

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

JUN 27 2 03 PM '01

CLERK
BY LB
DEPUTY CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

STATE OF VERMONT AND,
STATE OF NEW HAMPSHIRE,

Plaintiffs,

vs.

SUIZA FOODS CORPORATION and
STOP & SHOP SUPERMARKET COMPANY

Defendants

Civil Action No. 2.01-CV-194

FINAL JUDGMENT BY CONSENT AND ORDER

WHEREAS:

Plaintiffs, the State of Vermont and the State of New Hampshire ("Plaintiffs"), have filed their Complaint herein. Defendants Suiza Foods Corporation ("Suiza") and The Stop & Shop Supermarket Company ("Stop & Shop") (collectively "Defendants"), by their respective attorneys, have consented to the entry of this Final Judgment By Consent and Order ("Final Judgment") without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein except as to jurisdiction as set forth in Paragraph II;

Plaintiffs allege in the complaint filed in this action that the consummation of the Contemplated Transactions, as defined below, between Stop & Shop and Suiza would substantially lessen competition in New England in the processing of fluid milk and its sale to retailers and consumers, violating: (a) Section 7 of the Clayton Act, 15 U.S.C. § 18, Section 1 of

the Sherman Act, 15 U.S.C. § 1, and other federal antitrust and unfair competition laws; and (b) state antitrust, unfair competition, and consumer protection laws, including the Vermont Consumer Fraud Act, 9 V.S.A. § 2453, et seq., and the New Hampshire Combinations and Monopolies Act, N.H. REV. STAT. ANN. § 356 and the New Hampshire Consumer Protection Act, N.H. REV. STAT. ANN. § 358-A.

Defendant Suiza admits to this Court's jurisdiction over the subject matter of this action, as well as the Court's personal jurisdiction over Suiza in this action;

Defendant Stop & Shop admits to this Court's jurisdiction over the subject matter of this action, as well as the Court's personal jurisdiction over Stop & Shop in this action;

Defendants do not admit and continue to deny that the Contemplated Transactions are unlawful;

Plaintiffs and Defendants now desire to resolve Plaintiffs' concerns as alleged in the Complaint, and have concluded that it is in their interests to enter into this Final Judgment;

Plaintiffs have required the relief specified herein for the purpose of remedying the loss of competition alleged in the Complaint; and

Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I.

DEFINITIONS

As used in this Final Judgment:

- A. **"Attorneys General,"** except where noted, means the Attorney General of the State of Vermont, or a duly authorized deputy, assistant, or representative thereof, and the Attorney General of the State of New Hampshire, or a duly authorized representative thereof.
- B. **"Asset Maintenance Agreement"** means an agreement entered into between Suiza, Stop & Shop, and the states of Vermont and Connecticut, and the Commonwealth of Massachusetts, on May 30, 2000 (attached as Exhibit A), and extended on September 21, 2000 and May 23, 2001, whereby Stop & Shop has agreed to preserve, and not to sell or otherwise dispose of the Readville Assets.
- C. **"Contemplated Transactions"** means those provided for in the Asset Purchase Agreement entered into on February 10, 2000 by and between Stop and Shop and SDG.
- D. **"Fee Information"** means the Packaging Reimbursement Fee, Processing Fee, and Half Pint Processing Fee applicable under the Processing Agreement, as set forth in a Fee Information Sheet to be held by Suiza and the Attorneys General, and to be provided by Suiza to a Reseller who has executed the Confidentiality and Non-disclosure Agreement attached as Exhibit 2 to the Processing Agreement.
- E. **"Fluid Cream Products"** means pasteurized fluid cream sold in a variety of sizes and packages.

- F. **"Fluid Milk Plant"** means a facility engaged in the production of branded and/or private label fluid milk.
- G. **"Fluid Milk Products"** means pasteurized milk in the following SKUs: 4 SKUs in gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon paper containers (homogenized, 2%, 1%, skim); 4 SKUs in quart paper containers (homogenized, 2%, 1%, skim); and 4 SKUs in half-pint containers (homogenized, chocolate, 2%, 1%).
- H. **"Lynn Excess Orders"** means orders for Fluid Milk Products in plastic gallon and half gallon containers that cause Processor to exceed the 125,000 gallon per week limit but not exceed the 300,000 gallon per week aggregate delivery limit at Processor's Lynn, MA facility.
- I. **"New England"** means, collectively, the geographic region encompassing Maine, Massachusetts, Rhode Island, Vermont, Connecticut, and New Hampshire.
- J. **"Notification"** means the provision of notice to the Attorneys General on the Notification and Report Form set forth in the Appendix to part 803 of Title 16 of the Code of Federal Regulations as amended, and prepared in accordance with the requirements of that part, except that it shall not be subject to any limitations based on the value of the acquisition, and shall not require any filing fee.
- K. **"Orange Juice Products"** means products from concentrate orange juice in the following SKUs: 1 SKU in gallon plastic containers; 1 SKU in half-gallon plastic containers.
- L. **"Processing Agreement"** means an agreement between SDG and a Reseller subject to the terms contained in the Processing Agreement Term Sheet attached as Exhibit B to this Final Judgment.

- M. **"Readville Assets"** means the assets formerly used at Shop & Shop's Readville, Massachusetts plant for the processing and packaging of fluid milk products.
- N. **"Reseller"** means any entity that has entered into a Processing Agreement with SDG and shall not include any entity entering into a Processing Agreement that has been voided by any of the States within ten (10) days of receipt from SDG.
- O. **"SDG"** means Suiza Dairy Group, L.P. and includes its predecessors, successors and assigns, and their subsidiaries, divisions, groups, partnerships and joint ventures, affiliates, directors, officers, managers, agents and employees.
- P. **"SKU"** means Stock Keeping Units.
- Q. **"States"** means the States of Connecticut, Maine, New Hampshire, Rhode Island and Vermont and the Commonwealth of Massachusetts.
- R. **"Stop & Shop"** means defendant The Stop & Shop Supermarket Company, and includes its predecessors, successors and assigns, and their subsidiaries, divisions, groups, partnerships and joint ventures, affiliates, directors, officers, managers, agents and employees.
- S. **"Suiza"** means defendant Suiza Foods Corporation and includes its predecessors, successors and assigns, and their subsidiaries, divisions, groups, partnerships and joint ventures, affiliates, directors, officers, managers, agents and employees.

II.

JURISDICTION

This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1337, and 1367 and personal jurisdiction over each of the Defendants subject to this Final Judgment. The Complaint states a claim upon which relief may be granted against the Defendants under the antitrust laws of the United States and of the states of Vermont and New

Hampshire. The Attorneys General have the authority to bring this action.

III.

APPLICABILITY

A. The provisions of this Final Judgment apply to Defendants, their predecessors, successors and assigns, their subsidiaries, directors, officers, managers, agents, employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each Defendant has represented that it is capable of complying with the obligations set forth in this Final Judgment.

C. Defendants have agreed to be bound by the provisions of this Final Judgment, and there is no just reason for delay in its entry. The parties intend that Defendants shall undertake the actions described herein for the periods so indicated.

D. The definitions provided in this Final Judgment are for purposes of this Decree only and do not indicate a representation by the parties or a finding of this Court that such definitions apply to terms in any other legal context.

IV.

PROCESSING AGREEMENTS

A. Suiza shall promptly make known to bona fide, prospective Resellers, by usual and customary means, the availability of a Processing Agreement, pursuant to which SDG will process bulk milk supplied by Reseller and orange juice concentrate supplied by SDG, and convert it into Fluid Milk Products and Orange Juice Products to be delivered to Reseller.

B. Suiza shall offer to enter into Processing Agreements with Resellers pursuant to

the terms stated in the Processing Agreement Term Sheet, attached hereto as Exhibit B, for a period of five (5) years from the later of the date that this Final Judgment is approved and entered by this Court, or the date the Half Pint Processing Fee (as defined in Exhibit B hereto) is determined.

C. Prior to receiving the Fee Information for the Processing Agreement, each prospective Reseller must enter into a confidentiality agreement in the form of Exhibit 2, attached to the Processing Agreement.

D. Suiza shall provide notice to the Attorneys General of any Processing Agreement entered into pursuant to this Final Judgment. The Attorneys General shall have ten (10) days from receipt of notice to review and determine whether to void any such Processing Agreement before any order is filled or payment made under the Processing Agreement.

E. Suiza shall in good faith carry out the terms of any Processing Agreement.

V.

SALE OF BRANDED FLUID MILK PRODUCTS AND FLUID CREAM PRODUCTS BY STOP & SHOP

A. Defendants shall not enter into any agreement, and shall not honor any previously existing agreement, that restricts or prevents Stop & Shop stores in New England from selling branded Fluid Milk Products or branded Fluid Cream Products supplied by firms other than Suiza.

B. Nothing in the foregoing shall operate to force Stop & Shop stores in New England to carry a particular brand or more than one brand of Fluid Milk Products or Fluid Cream Products. Nothing in the foregoing shall operate to limit the discretion of Stop & Shop to choose a supplier or suppliers to meet its private label fluid milk and private label cream needs.

VI.

SALE OF READVILLE ASSETS BY STOP & SHOP

A. Stop & Shop shall sell the Readville Assets to a party or parties other than Suiza as soon as practicable and in any event within 120 days from the day this Final Judgment is entered. In accomplishing the sale ordered by this Final Judgment, Stop & Shop shall make known, by usual and customary means, the availability of the assets to dairy processors in New England.

B. Stop & Shop shall inform the States of the details of the divestiture sale of the Readville Assets. The States shall have ten (10) business days to disapprove of any part or the whole of such asset sale, in which case that part of the sale to which the States have objected shall not be consummated and Stop & Shop shall have additional time as is mutually agreed to by Stop & Shop and the States to be reasonably necessary to complete the sale of the Readville Assets to a party or parties other than Suiza.

C. Pending divestiture of the Readville Assets, Defendants shall comply with all the terms of the Asset Maintenance Agreement, which shall continue in effect as to the unsold Readville Assets until such time as the Readville Assets have been divested.

VII.

PRIOR NOTIFICATION OF FUTURE ACQUISITIONS

A. Suiza shall not, without providing Notification to the Attorneys General, through subsidiaries, partnerships, joint ventures or otherwise, directly or indirectly:

- (1) Acquire any ownership or leasehold interest in any facility that has engaged in the

production of Fluid Milk Products or Fluid Cream Products in New England within six (6) months of the date of such proposed acquisition; or

- (2) Acquire any stock, share capital, equity or other interest in any entity that: (a) owns a facility that is, or within the six (6) months prior to such proposed acquisition has been, engaged in the processing of Fluid Milk Products or Fluid Cream Products; or (b) operates any facility in New England engaged in the processing of Fluid Milk Products or Fluid Cream Products.

B. Suiza shall provide the Notification at least (30) thirty days prior to acquiring any such interest.

C. If, within the thirty (30) days after receiving such Notification, either Attorney General makes a written request for additional information or documentation, Suiza shall not consummate the proposed acquisition until thirty (30) days after substantially complying with such request.

D. Early termination of the waiting periods in this section may be requested and, where appropriate, granted at the discretion of the States when all agree in writing to do so.

VIII.

PRIOR NOTICE OF PLANT CLOSINGS OR SALE

Suiza shall not sell, close, or cease operations of any of its Fluid Milk Plants in New England or its Fluid Milk Plant in East Greenbush, NY, without providing written notice to the Attorneys General at least sixty (60) days prior to such action. This notice requirement shall not apply to temporary shutdowns for maintenance and other routine needs arising in the ordinary course of business, or in response to food safety emergencies, fires, accidents, equipment

failures, utility or transportation interruptions, labor disputes, and other circumstances beyond the reasonable control of Suiza.

IX.

INSPECTION

- A. For the purpose of determining or securing compliance with this Final Judgment,
- (1) Duly authorized representatives of the Attorneys General shall, upon the written request of the Attorneys General, on reasonable notice to Defendants, and subject to all applicable privileges, be permitted to: (a) inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Defendants, which may have counsel present, with respect to any of the matters contained in this Final Judgment; and (b) subject to the reasonable convenience of Defendants and without restraint or interference from them, interview directors, officers, employees, and agents of Defendants, which may have counsel present, regarding any such matters; and
- (2) Upon the request of the Attorneys General, made to Defendants with reasonable notice as provided herein, Defendants shall answer written questions, under oath with respect to any of the matters contained in this Final Judgment.
- B. No information nor any documents obtained by the means provided in this section shall be divulged by the Attorneys General to any person other than duly authorized representatives of the States, except in the course of legal proceedings to which one of the States is a party, or for the purpose of enforcing compliance with this Final Judgment, or as otherwise required by law.
- C. If at the time information or documents are furnished by a Defendant to one or

both of the Plaintiffs, such Defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the States shall give ten (10) business days' notice to Defendant prior to divulging such material in any legal proceeding to which Defendant is not a party.

X.

REPORTING

A. Suiza shall provide to Plaintiffs, on a monthly basis, copies of all newly entered Processing Agreements and monthly reconciliation statements provided to Resellers as required by Processing Agreements. In addition, if after commercially reasonable efforts, SDG determines, based on the shifts per day and days per week in which the Lynn, MA facility is then in operation and the requirements of existing customers, that it does not have sufficient available capacity to fulfill a Lynn Excess Order on an ongoing basis, then, in the month following that determination, SDG shall report SDG's available capacity at its Lynn, MA facility to package Fluid Milk Products in plastic gallon and plastic half gallon containers over the time period relevant to each Lynn Excess Order that SDG does not fulfill.

B. Stop & Shop shall provide a detailed report to Plaintiffs, on or before September 1, 2001, and at least once each sixty (60) days thereafter until divestiture of the Readville Assets is complete, regarding the status of the Readville Assets, progress made toward notice to qualifying purchasers of their availability for sale, and their sale and disposition.

XI.

NOTICES

Any notices required by this Final Judgment shall be delivered to the parties at the following addresses:

For Defendant Suiza:

Attn: General Counsel
Suiza Foods Corporation
2515 McKinney Ave., Suite 1200
Dallas, Texas 75201

with a copy to:
Paul T. Denis, Esq.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW Suite 300
Washington, DC 20007

For Defendant Stop & Shop:

Attn: General Counsel
The Stop & Shop Company
P.O. Box 1942
Boston, MA 02105

with a copy to:

J. Mark Gidley, Esq.
White & Case LLP
601 13th Street, N.W.
Suite 600
Washington, D.C. 20005

For the State of Vermont:

Julie Brill
Assistant Attorney General
Director, Antitrust
Office of the Attorney General
109 State Street
Montpelier, Vermont 05609

For the State of New Hampshire:

David A. Rienzo
Assistant Attorney General
Office of the Attorney General
33 Capitol Street
Concord, New Hampshire 03301

XII.

TERMINATION

This Final Judgment will terminate ten years after its issuance.

XIII

COSTS AND ATTORNEYS' FEES

Within seven days after this Court's execution of this Final Judgment, Defendant Suiza shall pay a total amount of \$300,000 to the States as partial reimbursement for their incurred costs and attorney's fees, as follows:

A. Suiza shall pay the State of Vermont \$100,000:

(1) By delivering a check payable to the order of the National Association of Attorneys General (NAAG) in the amount of \$16,666.66, as proportionate repayment of a \$50,000.00 grant from the New York Milk Antitrust Fund, for consulting economists retained and paid by the states. This payment, when combined with equal payments being provided for Massachusetts and Connecticut, will total \$50,000.00; and

(2) By delivering a check payable to the order of the State of Vermont in the amount of \$83,333.34.

B. Suiza shall pay a total of \$200,000 to the Commonwealth of Massachusetts and the State of Connecticut pursuant to related consent orders being filed in each respective United States District Court therein.

XIV.

RETENTION OF JURISDICTION

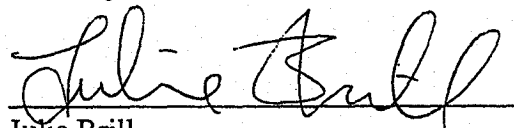
This Court retains jurisdiction for the purpose of enabling any party hereto to apply for such further orders and directions as may be necessary and appropriate for the modification or enforcement of this Final Judgment to the extent any such modification is permitted, and for the punishment of any violation of the provisions contained herein. This Court shall have the authority specifically to enforce the provisions of this Final Judgment, and to award appropriate additional relief for violations, including imposition of appropriate penalties.

Signed this 25th day of June, 2001.

STATE OF VERMONT

William H. Sorrell
Attorney General

By:



Julie Brill
David Borsykowsky
Assistant Attorneys General
109 State Street
Montpelier, Vermont 05609

STATE OF NEW HAMPSHIRE

Philip T. McLaughlin
Attorney General

By:

David A. Rienzo
Assistant Attorney General
Office of the Attorney General
33 Capitol Street
Concord, New Hampshire 03301

SUIZA FOODS CORPORATION

By: _____

Michelle P. Goolsby
Executive Vice President, Chief Administrative Officer and
General Counsel

By: 

Paul T. Denis
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
Counsel for SUIZA FOODS CORPORATION

**THE STOP & SHOP SUPERMARKET COMPANY, A
CORPORATION**

By: _____

David J. Kramer
Senior Vice President and General Counsel

By: _____

J. Mark Gidley
WHITE & CASE LLP
Counsel for THE STOP & SHOP SUPERMARKET
COMPANY

By: 

Stephen J. Soule
PAUL, FRANK & COLLINS
Local Counsel for SUIZA FOODS CORPORATION
and THE STOP & SHOP SUPERMARKET COMPANY

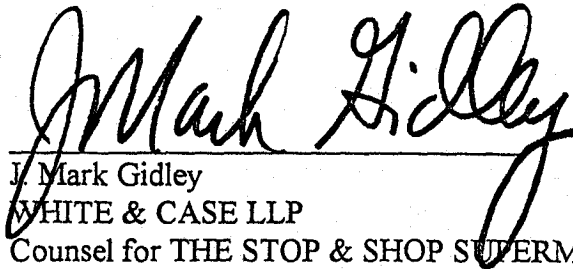
**THE STOP & SHOP SUPERMARKET
COMPANY, A CORPORATION**

By:


David J. Kramer

Senior Vice President and General Counsel

By:


J. Mark Gidley
WHITE & CASE LLP
Counsel for THE STOP & SHOP SUPERMARKET
COMPANY

SUIZA FOODS CORPORATION

By: Michelle P. Goolsby
Michelle P. Goolsby
Executive Vice President, Chief Administrative Officer and
General Counsel

By: _____
Paul T. Denis
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
Counsel for SUIZA FOODS CORPORATION

**THE STOP & SHOP SUPERMARKET COMPANY, A
CORPORATION**

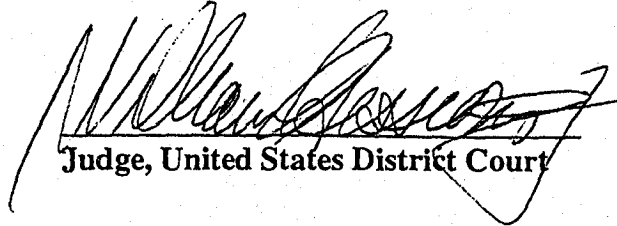
By: _____
David J. Kramer
Senior Vice President and General Counsel

By: _____
J. Mark Gidley
WHITE & CASE LLP
Counsel for THE STOP & SHOP SUPERMARKET
COMPANY

By: Stephen J. Soule
Stephen J. Soule
PAUL, FRANK & COLLINS
Local Counsel for SUIZA FOODS CORPORATION
and THE STOP & SHOP SUPERMARKET COMPANY

IT IS SO ORDERED, ADJUDGED, AND DECREED:

6/27/01
Date


Judge, United States District Court

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D.C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP
601 THIRTEENTH STREET, N.W.
SUITE 600 SOUTH
WASHINGTON, D.C. 20005-3807
TELEPHONE: (1-202) 626-3600
FACSIMILE: (1-202) 639-9355
DIRECT DIAL: 202-626-3609

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO
MIDDLE EAST
JEDDAH
RIYADH
LATIN AMERICA
MEXICO CITY
SAO PAULO
AFRICA
JOHANNESBURG

May 30, 2000

Contains Proprietary & Confidential Business Information

VIA FACSIMILE

Julie Brill, Esq.
Assistant Attorney General
State of Vermont
Office of the Attorney General
109 State Street
Montpelier, Vermont 05609-1001

Roger Reynolds, Esq.
Assistant Attorney General
State of Connecticut
Office of the Attorney General
110 Sherman Street
Hartford, Connecticut 06105

Mary Freeley, Esq.
Assistant Attorney General
Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108-1698

Re: Asset Maintenance Agreement – Stop & Shop/Suiza

Dear Julie:

We write to confirm our agreement on timing issues related to the resolution of particular issues as described below reached today by and between The Stop & Shop Supermarket Company ("Stop & Shop"), Suiza Foods Corporation ("Suiza") (collectively, the "Parties"), and representatives of the Attorneys General offices of Vermont, Connecticut and Massachusetts (collectively, the "States").

On June 3, 2000, Stop & Shop will proceed with its plan to close its Readville, Massachusetts milk processing plant and begin outsourcing its milk supply to Suiza under the terms of an amended long term supply agreement. Stop & Shop agrees that, for 120 calendar days beginning on May 27, 2000, it (1) will take such actions as are necessary to maintain the viability, competitiveness, and marketability of the plant milk processing assets; (2) will not sell, transfer, or encumber the plant milk processing assets; and (3) will not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair the viability, competitiveness,

Asset Maintenance Agreement - Stop & Shop/Suiza

Page 2

or marketability of the plant milk processing assets, except for ordinary wear and tear. The States agree not to seek to enjoin either Stop & Shop's decision to close its plant or the Parties' implementation of the supply agreement prior to June 4, 2000.

Stop & Shop further agrees that if it becomes necessary to re-open the Readville milk processing plant, it will take the necessary steps to adequately re-staff the plant. Stop & Shop represents that it will be able to re-open the Readville plant at 33% capacity within two weeks from the date upon which it becomes necessary to re-open; be able to operate at 67% capacity within four weeks from the date upon which it becomes necessary to re-open; and that it will use its best efforts to be able to operate the plant at full capacity within six weeks from re-opening, and in no event will re-opening the plant at full capacity take longer than seven weeks.

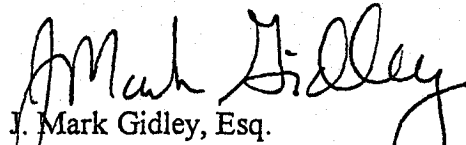
The Parties and the States agree that this agreement on asset maintenance does not apply to assets not used in milk processing, e.g., orange juice processing equipment; provided that any orange juice processing equipment that is also used in milk processing operations at the plant will not be removed from the plant or otherwise impaired in its use for milk processing. The Parties and the States further agree that this agreement does not restrict the lease or transfer of certain milk distribution assets, primarily bossy (display) carts, dollies and refrigerated trailers. Such distribution assets will be leased to Suiza on an interim basis to allow Suiza to service Stop & Shop's stores. Stop & Shop will retain the right to have the milk distribution assets bossy (display) carts, dollies and refrigerated trailers returned to it in the event that the Parties agree or that a court should order resumption of production by Stop & Shop at the Readville plant. Nothing in this paragraph will act to prevent the orderly resumption of the milk processing operation, if so agreed or ordered.

Pursuant to your March 22, 2000 letter agreement with Jonathan Harlow of Stop & Shop, the information provided herein with respect to the intermediate capacity levels and the dates referenced in paragraph 3 of this agreement is highly confidential and proprietary business information and should be treated confidentially, except to the extent necessary to enforce this agreement.

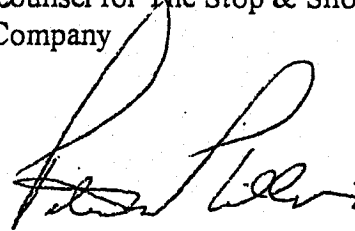
Asset Maintenance Agreement – Stop & Shop/Suiza

Page 3

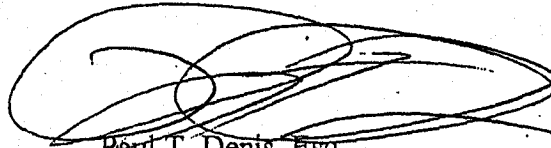
Very truly yours,



J. Mark Gidley, Esq.
Counsel for The Stop & Shop Supermarket
Company



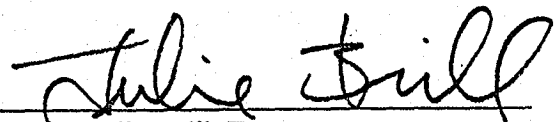
Peter M. Phillipps, Esq.
Executive Vice President
Administration and General Counsel
The Stop & Shop Supermarket Company



Paul T. Denis, Esq.
Swidler, Berlin, Shereff & Friedman LLP
Counsel for Suiza Foods Corporation

So Agreed:

State of Vermont

By: 

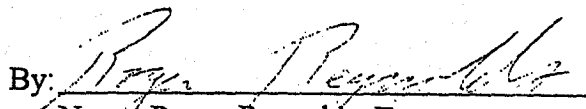
Name: Julie Brill, Esq.
Title: Assistant Attorney General

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

Asset Maintenance Agreement – Stop & Shop/Suiza

Page 4

State of Connecticut

By: 
Name: Roger Reynolds, Esq.
Title: Assistant Attorney General

Commonwealth of Massachusetts

By: _____
Name: Mary Freeley, Esq.
Title: Assistant Attorney General

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

Asset Maintenance Agreement – Stop & Shop/Suiza

Page 4

State of Connecticut

By: _____
Name: Roger Reynolds, Esq.
Title: Assistant Attorney General

Commonwealth of Massachusetts

By: Mary B. Freeley
Name: Mary Freeley, Esq.
Title: Assistant Attorney General

**Suiza Dairy Group, L.P.
Processing Agreement Term Sheet**

**Suiza Dairy Group, L.P.
Processing Agreement Term Sheet**

Processing Agreement(s):

Suiza Dairy Group, L.P., or its designee ("Processor"), will offer to enter into one or more processing agreements pursuant to which Processor will process (1) Bulk Milk supplied by Reseller at one or more Processing Locations and convert it into Fluid Milk Products to be delivered to Reseller, and (2) orange juice concentrate supplied by Processor and convert it into Orange Juice Products to be delivered to Reseller subject to the terms set forth herein. In consideration, Reseller will pay Processor the Processing Fee or Half Pint Processing Fee and any applicable cost reimbursement fees.

Term:

The term of each processing agreement shall be for a fixed term of 12 to 18 months. The term is renewable once at the Reseller's option for up to an additional 18 months. No Reseller may enter into agreements with an aggregate term exceeding 36 months. No processing agreement will extend beyond five years from the latest of the dates of entry of the Final Judgments or the date of the determination of the Half Pint Processing Fee.

Bulk Milk Delivery Obligations:

Reseller will deliver or have delivered to Processor only full tanker loads of Bulk Milk with a minimum of one tanker load per week.

Reseller will be responsible for all costs, fees or assessments relating to the purchase, procurement, transportation, distribution or sale of Bulk Milk or Fluid Milk Products,

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

including, without limitation, minimum producer price and milk marketing "pool" obligations, Northeast Dairy Compact obligations, administrative assessments, PEP and other promotional assessments, and audit adjustments or any similar fees assessed at the processing level.

Bulk Milk deliveries must be made at times acceptable to Processor and must be scheduled before 5 PM Thursday for deliveries made the following week. Deliveries must be made the day prior to the scheduled date of delivery for Fluid Milk Products between the hours of 6 AM and 8 PM at the Bennington, VT, Bangor, ME, and East Greenbush, NY facilities and at any time at the Lynn, MA facility.

Aggregate Processing Obligations:

Subject to the terms and conditions set forth in this Term Sheet, Processor will convert each tanker load of Bulk Milk delivered by Reseller into the processing equivalent Fluid Milk Product volume of that load (subject to actual shrinkage not to exceed 0.75%) until Processor has processed an aggregate of 2.5 million gallons per month. The Processor will accept processing agreements up to the Aggregate Processing Obligations on a first-come first-served basis. Processor shall have no obligation to process or deliver half pint Fluid Milk Products at its Bennington, VT or East Greenbush, NY facilities.

Aggregate Weekly Delivery Limits:

Processor shall not be required to deliver, in any one-week period determined on a first-come-first-served basis, more than 300,000 gallons at its Lynn, MA facility; 100,000 gallons at its Bennington, VT facility; 200,000 gallons at its East Greenbush facility; or 300,000 gallons at its Bangor, ME facility.

Processor shall not be required to deliver, in any one-week period, more than 125,000

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

gallons of Fluid Milk Products in plastic gallon and half gallon containers at its Lynn, MA facility.

Processor shall use commercially reasonable efforts to accommodate orders for Fluid Milk Products in plastic gallon and half gallon containers that cause Processor to exceed this 125,000 gallon per week limit but not exceed the 300,000 gallon per week aggregate delivery limit at Processor's Lynn, MA facility ("Lynn Excess Orders"). In the event that after such commercially reasonable efforts, Processor determines, based on the shifts per day and days per week in which the Lynn, MA facility is then in operation and the requirements of existing customers, that it does not have sufficient available capacity to fulfill a Lynn Excess Order on an ongoing basis, Processor may refuse that portion of the order that exceeds its available capacity, as reported pursuant to Section X of the Final Judgments. In no event shall Processor be excused from fulfilling orders that do not cause the Processor to exceed the 125,000 gallon limit for plastic gallons and half gallons or its available capacity as reported pursuant to Section X of the Final Judgments.

Oversubscription:

Processor, in its sole discretion, may , determine whether to accept contracts in excess of its Aggregate Processing Obligation or in excess of the Aggregate Weekly Delivery Limits at any of its Processing Locations.

Acceptance of Bulk Milk:

Processor will be responsible for determining receiving weight and butterfat content of all Bulk Milk supplied by Reseller, as well as applying generally accepted testing methods to determine compliance with the quality specifications that define Bulk Milk. Processor will be under no obligation to accept

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

nonconforming loads, provided that Processor promptly notifies Reseller of the basis for rejection.

Ordering:

Reseller shall place an initial processing order or renewal order by 5 PM on Thursday of the week preceding processing and delivery of the Fluid Milk Products and Orange Juice Products. Reseller may adjust the processing order for the Fluid Milk Products, by no more than +/- 20%, up to 48 hours before the scheduled delivery of Fluid Milk Products. The initial processing order or renewal order shall set forth the volume of Bulk Milk to be delivered by Reseller to each Processing Location, the delivery dates for the Bulk Milk, the volume of each Fluid Milk Product and Orange Juice Product to be processed and delivered by Processor at each Processing Location, and the delivery dates for the Fluid Milk Products and Orange Juice Products.

Processor shall schedule the delivery dates specified in the initial processing order or renewal order or, if Processor cannot meet the delivery dates specified in the processing order due to capacity constraints, Processor and Reseller shall use their reasonable best efforts to arrange for mutually agreeable alternative delivery dates.

Reseller shall renew each initial processing order by submitting a weekly renewal order for a minimum of three consecutive weeks. Each renewal order may adjust the volume of Fluid Milk Products delivered by up to 20% of the volume of Fluid Milk Products and/or Orange Juice Products delivered under the previous order.

If Reseller fails to submit (a) a renewal order, or (b) after submitting renewal orders for three consecutive weeks, fails to submit a termination notice, then Reseller will be

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

presumed to have placed a week-to-week renewal order for the same quantities of Fluid Milk Products and/or Orange Juice Products to be delivered at the same location(s) as specified in its previous processing order.

After placing three renewal orders, Reseller may place additional renewal orders on a week-to-week basis or may inform Processor that it does not want to take delivery of Fluid Milk Products and/or Orange Juice Products the following week. If Reseller chooses not to take delivery of Fluid Milk Products and/or Orange Juice Products the following week, it must submit a new initial processing order the next time that it wants to schedule delivery of Fluid Milk Products and/or Orange Juice Products.

Processor shall be under no obligation to accept any orders submitted prior to the expiration of the ten-day period during which the States have the ability to void any processing agreement.

Delivery of Fluid Milk
and Orange Juice Products:

Processor will provide Fluid Milk Products and Orange Juice Products to Reseller FOB Processor's plant in milk cases provided by Processor loaded by Processor onto trailers provided by Reseller. Reseller shall make trailers available for loading on the date that the Fluid Milk Products and/or Orange Juice Products are scheduled for delivery. Processor shall have no obligation to unload, pick, or reload other products.

Delivery Minimums/Maximums:

The minimum quantities for any delivery of Fluid Milk Products will be: (1) gallons (homogenized, 2%, 1%, skim) – 300 cases per SKU; (2) half gallons (homogenized, 2%, 1% skim) – 300 cases per SKU; (3) quarts (homogenized, 2%, 1%, skim) – 300 cases per SKU; (4) half pints (homogenized,

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

2%, 1%, chocolate) – 300 cases per SKU.

Notwithstanding the foregoing paragraph, the minimum quantities of any delivery of Fluid Milk Products in quart containers or Fluid White Milk Products in half pint containers may be 150 cases per SKU when the Reseller's order includes at least 2 SKUs of gallons and at least 2 SKUs of half gallons; minimum delivery quantities for both quarts and half pints may be 150 cases per SKU when Reseller's order includes at least 4 SKUs of gallons and at least 4 SKUs of half gallons.

The minimum quantities for any delivery of Orange Juice Products will be: (1) gallons – 300 cases; (2) half gallons – 300 cases.

The maximum quantities for any delivery of half pints of Fluid Milk Products (homogenized, 2%, 1%, chocolate) will be an aggregate of 12,000 cases in any one week period for all processing agreements at the Lynn, MA facility and 5,000 cases in any one week period for all processing agreements at the Bangor, ME facility determined on a first-come-first-served-basis.

Billing and Payment:

Processor shall provide a detailed invoice for each delivery with the quantity of Fluid Milk Products and Orange Juice Products delivered and the applicable Processing Fee or Half Pint Processing Fee, and any Packaging Reimbursement Fees. Reseller shall make payments to Processor within 21 days after acceptance of delivery. Removal of the trailer from Processor's facility constitutes acceptance of the Fluid Milk Products and Orange Juice Products as invoiced.

Processor shall provide, on a monthly basis, a reconciliation statement providing the

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

information set forth in Exhibit 1 attached hereto. If the reconciliation statement shows that Reseller delivered more Bulk Milk than the processing equivalent of the volume of Fluid Milk Products delivered to Reseller by Processor (the "differential amount") over the course of the month, Processor shall credit Reseller for an amount equal to what Processor would have paid for the differential amount of Bulk Milk, except that for each delivery of Bulk Milk that does not exceed a single tanker load, Reseller's credit will be based on an amount not to exceed 10% of the volume of Bulk Milk received in that delivery.

Packaging:

Reseller will determine the packaging containers for Fluid Milk Products and Orange Juice Products provided to Reseller, provided that the packaging containers are either the same packaging containers in which Processor packages its own branded Fluid Milk Products and Orange Juice Products or the same packaging containers in which Processor packages private label Fluid Milk Products and Orange Juice Products for other customers.

Reseller, at its own expense, may provide Plastic Packaging Containers, Paper Packaging Containers, and/or Closures for packaging of Fluid Milk Products and Orange Juice Products. Reseller shall make payments for any incremental costs incurred by Processor in handling the Plastic Packaging Containers, Paper Packaging Containers and/or Closures provided by Reseller.

Special Packaging:

Reseller may provide Processor with Special Packaging. If Reseller provides Special Packaging, Reseller shall make payments to Processor for all capital expenditures necessary to handle Special Packaging and incremental processing costs associated with

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

processing Fluid Milk Products or Orange Juice Products with Special Packaging provided by Reseller.

Labeling:

Processor will package the Fluid Milk Products and Orange Juice Products under labels specified by Reseller. The cost for all labels and all drawings, printing plates and other artwork necessary for the incorporation of such drawings, printing plates and other artwork into the packaging of Fluid Milk Products and Orange Juice Products for Reseller will be paid for by the party providing the packaging.

Milk and Orange Juice Cases:

The Fluid Milk Products and Orange Juice Products will be delivered to the trailer in 16-quart plastic milk cases. At each facility, milk cases will be signed out on delivery and signed in upon return. At the end of each calendar month, Processor will reconcile the amounts signed in and out at each facility. Reseller will pay Processor the cost of each milk case if, at the end of each calendar month, Reseller has not signed in as many milk cases as it signed out at each facility. Reseller may not sign in more cases than it has signed out.

Cream:

When entering into the processing agreement, Reseller must decide whether to retain all or any portion of the Cream generated by the processing of Bulk Milk or allow Processor to retain this Cream. Reseller may retain up to 100% of the Cream generated by the processing of Bulk Milk. Reseller will notify Processor of the Cream amount it wishes to retain throughout the term of the processing agreement. The Cream amount may not be changed without Processor's prior consent.

If the Processor retains the Cream generated by the processing of Bulk Milk, the Processing Fee or Half Pint Processing Fee

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

shall be reduced by the Retained Cream Value.

Substitute Processing Facilities:

In the event that Processor, due to general shifts in demand or to forces beyond its reasonable control, decides to reallocate production among its processing facilities, Processor may fulfill its obligations under the Processing Agreements by processing and delivering Fluid Milk Products at a substitute processing facility. Processor shall compensate Reseller for any verifiable incremental transportation costs caused by delivery of Fluid Milk Products and/or Orange Juice Products at a substitute processing facility.

Liquidated Damages:

In the event of a willful breach of this agreement by Processor, Processor agrees to pay Reseller liquidated damages for damages resulting from missed deliveries in the amount equal to the product of (i) \$0.0822 *multiplied by* (ii) the volume of Fluid Milk Products and/or Orange Juice Products that would have been delivered in each respective package size but for the willful breach.

Specific Performance:

Processor recognizes and agrees that Reseller's remedy at law for any breach of the obligations under this Agreement, relating to future deliveries of Fluid Milk Products and/or Orange Juice Products would be inadequate and agrees that for breach of such obligations, Reseller shall, in addition to such other remedies as may be available to it at law or in equity, be entitled to injunctive relief and to enforce its rights for future deliveries of Fluid Milk Products and/or Orange Juice Products by an action for specific performance to the extent permitted by applicable law.

Arbitration:

In the event of dispute under this Processing Agreement, the parties agree to submit

**Suiza Dairy Group, L.P.
Processing Agreement Term Sheet**

binding arbitration before an arbitrator (familiar with fluid milk processing and sale) in accordance with the rules of the American Arbitration Association ("AAA").

The dispute shall be settled by arbitration of the AAA, by a single arbitrator appointed in accordance with AAA rules, except that, by coin toss, the parties shall determine one party to submit a list of at least three neutral nominees, and the other party to select from among them. The seat of such arbitration shall be in the city among the following that is closest to the processing plant related to the dispute: Albany, Bangor, Bennington, or Boston. If more than one plant is related to the dispute, than Reseller shall select a seat from among the related venues. All arbitration proceedings shall be in English. The award of the arbitrator shall be final and binding and shall not be subject to appeal. The arbitrator's decision will take into account the provisions of this Section, and will be rendered no later than thirty (30) days after the evidence and issues are submitted. Any decision or award may be entered as a final judgment in any court of competent jurisdiction, and either party may seek to obtain enforcement of such decision or award in any such court. Each party hereby consents to the jurisdiction of such courts and waives all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

The parties may, by written agreement, modify any part of what is stated in this Section.

Confidentiality:

The Confidentiality and Non-disclosure Agreement entered into between Processor and Reseller as a condition to receiving the Fee Information Sheet is incorporated by reference and continues in full force and effect.

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

Definitions:

Bulk Milk is defined as raw unpasteurized milk that: (a) complies with all laws, rules, regulations and standards of the United States Public Health Service for U.S. Grade A Milk; (b) complies with standards established by all other applicable federal, state and local laws, rules, regulations and standards; and (c) complies with quality standards that are consistent with industry standards and standards determined by Processor that are more stringent than industry standards, provided that the standards are generally applied to all raw milk received by Processor at that facility.

Closures are defined as closures supplied by Portola Packaging or by another supplier that can supply closures to specifications determined and approved by Processor.

Fee Information Sheet is a document executed by the parties to the Final Judgments containing the defined pricing terms for the Processing Fee, the Half Pint Processing Fee, and the Packaging Reimbursement Fees applicable under this Processing Agreement Term Sheet, and shall be provided by Suiza to interested Resellers upon execution and pursuant to terms of the Confidentiality and Non-disclosure Agreement in the form attached as Exhibit 2 hereto. Its terms are incorporated herein by reference.

Final Judgments are defined as three separate court orders, each captioned as a Final Judgment by Consent and Order entered in United States District Courts in Connecticut, Massachusetts, and Vermont resolving concerns raised by the States in their investigation of Processor.

Fluid Milk Products are defined as pasteurized milk in the following SKUs: 4

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

SKUs in gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon paper containers (homogenized, 2%, 1%, skim); 4 SKUs in quart paper containers (homogenized, 2%, 1%, skim); and 4 SKUs in half-pint paper containers (homogenized, chocolate, 1%, 2%).

Fluid White Milk Products are defined as pasteurized milk in the following SKUs: 4 SKUs in gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon plastic containers (homogenized, 2%, 1%, skim); 4 SKUs in half-gallon paper containers (homogenized, 2%, 1%, skim); 4 SKUs in quart paper containers (homogenized, 2%, 1%, skim); and 3 SKUs in half-pint paper containers (homogenized, 1%, 2%).

Half Pint Processing Fee is an amount per gallon of half pint Fluid Milk Products, as defined in the Fee Information Sheet.

Orange Juice Products are defined as from concentrate orange juice in the following SKUs: 1 SKU in gallon plastic containers; 1 SKU in half-gallon plastic containers.

Packaging Reimbursement Fee is defined as amounts set forth in the Fee Information Sheet.

Paper Packaging Containers are paper board containers supplied by International Paper or by another supplier that can supply paper board containers to specifications determined and approved by Processor.

Plastic Packaging Containers are plastic containers supplied at the Lynn, MA facility by Ocean Park Plastics or by another supplier that can supply plastic containers to

**Co-Pack Arrangement
Monthly Reconciliation**
(Deliveries of milk versus milk processed)

Milk Delivered for Processing

Pounds of Milk delivered to Garelick Facility

Pounds of Butterfat from the milk delivered

Average Butterfat test

Processed Milk

<u>Product</u> <u>Type</u>	<u>Container</u> <u>Size</u>	<u>Total</u> <u>Containers</u>	<u>Conversion</u>	<u>Pounds</u> <u>Milk</u>	<u>Pounds</u> <u>Butterfat</u>
-------------------------------	---------------------------------	-----------------------------------	-------------------	------------------------------	-----------------------------------

Whole Milk

2%

1%

Skim

Totals

Shrinkage

Total Product Accounted for:

Difference in Product Processed versus delivered
(Represent product used by Garelick for its own processing)

Value of Milk and Butterfat

Amount owed to or due from Garelick Farms

Suiza Dairy Group, L.P.
Processing Agreement Term Sheet

specifications determined and approved by Processor.

Processing Fee for products other than half-pint Fluid Milk Products is an amount per gallon of Fluid Milk Products or Orange Juice Products, as defined in the Fee Information Sheet.

Processing Locations are defined as fluid milk processing facilities operated by Processor in Bennington, VT; Lynn, MA; East Greenbush, NY; and Bangor, ME.

Reseller is defined as any entity that is, at the time it places an order for delivery of Fluid Milk Products and/or Orange Juice Products, engaged in the processing of fluid milk in New England or any entity not engaged in the processing of fluid milk in New England at the time it places an order for delivery of Fluid Milk Products and/or Orange Juice Products that represents that it has a present, good faith intention to engage in the processing of fluid milk in New England.

Retained Cream Value is defined as the product of (a) pounds of cream generated from separation and/or standardization which is in excess of the product identified as Fluid Milk Products under this agreement and (b) the per pound producer component butterfat price as determined monthly by the Market Administration in the Northeast Marketing Area.

Special Packaging is defined as plastic packaging, other than Plastic Packaging Containers, that a Reseller requests that Processor use for packaging of Fluid Milk Products.

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Agreement, dated _____, is by and between Suiza Dairy Group, L.P., (the "Owner"), [Company], doing business at _____ (the "Recipient"), and such other entities as may become parties to this agreement;

WHEREAS, pursuant to the Final Judgements By Consent and Order in *State of Connecticut v. Suiza Foods Corporation and The Stop & Shop Supermarket Company*, *Commonwealth of Massachusetts v. Suiza Foods Corporation and The Stop & Shop Supermarket Company*, and *State of Vermont v. Suiza Foods Corporation and The Stop & Shop Supermarket Company* (the "Final Judgments"), Owner has agreed to offer to enter certain agreements pursuant to the terms of a Processing Agreement Term Sheet; and

WHEREAS, Owner has rights in and to certain Proprietary Information (as defined below) contained in the Fee Information Sheet; and

WHEREAS, the Recipient will be provided with such Proprietary Information to evaluate a potential business transaction with Owner; and

WHEREAS, Owner is willing to disclose the Proprietary Information to the Recipient, and is obligated under the Final Judgments to so disclose, only under the terms and subject to the conditions set forth herein;

NOW, THEREFORE, for and in consideration of the above stated premises, the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Recipient hereby acknowledges and agrees that:

(a) Owner is the owner of or has rights in and to the confidential and proprietary business information. For purposes of this Agreement, such information is limited to the pricing terms contained in the Fee Information Sheet (hereinafter referred to as the "Proprietary Information").

(b) The Proprietary Information constitutes a valuable secret of Owner.

2. In consideration of the disclosure to the Recipient of the Proprietary Information, the Recipient agrees that they shall treat and hold the Proprietary Information in strict confidence and shall:

(a) use the Proprietary Information for the sole and limited purpose of evaluating whether or not to enter into a business relationship with Owner;

(b) not disclose, publish, reveal, disseminate or in any way make known, directly or indirectly, in whole or in part, to any third party (including such third party's

agents, successors, officers, shareholders, partners, employees and assigns) the Proprietary Information, or any files, notes, evaluations, projections, descriptions or other work product of the Recipient in any way related to such evaluation;

(c) promptly return to Owner, upon Owner's request, all Proprietary Information, without retaining any copy in whole or in part if (I) Recipient does not enter into a Processing Agreement Term Sheet with Owner, (II) Recipient enters into a Processing Agreement Term Sheet with Owner and that Processing Agreement Term Sheet expires or is terminated for any reason, or (III) Owner has a good faith reason to believe that the Proprietary Information has been disclosed by Recipient or Recipient's employees or consultants, in violation of this agreement; and

(d) promptly destroy, upon Owner's request, all files, notes, evaluations, projections, descriptions or other work product in any way related to Recipient's evaluation of whether or not to enter into a business relationship with Owner or that incorporate any Proprietary Information, without retaining any copy in whole or in part if (I) Recipient does not enter into a Processing Agreement Term Sheet with Owner, (II) Recipient enters into a Processing Agreement Term Sheet with Owner and that Processing Agreement Term Sheet expires or is terminated for any reason, or (III) Owner has a good faith reason to believe that the Proprietary Information has been disclosed by Recipient or Recipient's employees or consultants, in violation of this agreement. Such destruction will be confirmed in writing at the Owner's request.

3. Without Owner's prior written consent, no disclosure of Proprietary Information shall be made other than to bona fide employees and consultants of the Recipient having a need to know such information. Recipient agrees that it will inform each person or entity to whom Proprietary Information is to be disclosed of the confidential nature of such Proprietary Information and secure the agreement of such person or entity not to disclose or make use of such Proprietary Information in violation of this Agreement. Recipient agrees that it will not disclose Proprietary Information to any consultant unless the individual whom the Proprietary Information is disclosed signs this agreement as a party and agrees not to provide consulting services to any dairy products distributor (who is not a "Reseller" within the meaning of the attached Processing Agreement Term Sheet) or retailer operating in New England for the period during which Owner is obligated under the Final Judgments to offer Processing Agreements. Recipient shall be responsible and liable for any breach of this Agreement by any person or entity to which Recipient discloses Proprietary Information.

4. Upon request, if Owner has a good faith reason to believe that the Proprietary Information has been disclosed in violation of this agreement, Recipient shall provide in writing, the names of any of its employees or any other person or entity that has received Proprietary Information, including the relationship of such person or persons to Recipient. Recipient agrees to notify the Owner in writing of any disclosure in violation of this agreement, or misuse or misappropriation of Proprietary Information that may come to Recipient's attention.

5. This Agreement constitutes the entire agreement and supersedes any prior written and prior or contemporaneous oral agreements and understandings between Recipient and the

Owner with respect to protection of the confidentiality of the Proprietary Information. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

6. The restrictions and obligations on Recipient set forth in this Agreement shall (a) survive the termination of any discussions between Owner and Recipient concerning a potential business transaction among Owner and Recipient; (b) survive any closing of any business transaction between Owner and Recipient, unless Owner shall otherwise agree in writing in its sole discretion, and (c) until terminated by Owner, continue to bind the Recipient, and its agents, successors, officers, shareholders, partners, employees and assigns.

IN WITNESS WHEREOF, the parties have each executed this Agreement as of the date set forth above.

Suiza Dairy Group, L.P.

By: _____
Name: _____
Title: _____

[RECIPIENT]

By: _____
Name: _____
Title: _____

[CONSULTANT]

By: _____
Name: _____
Title: _____