

05-27-1999



101047582

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

mds-7-99

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- ☒ New
- ☐ Resubmission (Non-Recordation)
Document ID #
- ☐ Correction of PTO Error
Reel # Frame #
- ☐ Corrective Document
Reel # Frame #

Conveyance Type

- ☐ Assignment ☐ License
- ☒ Security Agreement ☐ Nunc Pro Tunc Assignment
- ☐ Merger Effective Date
Month Day Year
- ☐ Change of Name
- ☐ Other

Conveying Party

☐ Mark if additional names of conveying parties attached

Execution Date
Month Day Year
08181998

Name Windsor Quality Food Company Ltd.

Formerly

- ☐ Individual ☐ General Partnership ☒ Limited Partnership ☐ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization Texas

Receiving Party

☐ Mark if additional names of receiving parties attached

Name The CIT Group/Business Credit, Inc.

DBA/AKA/TA

Composed of

Address (line 1) Two Lincoln Center

Address (line 2) 5420 LBJ Freeway

Address (line 3) Dallas

TX

75240

- ☐ Individual ☐ General Partnership ☐ Limited Partnership
- ☒ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization New York

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

05/25/1999 DMGUYEN 00000153 75330229

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 OP
400.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

REEL: 001903 FRAME: 0270

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

(202) 457-5210

Name

George M. Borababy

Address (line 1)

PATTON BOGGS LLP

Address (line 2)

2550 M Street, N.W.

Address (line 3)

Washington, D.C. 20037

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

20

Trademark Application Number(s) or Registration Number(s)

☒

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

75339229

2110455

2045672

1703526

75521247

1406976

2068831

1091510

75518374

2111859

1820326

1403359

Number of Properties

Enter the total number of properties involved.

#

17

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

440.00

Method of Payment:

Enclosed

☒

Deposit Account

☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

☐

No

☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

George M. Borababy, Esq.

Name of Person Signing



Signature

May 7, 1999

Date Signed

RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Conveying Party

Enter Additional Conveying Party

☐ Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ Corporation ☐ Association

☐ Other

☐ Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

☐ Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

☐ Individual ☐ General Partnership ☐ Limited Partnership

☐ Corporation ☐ Association

☐ Other

☐ Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

Trademark Application Number(s) or Registration Number(s)

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

☐ Mark if additional numbers attached

Trademark Application Number(s)

Registration Number(s)

1409705		
2026741		
2148785		
1493335		
1775996		

**GRANT OF SECURITY INTEREST IN
PATENTS, TRADEMARKS AND LICENSES**

THIS GRANT OF SECURITY INTEREST IN PATENTS, TRADEMARKS AND LICENSES (herein the "Agreement") made as of this 18th day of August, 1998, by **WINDSOR QUALITY FOOD COMPANY LTD.**, a Texas limited partnership, with its principal place of business at 3355 West Alabama, Houston, Texas (herein the "Company"), and **THE CIT GROUP/BUSINESS CREDIT, INC.**, a New York corporation, with offices at Two Lincoln Centre, 5420 LBJ Freeway, Dallas, Texas 75240 as Agent for the Lenders under the Financing Agreement (as defined below) (herein "CITBC").

W I T N E S E T H:

WHEREAS, pursuant to a certain Financing Agreement of even date herewith, as the same may be amended from time to time by and among Windsor Quality Food Company Ltd. and CITBC as Agent and Lender and the other parties hereafter becoming Lenders thereunder (herein the "Financing Agreement"), which Financing Agreement provides (i) for CITBC and the Lenders to make certain loans, advances and extensions of credit, all to or for the account of the Company and (ii) for the grant by the Company to CITBC as Agent for the Lenders of a security interest in certain of the Company's assets, including, without limitation, its patents, patent applications and/or registrations, trademarks, trademark applications and/or registrations, tradenames, goodwill and licenses, all as more fully set forth therein;

NOW THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Company agrees as follows:

1. Definitions. Capitalized terms used herein and defined in the Financing Agreement shall have the meanings set forth therein unless otherwise specifically defined herein.
2. Grant of Security Interest. To secure the payment of the "Obligations" (as defined in the Financing Agreement), the Company hereby grants to CITBC as Agent for the Lenders a security interest, effective immediately, in all of the Company's right, title and interest in and to all of the following described property, whether now owned or hereafter acquired (collectively herein the "Intellectual Property Collateral"):

- (i) Patents and patent applications and/or registrations together with the inventions and improvements described and claimed therein including, without limitation, the patents and applications, if any, listed on Schedule A, attached hereto and made a part hereof, and any and all reissues and renewals thereof and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including, without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Patent Collateral");
- (ii) Trademarks, trademark registrations and/or applications and tradenames including, without limitation, the trademarks and applications, if any, listed on Schedule B attached hereto and made a part hereof, and any and all reissues and/or renewals thereof, and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including, without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Trademark Collateral");
- (iii) Any license agreement in which the Company is or becomes licensed to use any patents and/or trademarks owned by a third party including, without limitation, the licenses, if any, listed on Schedule C attached hereto and made a part hereof (all of the foregoing are sometimes referred to herein individually and/or collectively as the "License Collateral");
- (iv) The goodwill of the Company's business connected with and symbolized by the Intellectual Property Collateral; and
- (v) All cash and non-cash proceeds of the foregoing.

3. CITBC's Rights. Upon the occurrence of any Event of Default hereunder other than an Event of Default that is waived in writing by or cured to the satisfaction of the Required Lenders or all Lenders if the Consent of all Lenders is required pursuant to Section 14, Paragraph 10 of the Financing Agreement, CITBC shall have all the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable state or federal laws. CITBC will give the Company reasonable notice of the time and place of any public sale of the Intellectual Property Collateral or the time after which any private sale of the Intellectual Property Collateral or any other intended disposition thereof is to be made. Unless otherwise provided by law, the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid to the address of the

Company set forth above at least ten (10) days before the date of such sale or disposition. In addition to the foregoing and all other rights and remedies of CITBC upon the occurrence of any such Event of Default hereunder, CITBC shall thereupon have the immediate right to transfer to itself or to sell, assign and transfer to any other person all right, title and interest in and to all or any part of the Intellectual Property Collateral. A formal irrevocable power of attorney (in the form annexed hereto) is being executed and delivered by the Company to CITBC concurrently with this Agreement to enable such rights to be carried out. The Company agrees that, in the event CITBC exercises its rights hereunder and/or pursuant to said power of attorney in accordance with its terms, after written notification of such exercise from CITBC to the Company, the Company shall never thereafter, without the prior written authorization of the owner or owners of such Intellectual Property Collateral, use any of such Intellectual Property Collateral. The condition of the foregoing provision is such that unless and until there occurs an Event of Default under this Agreement, the Company shall continue to own and use the Intellectual Property Collateral in the normal course of its business and to enjoy the benefits, royalties and profits therefrom provided, however, that from and after the occurrence of an Event of Default such right will, upon the exercise by CITBC of the rights provided by this Agreement, be revoked and the right of the Company to enjoy the uses, benefits, royalties and profits of said Intellectual Property Collateral will wholly cease, whereupon CITBC or its transferee(s) shall be entitled to all of the Company's right, title and interest in and to the Intellectual Property Collateral hereby so assigned. This Agreement will not operate to place upon CITBC any duty or responsibility to maintain the Intellectual Property Collateral.

4. Fees. The Company will pay all filing fees with respect to the security interest created hereby which CITBC may deem reasonably necessary or advisable in order to perfect and maintain the perfection of its security interest in the Intellectual Property Collateral.
5. Representations and Warranties. The Company represents and warrants: that the Company owns the registration of the copyrights and trademarks and is the original owner or assignee of any patents included in the Intellectual Property Collateral and that the licenses included in the Intellectual Property Collateral are in effect. Except for the security interest granted hereby and Permitted Encumbrances (as defined in the Financing Agreement), the Intellectual Property Collateral will be kept free from all liens, security interests, claims and encumbrances whatsoever; that the Company has not made or given any prior assignment, transfer or security interest in the Intellectual Property Collateral or any of the proceeds thereof; to the best of our knowledge, the Intellectual Property Collateral is and will continue to be, in all respects, in full force and

effect; and that there are no known infringements of the Intellectual Property Collateral.

6. Application of Proceeds. The proceeds of any sale, transfer or disposition of the Intellectual Property Collateral shall be applied first to all costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses and court costs, incurred by CITBC in connection with such sale and the exercise of CITBC's rights and remedies hereunder and under the Financing Agreement; next, such proceeds shall be applied to the payment, in whole or in part, of the Obligations due CITBC in such order as CITBC may elect; and the balance, if any, shall be paid to the Company or as a court of competent jurisdiction may direct.
7. Defense of Claims. The Company will defend at its own cost and expense any action, claim or proceeding affecting the Intellectual Property Collateral or the interest of CITBC therein. The Company agrees to reimburse CITBC for all costs and expenses reasonably incurred by CITBC in defending any such action, claim or proceeding.
8. Rights Cumulative. This Agreement shall be in addition to the Financing Agreement and shall not be deemed to affect, modify or limit the Financing Agreement or any rights that CITBC has under the Financing Agreement. The Company agrees to execute and deliver to CITBC (at the Company's expense) any further documentation or papers necessary to carry out the intent or purpose of this Agreement including, but not limited to, financing statements under the Uniform Commercial Code.
9. Construction and Invalidity. Any provisions hereof contrary to, prohibited by or invalid under any laws or regulations shall be inapplicable and deemed omitted herefrom, but shall not invalidate the remaining provisions hereof.
10. CHOICE OF LAW. THE COMPANY AGREES THAT THE VALIDITY, INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND ALL RIGHTS HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT TOGETHER WITH THE FINANCING AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT OF THE COMPANY AND CITBC WITH RESPECT TO THE INTELLECTUAL PROPERTY COLLATERAL, CAN ONLY BE CHANGED OR MODIFIED IN WRITING AND SHALL BIND AND BENEFIT THE COMPANY, CITBC AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THE COMPANY AND CITBC EACH HEREBY EXPRESSLY WAIVES ANY RIGHT OF TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER.

11. Events of Default. Any of the following constitutes an Event of Default under this Agreement:

- (i) The Company fails to perform or observe any material agreement, covenant or condition required under this Agreement;
- (ii) Any warranty or representation made by Company, in this Agreement shall be or becomes false or misleading in any material respect; or
- (iii) The occurrence of any Event of Default under the Financing Agreement which is not waived in writing by or cured to the satisfaction of the Required Lenders or all Lenders if the consent of all Lenders is required pursuant to Section 14, Paragraph 10 of the Financing Agreement.

12. Notices. The Company covenants and agrees that, with respect to the Intellectual Property Collateral, it will give CITBC written notice in the manner provided in the Financing Agreement of:

- (i) any claim by a third party that the Company has infringed on the rights of a third party;
- (ii) any suspected infringement by a third party on the rights of the Company; or
- (iii) any Intellectual Property Collateral created, arising or acquired by the Company after the date hereof.

13. Further Assurances. The Company will take any such action as CITBC may reasonably require to further confirm or protect CITBC's rights under this Agreement in the Intellectual Property Collateral. In furtherance thereof, the Company hereby grants to CITBC a power of attorney coupled with an interest which shall be irrevocable during the term of this Agreement to execute any documentation or take any action in the Company's behalf required to effectuate the terms, provisions and conditions of this Agreement.

14. Termination. This Agreement shall terminate upon termination of the Financing Agreement and full, final and indefeasible payment of all Obligations of the Company thereunder. Upon the Company's request, CITBC shall within a reasonable time after any such termination execute and deliver to the Company

(at the Company's expense) such documents and instruments as are reasonably necessary to evidence such termination and release of the security interest granted herein on any applicable public record.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the 18th day of August, 1998.

WINDSOR QUALITY FOOD COMPANY LTD.

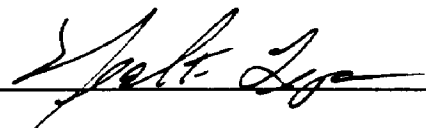
By: Windsor Food Company, Ltd.
Its General Partner

By: QSMGP, Inc.
Its managing General Partner

By: 
Title: ~~Vice~~ President

Agreed and Accepted this
18th day of August, 1998

THE CIT GROUP/BUSINESS CREDIT, INC.,
As Agent and Lender

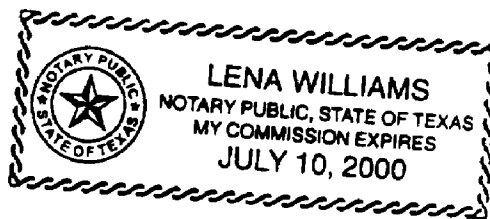
By: 
Title: _____

STATE OF Texas)
)
COUNTY OF)

On August 20, 1998, before me, the undersigned, a notary public in and for said State, personally appeared Patrick Garrett known to me to be the President of, **QSMGP, INC.** the managing general partner of Windsor Food Company, Ltd., general partner of Windsor Quality Food Company, Ltd. that executed the within instrument, and acknowledged to me that such corporation executed the within instrument as managing general partner pursuant to its by-laws and a resolution of its board of directors.

WITNESS my hand and official seal.

Lena Williams
Notary Public

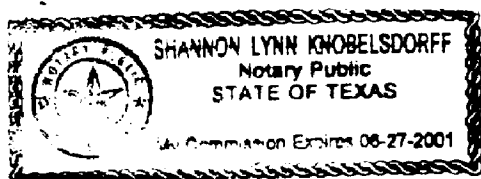


STATE OF Texas)
)
COUNTY OF)

On August 20, 1998, before me, the undersigned, a notary public in and for said State, personally appeared Neal Legun known to me to be the Vice President of, **THE CIT GROUP/BUSINESS CREDIT, INC.**, that executed the within instrument, and acknowledged to me that such corporation executed the within instrument as managing general partner pursuant to its by-laws and a resolution of its board of directors.

WITNESS my hand and official seal.

Shannon L. Knobelsdorff
Notary Public



**SCHEDULE A TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

between

WINDSOR QUALITY FOOD COMPANY LTD.

and

THE CIT GROUP/BUSINESS CREDIT, INC., as Agent

U.S. PATENTS

<u>Title</u>	<u>Patent No.</u>	<u>Issue Date</u>
None	None	None

**SCHEDULE B TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

between

WINDSOR QUALITY FOOD COMPANY LTD.

and

THE CIT GROUP/BUSINESS CREDIT, INC., as Agent

U.S. TRADEMARKS

<u>Title or Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
Bernardi	2,110,455	11/04/97
Bernardi Frozen Italian Specialties & Design	1,406,976	08/26/86
Bernardi Frozen Italian Specialties & Design	2,111,859	11/11/97
Cripple Creek	2,045,672	03/18/97
Cripple Creek Bar-B-Que Brand & Design	2,068,831	06/10/97
Golden Tiger & Design	1,820,326	02/08/94
Misc. Design (Man w/chili bowl)	1,703,526	07/28/92
Mona's	1,091,510	05/16/78
Mona's & Design	1,403,359	07/29/86
Mona's & Design	1,409,705	09/16/86
Mona's & Design	2,026,741	12/31/96
Senor Tiger	2,148,785	04/07/98
The Original Chili Bowl	1,493,335	06/21/88
Traditional American	1,775 996	06/08/93

<u>Title or Mark</u>	<u>Application No.</u>	<u>Application Date</u>
Deli-Sensations	75/339,229	08/07/97
Firecrackers & Design	75/521,247	07/17/98
Mon's Pasta Café	unknown	07/13/98

<u>Title or Mark</u>	<u>State</u>	<u>Registration No.</u>	<u>Registration Date</u>
Cripple Creek	AR	81-85	11/08/96
Cripple Creek	KS	00499563	04/29/85
Cripple Creek	OK	28402	10/21/96
Cripple Creek	TX	5612	10/10/96
Golden Tiger & Design	CA	93537	01/30/91
Miscellaneous Design	CA	93541	01/30/91

(3 Chinese characters in a column)

<u>Title or Mark</u>	<u>Country</u>	<u>Registration No.</u>	<u>Registration Date</u>
Bernardi & Design	Mexico	477705	10/24/94
Cripple Creek	Canada	408876	02/26/93
Cripple Creek	Mexico	477704	10/24/94
Golden Tiger & Design	Mexico	477703	10/24/94
The Original Chili Bowl	Canada	408875	02/26/93
The Original Chili Bowl	Mexico	485562	03/22/95

<u>Title or Mark</u>	<u>Country</u>	<u>Application No.</u>	<u>Application Date</u>
Bernardi	Canada	828913	11/15/96
Mona's	Japan	31/98	01/05/98

**SCHEDULE C TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

between

WINDSOR QUALITY FOOD COMPANY LTD.

and

THE CIT GROUP/BUSINESS CREDIT, INC., as Agent

U.S. LICENSES

Name

Registration No.

Registration Date

See Attached Documents

EXCLUSIVE TRADEMARK LICENSE AGREEMENT

This Agreement is entered into by and between Keebler Company, a Delaware corporation, with its principal place of business at 677 Larch Avenue, Elmhurst, Illinois 60126 ("Licensor") and Windsor Quality Food Company Ltd., a Texas general partnership ("Licensee").

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. License. Licensor grants Licensee the exclusive royalty-free right to use in the United States the Trademark, *Eggs Loaves* (CI.30), U.S. Registration No. 1,520,021 (the "Trademark") (a copy of the Registration Certificate is attached hereto) in accordance with the terms of this Agreement. Licensee may use the Trademark for the Term indicated herein and only in connection with the Goods and Related Materials defined below.

2. Goods and Related Materials. Licensee shall use the Trademark only in connection with the frozen snack cakes of the type or types manufactured and packaged as of the effective date of this Agreement by Licensor (the "Goods"), including use of the Trademark in related sales, trade, advertising and marketing materials (the "Related Materials") in connection with the Goods. In no case, however, shall Licensee use the Trademark in connection with any cookie, cracker, biscuit, pie crust or any other non-frozen snack goods. The Goods and Related Materials bearing the Trademark shall be of high standard and of such style, appearance, and quality consistent with those Goods previously made by Licensor under its ownership and control. The Goods bearing the Trademark shall be suited to the best advantage of the Trademark and displayed so as to protect and enhance the Trademark and the good will pertaining thereto. The Goods shall be manufactured, distributed and sold, and the Trademark used, in accordance with all applicable Federal, State and local laws. Any Goods and Related Materials created, manufactured and intended to be distributed and/or sold by Licensee other than those Goods and Related Materials manufactured and distributed by Licensor as of the effective date of this Agreement (referred to as "New Goods and Related Materials"), shall, prior to use, be submitted by Licensee to Licensor, for its approval. Licensee agrees to furnish Licensor with samples of all proposed New Goods and Related Materials wherein the Trademark will be used. Licensor shall have the right to approve the nature and quality of Licensee's use of the Trademark, but shall not unreasonably withhold said approval and shall have no right or obligation to approve the formula, specifications, or manufacturing processes for the Product.

3. Exclusivity. The license of the Trademark granted hereunder shall be exclusive as to only those Goods identified herein and Licensor, during the term of this Agreement, shall not use or license to any other party the Trademark in connection with the Goods.

NA12026.1

TRADEMARK

REEL: 001903 FRAME: 0284

samples of such Goods and Related Materials, to assure that Licensee is using the Trademark in a manner and in connection with Goods the nature and quality of which have been approved by Licensor. Licensee agrees to permit such inspections and examinations and to furnish such samples at the Licensor's request and Licensee shall perform all acts reasonably required by Licensor to control said nature and quality of the use of the Trademark.

5. **Ownership.** Licensee agrees that the Trademark is a good and valid Trademark owned by Licensor, that Licensee has no rights therein except those set forth herein and that Licensee will not contest the ownership or validity of any rights of Licensor in said Trademark or registrations thereof either during the term of this Agreement or thereafter. No right, title or interest of any kind in or to the Trademark licensed hereunder or the Registration thereof, is transferred by this Agreement to Licensee, except an exclusive license, transferable upon the consent of Licensor, to use said Trademark on the Goods and Related Materials in the United States under said Registration during the Term of the license herein granted. Use of the Trademark by Licensee shall, at all times, inure to the benefit of the Licensor, its successors and assigns. Licensee shall have the right to refer to the Trademark licensed hereunder in advertising, promotional and Related Materials and the like. Licensee agrees that with regard to all New Goods and Related Materials, including new packaging, advertising and promotional materials on which the Trademark is used or mentioned, such Trademark shall be followed by the symbol ® keyed to the statement "Elfin Leaves is a registered Trademark of Keebler Company." In no instance shall Licensee use said Trademark in a manner which, in the opinion of Licensor, tends to indicate, imply or permit the inference to be drawn therefrom that such Trademark is not solely and exclusively the property of the Licensor. Licensee further agrees to submit samples of all new packaging, advertising and promotional materials to Licensor upon request.

6. **Term.** This Agreement shall commence on the effective date of this Agreement and shall continue for a term of fifty (50) years, unless sooner terminated as provided in Paragraph 7 of this Agreement.

7. **Termination.** This Agreement and all rights and licenses granted hereunder shall be terminated, upon thirty (30) days' prior notice by the terminating party, and in the event the other party fails to cure within thirty (30) days of notification:

- a. If, at any time during the Term of this Agreement, Licensee should breach or fail to comply with any of the terms or conditions of this Agreement or fail to act in conformance with or to perform any of its obligations or covenants hereunder;
- b. Licensee fails to use the Trademark in U.S. commerce in connection with the Goods identified herein for a period of at least twelve (12) months;
- c. Upon any voluntary petition in bankruptcy or corporate reorganization or any similar relief by the other party under

the bankruptcy or insolvency laws of any jurisdiction, or the filing of any involuntary petition in bankruptcy or its equivalent against the other party, not dismissed within sixty (60) days from the filing thereof.

Upon expiration or termination of this Agreement, Licensee shall immediately cease all use of the Trademark, and shall not thereafter adopt any other designation confusingly similar to the Trademark. In the event Licensee decides to cease using the Trademark prior to termination or cancellation of this Agreement, it must give Licenser written notice.

8. **Assignment.** This Agreement is not assignable by Licensee without the written consent of Licenser, which consent shall not be unreasonably withheld; provided, however, that Licensee, without the consent of Licenser, may assign this Agreement to an entity all of the equity interest of which are owned, directly or indirectly, by Licensee. This agreement is assignable by Licenser.

9. **Insurance.** In the event that Licenser manufactures and packages the Goods for Licensee, pursuant to a separate co-packing agreement, the terms of that co-packing agreement shall govern all matters in connection with insurance coverage for Product Liability and defective Goods. If Licenser does not manufacture and package the Goods for Licensee, Licensee agrees to include Licenser as an additional insured in any insurance policies maintained by Licensee which provide protection against claims, suits, loss or damage arising out of any alleged defects in the goods bearing the Trademark. In addition, Licensee shall furnish Licenser with Certificates of Insurance demonstrating Licenser as an Additional Insured issued by the companies providing the coverage and will provide any subsequent Certificates to Licenser in the event Licensee changes coverage or insurance companies.

10. **Indemnity.** Licenser shall defend, indemnify and hold Licensee harmless from any and all claims, losses, damages, expenses and costs from claims of third parties for Trademark infringement arising out of Licensee's use of the Trademarks. Licensee shall promptly notify Licenser of any such claims and shall not pay or settle any claim without Licenser's prior written approval.

Licensee shall defend, indemnify and hold Licenser harmless from and against any and all claims, losses, damages, liabilities, recoveries, judgments (including court costs and attorneys' fees) which Licenser may incur or for which it may become liable because of illness, injury to or death of any person, or damage to or loss of property arising, directly or indirectly, from the manufacture, sale or use of the Goods bearing the Trademarks other than Goods manufactured by Licenser pursuant to a co-packing agreement. Licenser shall promptly notify Licensee of any such claims and shall not pay or settle any claim without Licensee's prior written approval.

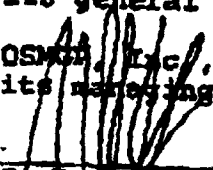
11. **Notices.** Any and all notices provided for herein shall be given in writing by registered or certified mail and shall be sent to the respective address first set forth above. If to the Licensee, the notice should be sent to the attention of J. Patrick Garrett, Windsor Food Company, Ltd., 3355 West Alabama, Suite 730, Houston, Texas 77098; if to the Licenser, to

the attention of Craig S. Stevens. Each such notice shall be deemed given on the third business day after it is deposited in any Post Office or branch Post Office regularly maintained by the United States Government.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date appearing after their respective representatives' signatures.

LICENSOR:**KERBLER COMPANY**By:  _____Title: Vice President & Secretary

Date: _____

LICENSEE:**WINDSOR QUALITY FOOD
COMPANY LTD.**By: Windsor Food Company Ltd.,
its general partnerBy:  _____
OSMO, Inc.,
its managing general partnerBy:  _____
J. Patrick Garrett
President

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TRADEMARK
REEL: 001903 FRAME: 0287

NON-EXCLUSIVE TRADEMARK LICENSE AGREEMENT

This Agreement, effective as of January 9, 1996, is entered into by and between Keebler Company, a Delaware corporation ("Licensor"), and Windsor Quality Food Company Ltd., a Texas general partnership ("Licensee").

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **License.** Licensor grants to each Licensee a royalty-free, non-exclusive right to use in the United States the Trademarks:

Keebler (word mark) (Cl.30)	U.S. Registration Nos. 1, 713,946 and 221,594
Keebler (word mark) (Cl.29)	U.S. Registration No. 1,310,290
Keebler Hollow Tree Logo (Cl.30)	U.S. Registration No. 1,274,493
Keebler Hollow Tree Logo (Cl.29)	U.S. Registration No. 1,273,391
Hollow Tree Design (Cl.30)	U.S. Registration No. 1,343,031

(the "Trademarks") (copies of Registration Certificates are attached hereto) in accordance with the terms of this Agreement. Licensees may use the Trademarks for the limited Term indicated herein and only in connection with the Products and Related Materials defined below.

2. **Products and Related Materials.** Licensee shall use the Trademarks only in connection with the frozen goods manufactured and packaged by Licensee, and the frozen snack cake products manufactured by Licensor under a co-packing arrangement with Licensee (the "Products"), including but not limited to use in packaging and sales and marketing materials (the "Related Materials") in connection with the Products. For the term of this Agreement, Licensee agrees to limit the use of the Trademarks to the Products manufactured by or for Licensee as of the effective date of this Agreement and Related Materials used by Licensee as of the effective date of this Agreement or substantially similar Products and Related Materials for the term of this Agreement and in no case shall Licensee use the Trademarks in connection with any new Product that is a cookie, cracker, biscuit, pie crust or any other non-frozen snack good. The Products and Related Materials bearing the Trademarks shall be of high standard and of such style, appearance, and quality consistent with those products previously made by Licensor under its ownership and control. The Products will be manufactured, distributed and sold, and the Trademarks used, in accordance with all applicable Federal, State, and local laws. Licensee shall submit to Licensor, for its approval, samples of all proposed new uses of the Trademarks and all different Products on which the Trademarks will be used, which approval cannot be unreasonably withheld.

3. **Inspection.** Licensor shall have access, upon reasonable notice and at reasonable times, to the location where Licensee is designing, manufacturing, and/or storing the Product to assure that Licensee is using the Trademarks in a manner and in connection with goods the nature and quality of which have been approved by Licensor. Licensee shall perform all acts required by Licensor to control said nature and quality of the use of the Trademarks.

4. **Ownership.** Licensee agrees that the Trademarks are good and valid Trademarks owned by Licensor, that Licensee has no rights therein except those set forth herein and that Licensee will not contest the ownership or validity of any rights of Licensor in said Trademarks or registrations thereof either during the term of this Agreement or thereafter. Use of the Trademarks by Licensee will inure to the benefit of the Licensor, its successors and assigns.

5. **Term.** This Agreement shall commence on the effective date of this Agreement and shall terminate automatically on the earlier of (i) the date on which written notice of termination is delivered by Licensor to Licensee, provided that such date shall not be prior to 120 days following the date of this Agreement, and provided, further, that if Licensor elects to terminate this Agreement pursuant to this Section 5(i), Licensor shall purchase from Licensee, at Licensee's book value, all of Licensee's remaining stock of packaging and sales and marketing materials bearing any of the Trademarks, or (ii) the date on which Licensee's stock of packaging and sales and marketing materials bearing any of the Trademarks and existing on the effective date of this Agreement have been entirely exhausted. Upon termination or cancellation, Licensee shall immediately cease all use of the Trademarks, and shall not thereafter adopt any other designation confusingly similar to the Trademarks.

6. **Assignment.** This agreement is not assignable by Licensee without the written consent of Licensor. This agreement is assignable by Licensor.

7. **Insurance.** Licensor shall be included as an additional insured in any insurance policies maintained by Licensee which provide protection against claims, suits, losses or damages arising out of alleged defects in Products bearing the Trademarks.

8. **Indemnity.** Licensor shall defend, indemnify and hold Licensee harmless from any and all claims, losses, damages, expenses and costs from claims of third parties for Trademark infringement arising out of Licensee's use of the Trademarks. Licensee shall promptly notify Licensor of any such claims and shall not pay or settle any claim without Licensor's prior written approval.

Licensee shall defend, indemnify and hold Licensor harmless from and against any and all claims, losses, damages, expenses and costs, which Licensor may incur or for which it may become liable because of illness, injury to or death of any person, or damage to or loss of property arising, directly or indirectly, from the manufacture, sale, or use of the Products bearing the Trademarks manufactured by or for Licensee following the effective date of this Agreement. Licensor shall promptly notify Licensee of any such claims and shall not pay or settle any claim without the written approval of Licensee.

9. **Notices.** Any and all notices provided for herein shall be given in writing by registered or certified mail and shall be sent, in the case of notice to Licensor, to the following address: 677 Larch Avenue, Elmhurst, Illinois 60126, and, in the case of Licensee, to the attention of J. Patrick Garrett, Windsor Food Company, Ltd., 3355 West Alabama, Suite 730, Houston, Texas 77098. Each such notice shall be deemed given on the third business day

after it is deposited in any Post Office or branch Post Office regularly maintained by the United States Government.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date appearing after their respective representatives' signature.

LICENSOR:

KEEBLER COMPANY

LICENSEE:

QUALITY SAUSAGE COMPANY, LTD.

By: QSMGP, INC.,
its managing general partner

By: 

Title: Vice President & Secretary

Date: 1/9/96

By: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the parties have executed this Agreement on the date appearing after their respective representatives' signature.

LICENSOR:**KEEBLER COMPANY**By: Title: Vice President and SecretaryDate: 11/9/96**LICENSEE:****WINDSOR QUALITY FOOD
COMPANY LTD.**By: Windsor Food Company Ltd.,
its general partnerBy: QSMG, Inc.
its managing general partnerBy: J. Patrick Garrett
President

RECEIVED