edward F. Fugger

Name: Edward F. Fugger

Title: Vice President - Corporate Development

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill

Name: Thomas E. O'Neill

Title: Senior Vice President

EMPLOYEE MATTERS AGREEMENT

This Employee Matters Agreement, dated as of June 27, 2005, is between Dean Foods Company (“**Dean**”), a Delaware corporation, and TreeHouse Foods, Inc. (“**TreeHouse**”), a Delaware corporation (the “**Agreement**”).

In consideration of the mutual agreements contained herein and in the Distribution Agreement, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below. Capitalized terms used but not defined herein shall have the meanings set forth in the Distribution Agreement.

1.01 “**Business Employee**” means an individual employed at any time on or prior to the Distribution Date by any Dean Party who has, as of the Distribution Date, or who, immediately prior to his or her termination of employment with such Dean Party, had employment duties primarily related to the Transferred Businesses, including any such employee who is on approved medical, non-medical, short-term disability, long-term disability or weekly indemnity leave of absence or absent from active employment due to occupational illness or injury covered by workers’ compensation or any other leave authorized by Dean.

1.02 “**Code**” means the U.S. Internal Revenue Code of 1986, as amended.

1.03 “**Collective Bargaining Agreement**” means any collective bargaining agreement entered into between any Dean Party and a union representing a Business Employee as of the Distribution Date.

1.04 “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et. seq.*

1.05 “**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA.

1.06 “**Non-ERISA Benefit Arrangement**” means each contract, agreement, policy, practice, program, plan, trust or arrangement, other than a Pension Plan or Welfare Plan, providing benefits, perquisites or compensation of any nature.

1.07 “**Non-Union Employee**” means any Business Employee whose terms and conditions of employment are not covered by a Collective Bargaining Agreement or who is not represented by a union for collective bargaining purposes with any Dean Party as of the Distribution Date.

1.08 “**Pension Plan**” means any pension plan as defined in Section 3(2) of ERISA.

1.09 “ **Transferred Employee** ” means a Business Employee described in Section 2.01(a) or 2.01(b) who is employed by TreeHouse.

1.10 “ **Union Employee** ” means any Business Employee whose terms and conditions of employment are covered by a Collective Bargaining Agreement or who is represented by a union for collective bargaining purposes with any Dean Party as of the Distribution Date.

1.11 “ **Welfare Plan** ” means any employee welfare plan as defined in Section 3(1) of ERISA.

ARTICLE II. TRANSFERRED EMPLOYEE MATTERS

2.01 Employment .

(a) Union Employees . On and after the Distribution Date, TreeHouse shall employ each Union Employee subject to the terms of the applicable Collective Bargaining Agreements, subject to any modifications agreed to between TreeHouse and the applicable Union(s), if any. Nothing in this Agreement affects the rights of TreeHouse to increase, decrease or otherwise modify the size of its workforce, or terminate any employee’s employment, for any reason permitted by the Collective Bargaining Agreements and applicable law after the Distribution Date .

(b) Non-Union Employees . On and after the Distribution Date, TreeHouse shall employ each Non-Union Employee on terms and conditions substantially similar to the terms and conditions of their employment with Dean . Nothing in this Agreement affects the rights of TreeHouse to increase, decrease or otherwise modify the size of its workforce, or terminate any employee’s employment, for any reason permitted by the applicable law after the Distribution Date.

2.02 Severance and Other Termination Benefits . It is not intended that any Transferred Employee will be eligible for termination or severance payments or benefits from Dean Entities as a result of the transfer or change of employment from Dean to TreeHouse or their respective subsidiaries or affiliates.

ARTICLE III. MULTIEMPLOYER PENSION PLAN

3.01 Multiemployer Plans . Effective as of the Distribution Date, TreeHouse agrees to assume all of Dean’s obligations to contribute to any Multiemployer Plan relating to the Transferred Businesses and to make all such contributions without interruption, it being the intention of Dean and TreeHouse that the Distribution qualify for the relief provided under Section 4218 of ERISA.

ARTICLE IV. WELFARE PLANS AND NON-ERISA BENEFIT ARRANGEMENTS

4.01 Participation in Dean Plans . Dean shall continue to provide coverage to the

Business Employees under the Welfare Plans maintained by any Dean Party (the “**Dean Welfare Plans**”) in which such Business Employees participate as of the Distribution Date, until such date as determined by Dean and TreeHouse, which date may be different for different plans (the “**Cessation Time**”), but in no event shall Dean continue to provide such coverage after December 31, 2005. A list of such Dean Welfare Plans are set forth on Schedule 4.01 hereto. Dean and TreeHouse expect to enter into a transition services agreement concerning the implementation of the provisions of Article IV of this Agreement.

4.02 TreeHouse Welfare Plans. Effective as of the Cessation Time, TreeHouse shall adopt and establish for the benefit of Non-Union Employees and their respective eligible dependents, new Welfare Plans (the “**TreeHouse Welfare Plans**”) that provide benefits that are substantially similar to the benefits, if any, provided under the Dean Welfare Plans, in which such individuals participate; and TreeHouse shall also adopt and establish for the benefit of Union Employees and their respective eligible dependents new Welfare Plans as required by the applicable Collective Bargaining Agreements. Subject to the requirements of applicable Collective Bargaining Agreements, nothing contained in this Article IV shall prevent TreeHouse from amending or terminating the TreeHouse Welfare Plans after the Cessation Time.

4.03 TreeHouse Non-ERISA Benefit Arrangements. Effective as of the Distribution Date, TreeHouse shall adopt and establish for the benefit of Non-Union Employees and their respective eligible dependents, new Non-ERISA Benefit Arrangements (the “**TreeHouse Non-ERISA Benefit Arrangements**”) that provide benefits that are substantially similar to the benefits, if any, provided under the Dean Non-ERISA Benefit Arrangements, in which such individuals participate; and TreeHouse shall also adopt and establish for the benefit of Union Employees and their respective eligible dependents new Non-ERISA Benefit Arrangements as required by the applicable Collective Bargaining Agreements. Subject to the requirements of applicable Collective Bargaining Agreements, nothing contained in this Article IV shall prevent TreeHouse from amending or terminating the TreeHouse Non-ERISA Benefit Arrangements after the Distribution Date.

ARTICLE V. PENSION PLANS

5.01 U.S. Defined Contribution Plans.

(a) Establishment of TreeHouse Plans. Effective as of the Distribution Date, TreeHouse shall adopt, establish and maintain a Pension Plan and trust qualified under section 401(a) and section 501(a) of the Code (the “**TreeHouse 401(k) Plan**”) that is substantially similar to the Dean Foods 401(k) Plan and trust (the “**Dean 401(k) Plan**”). TreeHouse shall also adopt, establish and maintain a Pension Plan and trust qualified under section 401(a) and section 501(a) of the Code (the “**TreeHouse Union 401(k) Plan**”) as required by the applicable Collective Bargaining Agreements.

(b) Transfer of Account Balances. As soon as administratively practicable after the Distribution Date, Dean shall cause to be transferred to the TreeHouse 401(k) Plan, or the TreeHouse Union 401(k) Plan as appropriate, the assets having a value as of the applicable valuation date on or nearest to the date on which such transfer occurs that are equal to the value

of the aggregate account balances of, and liabilities with respect to, all Business Employees with an account balance under the Dean 401(k) Plan, or the Dean Foods Union 401(k) Plan and trust (the “**Dean Union 401(k) Plan**”), as appropriate, as of such valuation date, as determined by Dean. Such assets shall be transferred in cash or through in-kind share transfers (plus the transfer of any promissory notes evidencing outstanding loan balances of Business Employees), and shall be in accordance with section 414(l) of the Code.

5.02 Defined Benefit Pension Plan.

(a) Adoption of TreeHouse Pension Plan. Effective as of the Distribution Date, TreeHouse shall adopt, establish and maintain a Pension Plan and trust qualified under section 401(a) and section 501(a) of the Code for Business Employees as of the Distribution Date (the “**TreeHouse Pension Plan**”) that is substantially similar to the Dean Foods Company Retirement Plan and Trust (the “**Dean Pension Plan**”); provided, however, that benefits provided to Union Employees under the TreeHouse Pension Plan shall be provided as required by the applicable Collective Bargaining Agreements.

(b) Transfer of Assets and Liabilities.

(1) As soon as practicable after the Distribution Date, the actuary engaged by the Dean Pension Plan (the “**Dean Actuary**”) shall determine, subject to the agreement of the actuary engaged by the TreeHouse Pension Plan (the “**TreeHouse Actuary**”) (which agreement shall not be unreasonably withheld), the present value of benefits on a termination basis, as of the Distribution Date, for Business Employees with an accrued benefit under the Dean Pension Plan in accordance with section 414(l) of the Code and the general rule set forth in Treasury Regulations § 1.414(l)-1(n)(1) and by applying standards set forth in regulations prescribed by the Pension Benefit Guaranty Corporation (the “**PBGC**”) (the “**Transfer Amount**”).

(2) As soon as practicable after the expiration of the thirty (30) day waiting period prescribed by section 6058(b) of the Code (which TreeHouse and Dean shall take all action to commence promptly), Dean shall direct the trustee of the Dean Pension Plan to transfer the Transfer Amount in immediately available funds to the trustee of the TreeHouse Pension Plan according to a procedure agreed to by the Dean Actuary and the TreeHouse Actuary. Such procedure may provide that such transfer may be accomplished in two or more portions on two or more different dates.

(3) During the period beginning on the Distribution Date and ending on the actual date of delivery of the Transfer Amount (or any portion thereof) (the “**Transfer Date**”), the trustee of the Dean Pension Plan shall hold the Transfer Amount under the TreeHouse Pension Plan and the Transfer Amount (or any portion thereof not yet transferred) shall be credited with earnings, from the Distribution Date to the Transfer Date of such portion, at a rate equal to the actual rate of return of the assets of the Dean Pension Plan, including any portion of the Transfer Amount not yet transferred, for the period beginning on the Distribution Date and ending on the Transfer Date of such portion.

(4) The Transfer Amount shall be reduced (A) as necessary to reflect benefit payments made (if any) from the Dean Pension Plan after the Distribution Date on behalf of any Business Employees and (B) by the pro-rata portion of any expenses, as agreed to by the

Dean Actuary and the TreeHouse Actuary, incurred by the Dean Pension Plan attributable to any portion of the Transfer Amount for the period beginning on the Distribution Date and ending on the Transfer Date for such portion. Such expenses shall include without limitation, PBGC premiums, valuation fees, investment management fees, plan audit fees and trustees fees.

(5) TreeHouse shall have no responsibility for any portion of the Transfer Amount before such portion is transferred to the TreeHouse Pension Plan.

(6) In connection with the transfer of assets and liabilities from the Dean Pension Plan to the TreeHouse Pension Plan:

- (i) Dean and TreeHouse each warrant to the other that they shall comply with the requirements of ERISA, the Code and Revenue Ruling 86-48 and that the accrued benefits for each participant under the TreeHouse Pension Plan immediately after the effective date of such transfer of assets shall not be less than such participant's accrued benefits under the Dean Pension Plan immediately prior to the effective date of such transfer, based on reasonable actuarial assumptions determined by the Dean Actuary in good faith;
- (ii) TreeHouse and Dean shall, in connection with such transfer, cooperate in making all appropriate filings required under the Code or ERISA, and the regulations thereunder; and
- (iii) Liabilities under any qualified domestic relations orders (as defined in section 414(p) of the Code) received with respect to any assets transferred to the TreeHouse Pension Plan shall be transferred to TreeHouse at the time such assets are transferred.

5.03 Other Retirement Benefit Plans. As soon as reasonably practicable after the Distribution Date, TreeHouse shall adopt, establish and maintain a new executive deferred compensation plan (the “**TreeHouse Deferred Compensation Plan**”) that is substantially similar to the Dean Foods Company Post-2004 Executive Deferred Compensation Plan (the “**Dean Post-2004 Plan**”) in which Business Employees participate. TreeHouse shall credit all such Business Employees with all years of service credited to such individuals by any Dean Party for all purposes relating to the TreeHouse Deferred Compensation Plan. Any Business Employees who are participating in any Dean executive deferred compensation plan, including the Dean Post-2004 Plan and the Dean Foods Company Executive Deferred Compensation Plan, shall be treated as having terminated employment with Dean on the Distribution Date and shall receive such distributions from any such executive deferred compensation plan as are payable upon a termination of employment from Dean, such distributions to be made in accordance with the terms of such plan under which such payments are made unless required to be delayed pursuant to Code Section 409A. Dean shall be solely responsible for, and TreeHouse shall not assume any liability with respect to, such distribution from or other claims relating to any of the Dean executive deferred compensation plans. No Dean Party maintains any Pension Plan or other retirement benefit plan in which any Business Employee participates, other than the Dean 401(k) Plan, the Dean Union 401(k) Plan, the Dean Pension Plan, the Dean Foods Company Executive Deferred Compensation Plan, and the Dean Post-2004 Plan .

**ARTICLE VI.
GENERAL PROVISIONS**

6.01 Miscellaneous . All provisions contained in Article 13 of the Distribution Agreement are fully applicable hereto and are incorporated herein by reference.

6.02 Preservation of Rights to Amend . The rights of Dean or TreeHouse to amend or terminate any plan referred to herein shall not be limited in any way by this Agreement.

6.03 Applicability to TreeHouse Subsidiaries . The obligations of TreeHouse in this Agreement shall also be applicable to any of the TreeHouse Parties and TreeHouse shall cause the TreeHouse Parties to comply with such obligations.

6.04 No Third Party Beneficiaries . No Transferred Employee, Business Employee or other current or former employee of Dean or TreeHouse or any subsidiary or affiliate of either (or his/her spouse, dependent or beneficiary) or any other person not a party to this Agreement, shall be entitled to assert any claim hereunder. This Agreement shall be binding upon and inure to the benefit only of the parties hereto and their respective successors. Notwithstanding any other provisions to the contrary except with respect to such successors, this Agreement is not intended and shall not be construed for the benefit of any third party or any person not a signatory hereto. In no event shall this Agreement constitute a third party beneficiary contract.

6.05 Collective Bargaining . Schedule 6.05 sets forth a list of each Collective Bargaining Agreement in effect on the date hereof and the Distribution Date.

IN WITNESS WHEREOF, the parties have caused this Employee Matters Agreement to be executed in their names by a duly authorized officer as of the date first written above.

DEAN FOODS COMPANY

By: /s/ Edward F. Fugger
Name: Edward F. Fugger
Title: Vice President - Corporate Development

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill
Name: Thomas E. O'Neill
Title: Senior Vice President

TAX SHARING AGREEMENT

THIS TAX SHARING AGREEMENT (the “Agreement”) dated as of June 27, 2005 by and among Dean Foods Company, a Delaware corporation (“Distributing”), TreeHouse Foods, Inc., a Delaware corporation and a subsidiary of Distributing (“Controlled”), and each Controlled Affiliate (as defined below), is entered into in connection with the Distribution (as defined below).

WHEREAS, as of the date hereof, Distributing and its direct and indirect domestic subsidiaries are members of an Affiliated Group (as defined below) of which Distributing is the common parent;

WHEREAS, as set forth in the Distribution Agreement by and between Distributing and Controlled, dated as of June 27, 2005 (the “Distribution Agreement”), and subject to the terms and conditions thereof, Distributing will transfer and assign, or cause to be transferred and assigned, to Controlled substantially all the business, operations, assets and liabilities related to the Transferred Businesses (as defined below);

WHEREAS, as set forth in the Distribution Agreement, and subject to the terms and conditions thereof, Distributing will distribute on a pro rata basis to the holders of Distributing’s common stock all of the outstanding shares of Controlled common stock then owned by Distributing (together with the preferred share purchase rights associated therewith) (the “Distribution”);

WHEREAS, the Distribution is intended to qualify as a tax-free distribution to Distributing and its shareholders under section 355 of the Code (as defined below); and

WHEREAS, in contemplation of the Distribution, pursuant to which Controlled (and its direct and indirect subsidiaries) will cease to be members of Distributing’s Affiliated Group (as defined below), the Parties hereto have determined to enter into this Agreement, setting forth their agreement with respect to certain tax matters.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereto hereby agree as follows:

Section 1. Definitions.

As used in this Agreement, capitalized terms shall have the following meanings (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

1.01 “Affiliated Group” means an affiliated group of corporations within the meaning of section 1504(a)(1) of the Code that files a Consolidated Return.

1.02 “After-Tax Amount” means any additional amount necessary to reflect the Income Tax consequences of the receipt or accrual of any payment required to be made under

this Agreement (including upon the receipt of payments required to make the payment of an After-Tax Amount), determined on a hypothetical basis by assuming that the applicable Party is subject to the highest applicable statutory corporate Income Tax rate for the relevant jurisdiction (or, in the case of an item that affects more than one jurisdiction, the highest applicable statutory corporate Income Tax rates) for the relevant taxable period (or portion thereof), that all state and local Income Taxes are deductible for U.S. federal income tax purposes, and that all Income Taxes in the form of interest are deductible for income tax purposes.

1.03 “Agreement” has the meaning set forth in the preamble hereto.

1.04 “Bay Valley” means Bay Valley Foods, LLC, a Delaware limited liability company and a Controlled Affiliate.

1.05 “Code” means the Internal Revenue Code of 1986, as amended, and shall include corresponding provisions of any subsequently enacted federal Tax law.

1.06 “Combined Return” means any Tax Return, other than with respect to United States federal Income Taxes, filed on a consolidated, combined (including nexus combination, worldwide combination, domestic combination, line of business combination or any other form of combination) or unitary basis wherein Controlled or one or more Controlled Affiliates are included in the filing of such Tax Return for any taxable period or portion thereof with Distributing or one or more Distributing Affiliates.

1.07 “Consolidated Return” means any Tax Return with respect to United States federal Income Taxes filed on a consolidated basis wherein Controlled or one or more Controlled Affiliates are included in the filing of such Tax Return for any taxable period or portion thereof with Distributing or one or more Distributing Affiliates.

1.08 “Controlled” has the meaning set forth in the preamble hereto.

1.09 “Controlled Affiliate” means any corporation or other entity directly or indirectly “controlled” by Controlled at the time in question, where “control” means the ownership of 50 percent or more of the ownership interests of such corporation or other entity (by vote or value) or the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such corporation or other entity.

1.10 “Controlled Equity Interest” means (a) stock or any other equity interest in Controlled or any Controlled Affiliate (including any instrument, obligation or other agreement or arrangement that is treated as stock or as an equity interest for federal Income Tax purposes), or (b) any option, warrant or other right to acquire any stock or other equity interest described in clause (a).

1.11 “Controlled Group” means the Affiliated Group, or similar group of entities as defined under corresponding provisions of the laws of other jurisdictions, of which Controlled will be the common parent corporation immediately after the Distribution, and including any corporation or other entity which may become a member of such group from time to time.

1.12 “Controlled Indemnified Parties” has the meaning set forth in Section 7.02.

1.13 “Controlled Representation Letter” means the representation letter provided by Controlled to Distributing’s outside tax counsel in connection with the Tax Opinion substantially in the form attached hereto as Exhibit A.

1.14 “Controlled Representative” means (i) each of Sam K. Reed, David B. Vermynen, E. Nichol McCully, Thomas E. O’Neill, Harry J. Walsh and Jo Osborn; (ii) each of the directors of Controlled other than Gregg Engles; and (iii) any Person acting with the implicit or explicit permission (within the meaning of section 1.355-7 of the Treasury Regulations) of any of the individuals listed or referred to in clause (i) or clause (ii).

1.15 “Controlled Taxes” has the meaning set forth in Section 7.01.

1.16 “Deciding Firms” has the meaning set forth in Section 10.03.

1.17 “DIPS LP” means Dips Limited Partner II, a Delaware statutory trust.

1.18 “Distributing” has the meaning set forth in the preamble hereto.

1.19 “Distributing Affiliate” means any corporation or other entity directly or indirectly “controlled” by Distributing where “control” means the ownership of 50 percent or more of the ownership interests of such corporation or other entity (by vote or value) or the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such corporation or other entity, but at all times excluding Controlled and any Controlled Affiliate.

1.20 “Distributing Group” means the Affiliated Group, or similar group of entities as defined under corresponding provisions of the laws of other jurisdictions, of which Distributing is the common parent corporation, and any corporation or other entity which may be, may have been or may become a member of such group from time to time, but excluding any member of the Controlled Group.

1.21 “Distributing Indemnified Parties” has the meaning set forth in Section 7.01.

1.22 “Distributing Representation Letter” means the representation letter provided by Distributing to Distributing’s outside tax counsel in connection with the Tax Opinion substantially in the form attached hereto as Exhibit B.

1.23 “Distributing Representative” means (i) any current or former officer or director of Distributing or any Distributing Affiliate; (ii) any controlling shareholder (within the meaning of section 1.355-7(h)(3) of the Treasury Regulations) of Distributing; and (iii) any Person acting with the implicit or explicit permission (within the meaning of section 1.355-7 of the Treasury Regulations) of any of the foregoing; provided, that a Distributing Representative shall not include (a) any Person who is treated as a Controlled Representative under the definition of Controlled Representative, or (b) with respect to actions taken on or after June 24, 2005, any Person who became an employee of Controlled or a Controlled Affiliate following the Restructuring Transactions that occurred on June 24, 2005 and who will serve as a director or officer of Controlled or any Controlled Affiliate following the Distribution.

1.24 “Distributing Tax Package” has the meaning set forth in Section 2.05.

1.25 “Distributing Taxes” has the meaning set forth in Section 7.02.

1.26 “Distribution” has the meaning set forth in the Recitals to this Agreement.

1.27 “Distribution Agreement” has the meaning set forth in the Recitals to this Agreement.

1.28 “Distribution Date” means the date on which the Distribution is effected.

1.29 “Distribution Taxes” means any Taxes imposed on, or increase in Taxes incurred by, Distributing or any Distributing Affiliate, and any Taxes of a Distributing shareholder that are required to be paid or reimbursed by Distributing or any Distributing Affiliate (without regard to whether such Taxes are offset or reduced by any Tax Asset, Tax Item, or otherwise) resulting from or arising in connection with (i) the failure of the Distribution to qualify as a tax-free distribution under section 355 of the Code or corresponding provisions of the laws of any other jurisdictions, or (ii) the failure of any Restructuring Transaction that is intended to qualify as a tax-free liquidation under section 332 of the Code, a transfer of property under section 351 of the Code, a reorganization under section 368(a) of the Code and/or a tax-free distribution under section 355 of the Code to so qualify, including in the case of each of clause (i) and (ii) any Tax resulting from the application of section 355(d), section 355(e) or section 355(f) of the Code to any Restructuring Transaction or the Distribution.

1.30 “Expenses” means any and all expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals).

1.31 “Filing Party” has the meaning set forth in Section 8.02.

1.32 “Final Determination” means the final resolution of liability for any Tax for any taxable period, by or as a result of the first to occur of (i) a decision, judgment, decree or other order by any court of competent jurisdiction that is not subject to further judicial review (by appeal or otherwise) and has become final; (ii) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Code sections 7121 or 7122, or a comparable agreement under the laws of other jurisdictions, which resolves the entire Tax liability for any taxable period; or (iii) any other final disposition, including by reason of the expiration of the applicable statute of limitations or any other event that the Parties agree in writing is a final and irrevocable determination of the liability at issue.

1.33 “Form 10” means the Form 10 filed by TreeHouse Foods, Inc. with the Securities and Exchange Commission on June 14, 2005.

1.34 “Historic Business” means the Mocha Mix/Second Nature business.

1.35 “Income Tax” means any income, franchise or similar Tax imposed on, measured by or calculated with respect to net income or net profits.

1.36 “Income Tax Return” means a Tax Return relating to or filed in connection with any Income Tax.

1.37 “Independent Firm” has the meaning set forth in Section 10.03.

1.38 “Initial Ruling” means the private letter ruling dated April 29, 2005, issued by the IRS with respect to the Restructuring Transactions and the Distribution.

1.39 “Initial Ruling Documents” means the request for the Initial Ruling filed with the IRS on or about February 11, 2005, together with all supplemental filings, additional information and other materials subsequently submitted in connection therewith on behalf of Distributing, its subsidiaries and its shareholders to the IRS, and all appendices and exhibits thereto. The Initial Ruling Documents shall include the letter dated June 24, 2005 from Stephen Wegener of Deloitte Tax LLP to Wayne Murray at the IRS regarding the Initial Ruling.

1.40 “IRS” means the United States Internal Revenue Service or any successor thereto, including its agents, representatives, and attorneys.

1.41 “Losses” means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, fees, expenses, deficiencies, claims or other charges, absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown (including, without limitation, the costs and expenses of any and all Tax Proceedings, threatened Tax Proceedings, demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any such matters).

1.42 “LPS I” means Dean Specialty Intellectual Property Services, L.P., a Delaware limited partnership and a Controlled Affiliate.

1.43 “Non-Income Tax” means any Tax other than an Income Tax.

1.44 “Non-Income Tax Return” means any Tax Return other than an Income Tax Return.

1.45 “Owed Party” has the meaning set forth in Section 8.04.

1.46 “Owing Party” has the meaning set forth in Section 8.04.

1.47 “Party” means Distributing, Controlled or a Controlled Affiliate.

1.48 “Payment Period” has the meaning set forth in Section 8.04(e).

1.49 “Person” means any natural person, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, proprietorship, trust, association, union, governmental authority or other entity, enterprise, authority or organization.

1.50 “Pickle” means Dean Pickle and Specialty Products Company, a Wisconsin corporation.

1.51 “Post-Distribution Period” means any taxable period (or the portion of any Straddle Period) beginning after the Distribution Date.

1.52 “Pre-Distribution Period” means any taxable period (or the portion of any Straddle Period) ending on or before the Distribution Date.

1.53 “Qualifying Compensatory Transfers” means issuances of Controlled stock to Persons in connection with the performance of services that satisfy the requirements of Safe Harbor VIII set forth in section 1.355-7(d)(8) of the Treasury Regulations and grants of stock options and other forms of equity compensation under Controlled’s 2005 Long-Term Stock Incentive Plan that, if exercised or vested, respectively, would result in issuances of Controlled stock that satisfy the requirements of Safe Harbor VIII set forth in section 1.355-7(d)(8) of the Treasury Regulations

1.54 “Restricted Actions” has the meaning set forth in Section 4.05(a).

1.55 “Restructuring Transactions” means the transactions undertaken prior to and in connection with the Distribution to transfer the assets and liabilities of the Transferred Businesses to Controlled and its subsidiaries and to effect the Distribution, as described more fully in the Initial Ruling and the Initial Ruling Documents.

1.56 “Retained Assets” shall have the meaning set forth in the Distribution Agreement.

1.57 “Retained Business” shall have the meaning set forth in the Distribution Agreement.

1.58 “Ruling Documents” means the Initial Ruling Documents and any Supplemental Ruling Documents.

1.59 “Rulings” means the Initial Ruling and any Supplemental Rulings.

1.60 “Sole Responsibility Item” means any Tax Item for which the non-Filing Party has the entire economic liability under this Agreement.

1.61 “Specialty Foods Holding” means Specialty Foods Holding Corp., a Delaware corporation and a Controlled Affiliate.

1.62 “Straddle Period” means any taxable period that begins before and ends after the Distribution Date.

1.63 “Supplemental Ruling” means (1) any ruling issued or to be issued by the IRS that relates to the Distribution other than the Initial Ruling, and (2) any similar ruling issued by any other Taxing Authority addressing the application of a provision of the Tax laws of another jurisdiction to the Distribution.

1.64 “Supplemental Ruling Documents” means (i) any request for a Supplemental Ruling and any materials, appendices, exhibits or additional information submitted or filed in connection therewith, and (2) any similar filings submitted to any other Taxing Authority in connection with the Distribution.

1.65 “Taxes” means all federal, state, local or foreign taxes, charges, fees, duties, levies, imposts or other assessments, including, but not limited to, income, gross receipts, excise, property, sales, use, license, capital stock, transfer, franchise, payroll, withholding, social security, value added or other taxes, including any interest, penalties or additions to tax attributable thereto, and a “Tax” shall mean any one of such Taxes.

1.66 “Tax Asset” means any Tax Item that has accrued for Tax purposes, but has not been used during the taxable period in which it has accrued, and that could reduce a Tax in another taxable period, including a net operating loss, net capital loss, investment tax credit, foreign tax credit, charitable deduction or credit related to alternative minimum tax or any other Tax credit.

1.67 “Tax Benefit” means a reduction in the Tax liability (or increase in refund or credit) realized or received by a taxpayer (or of the Affiliated Group of which it is a member) for any taxable period. Except as otherwise provided in this Agreement, a Tax Benefit shall be deemed to have been realized or received from a Tax Item in a taxable period only if and to the extent that the Tax liability of the taxpayer (or of the Affiliated Group of which it is a member) for such period, after taking into account the effect of the Tax Item on the Tax liability of such taxpayer in the current period and all prior periods, is less than it would have been had such Tax liability been determined without regard to such Tax Item.

1.68 “Tax Detriment” means an increase in the Tax liability (or reduction in refund or credit) realized or received by a taxpayer (or of the Affiliated Group of which it is a member) for any taxable period. Except as otherwise provided in this Agreement, a Tax Detriment shall be deemed to have been realized or received from a Tax Item in a taxable period only if and to the extent that the Tax liability of the taxpayer (or of the Affiliated Group of which it is a member) for such period, after taking into account the effect of the Tax Item on the Tax liability of such taxpayer in the current period and all prior periods, is more than it would have been had such Tax liability been determined without regard to such Tax Item.

1.69 “Tax Item” means any item of income, gain, loss, deduction, expense or credit, or any other attribute or amount that may have the effect of increasing or decreasing any Tax.

1.70 “Tax Opinion” means the opinion rendered to Distributing and Controlled by Distributing’s outside tax counsel with respect to the federal income tax consequences of the Distribution.

1.71 “Tax Proceeding” means any audit, examination, investigation, action, suit, claim, assessment or other administrative or judicial proceeding relating to Taxes.

1.72 “Tax Return” means any return, report, certificate, form or similar statement or document (including any related or supporting information or schedule attached thereto and any information return, amended tax return, claim for refund or declaration of estimated Tax) required to be supplied to, or filed with, a Taxing Authority in connection with the determination, assessment or collection of any Tax or the administration of any laws, regulations or administrative requirements relating to any Tax.

1.73 “Taxing Authority” means any governmental authority or any subdivision, agency, commission or authority thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

1.74 “Transferred Assets” has the meaning assigned to such term in the Distribution Agreement.

1.75 “Transferred Businesses” has the meaning assigned to such term in the Distribution Agreement.

1.76 “Transferred Business Records” has the meaning set forth in Section 10.02(b).

1.77 “Unqualified Opinion” means an unqualified opinion (except for reliance on reasonable assumptions and representations) of a law firm.

Section 2. Preparation and Filing of Tax Returns.

2.01 Distributing’s Responsibility. Distributing shall have sole and exclusive responsibility for the preparation and filing of:

(a) all Consolidated Returns and Combined Returns;

(b) all Tax Returns required to be filed by or with respect to Distributing and/or any Distributing Affiliate for any period;

(c) all Income Tax Returns of LPS I for any taxable period ending on or before the Distribution Date (whether due on, before, or after the Distribution Date); and

(d) all Tax Returns required to be filed by or with respect to Controlled and/or any Controlled Affiliate that are due (taking into account any valid extensions of the due date) on or before the Distribution Date.

2.02 Controlled’s Responsibility. Controlled shall have sole and exclusive responsibility for the preparation and filing of:

(a) except as provided in Section 2.01(c), all Tax Returns due (taking into account any valid extensions of the due date) after the Distribution Date which are required to be

filed by or with respect to, and which relate exclusively to Controlled, Specialty Foods Holding and/or LPS I for any taxable period beginning before the Distribution Date; and

(b) all Tax Returns required to be filed by or with respect to Controlled and/or any Controlled Affiliate for any taxable period beginning after the Distribution Date.

2.03 Agent . Subject to the other applicable provisions of this Agreement, Controlled hereby irrevocably designates, and agrees to cause each Controlled Affiliate to so designate, Distributing as its sole and exclusive agent and attorney-in-fact to take such actions (including execution of documents) as Distributing, in its sole discretion, may deem appropriate in any and all matters (including Tax Proceedings) relating to any Consolidated Return or Combined Return. Without limiting the foregoing, Distributing, Controlled, the members of the Distributing Group and the members of the Controlled Group shall file any and all consents, elections or other documents and take any other actions necessary or appropriate to file any Consolidated Return or Combined Return.

2.04 Manner of Tax Return Preparation .

(a) All Tax Returns shall be filed on a timely basis (taking into account applicable extensions) by the Party responsible for filing such returns under this Agreement.

(b) Tax Returns prepared by Distributing under Section 2.01 that relate to Taxes for which Controlled or any Controlled Affiliate is liable under Section 3 shall be prepared in a manner consistent with past practice, unless otherwise required by applicable law. Subject to the requirements of the immediately preceding sentence and Section 4.02(c), Distributing shall have the exclusive right with respect to any Tax Return for which it has filing responsibility under Section 2.01 to determine the manner in which such Tax Return shall be prepared and filed, including the elections, method of accounting, positions, conventions and principles of taxation to be used and the manner in which any Tax Item shall be reported. Distributing shall also have the exclusive right with respect to any Tax Return for which it has filing responsibility under Section 2.01 to determine (1) whether to retain outside firms to prepare or review such Tax Returns, (2) whether any extensions shall be requested, (3) whether any amended Tax Returns shall be filed, (4) whether any claims for refund shall be made, and (5) whether any refunds shall be paid by way of refund or credited against any liability for Tax; provided, that upon the request of Controlled, Distributing will use reasonable efforts to file for and obtain any material Tax refund to which Controlled is entitled pursuant to this Agreement if (x) Distributing concludes, in its discretion, that filing for such Tax refund will not adversely affect Distributing or any Distributing Affiliate, (y) the refund claim relates solely to Taxes for which Controlled is responsible under this Agreement, and (z) Controlled agrees to and does reimburse Distributing for all expenses incurred in connection with the filing and prosecution of such Tax refund claim.

(c) Distributing shall determine, in a manner consistent with past practice, whether to file any Tax Return for any taxable period beginning before the Distribution Date on a consolidated, combined or unitary basis if the filing of a consolidated, combined or unitary Tax Return for such period is elective under applicable law. If there is no applicable past practice, Distributing shall determine in its discretion whether to file such Tax Return on a consolidated, combined, or unitary basis; provided, that Distributing shall not file such a Tax Return on a

consolidated, combined or unitary basis if the Tax Return relates exclusively to Controlled and/or a Controlled Affiliate and the election to file on a consolidated, combined or unitary basis would be binding on Controlled and/or a Controlled Affiliate or otherwise could adversely affect Controlled or a Controlled Affiliate for taxable periods beginning after the Distribution Date without the prior written consent of Controlled, which consent shall not be unreasonably withheld or delayed.

(d) Tax Returns prepared by Controlled under Section 2.02 that relate to Taxes for which Distributing is liable under Section 3 shall be prepared in a manner consistent with past practice and the reporting of Tax Items on Consolidated Returns or Combined Returns filed by Distributing, unless otherwise required by applicable law. Neither Controlled nor any Controlled Affiliate shall take any position on any Tax Return filed after the Distribution Date or in any Tax Proceeding (i) that is inconsistent with a position taken on a Tax Return filed by Distributing or a Distributing Affiliate with respect to any taxable period beginning before the Distribution Date, or (ii) that could reasonably be expected to adversely affect Distributing or any Distributing Affiliate other than a position that is consistent with a position taken on a Tax Return filed by Distributing or a Distributing Affiliate with respect to a taxable period beginning before the Distribution Date or a position that is required by applicable law.

(e) Subject to the requirements of Section 2.04(d) and Section 4.02(b), Controlled shall have the exclusive right with respect to any Tax Return for which it has filing responsibility under Section 2.02 to determine the manner in which such Tax Return shall be prepared and filed, including the elections, method of accounting, positions, conventions and principles of taxation to be used and the manner in which any Tax Item shall be reported. Controlled shall also have the exclusive right with respect to any Tax Return for which it has filing responsibility under Section 2.02 to determine (1) whether to retain outside firms to prepare or review such Tax Returns, (2) whether any extensions shall be requested, (3) whether any amended Tax Returns shall be filed, (4) whether any claims for refund shall be made, and (5) whether any refunds shall be paid by way of refund or credited against any liability for Tax; provided, that upon the request of Distributing, Controlled will use reasonable efforts to file for and obtain any material Tax refund to which Distributing is entitled pursuant to this Agreement if (x) Controlled concludes, in its discretion, that filing for such Tax refund will not adversely affect Controlled or any Controlled Affiliate, (y) the refund claim relates solely to Taxes for which Distributing is responsible under this Agreement, and (z) Distributing agrees to and does reimburse Controlled for all expenses incurred in connection with the filing and prosecution of such Tax refund claim.

2.05 Preparation of Tax Package and Other Information.

(a) Controlled shall provide to Distributing in a format determined by Distributing and consistent with existing practices of Distributing's Affiliated Group all information requested by Distributing to prepare the Tax Returns required to be prepared by Distributing pursuant to Section 2.01 (the "Distributing Tax Package"). The Distributing Tax Package with respect to any taxable year shall be provided by Controlled to Distributing on a basis consistent with current practices of Distributing's Affiliated Group no later than ninety (90) days following the end of such taxable year. Controlled shall also timely provide to Distributing information required by Distributing to determine estimated Tax payments, current federal

taxable income, current and deferred tax liabilities, tax reserve items, and any other information reasonably requested by Distributing in a form reasonably requested by Distributing.

(b) Distributing shall timely provide to Controlled all information reasonably requested by Controlled to prepare Tax Returns required to be prepared by Controlled pursuant to Section 2.02 or to comply with the requirements of Section 6.01 in a form reasonably requested by Controlled.

Section 3. Liability for Taxes.

3.01 Controlled's Liability for Taxes. Controlled and each Controlled Affiliate shall be jointly and severally liable for the following Taxes:

(a) all Non-Income Taxes of Controlled or any Controlled Affiliate, or that relate or are attributable to the Transferred Businesses or the Transferred Assets, for any period; and

(b) all Income Taxes of Controlled or any Controlled Affiliate, or that relate or are attributable to the Transferred Businesses or the Transferred Assets, for any Post-Distribution Period.

3.02 Distributing's Liability for Taxes. Except with respect to Taxes for which Controlled and/or the Controlled Affiliates are liable pursuant to Section 3.01, Section 3.05, Section 4 or otherwise under this Agreement, Distributing shall be liable for the following Taxes:

(a) all Income Taxes reported or required to be reported on the Consolidated Returns and Combined Returns;

(b) all Income Taxes not described in Section 3.02(a) of Controlled or any Controlled Affiliate, or that relate or are attributable to the Transferred Businesses or the Transferred Assets, for any Pre-Distribution Period;

(c) all Income Taxes not described in Section 3.02(a) of Distributing or any Distributing Affiliate, or that relate or are attributable to the Retained Business or the Retained Assets, for any Post-Distribution Period; and

(d) all Non-Income Taxes of Distributing or any Distributing Affiliate that relate or are attributable to the Retained Business or the Retained Assets for any period.

3.03 Tax Refunds.

(a) Controlled and the Controlled Affiliates shall be entitled to all refunds of Taxes for which they are responsible under Section 3.01.

(b) Distributing and the Distributing Affiliates shall be entitled to all refunds of Taxes for which Distributing is responsible under Section 3.02.

3.04 [Intentionally Omitted.]

3.05 Transaction Taxes. Controlled and each Controlled Affiliate shall be jointly and severally liable for, and shall indemnify and hold harmless Distributing and each Distributing Affiliate from and against, any Taxes incurred as a result of (a) the distribution by DIPS LP as part of the Restructuring Transactions of a 99.9 percent limited partnership interest in LPS I to Pickle, (b) the distribution by DIPS LP as part of the Restructuring Transactions of a 0.1 percent general partner interest in LPS I to Pickle and (c) the taking into account of “intercompany items” resulting from the transactions described in clauses (a) and (b) pursuant to Section 1.1502-13 of the Treasury Regulations because of and in connection with the Distribution; provided, that Controlled’s liability under this Section 3.05 shall be limited to \$20,000,000.

3.06 Payment of Tax Liability. If one Party is liable or responsible for Taxes under this Agreement with respect to Tax Returns which another Party is responsible for preparing and filing, or with respect to Taxes that are paid by another Party, then the liable or responsible Party shall pay the Taxes or reimburse the other Party for such Taxes pursuant to Section 8 of this Agreement.

3.07 Carrybacks. If a Tax Return of Controlled, a Controlled Affiliate or the Controlled Group with respect to a taxable period beginning after the Distribution Date reflects a Tax Asset, such Tax Asset may not be carried back to a Consolidated Return, Combined Return or any other Income Tax Return of Distributing or any Distributing Affiliate.

3.08 Allocation of Tax Items.

(a) All determinations (whether for purposes of preparing Tax Returns or for purposes of determining a Party’s responsibility for Taxes under this Agreement) regarding the allocation of Tax Items to Pre-Distribution Periods and Post-Distribution Periods (including allocations between the portion of a Straddle Period that is a Pre-Distribution Period and the portion of a Straddle Period that is a Post-Distribution Period) shall be made pursuant to the principles of section 1.1502-76(b) of the Treasury Regulations or of a corresponding provision under the laws of other jurisdictions; provided, that no election shall be made under section 1.1502-76(b)(2)(ii) of the Treasury Regulations (relating to ratable allocations of a year’s items). Any such allocation of Income Tax Items shall initially be made by Distributing. To the extent that Controlled disagrees with such determination, the dispute shall be resolved pursuant to the provisions of Section 10.03.

(b) For purposes of determining the Parties’ respective responsibilities for Non-Income Taxes under this Agreement, the determination of whether and to what extent Non-Income Taxes relate or are attributable to the Transferred Assets or the Transferred Businesses, or to the Retained Assets or the Retained Business, shall initially be made by the Party preparing the relevant Non-Income Tax Return. If the other Party disagrees with such determination, the disagreement shall be resolved pursuant to the provisions of Section 10.03.

(c) The allocation of earnings and profits between Distributing and Controlled shall be determined pursuant to section 312(h) of the Code and the Treasury Regulations thereunder. Such determination shall be initially made by Distributing on or before October 15, 2006, and timely provided to Controlled (with any necessary supporting material). To the extent Controlled disagrees with such determination, the dispute shall be resolved pursuant to the

provisions of Section 10.03. Other Tax attributes shall be allocated between Distributing and Controlled in the manner provided by law.

(d) Neither Controlled nor any Controlled Affiliate shall take any action on the Distribution Date (or, if earlier, after receiving Transferred Assets) other than in the ordinary course of business, except for actions undertaken in connection with the Restructuring Transactions and the Distribution that are described in the Initial Ruling, the Initial Ruling Documents, the Distribution Agreement and/or the Form 10.

Section 4. Distribution Taxes.

4.01 Representations.

(a) Except for matters described on Schedule 4.01, Controlled represents that none of Controlled, the Controlled Affiliates, or the Controlled Representatives has entered into or is aware of any agreement, understanding, arrangement, substantial negotiations or discussions within two years before the Distribution Date with respect to (i) any issuance, redemption, or acquisition of stock of Controlled or any Controlled Affiliate, other than as described in the Initial Ruling, issuances of Controlled stock, stock options and restricted stock units to New Management and Gregg Engles described in the Form 10, and Qualifying Compensatory Transfers; (ii) any merger or consolidation of Controlled or any Controlled Affiliate with any Person other than as described in the Initial Ruling; (iii) any acquisition by Controlled or any Controlled Affiliate of any Person or of all or substantially all of the assets of any Person following the Distribution (other than Bay Valley's acquisition of assets from Controlled following the Distribution); (iv) the acquisition of all or substantially all of the assets of Controlled or any Controlled Affiliate or any of the Transferred Businesses by any Person (other than the acquisition of the Transferred Businesses by Controlled and the Controlled Affiliates as part of the Restructuring Transactions and Bay Valley's acquisition of assets from Controlled following the Distribution); or (v) any other transaction or event that could, alone or in combination with other transactions or events that any of Controlled, the Controlled Affiliates or the Controlled Representatives has entered into any agreement, understanding, negotiations or discussions with respect to (or of which any of them is aware), cause section 355(e) of the Code to apply to the Distribution. Controlled represents that Bay Valley is and will remain wholly-owned by Controlled and disregarded as an entity separate from Controlled for federal tax purposes.

(b) Except for matters described on Schedule 4.01, Distributing represents that none of Distributing, the Distributing Affiliates or the Distributing Representatives has entered into or is aware of any agreement, understanding, arrangement, substantial negotiations or discussions within two years before the Distribution Date with respect to (i) the issuance, redemption, or acquisition of stock of Controlled or any Controlled Affiliate, other than as described in the Initial Ruling, issuances of Controlled stock, stock options and restricted stock units to New Management and Gregg Engles described in the Form 10, and Qualifying Compensatory Transfers; (ii) any merger of Controlled or any Controlled Affiliate with any Person other than as described in the Initial Ruling; (iii) the acquisition by Controlled or any Controlled Affiliate of any Person or of all or substantially all of the assets of any Person following the Distribution (other than Bay Valley's acquisition of assets from Controlled

following the Distribution); (iv) the acquisition of all or substantially all of the assets of Controlled or any Controlled Affiliate or any of the Transferred Businesses by any Person (other than the acquisition of the Transferred Businesses by Controlled and the Controlled Affiliates as part of the Restructuring Transactions and Bay Valley's acquisition of assets from Controlled following the Distribution); or (v) any other transaction or event involving the stock or assets of Controlled that could, alone or in combination with other transactions and events that Distributing, any Distributing Affiliate or any Distributing Representative has entered into any agreement, understanding, arrangement, negotiations or discussions with respect to (or of which any of them is aware), cause section 355(e) of the Code to apply to the Distribution.

(c) Distributing represents that none of Distributing, the Distributing Affiliates or the Distributing Representatives has entered into an agreement, understanding, or arrangement with any Person pursuant to substantial negotiations or discussions described in item 1 on Schedule 4.01 which will obligate Controlled, any Controlled Affiliate, or any Controlled shareholder to (i) issue, redeem, or dispose of stock of Controlled or any Controlled Affiliate following the Distribution; (ii) merge Controlled or any Controlled Affiliate with any other Person following the Distribution; (iii) acquire another Person or all or substantially all of the assets of any other Person following the Distribution (other than Bay Valley's acquisition of assets from Controlled following the Distribution); or (iv) sell or otherwise dispose of all or substantially all of the assets of Controlled or any Controlled Affiliate or any of the Transferred Businesses following the Distribution (other than transfers of assets from Controlled to Bay Valley following the Distribution).

4.02 Actions Inconsistent with Rulings or Tax Opinion.

(a) Controlled represents that none of Controlled, the Controlled Affiliates or the Controlled Representatives has taken any action that is inconsistent with the Initial Ruling, or any information, covenant or representation contained in the Initial Ruling Documents. Distributing represents that none of Distributing, the Distributing Affiliates or the Distributing Representatives has taken any action that is inconsistent with the Initial Ruling, or any information, covenant or representation contained in the Initial Ruling Documents.

(b) Unless otherwise required by a Final Determination, Controlled agrees that it will not take or fail to take, or cause or permit any Controlled Affiliate to take or fail to take, any action, including a position on any Tax Return or in any Tax Proceeding, that would be inconsistent with (1) any representation in this Agreement, (2) the Initial Ruling, or any information, covenant or representation contained in the Initial Ruling Documents, (3) the Tax Opinion or any representation made in the Controlled Representation Letter or (4) the tax treatment of the Distribution as tax-free under section 355 of the Code.

(c) Unless otherwise required by a Final Determination, Distributing agrees that it will not take or fail to take, or cause or permit any Distributing Affiliate to take or fail to take, any action, including a position on any Tax Return or in any Tax Proceeding, that would be inconsistent with (1) any representation in this Agreement, (2) the Initial Ruling, or any information, covenant or representation contained in the Initial Ruling Documents, (3) the Tax Opinion or any representation made in the Distributing Representation Letter, or (4) the tax treatment of the Distribution as tax-free under section 355 of the Code.

4.03 Liability.

(a) Controlled and each Controlled Affiliate shall be jointly and severally liable for, and shall pay and indemnify and hold harmless Distributing and each Distributing Affiliate from and against, any Distribution Taxes to the extent that such Distribution Taxes are attributable to, caused by or result from one or more of the following:

(i) any action or omission by Controlled or any Controlled Affiliate after the Distribution;

(ii) any event or transaction after the Distribution that involves the stock, assets and/or business of Controlled or any Controlled Affiliate, whether or not such event or transaction is the result of direct action of, or within the control of, Controlled or any Controlled Affiliate, including without limitation any acquisition of any stock or assets of Controlled or any Controlled Affiliate by one or more other Persons;

(iii) any breach or inaccuracy of any representation in the Controlled Representation Letter;

(iv) any breach of any representation or covenant of Controlled set forth in, or made pursuant to, this Agreement or the Distribution Agreement; or

(v) any action described in Section 4.04(a) below, regardless of whether such action is permitted pursuant to Section 4.04 (b) or Section 4.05 below.

(b) Distributing shall be liable for, and shall pay and indemnify and hold harmless Controlled and each Controlled Affiliate from and against, any Distribution Taxes to the extent such Distribution Taxes are attributable to, caused by or result from one or more of the following:

(i) any action or omission by Distributing or any Distributing Affiliate after the Distribution;

(ii) any event or transaction after the Distribution that involves the stock, assets and/or business of Distributing or any Distributing Affiliate, whether or not such event or transaction is the result of direct action of, or within the control of, Distributing or any Distributing Affiliate, including without limitation any acquisition of any stock or assets of Distributing or any Distributing Affiliate by one or more other Persons;

(iii) any breach or inaccuracy of any representation in the Distributing Representation Letter; provided, that in determining whether there is a breach or inaccuracy of a representation in the Distributing Representation Letter for purposes of this Section 4.03 (b)(iii), the term "Distributing Representative" as used in the Distributing Representation Letter shall not include (a) any Person treated as a Controlled Representative hereunder pursuant to the definition of Controlled Representative, or (b) with respect to actions taken on or after June 24, 2005, any Person who became an employee of Controlled or a Controlled Affiliate following the Restructuring Transactions that occurred on June 24,

2005 and who will serve as a director or officer of Controlled or any Controlled Affiliate following the Distribution;

(iv) any breach of any representation or covenant of Distributing set forth in, or made pursuant to, this Agreement or the Distribution Agreement;

(v) any omission in the information provided by Distributing to the IRS in the Initial Ruling Documents; or

(vi) any failure to execute Steps 1 through 31 of the Transactions (as such term is defined in the Initial Ruling) in the manner described in the Initial Ruling.

(c) Notwithstanding the provisions of Section 4.03(a) and Section 4.03(b), but subject to Section 4.03(d), Distributing shall be liable for 50 percent, and Controlled and each Controlled Affiliate shall be jointly and severally liable for 50 percent, of any Distribution Taxes to the extent such Distribution Taxes are attributable to, caused by or result from:

(i) any adoption, amendment or change of any law, rule or regulation after the date of this Agreement, or any change in the interpretation or application of any existing law, rule, or regulation as reflected in any judicial decision or any ruling, notice or other administrative determination or announcement by a Taxing Authority after the date of this Agreement; or

(ii) any breach of a representation that is included or incorporated by reference in each of the Distributing Representation Letter and the Controlled Representation Letter, or that is made by each of Distributing and Controlled under the terms of this Agreement or the Distribution Agreement.

(d) In determining the Parties' liability for Distribution Taxes pursuant to this Section 4.03, the following rules shall apply:

(i) If Controlled and the Controlled Affiliates are liable for Distribution Taxes pursuant to Section 4.03(a)(i), Section 4.03(a)(ii) or Section 4.03(a)(v), Controlled and the Controlled Affiliates shall be exclusively liable for such Distribution Taxes regardless of whether Distributing could be treated as liable for all or a portion of those Distribution Taxes pursuant to Section 4.03(b)(iii), Section 4.03(b)(iv), Section 4.03(b)(v) or Section 4.03(c)(ii); provided, that this Section 4.03(d)(i) shall not apply to, and Distributing shall be exclusively responsible for, Distribution Taxes that result from or are attributable to a breach of the representation set forth in Section 4.01(c).

(ii) If Distributing is liable for Distribution Taxes pursuant to Section 4.03(b)(i) or Section 4.03(b)(ii), Distributing shall be exclusively liable for such Distribution Taxes regardless of whether Controlled and the Controlled Affiliates could be treated as liable for all or a portion of those Distribution Taxes pursuant to Section 4.03(a)(iii), Section 4.03(a)(iv) or Section 4.03(c)(ii).

(iii) Distributing shall not be liable under Section 4.03(b)(iii), Section 4.03(b)(iv) or Section 4.03(c)(ii) for Distribution Taxes attributable to a breach of any representation made "to the best knowledge of Distributing" or with a similar

qualification to the extent that (A) the representation relates to Controlled or any Controlled Affiliate, or actions, plans or intentions of Controlled, any Controlled Affiliate or any Controlled Representative, and (B) Controlled has made the same or a substantially similar representation in this Agreement or the Controlled Representation Letter without a “to the best knowledge of Controlled” or similar qualification.

(iv) Controlled shall not be liable under Section 4.03(a)(iii), Section 4.03(a)(iv) or Section 4.03(c)(ii) for Distribution Taxes attributable to a breach of a representation made “to the best knowledge of Controlled” or with a similar qualification to the extent that the representation relates to Distributing, any Distributing Affiliate, or any Distributing Representative or actions, plans or intentions of Distributing, any Distributing Affiliate, or any Distributing Representative.

(v) Controlled shall not be liable under Section 4.03(a)(iii) or Section 4.03(c)(ii) for Distribution Taxes attributable to a breach of representation 1 or representation 3 in the Controlled Representation Letter; provided, that this Section 4.03(d)(v) shall not affect Controlled’s liability for Distribution Taxes with respect to a breach of any other representation in the Controlled Representation Letter or otherwise under this Agreement.

(vi) Distributing shall not be liable under Section 4.03(b)(iii) or Section 4.03(c)(ii) for Distribution Taxes resulting from or attributable to a breach of representation 2 in the Distributing Representation Letter unless the breach is of an underlying representation in the Initial Ruling or the Initial Ruling Documents that (A) is also included in the same or substantially similar form on Schedule A to the Controlled Representation Letter, in which case the Parties’ liabilities for the resulting Distribution Taxes shall be as described in Section 4.03(c); or (B) relates solely to Distributing or a Distributing Affiliate (and not to Controlled or any Controlled Affiliate, or to any actions, plans or intentions of Controlled or any Controlled Affiliate).

4.04 Covenants.

(a) Controlled agrees that, until the day after the second anniversary of the Distribution, Controlled will not and will cause each of the Controlled Affiliates not to:

(i) sell, exchange, distribute or otherwise transfer to any entity that does not file a U.S. federal consolidated income tax return with Controlled any of the assets of Controlled or any Controlled Affiliate (other than sales or transfers of assets in the ordinary course of business), or any stock or other equity interest in any Controlled Affiliate, if such transaction would result in the disposition (individually or in the aggregate) of assets, stock or other equity interests having an aggregate fair market value (as measured as of the date of the respective sale, exchange, distribution or other transfer) of more than 40% of the fair market value of the net assets of the Controlled Group;

(ii) liquidate Controlled or merge Controlled or any Controlled Affiliate with any Person (without regard to which Party is the surviving entity);

provided, that this Section 4.04(a)(ii) shall not apply to (1) a merger of any Controlled Affiliate into Controlled or another Controlled Affiliate in cases in which the Controlled Affiliate(s) involved in the merger file a U.S. federal consolidated income tax return with Controlled, (2) a merger of another Person into Controlled or any Controlled Affiliate to effect the acquisition of all of the assets of such other Person if none of the consideration provided by Controlled or any Controlled Affiliate is a Controlled Equity Interest, and (3) a merger of a subsidiary of Controlled with and into another Person to effect the acquisition by Controlled of all of the stock or other equity interests of such other Person if none of the consideration provided to owners of stock or other equity interests in such other Person in connection with the merger is a Controlled Equity Interest;

(iii) discontinue the active conduct of the Historic Business or sell, exchange, or transfer the Historic Business or the assets used therein to any Person, other than (A) transfers of assets in the ordinary course of the Historic Business and (B) transfers to Bay Valley;

(iv) redeem, purchase or otherwise acquire any of Controlled's outstanding stock other than through stock purchases meeting the requirements of section 4.05(1)(b) of Rev. Proc. 96-30 (as in effect prior to its modification by Rev. Proc. 2003-48) (and as may be modified or amended from time to time);

(v) issue any stock (including, without limitation, restricted stock) or other equity interests (including, without limitation, stock options) in Controlled, except (A) as described in the Initial Ruling and (B) for issuances of stock meeting the requirements of Safe Harbor VIII as set forth in Treasury Regulations section 1.355-7(d)(8);

(vi) enter into any agreement for, facilitate or otherwise participate in the sale or other disposition by any Person other than Controlled of Controlled stock or any other equity interest in Controlled;

(vii) take or fail to take any action inconsistent with the information, representations or covenants included in the Rulings or the Ruling Documents or the representations made by Controlled in the Controlled Representation Letter;

(viii) enter into, or permit any of their directors, officers, controlling shareholders (within the meaning of section 1.355-7(h)(3) of the Treasury Regulations) or any Person with the implicit or explicit permission (within the meaning of section 1.355-7 of the Treasury Regulations) of any of the foregoing to enter into, any agreement, understanding, arrangement or negotiations concerning any transaction involving any acquisition of the stock of Controlled or any Controlled Affiliate, or any non-ordinary course acquisition of the assets of Controlled or any Controlled Affiliate, in each case, by any Person identified in item 1 on Schedule 4.01 or any Person bearing a relationship to a Person so listed that could cause such transaction to be treated as a "similar acquisition" within the meaning of section 1.355-7(h)(12) of the Treasury Regulations; or

(ix) cause or permit Bay Valley to be treated as other than an entity that is wholly-owned by Controlled and disregarded as an entity separate from Controlled for federal tax purposes.

For purposes of Section 4.04(a)(i) and 4.04(a)(ii)(1), an entity that is and will remain wholly-owned (for U.S. federal income tax purposes) by Controlled or a Controlled Affiliate that files a U.S. federal consolidated income tax return with Controlled, and disregarded for U.S. federal income tax purposes as an entity separate from Controlled or such a Controlled Affiliate, will be treated as filing a U.S. federal consolidated income tax return with Controlled.

(b) Notwithstanding Section 4.04(a), Controlled may take an action described in Section 4.04(a)(ii), (iv), (v) or (vi) if all of the following conditions are satisfied:

(i) Following the proposed action, one or more Persons will not have acquired and will not have the right to acquire, directly or indirectly, more than 40 percent (by vote or value) of the outstanding stock of Controlled (determined immediately following such action) taking into account all issuances, redemptions or other acquisitions of stock of Controlled and any asset acquisition treated as an acquisition of stock of Controlled under section 355(e)(3)(B) (and any agreements with respect to any such issuances, redemptions or acquisitions), and assuming the exercise or conversion of all options, warrants or similar exercisable or convertible securities and the closing of all relevant agreements, from the date two years prior to the Distribution to the date immediately following the proposed action and any other transaction which is part of a plan or series of related transactions that includes the Distribution within the meaning of section 355(e) of the Code;

(ii) If the proposed action is a merger involving Controlled, Controlled will be the surviving entity; and

(iii) At least seven (7) days prior to entering into any agreement contemplating an action that is intended to qualify under this Section 4.04(b), Controlled provides to Distributing a description of the relevant facts and a certification signed by an authorized officer of Controlled attesting that, after an investigation of the facts and receiving advice concerning the applicable law, Controlled finds and represents to Distributing that the requirements of clauses (i) and (ii) are satisfied and will be satisfied as of the time the proposed action occurs.

4.05 Exceptions to Covenants.

(a) Controlled and the Controlled Affiliates may take actions inconsistent with the covenants contained in Section 4.04(a) (and not permitted under Section 4.04(b)) ("Restricted Actions") if prior to taking such actions:

(i) Distributing consents in writing to the Restricted Actions, such consent to be determined by Distributing in its sole discretion taking into account solely the preservation of the tax-free status of the Distribution and the tax treatment of the Restructuring Transactions;

(ii) Distributing, at the request of Controlled, obtains a Supplemental Ruling from the IRS in form and substance reasonably satisfactory to Distributing that the Restricted Actions will not result in the Distribution being taxable to Distributing or Distributing's shareholders and will not adversely affect the Tax treatment of the Restructuring Transactions; provided, that Distributing shall not be obligated to request such a ruling if it determines in good faith that such request could have an adverse effect on Distributing or any Distributing Affiliate or Distributing's shareholders; or

(iii) Controlled has delivered to Distributing an Unqualified Opinion in form and substance reasonably satisfactory to Distributing from counsel selected by Controlled and reasonably acceptable to Distributing that the Restricted Actions will not result in the Distribution being taxable to Distributing or Distributing's shareholders and will not adversely affect the Tax treatment of the Restructuring Transactions.

(b) Controlled and the Controlled Affiliates will be jointly and severally liable for, and shall indemnify and hold harmless Distributing and each of the Distributing Affiliates from and against, any Taxes resulting from or attributable to any Restricted Action (even if such Restricted Action is permitted pursuant to Section 4.04(b) or this Section 4.05); provided, that notwithstanding Section 4.03(a)(v) and this Section 4.05(b), neither Controlled nor any Controlled Affiliate shall be liable for Taxes resulting from a Restricted Action to the extent that such Taxes result from a breach of any representation, warranty or covenant made by Distributing or any Distributing Affiliate as part of obtaining a Supplemental Ruling or an Unqualified Opinion.

4.06 Notice of Specified Transactions. Not less than seven (7) business days prior to entering into any oral or written contract or agreement, and not more than five (5) days after it first becomes aware of any negotiations, plans or intentions (regardless of whether it is a Party to such negotiations, plans or intentions), regarding any of the transactions described in Section 4.04(a) of this Agreement, Controlled shall provide written notice to Distributing of its intent to engage in such transaction or of the negotiations, plans or intentions of which it becomes aware, as the case may be.

4.07 Private Letter Rulings.

(a) Distributing represents that it has provided Controlled with accurate and complete copies of the Initial Ruling and all Initial Ruling Documents submitted on or prior to the date hereof.

(b) If Controlled requests that Distributing seek a Supplemental Ruling under Section 4.05(a)(ii) or otherwise, Distributing shall cooperate with Controlled to seek to obtain, in a timely manner, such a Supplemental Ruling (including by making representations reasonably requested by Controlled or the relevant Taxing Authority regarding Distributing and Distributing Affiliates, if such representations are true, correct and complete); provided, that Distributing shall not be obligated to request such a ruling if it determines in good faith that such request could have an adverse effect on Distributing or any Distributing Affiliate or Distributing's shareholders. If Controlled requests that Distributing seek a Supplemental Ruling under Section

4.05(a)(ii) or otherwise, Controlled shall reimburse Distributing for all reasonable out-of-pocket costs and expenses incurred by Distributing or any Distributing Affiliate in connection with seeking and/or obtaining a Supplemental Ruling.

(c) Distributing shall have the right to seek a Supplemental Ruling in its sole and absolute discretion. Controlled and the other Controlled Affiliates shall cooperate with Distributing and take any and all actions reasonably requested by Distributing in connection with seeking and obtaining such a Supplemental Ruling (including making representations reasonably requested by Distributing or the relevant Taxing Authority regarding Controlled and the Controlled Affiliates, if such representations are true, correct and complete); provided, that if Distributing seeks a Supplemental Ruling that was not requested by Controlled (whether pursuant to Section 4.05(a)(ii) or otherwise), Distributing shall reimburse Controlled for all reasonable out-of-pocket costs and expenses that Controlled or any Controlled Affiliate incurs in connection with seeking and/or obtaining such Supplemental Ruling.

(d) If Distributing requests a Supplemental Ruling or other guidance after the date of this Agreement, (1) Distributing shall keep Controlled informed in a timely manner of all material actions taken or proposed to be taken by Distributing in connection therewith; and (2) Distributing shall (A) reasonably in advance of the submission of any Supplemental Ruling Documents to the Taxing Authority provide Controlled with a draft copy thereof, (B) consult in good faith with and reasonably consider Controlled's comments on such draft copy, and (C) provide Controlled with an accurate and complete copy of the Supplemental Ruling and Supplemental Ruling Documents.

(e) In no event shall Distributing be required to file any Supplemental Ruling Documents unless Controlled represents in writing that (1) it has read the Supplemental Ruling Documents and (2) all information, representations and covenants, if any, relating to Controlled (or any Controlled Affiliate) contained in the Supplemental Ruling Documents are true, correct and complete. With respect to any Supplemental Ruling Documents to be filed with a Taxing Authority by Distributing after the date of this Agreement that include representations, covenants or information regarding Controlled and/or any Controlled Affiliate, Controlled shall as promptly as practicable, and in any event within five (5) business days of receipt of a draft of such Supplemental Ruling Documents from Distributing, provide Distributing written notice which shall either (i) state that Controlled agrees that the representations, covenants and information regarding Controlled and the Controlled Affiliates contained in such Supplemental Ruling Documents are true, correct and complete; (ii) state that certain representations, covenants or information regarding Controlled and the Controlled Affiliates contained in such Supplemental Ruling Documents are inaccurate and provide proposed revisions and/or corrected information that, if incorporated by Distributing in the Supplemental Ruling Documents in the manner suggested by Controlled will cause such representations, covenants or information to be true, correct and complete, and Controlled will be deemed to have agreed to such representations, covenants or information as so revised; or (iii) advise Distributing that, because of the complexity of the covenants, representations or information regarding Controlled and the Controlled Affiliates, or the unavailability to Controlled of certain information, Controlled in good faith reasonably requires an additional number of business days to respond and that Controlled will respond in accordance with either clause (i) or (ii) above within such additional business days. Notwithstanding clause (iii) of the immediately preceding sentence, if

Distributing notifies Controlled that Distributing would like to provide the Supplemental Ruling Documents to the IRS or other Taxing Authority more quickly than the time allotted in clause (iii), then Controlled will use best efforts to perform actions to satisfy Distributing's request to expedite its response.

(f) Neither Controlled nor any Controlled Affiliate shall seek any guidance (whether written or oral) from the IRS or any other Taxing Authority concerning the Distribution except pursuant to the provisions of this Agreement regarding Supplemental Rulings.

(g) To the extent that Controlled elects to obtain an Unqualified Tax Opinion for purposes of Section 4.05(a)(iii) regarding Restricted Actions, Distributing shall cooperate in good faith with Controlled's efforts to timely obtain such an opinion, including providing to Controlled any information in Distributing or Distributing Affiliates' control that is reasonably necessary to issue such opinion and executing representation letters as to matters relating to Distributing and the Distributing Affiliates if (i) such representation letters are in form and substance reasonably acceptable to Distributing, and (ii) Distributing agrees that the information and representations contained therein are true, correct and complete. Controlled shall reimburse Distributing for all reasonable out-of-pocket costs and expenses incurred by Distributing or any Distributing Affiliate in connection with an Unqualified Opinion sought or obtained by Controlled, including out-of-pocket costs and expenses incurred by Distributing in connection with its review of the opinion and any representations proposed to be made by Distributing.

(h) To the extent that a Supplemental Ruling or Unqualified Tax Opinion is obtained in accordance with this Section 4, Controlled and each Controlled Affiliate and Distributing shall not take or fail to take (and Distributing shall not allow any Distributing Affiliate to take or fail to take) any action (including in each case any position on any Tax Return) that is inconsistent with the Supplemental Ruling or the Unqualified Tax Opinion or any information, representation, or covenant provided by such Party in connection with the Supplemental Ruling Documents or in connection with obtaining the Unqualified Tax Opinion, in each case, unless otherwise required by a Final Determination.

Section 5. Stock Options.

5.01 Distributing shall be entitled to claim on its Tax Returns any Tax deduction attributable to the exercise of an option to purchase Distributing stock, and neither Controlled nor any Controlled Affiliate shall attempt to claim any such Tax deduction. Distributing shall withhold applicable Taxes and satisfy applicable Tax reporting requirements with respect to the exercise of options to purchase Distributing stock.

5.02 Controlled shall be entitled to claim on its Tax Returns any Tax deduction attributable to the exercise of an option to purchase Controlled stock, and neither Distributing nor any Distributing Affiliate shall attempt to claim any such Tax deduction. Controlled shall withhold applicable Taxes and satisfy applicable Tax reporting requirements with respect to the exercise of options to purchase Controlled stock.

5.03 To the extent that any Tax deduction claimed by Distributing attributable to the exercise of any option to purchase Distributing stock is disallowed by any Taxing Authority, and

Controlled or any Controlled Affiliate is as a result entitled to such Tax deduction, Distributing shall notify Controlled of the receipt of such determination, promptly after the receipt thereof. Controlled shall pay to Distributing the lesser of the amount of the Tax Benefit realized by Controlled or any Controlled Affiliate attributable to the Tax deduction and the amount of Distributing's corresponding Tax Detriment from the denial of such Tax deduction. To the extent that any Tax deduction claimed by Controlled attributable to the exercise of any option to purchase Controlled stock is disallowed by any Taxing Authority, and Distributing or any Distributing Affiliate is as a result entitled to such Tax deduction, Controlled shall notify Distributing of the receipt of such determination, promptly after the receipt thereof, and Distributing shall pay to Controlled the lesser of the amount of Tax Benefit realized by Distributing or any Distributing Affiliate attributable to the Tax deduction and the amount of Controlled's corresponding Tax Detriment from the denial of such Tax deduction.

Section 6. Successor Employer .

6.01 Employee Wages . Controlled shall assume the Form W-2 and Form W-3 reporting obligations (including the filing of all forms necessary to comply with magnetic media reporting requirements) of Distributing with respect to any employee of the Transferred Businesses that Controlled employs during the calendar year which includes the Distribution Date consistent with the procedures set forth in section 5 of Rev. Proc. 2004-53, 2004-34 I.R.B. 320.

Section 7. Indemnification

7.01 Indemnification by Controlled . Controlled and each Controlled Affiliate shall jointly and severally indemnify, defend and hold harmless Distributing, each Distributing Affiliate, and each of their directors, officers, employees, and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Distributing Indemnified Parties"), from and against any Taxes for which Controlled or any Controlled Affiliate is liable under this Agreement ("Controlled Taxes") and any and all Losses and Expenses incurred or suffered by one or more of the Distributing Indemnified Parties in connection with, relating to, arising out of or due to, directly or indirectly:

(a) any Controlled Taxes or any Tax Proceeding relating thereto;

(b) any inaccuracy or breach of any representation or covenant of Controlled and/or any Controlled Affiliate set forth in this Agreement or in any document provided pursuant to the terms hereof; provided, that neither Controlled nor any Controlled Affiliate shall have any liability pursuant to this Section 7.01(b) for or with respect to any Distribution Taxes (or any Losses or Expenses related thereto) if neither Controlled nor any Controlled Affiliate is liable for such Distribution Taxes under Section 4; or

(c) Controlled or any Controlled Affiliate supplying Distributing or any Distributing Affiliate with inaccurate or incomplete information in connection with the preparation of any Tax Return, any request for a Supplemental Ruling, or any Tax Proceeding.

7.02 Indemnification by Distributing . Distributing shall indemnify, defend and hold harmless Controlled, each Controlled Affiliate, and each of their directors, officers, employees,

and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “Controlled Indemnified Parties”), from and against any Taxes for which Distributing is liable under this Agreement (“Distributing Taxes”) and any and all Losses and Expenses incurred or suffered by one or more of the Controlled Indemnified Parties in connection with, relating to, arising out of or due to, directly or indirectly:

(a) any Distributing Taxes or any Tax Proceeding relating thereto;

(b) any inaccuracy or breach of any representation or covenant of Distributing set forth in this Agreement or in any document provided pursuant to the terms hereof; provided, that Distributing shall not have any liability pursuant to this Section 7.02(b) for or with respect to any Distribution Taxes (or any Losses or Expenses related thereto) if Distributing is not liable for such Distribution Taxes under Section 4; or

(c) Distributing supplying Controlled with inaccurate or incomplete information in connection with the preparation of any Tax Return, any request for a Supplemental Ruling, or any Tax Proceeding.

7.03 No Indemnification for Tax Items. Nothing in this Agreement shall be construed as a guarantee of the existence or amount of any loss, credit, carryforward, basis or other Tax Item or Tax Asset, whether past, present or future, of Distributing, any Distributing Affiliate, Controlled or any Controlled Affiliate. In addition, for the avoidance of doubt, nothing in this Agreement shall be construed to require compensation by either Party hereto in respect of any deferred tax assets or liabilities.

Section 8. Payments.

8.01 Payments In Connection With Tax Return Filings.

(a) If a Tax Return is filed by Distributing after the Distribution Date pursuant to Section 2.01 and Controlled or any Controlled Affiliate is liable under this Agreement for all or any portion of the Taxes reported on such Tax Return, Distributing shall provide Controlled with a written calculation in reasonable detail setting forth the amount of the Taxes shown as due on such Tax Return for which Controlled and/or the Controlled Affiliate is liable. Controlled shall have fifteen (15) days to object to the written calculation provided by Distributing. If by the end of the fifteen (15) day period Controlled has either agreed or failed to object to Distributing’s calculation, the calculation shall be deemed final and Controlled shall pay to Distributing the amount set forth thereon within thirty (30) days of the date on which Distributing provided the calculation to Controlled. If Controlled notifies Distributing within the fifteen (15) day period that it disputes Distributing’s calculation, Controlled shall nevertheless pay to Distributing any amount not in dispute within thirty (30) days of the date on which Distributing provided the calculation to Controlled and the Parties shall resolve the dispute as to any remaining amounts pursuant to Section 10.03.

(b) If a Tax Return is filed by Controlled after the Distribution Date pursuant to Section 2.02(a) and Distributing is liable under this Agreement for all or any portion of the Taxes reported on such Tax Return, Controlled shall provide Distributing with a written calculation in reasonable detail setting forth the amount of the Taxes shown as due on such Tax

Return for which Distributing is liable. Distributing shall have fifteen (15) days to object to the written calculation provided by Controlled. If by the end of the fifteen (15) day period, Distributing has either agreed or failed to object to Controlled's calculation, the calculation shall be deemed final and Distributing shall pay to Controlled the amount set forth thereon within thirty (30) days of the date on which Controlled provided the calculation to Distributing. If Distributing notifies Controlled within the fifteen (15) day period that it disputes Controlled's calculation, Distributing shall nevertheless pay to Controlled any amount not in dispute within thirty (30) days of the date on which Controlled provided the calculation to Distributing and the Parties shall resolve the dispute as to any remaining amounts pursuant to Section 10.03.

8.02 Redetermination Amounts. In the event of a redetermination or adjustment of the amount of any Taxes reported on any Tax Return as a result of a refund of Taxes paid, the filing of an amended Tax Return, a Final Determination, or any settlement or compromise with any Taxing Authority, the Party responsible for preparing and filing the Tax Return under Section 2 (the "Filing Party") shall, if the redetermination or adjustment results in an increase in the amount of Taxes for which another Party is liable hereunder, provide such other Party a written statement setting forth in reasonable detail the effect of the redetermination or adjustment on the amount of the Taxes for which such other Party is liable under this Agreement. The other Party shall have fifteen (15) days to object to such written statement. If the other Party either agrees or fails to object to the written statement within the fifteen (15) day period, the written statement shall be deemed final and the other Party shall pay to the Filing Party the amount set forth thereon not later than thirty (30) days after the written statement was provided. If the other Party notifies the Filing Party within the fifteen (15) day period that it disputes the written statement, the other Party shall nevertheless pay to the Filing Party any amount not in dispute within thirty (30) days of the date on which the statement was initially provided and the Parties shall resolve the dispute as to any remaining amounts pursuant to Section 10.03.

8.03 Payments of Refunds and Credits. If one Party receives a refund (whether by payment or credit) of any Tax to which the other Party is entitled pursuant to Section 3 of this Agreement, the Party receiving such refund shall pay to the other Party the amount of such refund within thirty (30) days of receipt of such refund and the amount (on an after-tax basis) of any interest received from the applicable Taxing Authority.

8.04 Payments Under This Agreement. In the event that one Party (the "Owing Party") is required to make a payment to another Party (the "Owed Party") pursuant to this Agreement, then such payments shall be made according to this Section 8.04.

(a) **In General.** All payments shall be made to the Owed Party or to the appropriate Taxing Authority as specified by the Owed Party within the time prescribed for payment in this Agreement, or if no period is prescribed, within thirty (30) days after delivery of written notice of payment owing together with a computation of the amounts due.

(b) **Treatment of Payments.** Unless otherwise required by any Final Determination, the Parties agree that any payments made by one Party to another Party (other than payments of interest pursuant to Section 8.04(e) of this Agreement and payments of After-Tax Amounts pursuant to Section 8.04(d) of this Agreement) pursuant to this Agreement shall to the extent permissible under applicable law be treated for all Tax and financial accounting

purposes as nontaxable payments made immediately prior to the Distribution and, accordingly, as not includible in the taxable income of the recipient or as deductible by the payor.

(c) Prompt Performance. All actions required to be taken (including payments) by any Party under this Agreement shall be performed within the time prescribed for performance in this Agreement, or if no period is prescribed, such actions shall be performed promptly.

(d) After-Tax Amounts. If pursuant to a Final Determination it is determined that the receipt or accrual of any payment made under this Agreement (other than payments of interest pursuant to Section 8.04(e) of this Agreement) is subject to any Tax, the Party making such payment shall be liable for (a) the After-Tax Amount with respect to such payment and (b) interest at the rate described in Section 8.04(e) of this Agreement on the amount of such Tax from the date such Tax accrues through the date of payment of such After-Tax Amount. A Party making a demand for a payment pursuant to this Agreement and for a payment of an After-Tax Amount with respect to such payment shall separately specify and compute such After-Tax Amount. However, a Party may choose not to specify an After-Tax Amount in a demand for payment pursuant to this Agreement without thereby being deemed to have waived its right subsequently to demand an After-Tax Amount with respect to such payment.

(e) Interest. Payments pursuant to this Agreement that are not made within the period prescribed in this Agreement (the "Payment Period") shall bear interest for the period from and including the date immediately following the last date of the Payment Period through and including the date of payment at a per annum rate equal to the prime rate as published in The Wall Street Journal on the last day of such Payment Period, plus two percent (2%). Such interest will be payable at the same time as the payment to which it relates and shall be calculated on the basis of a year of 365 days and the actual number of days for which it is due.

Section 9. Tax Proceedings.

9.01 Notice. Within twenty (20) days after a Party becomes aware of the existence of an issue in a Tax Proceeding that may give rise to an indemnification obligation of another Party under this Agreement, such Party shall give notice to the other Party of such issue (such notice shall contain factual information, to the extent known, describing any asserted Tax liability in reasonable detail), and shall promptly forward to the other Party copies of all notices and material communications with any Taxing Authority relating to such issue. Notwithstanding any provision of this Agreement to the contrary, if a Party to this Agreement fails to provide the other Party notice as required by this Section 9.01, and the failure results in a detriment to the other Party, then any amount which the other Party is otherwise required to pay pursuant to this Agreement shall be reduced by the amount of such detriment.

9.02 In General. Except as otherwise provided in Section 9.03 or 9.04, the Filing Party with respect to a Tax Return shall have the exclusive right to control, contest, and represent the interests of Distributing, any Distributing Affiliate, Controlled, and any Controlled Affiliate in any Tax Proceeding relating to such Tax Return and to resolve, settle or agree to any deficiency, claim or adjustment proposed, asserted or assessed in connection with or as a result of any such Tax Proceeding. The Filing Party's rights shall extend to any matter pertaining to the

management and control of the Tax Proceeding, including execution of waivers, choice of forum, scheduling of conferences, the resolution of any Tax Item, and the determination of whether to pay any disputed Taxes and sue for a refund in the forum of its choice. The non-Filing Party shall assist and cooperate with the Filing Party during the course of any such Tax Proceeding. The Filing Party shall use reasonable efforts to provide the non-Filing Party notice of and consult with the non-Filing Party regarding the conduct of any such Tax Proceeding to the extent that such Tax Proceeding relates to any Taxes for which the non-Filing Party may have indemnification obligations under this Agreement. The Filing Party shall not settle any Tax Proceeding it controls in a manner that would affect the indemnification obligations of the non-Filing Party hereunder without obtaining the non-Filing Party's consent, which consent shall not be unreasonably withheld.

9.03 Sole Responsibility Items. Except as otherwise provided in Section 9.04, the non-Filing Party shall have the exclusive right, at its expense, to control, contest, and represent the interests of Distributing, any Distributing Affiliate, Controlled, and any Controlled Affiliate in any Tax Proceeding relating exclusively to a Sole Responsibility Item if the non-Filing Party acknowledges in writing that it has sole liability for any Taxes that might arise from such Tax Proceeding and the resolution of such Tax Proceeding could not reasonably be expected to adversely affect the Filing Party. If the non-Filing Party assumes control of a Tax Proceeding pursuant to the preceding sentence, the Filing Party shall assist and cooperate with the non-Filing Party during the course of any such Tax Proceeding. The non-Filing Party shall use reasonable efforts to provide the Filing Party notice of and consult with the Filing Party regarding the conduct of any such Tax Proceeding and shall not settle any such Tax Proceeding without the Filing Party's consent, which consent shall not be unreasonably withheld.

9.04 Control of Distribution Tax Proceedings. Distributing shall have the exclusive right, in its sole discretion, to control, contest, and represent the interests of Distributing, any Distributing Affiliate, Controlled, and any Controlled Affiliate in any Tax Proceedings relating to Distribution Taxes and to resolve, settle or agree to any deficiency, claim or adjustment proposed, asserted or assessed in connection with or as a result of any such Tax Proceeding; provided, that (i) Distributing shall not settle any such Tax Proceeding with respect to any material Distribution Taxes for which Controlled or any Controlled Affiliate would reasonably be expected to be liable hereunder without the prior consent of Controlled, which consent shall not be unreasonably withheld or delayed, and (ii) to the extent that an issue is raised in the Tax Proceeding with respect to the Distribution that if resolved against the taxpayer could reasonably be expected to result in Controlled having any liability for any Distribution Taxes hereunder, Distributing shall (A) provide Controlled with a reasonable opportunity to participate in such Tax Proceeding at Controlled's sole cost and expense; (B) take reasonable steps to ensure Controlled is informed of any developments in the Tax Proceeding; and (C) provide Controlled with copies of any written material prior to submission to the Taxing Authority regarding the Distribution. Distributing's rights shall extend to any matter pertaining to the management and control of such Tax Proceeding, including execution of waivers, choice of forum, and scheduling of conferences. Controlled may assume control of any Tax Proceeding relating to Distribution Taxes if it acknowledges in writing that it has sole liability under this Agreement for any Distribution Taxes that might arise in such Tax Proceeding and can demonstrate to the satisfaction of Distributing that it can satisfy its liability for any such Distribution Taxes; provided, that Controlled shall not have the right to assume control of any Tax Proceeding

relating to Distribution Taxes if Distributing reasonably determines that the outcome of such Tax Proceeding could adversely affect Distributing other than by resulting in a liability for Distribution Taxes; and provided further, that (i) Controlled shall not settle any such Tax Proceeding without the prior consent of Distributing, which consent shall not be unreasonably withheld or delayed, if the proposed settlement would reasonably be expected to adversely affect Taxes of Distributing or any Distributing Affiliate for which Controlled would not be fully responsible hereunder, and (ii) Controlled shall (A) provide Distributing with a reasonable opportunity to participate in such Tax Proceeding at Distributing's sole cost and expense; (B) take reasonable steps to ensure Distributing is informed of any developments in the Tax Proceeding; and (C) provide Distributing with copies of any written material prior to submission to the Taxing Authority regarding the Distribution.

Section 10. Miscellaneous Provisions.

10.01 Effectiveness. This Agreement shall become effective upon execution by the Parties hereto.

10.02 Cooperation and Exchange of Information.

(a) Cooperation. Controlled and Distributing shall each cooperate fully (and each shall cause its respective affiliates to cooperate fully) with all reasonable requests from another Party for information and materials not otherwise available to the requesting Party in connection with the preparation and filing of Tax Returns, claims for refund, and Tax Proceedings concerning issues or other matters covered by this Agreement or in connection with the determination of a liability for Taxes or a right to a refund of Taxes. Such cooperation shall include:

(i) the retention until the expiration of the applicable statute of limitations, and the provision upon request, of copies of all Tax Returns, books, records (including information regarding ownership and Tax basis of property), documentation and other information relating to the Tax Returns, including accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities;

(ii) the execution of any document that may be necessary or reasonably helpful in connection with any Tax Proceeding, or the filing of a Tax Return or refund claim by a member of the Distributing Group or the Controlled Group, including certification, to the best of a Party's knowledge, of the accuracy and completeness of the information it has supplied;

(iii) the filing of any Tax Return in accordance with the terms of this Agreement; and

(iv) the use of the Party's reasonable best efforts to obtain any documentation that may be necessary or reasonably helpful in connection with any of the foregoing.

Each Party shall make its employees and facilities available on a reasonable and mutually convenient basis in connection with the foregoing matters.

(b) Retention of Records . Any Party that is in possession of documentation of Distributing (or any Distributing Affiliate) or Controlled (or any Controlled Affiliate) relating to the Transferred Businesses, including without limitation, books, records, Tax Returns and all supporting schedules and information relating thereto (the “Transferred Business Records”) shall retain such Transferred Business Records for a period of five (5) years following the Distribution Date or, if later, the expiration of the relevant statute of limitations. Thereafter, any Party wishing to dispose of Transferred Business Records in its possession shall provide written notice to the other Party describing the documentation proposed to be destroyed or disposed of sixty (60) business days prior to taking such action. The other Party may arrange to take delivery of any or all of the documentation described in the notice at its expense during the succeeding sixty (60) day period. Any such documentation that the other Party does not arrange to take delivery of during the sixty (60) day period may be destroyed or disposed of.

10.03 Dispute Resolution . In the event that Distributing and Controlled disagree as to the amount or calculation of any payment to be made under this Agreement, or the interpretation or application of any provision under this Agreement, the Parties shall attempt in good faith to resolve such dispute. If such dispute is not resolved within thirty (30) days following the commencement of the dispute, Distributing and Controlled shall jointly retain a nationally recognized law or accounting firm, which firm is independent of both Parties, to resolve the dispute (the “Independent Firm”). If Distributing and Controlled are unable to agree on an Independent Firm, each of Distributing and Controlled shall select an independent, nationally recognized law or accounting firm (the “Deciding Firms”), which Deciding Firms together shall select the Independent Firm. If the Deciding Firms are unable to agree on an Independent Firm, the Independent Firm shall be selected by lot from a list prepared by the Deciding Firms. The Independent Firm shall act as an arbitrator to resolve all points of disagreement and its decision shall be final and binding upon all Parties involved. Following the decision of the Independent Firm, Distributing and Controlled shall each take or cause to be taken any action necessary to implement the decision of the Independent Firm. The fees and expenses relating to the Independent Firm shall be borne equally by Distributing and Controlled, except that if the Independent Firm determines that the position advanced by either Party is frivolous, has not been asserted in good faith or is a position for which there is not substantial authority, 100% of the fees and expenses of the Independent Firm shall be borne by such Party. Notwithstanding anything in this Agreement to the contrary, the dispute resolution provisions set forth in this Section 10.03 shall not be applicable to any disagreement between the Parties relating to Distribution Taxes and any such dispute shall be settled in a court of law or as otherwise agreed to by the Parties.

10.04 Notices . All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (a) a transmitter’s confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (b) confirmed delivery of a standard overnight courier or when delivered by hand or (c) the expiration of three business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the Parties at the following addresses (or at such other addresses for a Party as shall be specified by like notice):

If to Distributing, to the General Counsel of Distributing, with a copy to the Director of Taxes of Distributing, at:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, TX 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853

with a copy (which shall not constitute effective notice) to:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, DC 20037
Attn: Erika L. Robinson
Telephone: (202) 663-6000
Fax: (202) 663-6363

If to Controlled or any Controlled Affiliate, to the General Counsel of Controlled, at:

TreeHouse Foods, Inc.
857-897 School Place
P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131
Fax: (920) 497-4604

with a copy (which shall not constitute effective notice) to:

Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601
Attn: Bruce A. Toth and Thomas P. Fitzgerald
Telephone: (312) 558-5600
Fax: (312) 558-5700

Either Party may, by written notice to the other Parties, change the address or the Party to which any notice, request, instruction or other documents is to be delivered.

10.05 Changes in Law.

(a) Any reference to a provision of the Code or a law of another jurisdiction shall include a reference to any applicable successor provision or law.

(b) If, due to any change in applicable law or regulations or their interpretation by any court of law or other governing body having jurisdiction subsequent to the date of this Agreement, performance of any provision of this Agreement or any transaction

contemplated thereby shall become impracticable or impossible, the Parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

10.06 Confidentiality . Each Party shall hold and cause its directors, officers, employees, advisors and consultants to hold in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its counsel, by other requirements of law, all information (other than any such information relating solely to the business or affairs of such Party) concerning the other Parties hereto furnished it by such other Party or its representatives pursuant to this Agreement (except to the extent that such information can be shown to have been (1) in the public domain through no fault of such Party or (2) later lawfully acquired from other sources not under a duty of confidentiality by the Party to which it was furnished), and each Party shall not release or disclose such information to any other person, except its directors, officers, employees, auditors, attorneys, financial advisors, bankers and other consultants who shall be advised of and agree to be bound by the provisions of this Section 10.06. Each Party shall be deemed to have satisfied its obligation to hold confidential information concerning or supplied by the other Party if it exercises the same care as it takes to preserve confidentiality for its own similar information.

10.07 Successors . This Agreement shall be binding on and inure to the benefit and detriment of any successor, by merger, acquisition of assets or otherwise, to any of the Parties hereto, to the same extent as if such successor had been an original Party.

10.08 Affiliates . Distributing shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Distributing Affiliate, and Controlled shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Controlled Affiliate.

10.09 Authorization, Etc . Each of the Parties hereto hereby represents and warrants that it has the power and authority to execute, deliver and perform this Agreement, that this Agreement has been duly authorized by all necessary corporate action on the part of such Party, that this Agreement constitutes a legal, valid and binding obligation of each such Party and that the execution, delivery and performance of this Agreement by such Party does not contravene or conflict with any provision of law or of its charter or bylaws or any agreement, instrument or order binding on such Party.

10.10 Entire Agreement . This Agreement contains the entire agreement among the Parties hereto with respect to the subject matter hereof and supersedes any prior Tax sharing agreements between Distributing (or any Distributing Affiliate) and Controlled (or any Controlled Affiliate) and such prior Tax sharing agreements shall have no further force and effect. If, and to the extent, the provisions of this Agreement conflict with the Distribution Agreement or any other agreement entered into in connection with the Distribution, the provisions of this Agreement shall control.

10.11 Applicable Law; Jurisdiction .

(a) This agreement shall be governed by, and construed in accordance with, the domestic laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

(b) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY AND UNCONDITIONALLY (i) AGREES TO BE SUBJECT TO, AND HEREBY CONSENTS AND SUBMITS TO, THE JURISDICTION OF THE COURTS OF THE STATE OF DELAWARE AND OF THE FEDERAL COURTS SITTING IN THE STATE OF DELAWARE, (ii) TO THE EXTENT SUCH PARTY IS NOT OTHERWISE SUBJECT TO SERVICE OF PROCESS IN THE STATE OF DELAWARE, HEREBY APPOINTS THE CORPORATION TRUST COMPANY, AS SUCH PARTY'S AGENT IN THE STATE OF DELAWARE FOR ACCEPTANCE OF LEGAL PROCESS AND (iii) AGREES THAT SERVICE MADE ON ANY SUCH AGENT SET FORTH IN (ii) ABOVE SHALL HAVE THE SAME LEGAL FORCE AND EFFECT AS IF SERVED UPON SUCH PARTY PERSONALLY WITHIN THE STATE OF DELAWARE.

10.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

10.13 Severability. If any term, provision, covenant, or restriction of this Agreement is held by a court of competent jurisdiction (or an arbitrator or arbitration panel) to be invalid, void, or unenforceable, the remainder of the terms, provisions, covenants, and restrictions set forth herein shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated. In the event that any such term, provision, covenant or restriction is held to be invalid, void or unenforceable, the Parties hereto shall use their best efforts to find and employ an alternate means to achieve the same or substantially the same result as that contemplated by such terms, provisions, covenant, or restriction.

10.14 No Third Party Beneficiaries. This Agreement is solely for the benefit of (a) Distributing, Controlled and the Controlled Affiliates, and (b) the Distributing Affiliates, which are expressly intended to be third party beneficiaries hereunder. Except with respect to the third party beneficiary rights of the Distributing Affiliates, this Agreement should not be deemed to confer upon third parties any remedy, claim, liability, reimbursement, cause of action or other rights in excess of those existing without this Agreement.

10.15 Waivers, Etc.. No failure or delay on the part of a Party in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. No modification or waiver of any provision of this Agreement nor consent to any departure by the Parties therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

10.16 Setoff. All payments to be made by any Party under this Agreement may be netted against payments due to such Party under this Agreement, but otherwise shall be made without setoff, counterclaim or withholding, all of which are hereby expressly waived.

10.17 Other Remedies. Controlled recognizes that any failure by it or any Controlled Affiliate to comply with its obligations under Section 4 of this Agreement could result in Distribution Taxes that would cause irreparable harm to Distributing, the Distributing Affiliates, and Distributing's stockholders. Accordingly, Distributing shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which Distributing is entitled at law or in equity.

10.18 Amendment and Modification. This Agreement may be amended, modified or supplemented only by a written agreement signed by all of the Parties hereto.

10.19 Interpretation. In this Agreement, unless the context clearly indicates otherwise:

- (a) words used in the singular include the plural and words used in the plural include the singular;
- (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;
- (c) reference to any gender includes the other gender;
- (d) the word "including" means "including but not limited to";
- (e) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or any Exhibit or Schedule to, this Agreement, as the case may be, and references in any Section or definition to any clause means such clause of such Section or definition;
- (f) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;
- (g) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;
- (h) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;
- (i) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including";

(j) the titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement; and

(k) all references to dollar amounts herein shall be in respect of lawful currency of the United States.

10.20 Waiver of Jury Trial. Each of the Parties hereto irrevocably and unconditionally waives all right to trial by jury in any litigation, claim, action, suit, arbitration, inquiry, proceeding, investigation or counterclaim (whether based in contract, tort or otherwise) arising out of or relating to this Agreement or the actions of the Parties hereto in the negotiation, administration, performance and enforcement thereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their authorized representatives as of the date first above written.

DEAN FOODS COMPANY

By: /s/ Edward F. Fugger
Name: Edward F. Fugger
Title: Vice President — Corporate Development

TREEHOUSE FOODS, INC.
on behalf of itself and the Controlled Affiliates

By: /s/ Thomas E. O'Neill
Name: Thomas E. O'Neill
Title: Senior Vice President

TRADEMARK LICENSE

This Trademark License (the “**Agreement**”) is made and entered into between TreeHouse Foods, Inc., a Delaware corporation (“**TreeHouse**”) and Dean Foods Company, a Delaware corporation (“**Dean**”) as of the Distribution Date set forth below.

WHEREAS, Dean, through its subsidiaries, operates the Specialty Foods Group, and the *MochaMix*®, *SecondNature*®, and food service dressings businesses (the “**Transferred Businesses**”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to transfer and assign, or cause to be transferred and assigned, to TreeHouse the business, operations, assets and liabilities related to the Transferred Businesses;

WHEREAS, Dean desires to transfer and assign, or cause to be transferred or assigned, to the TreeHouse Parties (as defined in that certain Distribution Agreement between Dean and TreeHouse, dated as of June 27, 2005 (the “**Distribution Agreement**”)) the assets and properties of the Transferred Businesses and the TreeHouse Parties desire to accept the transfer and assignment of such assets and to assume, or cause to be assumed, the liabilities and obligations arising out of or relating to the Transferred Businesses as provided in the Distribution Agreement;

WHEREAS, the date on which the above transaction is to become effective is referred to as the “**Distribution Date**” as defined in the Distribution Agreement; and

WHEREAS, the parties hereto deem it to be appropriate and in the best interests of TreeHouse and the Dean Entities (as defined in Section 1 (b) below) that TreeHouse grant to the Dean Entities a license to use certain trademarks, trade names and logos under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the meaning set forth in this Section 1.

(a) “**Affiliates**” means, with respect to any entity, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity. For the purpose of this definition, the term “control” means the power to direct the management of an entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” has the meaning correlative to the foregoing.

(b) “**Dean Entities**” means Dean and its Affiliates, but only for so long as they remain Affiliates.

2. **License of Licensed Marks** . During the term of this Agreement, and subject to termination pursuant to Section 10 below, TreeHouse hereby grants to the Dean Entities an exclusive, perpetual, royalty-free, and non-transferable license to display and use the trademarks, trade names, trade dress and logos set forth on Exhibit A hereto (the “ **Licensed Marks** ”) in the United States in connection with the marketing and sale of (i) products on which the Dean Entities used any of the Licensed Marks immediately prior to the Distribution Date and (ii) other dairy products (e.g., fluid dairy, cultured dairy, and ice cream products) and substitutes for such products (collectively, the “ **Exclusive Products** ”). For the avoidance of doubt, the term “dairy products” does not include salad dressings. In furtherance thereof, TreeHouse shall not use any of the Licensed Marks on the Exclusive Products.

3. **Restrictions on Use** .

(a) The Dean Entities may not register or reserve any Licensed Mark or any words or images confusingly similar thereto as a trademark, trade name, corporate name or domain name anywhere in the world. The Dean Entities may not attack or challenge the title and interest of TreeHouse in or to the Licensed Marks.

(b) If TreeHouse at any time finds that the Licensed Marks are being used other than in accordance with the terms of this Agreement (“ **Unauthorized Use** ”), TreeHouse may notify Dean in writing of such Unauthorized Use. If the relevant Dean Entity fails to correct or have corrected such Unauthorized Use within thirty (30) days after receipt of such notice, or if such correction can not reasonably be accomplished within such 30-day period if commercially reasonable steps to correct the Unauthorized Use have not been taken during such 30 day period, TreeHouse may, at its election, suspend any or all of the licenses granted under this Agreement until such time as such Unauthorized Use is corrected to TreeHouse’s reasonable satisfaction.

4. **Reservation of Rights** . TreeHouse reserves all rights in the Licensed Marks and other TreeHouse intellectual property not expressly granted in this Agreement. The Dean Entities shall not use the Licensed Marks or other TreeHouse intellectual property for the benefit of any person or entity, or permit any third party to use such intellectual property, and the Dean Entities have no rights or licenses with respect to such Licensed Marks or intellectual property, except as set forth in paragraph 2 above.

5. **Ownership of Intellectual Property** . The Dean Entities acknowledge and agree that the Licensed Marks, and all applications, registrations and renewals thereof, and all associated goodwill therein, are owned by and vested in TreeHouse. All use by the Dean Entities of the Licensed Marks hereunder shall inure to the benefit of TreeHouse. The Dean Entities agree not to challenge, directly or indirectly, the rights of TreeHouse in or to the Licensed Marks. The Dean Entities will cause the Licensed Marks to be accompanied by an appropriate trademark symbol (either ® or ™ or a corresponding foreign symbol) as specified by TreeHouse. TreeHouse shall maintain all the Licensed Marks at its expense.

6. **Quality Control**. The Dean Entities shall maintain and adhere to any and all trademark guidelines for display of the Licensed Marks or other reasonable quality control standards for products bearing the Licensed Marks that TreeHouse may promulgate from time to time which conform with applicable laws. Nothing herein shall otherwise limit the Dean Entities' ability to change, modify or determine the way in which it packages or promotes any of its products, except that all such packaging or promotion of products bearing the Licensed Marks shall be in compliance with applicable law.

7. **Injunctive Relief**. Because unauthorized use of the Licensed Marks or any violation of the authorization and license granted in paragraph 2 above, respectively, will diminish substantially the value of such intellectual property and irrevocably harm TreeHouse, if the Dean Entities breach any provision of paragraph 2 above, TreeHouse shall be entitled to injunctive and/or other equitable relief, in addition to other remedies afforded by law, to prevent a breach of such provision of this Agreement.

8. **Indemnification**. TreeHouse agrees to indemnify Dean and to hold Dean harmless from and against any and all liabilities, losses, damages, claims, causes of action, costs and expenses, including reasonable legal fees and expenses that may be incurred by Dean, arising out of a third party claim based upon actions or inaction by TreeHouse that the Dean Entities' use of the Licensed Marks within the scope of the license granted by this Agreement infringes that third party's intellectual property rights in any respect. The Dean Entities shall provide TreeHouse with prompt written notice of any third-party claim for which indemnification is sought and cooperate fully with TreeHouse in allowing TreeHouse to control the defense of such claim. So long as TreeHouse is contesting the third-party claim in good faith, the Dean Entities may not settle any such claim without the express prior written consent of TreeHouse unless (i) there is no finding or admission of any violation of any law or any rights, (ii) the sole relief provided is monetary damages that are paid in full by the Dean Entities, and (iii) TreeHouse shall not have any liability with respect to any such settlement. The Dean Entities shall have the right, at its own expense, to participate in the defense of such claim.

9. **Term**. This Agreement will become effective on the Distribution Date and shall continue in full force and effect until terminated as provided in Section 10 below.

10. **Termination**. This Agreement may be terminated:

(a) by either party upon written notice if the other party becomes insolvent, files or has filed against it a petition under any chapter of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (or any similar petition under any insolvency law of any jurisdiction), proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of such party;

(b) by either party at any time upon any material breach by the other party of the terms of this Agreement which remains uncured thirty (30) days following written notice of

such breach, or if such breach cannot reasonably be cured within said 30 day period, unless commercially reasonable steps have not been taken to cure such breach within such 30 day period; and

(c) by TreeHouse, with respect to any Licensed Mark, if (i) all of the Dean Entities cease use of such Licensed Mark in the United States with the intention not to resume use of it, or (ii) if all of the Dean Entities cease use of such Licensed Mark in the United States for a continuous thirty-six (36) month period.

11. **Effect of Termination**. Upon any termination or expiration of this Agreement, all rights and obligations of the parties shall terminate, except the rights and obligations of the parties provided in paragraphs 8 and 13 of this Agreement, which shall survive the termination or expiration of this Agreement.

12. **Remedies**. The demand for one remedy does not constitute a waiver or estoppel with regards to any or all other available remedies for the specific breach or default in question.

13. **Choice of Law**. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware and the federal laws of the United States of America applicable therein, as though all facts and omissions related hereto occurred in Delaware.

14. **Notices**. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (b) confirmed delivery of a standard overnight courier or when delivered by hand or (c) the expiration of five business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to the Dean Entities, to:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, Texas 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037

Telephone: (202) 663-6000
Fax: (202) 663-6363
Attention: Erika L. Robinson

If to TreeHouse, to:

TreeHouse Foods Corp.
857-897 School Place
P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131
Fax: (920) 497-4604
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Winston and Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Fax: (312) 558-5700
Attention: Bruce A. Toth

Either party may, by written notice to the other parties, change the address or the party to which any notice, request, instruction or other documents is to be delivered.

15. **Partial Invalidity**. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

16. **Entire Agreement; Amendment**. This Agreement contains the entire understanding of the parties with respect to this subject matter and supersedes any previous agreements (oral, written or otherwise) and may be altered or amended only by a written instrument duly executed by both parties.

17. **Assignment**. This Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto (such consent not to be unreasonably withheld). When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

18. **Non-Waiver**. The failure of a party in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement does not constitute a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or conditions on any future occasion.

19. **Independent Contractor**. The parties are acting as independent contractors under this Agreement and the parties hereby acknowledge that they do not intend to create a joint venture, partnership or any other type of agency between them.

— *Signature page follows* —

The parties hereby acknowledge that they have read and understand this Agreement and all exhibits and addenda hereto, and agree to all terms and conditions stated herein and attached hereto.

TREEHOUSE FOODS, INC.

DEAN FOODS COMPANY

By: /s/ Thomas E. O'Neill

By: /s/ Edward F. Fugger

Name: Thomas E. O'Neill

Name: Edward F. Fugger

Title: Senior Vice President

Title: Vice President – Corporate Development

TRADEMARK LICENSE

This Trademark License (the “**Agreement**”) is made and entered into between TreeHouse Foods, Inc., a Delaware corporation (“**TreeHouse**”) and Dean Foods Company, a Delaware corporation (“**Dean**”), Dean Intellectual Property Services II, L.P., a Delaware limited partnership (“**Dean IP II**”), and Dean Specialty Intellectual Property Services, L.P., a Delaware limited partnership (“**Dean IP**”), as of the Distribution Date set forth below.

WHEREAS, Dean, through its subsidiaries, operates the Specialty Foods Group, and the *MochaMix*®, *SecondNature*®, and food service dressings businesses (the “**Transferred Businesses**”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to transfer and assign, or cause to be transferred and assigned, to TreeHouse the business, operations, assets and liabilities related to the Transferred Businesses;

WHEREAS, Dean desires to transfer and assign, or cause to be transferred or assigned, to the TreeHouse Parties (as defined in that certain Distribution Agreement between Dean and TreeHouse, dated as of June 27, 2005 (the “**Distribution Agreement**”)) the assets and properties of the Transferred Businesses and the TreeHouse Parties desire to accept the transfer and assignment of such assets and to assume, or cause to be assumed, the liabilities and obligations arising out of or relating to the Transferred Businesses as provided in the Distribution Agreement;

WHEREAS, the date on which the above transaction is to become effective is referred to as the “**Distribution Date**” as defined in the Distribution Agreement; and

WHEREAS, the parties hereto deem it to be appropriate and in the best interests of the Dean Licensors (as defined in Section 1(b) below) and the TreeHouse Entities (as defined in Section 1(c) below) that the Dean Licensors grant to the TreeHouse Entities a license to use certain trademarks, trade names and logos under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. **Definitions**. As used in this Agreement, the following terms shall have the meaning set forth in this Section 1.

(a) “**Affiliates**” means, with respect to any entity, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity. For the purpose of this definition, the term “control” means the power to direct the management of an entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” has the meaning correlative to the foregoing.

(b) “ **Dean Licensors** ” means Dean, Dean IP II and Dean IP.

(c) “ **TreeHouse Entities** ” means TreeHouse and its Affiliates, but only for so long as they remain Affiliates.

2. **License of Licensed Marks** . During the term of this Agreement, and subject to termination pursuant to Section 10 below, the Dean Licensors hereby grant to the TreeHouse Entities an exclusive, royalty-free, non-transferable license to display and use the trademarks, trade names, trade dress and logos set forth on Exhibit A hereto (the “ **Licensed Marks** ”) worldwide in connection with the products produced, marketed or sold by the Transferred Businesses.

3. **Restrictions on Use** .

(a) The TreeHouse Entities may not register or reserve any Licensed Mark or any words or images confusingly similar thereto as a trademark, trade name, corporate name or domain name anywhere in the world. The TreeHouse Entities may not attack or challenge the title and interest of the Dean Licensors in or to the Licensed Marks.

(b) If any Dean Licensors at any time finds that the Licensed Marks are being used other than in accordance with the terms of this Agreement (“ **Unauthorized Use** ”), such Dean Licensors may notify TreeHouse in writing of such Unauthorized Use. If the relevant TreeHouse Entity fails to correct or have corrected such Unauthorized Use within thirty (30) days after receipt of such notice, or if such correction can not reasonably be accomplished within such 30-day period if commercially reasonable steps to correct the Unauthorized Use have not been taken during such 30 day period, the relevant Dean Licensors may, at its election, suspend any or all of the licenses granted under this Agreement until such time as such Unauthorized Use is corrected to such Dean Licensors’ reasonable satisfaction.

4. **Reservation of Rights** . The Dean Licensors reserve all rights in the Licensed Marks and other Dean intellectual property not expressly granted in this Agreement.

5. **Ownership of Intellectual Property** . The TreeHouse Entities acknowledge and agree that the Licensed Marks, and all applications, registrations and renewals thereof, and all associated goodwill therein, are owned by and vested in the Dean Licensors. All use by the TreeHouse Entities of the Licensed Marks hereunder shall inure to the benefit of the Dean Licensors. The TreeHouse Entities agree not to challenge, directly or indirectly, the rights of any Dean Licensors in or to the Licensed Marks. The TreeHouse Entities will cause the Licensed Marks to be accompanied by an appropriate trademark symbol (either ® or ™ or a corresponding foreign symbol) as specified by any Dean Licensors. The Dean Licensors shall maintain all the Licensed Marks at their expense.

6. **Quality Control** . The TreeHouse Entities shall maintain and adhere to any and all trademark guidelines for display of the Licensed Marks or other reasonable quality control standards for products bearing the Licensed Marks that the Dean Licensors may promulgate from time to time which conform with applicable laws. Nothing herein shall otherwise limit the

TreeHouse Entities' ability to change, modify or determine the way in which it promotes any of its products, except that all such promotion of products bearing the Licensed Marks shall be in compliance with applicable law.

7. **Injunctive Relief**. Because unauthorized use of the Licensed Marks or any violation of the authorization and license granted in paragraph 2 above, respectively, will diminish substantially the value of such intellectual property and irrevocably harm the Dean Licensors, if the TreeHouse Entities breach any provision of paragraph 2 above, the Dean Licensors shall be entitled to injunctive and/or other equitable relief, in addition to other remedies afforded by law, to prevent a breach of such provision of this Agreement.

8. **Indemnification**. The Dean Licensors agree to indemnify TreeHouse and to hold TreeHouse harmless from and against any and all liabilities, losses, damages, claims, causes of action, costs and expenses, including reasonable legal fees and expenses that may be incurred by TreeHouse, arising out of a third party claim that the TreeHouse Entities' use of the Licensed Marks within the scope of the license granted by this Agreement infringes that third party's intellectual property rights in any respect. The TreeHouse Entities shall provide the Dean Licensors with prompt written notice of any third-party claim for which indemnification is sought and cooperate fully with the Dean Licensors in allowing the Dean Licensors to control the defense of such claim. So long as the Dean Licensors are contesting the third-party claim in good faith, the TreeHouse Entities may not settle any such claim without the express prior written consent of Dean unless (i) there is no finding or admission of any violation of any law or any rights, (ii) the sole relief provided is monetary damages that are paid in full by the TreeHouse Entities, and (iii) the Dean Licensors shall not have any liability with respect to any such settlement. The TreeHouse Entities shall have the right, at its own expense, to participate in the defense of such claim.

9. **Term**. This Agreement will become effective on the Distribution Date and, unless and until terminated as provided in Section 10 below, shall continue in full force and effect until TreeHouse's supply of packaging materials existing on the Distribution Date and bearing any of the Licensed Marks is depleted.

10. **Termination**. This Agreement may be terminated:

(a) by either party upon written notice if the other party becomes insolvent, files or has filed against it a petition under any chapter of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (or any similar petition under any insolvency law of any jurisdiction), proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of such party; and

(b) by either party at any time upon any material breach by the other party of the terms of this Agreement which remains uncured thirty (30) days following written notice of such breach, or if such breach cannot reasonably be cured within said 30 day period, unless

commercially reasonable steps have not been taken to cure such breach within such 30 day period.

11. **Effect of Termination** . Upon any termination or expiration of this Agreement, all rights and obligations of the parties shall terminate, except the rights and obligations of the parties provided in paragraphs 8 and 13 of this Agreement, which shall survive the termination or expiration of this Agreement.

12. **Remedies** . The demand for one remedy does not constitute a waiver or estoppel with regards to any or all other available remedies for the specific breach or default in question.

13. **Choice of Law** . This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware and the federal laws of the United States of America applicable therein, as though all facts and omissions related hereto occurred in Delaware.

14. **Notices** . All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (b) confirmed delivery of a standard overnight courier or when delivered by hand or (c) the expiration of five business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to the Dean Licensors, to:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, Texas 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853
Attention: General Counsel

with a copy (which shall not constitute effective notice to):

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 663-6000
Fax: (202) 663-6363
Attention: Erika L. Robinson

If to the TreeHouse Entities, to:

TreeHouse Foods, Inc.
857-897 School Place
P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131
Fax: (920) 497-4604
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Winston and Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Fax: (312) 558-5700
Attention: Bruce A. Toth

Either party may, by written notice to the other parties, change the address or the party to which any notice, request, instruction or other documents is to be delivered.

15. **Partial Invalidity**. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

16. **Entire Agreement; Amendment**. This Agreement contains the entire understanding of the parties with respect to this subject matter and supersedes any previous agreements (oral, written or otherwise) and may be altered or amended only by a written instrument duly executed by both parties.

17. **Assignment**. This Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

18. **Non-Waiver**. The failure of a party in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement does not constitute a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or conditions on any future occasion.

19. **Independent Contractor**. The parties are acting as independent contractors under this Agreement and the parties hereby acknowledge that they do not intend to create a joint venture, partnership or any other type of agency between them.

— *Signature page follows* —

The parties hereby acknowledge that they have read and understand this Agreement and all exhibits and addenda hereto, and agree to all terms and conditions stated herein and attached hereto.

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill

Name: Thomas E. O'Neill

Title: Senior Vice President

DEAN FOODS COMPANY

By: /s/ Lisa N. Tyson

Name: Lisa N. Tyson

Title: Senior Vice President, Deputy General Counsel and Assistant Secretary

DEAN INTELLECTUAL PROPERTY
SERVICES, II, L.P.

By: DIPS GP II, LLC, general partner

By: /s/ Lisa N. Tyson

Name: Lisa N. Tyson

Title: Vice President and Assistant Secretary

DEAN SPECIALTY INTELLECTUAL
PROPERTY SERVICES, L.P.

By: TreeHouse Foods, Inc., general partner

By: /s/ Thomas E. O'Neill

Name: Thomas E. O'Neill

Title: Senior Vice President

CO-PACK AGREEMENT

THIS CO-PACK AGREEMENT (“**Agreement**”) is dated and effective as of June 27, 2005 (“**Effective Date**”), by and between Dean Foods Company (“**Dean**”), a corporation organized and existing under the laws of the State of Delaware, and TreeHouse Foods, Inc. (“**TreeHouse**”), a corporation organized and existing under the laws of the State of Delaware.

RECITALS

WHEREAS, Dean, through its subsidiaries, operates the Specialty Foods Group, *Mocha Mix*®, *Second Nature*®, and food service dressings businesses (the “**Transferred Businesses**”);

WHEREAS, the Board of Directors of Dean has determined that it would be advisable and in the best interests of Dean and its stockholders for Dean to transfer and assign, or cause to be transferred and assigned, to TreeHouse the business, operations, assets and liabilities related to the Transferred Businesses;

WHEREAS, the date on which the above transaction is to become effective is referred to as the “**Distribution Date**” as defined in that certain Distribution Agreement between Dean and TreeHouse, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “**Distribution Agreement**”);

WHEREAS, following the Distribution Date, Dean desires to obtain a supply of imitation sour cream and dip products as more fully described on Exhibit A, which is attached to and made a part of this agreement (the “**Dean Products**”) and TreeHouse desires to supply the Dean Products to Dean under the terms of this Agreement; and

WHEREAS, following the Distribution Date, TreeHouse desires to obtain a supply of *Mocha Mix*® and *Second Nature*® products as more fully described on Exhibit B, which is attached to and made a part of this agreement (the “**TreeHouse Products**” and, together with the Dean Products, the “**Products**”) and Dean desires to supply the TreeHouse Products to TreeHouse under the terms of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and intending to be legally bound, the parties do hereby agree as follows:

1. Defined Terms. When used in this Agreement, the following terms shall have the following meanings:

a. “**Co-Packer**” shall mean: (i) Dean, when the Products to be co-packed are TreeHouse Products and (ii) TreeHouse, when the Products to be co-packed are Dean Products.

b. “**Buyer**” shall mean: (i) TreeHouse, when the Products to be co-packed are TreeHouse Products and (ii) Dean, when the Products to be co-packed are Dean Products.

2. Purchase and Sale of Products . Throughout the Term of this Agreement, and subject to the terms and conditions set forth herein, Buyer shall place orders with Co-Packer, and Co-Packer shall sell and deliver to Buyer, quantities of the Products.

3. Term . The term of this Agreement shall commence on the Effective Date and shall continue in effect (a) with respect to the Dean Products, for a period of twenty-four (24) months and (b) with respect to the TreeHouse Products, until July 31, 2005 (subject to an extension until September 30, 2005 if due to unforeseen circumstances the transition of production at the City of Industry South plant facility cannot be completed by July 31, 2005) (the “**Term**”).

4. Orders; Delivery; Transfer of Title .

a. **Orders.** Buyer shall submit orders for Products to Co-Packer pursuant to such terms, conditions and procedures as may be mutually and reasonably agreed upon by the parties, including procedures to be utilized for canceling or modifying any such orders after submittal. Without limiting the generality of the foregoing, it is specifically understood and agreed that if Buyer cancels or modifies a previously submitted order, then Buyer shall be obligated to purchase any and all Products so ordered which Co-Packer has commenced to manufacture, or for which Co-Packer has acquired ingredients, materials or packaging which may not otherwise be reasonably used in the normal course of Co-Packer’s operations, at the time of such cancellation or modification. All purchase orders shall be subject to acceptance by Co-Packer, shall be in a form reasonably acceptable to both parties and shall clearly indicate the amount and kind of Products desired as well as the desired pick-up/delivery date.

b. **Delivery.** Co-Packer shall deliver the Products as directed by Buyer. For the avoidance of doubt, Buyer shall also have the right to pick up the products at Co-Packer’s facility.

c. **Transfer of Title to Products.** Property, title and risk of loss with respect to all Products sold hereunder shall pass from Co-Packer to Buyer upon the earlier of (i) tender of possession to Buyer, if Buyer receives shipment of Products at Co-Packer’s designated facility, or (ii) tender of possession to a carrier, if Products are delivered by a carrier arranged or approved by Buyer.

5. Prices; Payment Terms .

a. **Prices.** Prices for Products ordered by Buyer shall be calculated as set forth on Schedule 5(a) attached hereto. Buyer shall have the right to audit Co-Packer’s cost records (as they relate to the Products co-packed for Buyer) from time to time in order to verify Co-Packer’s cost, and Co-Packer agrees to provide Buyer with all cost-related information Buyer may reasonably request in order to perform such audits.

b. **Payment Terms.** Co-Packer will issue invoices to Buyer for all Products purchased hereunder, and Buyer shall pay all invoices received from Co-Packer (without deduction or set-off) pursuant to this Agreement in full within twenty-one (21) days of receipt thereof.

c. Non-Payment. In addition to any other rights and remedies Co-Packer may have with respect to Buyer's failure to fully and timely pay any amounts due hereunder, any amounts not paid when due shall be subject to an interest charge of one and one-half percent (1 ¹ / ₂ %) per month computed from the applicable due date, or the maximum rate legally permitted, whichever is less.

6. Warranties.

a. Co-Packer's Warranties. Co-Packer represents and warrants to Buyer that (i) all Products provided to Buyer pursuant to this Agreement shall be produced and packaged in accordance with the Federal Food, Drug and Cosmetic Act, as amended (the "**FDA Act**") and all other applicable federal, state and local laws, rules and regulations; (ii) no Products provided to Buyer pursuant to this Agreement shall be an article which may not, under the applicable provisions of the FDA Act, be introduced into interstate commerce; (iii) all packaging material utilized in connection with the Products provided to Buyer pursuant to this Agreement shall be free of any poisonous or deleterious substance which may make the Products enclosed therein fail to conform to clause (i) or (ii) of this paragraph; and (iv) Co-Packer shall conduct tests reasonably necessary to ensure that the Products provided to Buyer pursuant to this Agreement are safe for human consumption and conform to the requirements of this Agreement when delivered to Buyer.

b. **DISCLAIMER OF WARRANTIES. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER CO-PACKER NOR ANY OF ITS DIRECT OR INDIRECT SUBSIDIARIES OR AFFILIATED ENTITIES MAKES ANY, AND HEREBY DISCLAIMS ALL, OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTY OF FITNESS FOR ANY PURPOSE.**

c. Labeling Elements. Notwithstanding any other provision set forth in this Agreement, it is specifically understood and agreed that all labels utilized in connection with the Products, including but not limited to the design, content, wording, artwork, label features, batch codes, date codes, logos, trademarks (registered and unregistered), service marks, trade names and trade dress set forth thereon (as such may be changed from time to time, "**Labeling Elements**") shall be prescribed by Buyer, and Buyer shall be solely responsible therefor, including but not limited to their compliance with all applicable federal, state and local laws, rules and regulations. Buyer is, and shall at all times during the Term remain, the exclusive owner of all rights to the use of any and all designs, logos, trademarks (registered or unregistered), service marks, trade names and trade dress included within the Labeling Elements. For the Term of this Agreement, Buyer grants to Co-Packer a non-exclusive royalty-free license, without the right to sublicense, to use all Labeling Elements in connection with Co-Packer's manufacturing, packaging and sale of Products to Buyer in accordance with the terms of this Agreement.

d. Compliance With Laws. Each party shall comply with all federal, state and local laws, rules and regulations that apply to its performance hereunder, including without limitation, possessing and maintaining all necessary permits and licenses.

7. Indemnities.

a. **Co-Packer Indemnity.** Co-Packer shall indemnify, defend and hold harmless Buyer and each of its subsidiaries and affiliated entities, and the officers, directors, employees, agents, representatives, shareholders, predecessors, successors and assigns of each of them, from and against any and all claims, demands, causes of action, damages, losses, liabilities, judgments, costs, fees and expenses (including, without limitation, reasonable costs and expenses of investigation and settlement and reasonable attorneys' fees and expenses) (collectively, "**Losses**"), to the extent arising out of or relating to any breach by Co-Packer of its representations, warranties, covenants or obligations set forth in this Agreement. Such indemnification obligations shall survive the expiration or termination of this Agreement.

b. **Buyer Indemnity.** Buyer shall indemnify, defend and hold harmless Co-Packer and each of its subsidiaries and affiliated entities, and the officers, directors, employees, agents, representatives, shareholders, predecessors, successors and assigns of each of them, from and against any and all Losses, to the extent arising out of or relating to (i) any breach by Buyer of its representations, warranties, covenants or obligations set forth in this Agreement, (ii) the handling of Products after title to such Products has passed to Buyer pursuant to the terms of this Agreement, (iii) the distribution, sale, advertisement, storage or transportation of the Products, or (iv) any Labeling Elements (including but not limited to any claims of infringement relating thereto). Such indemnification obligations shall survive the expiration or termination of this Agreement.

8. Force Majeure. Any delays in or failure of performance by any party hereto, other than the payment of money, shall not constitute a default hereunder if and to the extent such delays or failures of performance are caused by occurrences beyond the reasonable control of such party, including, but not limited to: acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority; acts of war; riots or strikes or other concerted acts of personnel; power failure; or any causes, whether or not of the same class or kind as those specifically named above, which are not within the reasonable control of such party. Such party's obligations shall be suspended, without liability to the other party, to the extent of such inability to perform; provided, however that a party shall not be relieved of its obligation to make payments as and when due.

9. Confidentiality. The specific terms and conditions of this Agreement and any information conveyed or otherwise received by or on behalf of a party in conjunction herewith are confidential and are subject to the terms of the confidentiality provisions of the Distribution Agreement.

10. Termination Due To Breach or Financial Condition.

(a) This Agreement may be terminated:

(i) by either party upon written notice if the other party becomes insolvent, files or has filed against it a petition under any chapter of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (or any similar petition under any insolvency law of any jurisdiction), proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of such party; and

(ii) by either party at any time upon any material breach by the other party of the terms of this Agreement which remains uncured thirty (30) days following written notice of such breach.

(b) Termination of this Agreement shall not release either party from any obligation accrued prior to the date of such termination or from any obligations continuing beyond the termination of this Agreement.

11. Equipment. During the term of this Agreement, TreeHouse shall maintain any equipment or other property of Dean relating to the services provided hereunder which is in TreeHouse's control or possession and which is not a Transferred Asset under the Distribution Agreement (" **Dean Equipment** ") in good operating condition, ordinary wear and tear excepted. TreeHouse shall be responsible for loss or damage to any Dean Equipment while under the control of TreeHouse. In addition, TreeHouse shall not use any Dean Equipment to manufacture products for sale to a third party other than Dean. Upon termination of this Agreement, TreeHouse shall be obligated to return to Dean, as soon as reasonably practicable, all Dean Equipment.

12. Independent Contractors. The parties are providing the services pursuant to this Agreement as independent contractors and the parties hereby acknowledge that they do not intend to create a joint venture, partnership or any other type of agency between them.

13. Assignment. This Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

14. Miscellaneous.

a. **Governing Laws.** This Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Delaware.

b. **Waiver.** Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently given for the purposes of this Agreement if, as to any party, it is in writing signed by an authorized representative of such party. The failure of any party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

c. **No Consequential Damages.** Notwithstanding any other provision set forth in this Agreement, in no event (including, without limitation, any termination of this Agreement with or without cause) will either party be liable to the other party for any indirect, special or consequential damages whatsoever (including, without limitation, lost profits) arising out of or relating to this Agreement or either party's performance under this Agreement.

d. Entire Agreement; Amendments. This Agreement, including the Exhibits referred to herein and therein and the documents delivered pursuant hereto and thereto, constitute the entire agreement between the parties with respect to the subject matter contained herein or therein, and supersede all prior agreements, negotiations, discussions, understandings, writings and commitments between the parties with respect to such subject matter. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the parties.

e. Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

f. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed given upon (i) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following business day or if delivered by hand the following business day), (ii) confirmed delivery of a standard overnight courier or when delivered by hand or (iii) the expiration of five business days after the date mailed by certified or registered mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to Dean, to:

Dean Foods Company
2515 McKinney Avenue
Suite 1200
Dallas, Texas 75201
Telephone: (214) 303-3413
Fax: (214) 303-3853
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037
Telephone: (202) 663-6000
Fax: (202) 663-6363
Attention: Erika L. Robinson

If to TreeHouse, to:

TreeHouse Foods, Inc.
857-897 School Place

P.O. Box 19057
Green Bay, Wisconsin 54307
Telephone: (920) 497-7131
Fax: (920) 497-4604
Attention: General Counsel

with a copy (which shall not constitute effective notice) to:

Winston and Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Fax: (312) 558-5700
Attention: Bruce A. Toth

Either party may, by written notice to the other parties, change the address or the party to which any notice, request, instruction or other documents is to be delivered.

g. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by and delivered to each of the parties.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Co-Pack Agreement to be executed by their proper and duly authorized officers as of the date first set forth above.

DEAN FOODS COMPANY

By: /s/ Edward F. Fugger
Name: Edward F. Fugger
Title: Vice President – Corporate Development

TREEHOUSE FOODS, INC.

By: /s/ Thomas E. O'Neill
Name: Thomas E. O'Neill
Title: Senior Vice President

**NEWS RELEASE**

Contact: E. Nichol McCully
Senior Vice President and Chief Financial Officer
(630) 512-0592

TreeHouse Foods Completes Spin-Off from Dean Foods Company

CHICAGO, June 27, 2005 (NYSE:THS) — Today TreeHouse Foods, Inc. completed its announced spin-off from Dean Foods Company (NYSE:DF) through a distribution of one share of TreeHouse stock for every five shares of Dean Foods Company stock held by Dean Foods Company shareholders on the June 20, 2005 record date. Dean shareholders will receive cash in lieu of any fractional shares of TreeHouse common stock resulting from the distribution. TreeHouse expects that shares of its common stock will begin trading on the New York Stock Exchange under the symbol “THS” on June 28, 2005.

“We are excited to make our debut as an independent public company,” said Sam K. Reed, Chairman of the Board and Chief Executive Officer of TreeHouse. “We see extraordinary opportunity for growth in both the grocery private label and foodservice markets we serve nationally. We expect shareholder value to be enhanced as we expand our presence in both markets. Our Bay Valley Foods operating unit, formerly the Dean Specialty Foods Group, is the ideal platform upon which to expand in both shelf stable, dry grocery and refrigerated food products. Our experienced and dedicated workforce of 1,800 is determined to merit our motto — ‘Supplier of Choice’ — with every customer we serve.”

TreeHouse is a food manufacturer servicing primarily the retail grocery and foodservice channels. Its products include pickles and related products; non-dairy powdered coffee creamer; and other food products including aseptic sauces, refrigerated salad dressings, and liquid non-dairy creamer. TreeHouse believes it is the largest manufacturer of pickles and non-dairy powdered creamer in the United States based on sales volume.

Additional information about TreeHouse may be found at the company’s website, www.TreeHouseFoods.com.

Forward Looking Statements.

This press release contains “forward-looking statements.” Forward-looking statements include all statements that do not relate solely to historical or current facts, and can generally be identified by the use of words such as “may,” “should,” “could,” “expects,” “seek to,” “anticipates,” “plans,” “believes,” “estimates,” “intends,” “predicts,” “projects,” “potential” or “continue” or the negative of such terms and other comparable terminology. These statements are only predictions. The outcome of the events described in these forward-looking statements is subject to known and unknown risks, uncertainties and other factors that may cause the company or its industry’s actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievement expressed or implied by these forward-looking statements. For further details and a discussion of these and other risks and uncertainties, please see the company’s registration statement on Form 10, dated June 14, 2005, which is filed with the Securities and Exchange Commission. You are cautioned not to unduly rely on such forward-looking statements, which speak only as of the date made, when evaluation the information presented in this presentation. The company expressly disclaims any obligation or undertaking to disseminate any updates or revisions to any forward-looking statement contained herein, to reflect any change in its expectations with regard thereto, or any other change in events, conditions or circumstances on which any statement is based.