

02-13-2002



Form PTO-1594
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)
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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

101980845

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
Koch Foods of Mississippi LLC

- Individual(s)
- General Partnership
- Corporation-State
- Other Limited Liability Company *1-25-02*
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: 1/1/02

2. Name and address of receiving party(ies)

Name: American National Bank and Trust Company
of Chicago, as Administrative Agent
Address: Second Floor, Attn: James Cygan

Street Address: 120 South LaSalle Street

City: Chicago State: IL Zip: 60603

- Individual(s) citizenship
- Association Illinois
- General Partnership
- Limited Partnership
- Corporation-State
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) _____

Please see attached.

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mr. Geoffrey C. Cockrell

Internal Address: Suite 2800

Street Address: 225 W. Wacker Drive

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved: 8

7. Total fee (37 CFR 3.41).....\$ 320.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

23-2126

DO NOT USE THIS SPACE

9. Signature.

Geoffrey C. Cockrell

Name of Person Signing

Signature

1/1/02

Date

Total number of pages including cover sheet, attachments, and document: 24

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

2192449
00000267 232126
1/12/2002 LMULLER
FC:481
02 FC:482

TRADEMARK

REEL: 002442 FRAME: 0001

ATTACHMENT TO FORM PTO-1594
KOCH FOODS OF MISSISSIPPI

TRADEMARK REGISTRATION NUMBERS

2192449

1475174

1183998

736881

736518

1627403

2203965

1837989

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of December 31, 2001, is entered into by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, (“**ANB**”), acting in its capacity as Administrative Agent (defined below) on behalf of the Lenders (as defined below), and KOCH FOODS OF MISSISSIPPI LLC, a Mississippi limited liability company (the “**Debtor**”).

RECITALS:

WHEREAS, pursuant to a Credit Agreement dated on or about the date of this Agreement (as amended, varied, novated or supplemented from time to time, the “**Credit Agreement**”), made among the Debtor, the Borrowers (as defined in the Credit Agreement), the Lenders (as defined therein), American National Bank and Trust Company of Chicago, as administrative agent for the Lenders (in such capacity, the “**Administrative Agent**”), and U.S. Bank National Association, as collateral agent for the Lenders, the Lenders have agreed to extend certain loans to the Debtor and the other Borrowers in aggregate amounts equal to the U.S. Dollar amounts specified in the Credit Agreement (collectively, the “**Loans**”) on the terms and conditions set out in the Credit Agreement; and

WHEREAS, in order to induce the Administrative Agent and the Lenders to enter into the Credit Agreement, the Debtor has agreed to enter into this Security Agreement.

NOW THEREFORE, for and in consideration of the Loans under the Credit Agreement and any other loan or advance (including any other loan or advance by renewal or extension) or other financial accommodation hereafter made or granted to the Debtor by the Administrative Agent or the Lenders, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions and Interpretation of Agreement.** When used here, (a) the terms Account, Account Debtor, Certificated Security, Chattel Paper, Commercial Tort Claim, Commodity Account, Commodity Contract, Deposit Account, Document, Equipment, Farm Products, Fixture, General Intangibles, Goods, Instrument, Inventory, Investment Property, Proceeds, Security, Securities Account, Security Entitlement and Uncertificated Security shall have the respective meanings assigned to those terms in the UCC (as defined below), (b) capitalized terms used but not defined have the meanings assigned to such terms in the Credit Agreement and (c) the following terms have the following meanings (such definitions to be applicable to both the singular and plural forms of those terms):

“Agreement” means this Security Agreement, as it may be amended, modified or supplemented from time to time.

“Assignee Deposit Account” has the meaning given to such term in Section 6(c).

“Collateral” all property or rights of the Debtor in which a security interest is granted under this Agreement.

“Computer Hardware and Software” means (i) all computer and other electronic data processing hardware, whether now or subsequently owned, licensed or leased by the Debtor, including, without limitation, all integrated computer systems, central processing units, memory units, display terminals, printers, features, computer elements, card readers, tape drives, hard and soft disk drives, cables, electrical supply hardware, generators, power equalizers, accessories and all peripheral devices and other related computer hardware; (ii) all software programs, whether now or subsequently owned, licensed or leased by the Debtor, designed for use on the computers and electronic data processing hardware described in clause (i) above, including, without limitation, all operating system software, utilities and application programs in any form (source code and object code in magnetic tape, disk or hard copy format or any other listings whatsoever); (iii) all firmware associated therewith, whether now or subsequently owned, licensed or leased by the Debtor; and (iv) all documentation for such hardware, software and firmware described in the preceding clauses (i), (ii) and (iii), whether now or hereafter owned, licensed or leased by the Debtor, including, without limitation, flow charts, logic diagrams, manuals, specifications, training materials, charts and pseudo codes.

“Contract Right” means any right of the Debtor to payment under a contract for the sale or lease of goods or the rendering of services, which right is at the time not yet earned by performance.

“Default” means the occurrence of any of the following events: (i) a “Default” under Article VII of the Credit Agreement; (ii) failure to perform any agreement of the Debtor contained herein for more than 10 days after written notice thereof; or (iii) any warranty of the Debtor herein is untrue in any material respect.

“General Intangibles” means, with respect to the Debtor, all of the Debtor’s “general intangibles” as defined in the UCC and, in any event, includes (without limitation) all of the Debtor’s licenses, franchises, tax refund claims, guarantee claims, security interests and rights to indemnification.

“Intellectual Property” means all past, present and future: trade secrets and other proprietary information; customer lists; trademarks, service marks, business names, trade names, designs, logos, indicia, and/or other source and/or business identifiers and the goodwill of the business relating thereto and all registrations or applications for registrations which have to date been or may later be issued throughout the world; copyrights (including, without limitation, copyrights for computer programs) and copyright registrations or applications for registrations which have to date been or may later be issued throughout the world and all tangible property embodying the copyrights; inventions (whether or not patentable); patent applications and patents; industrial designs, industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; mask works, books, records, writings, computer tapes or disks, flow diagrams, specification sheets, source codes, object codes and other physical manifestations, embodiments or incorporations of any of the foregoing; the right to sue for all past, present and future infringements of any of the foregoing; and all common law and other rights throughout the world in and to all of the

foregoing.

“Liabilities” means all obligations of the Debtor under any note, letter of credit, any other agreement, document or instrument with or in favor of the Administrative Agent or any of the Lenders in connection with the Credit Agreement, all obligations of the Debtor under this Agreement; all obligations of the Debtor under the Credit Agreement, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or hereafter existing, or due or to become due; and all other obligations of the Debtor to the Administrative Agent or any of the Lenders, its successors and assigns, in connection with the Credit Agreement, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or hereafter existing, or due or to become due.

“Non-Goods Collateral” means all Collateral other than Inventory, Fixtures, Equipment and other Goods.

A Section or a Schedule is, unless otherwise stated, a reference to a section of this Agreement or a schedule of this Agreement, as the case may be. Section captions used in this Agreement are for convenience only, and shall not affect the construction of this Agreement. The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar purport when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise defined therein, all terms defined in this Agreement shall have the defined meanings when used in any certificate or other documents made or delivered pursuant hereto.

“UCC” means the Uniform Commercial Code as in effect in the State of Illinois, as the same may be amended from time to time.

2. Grant of Security Interest. Subject to the proviso set forth in the last paragraph of this Section 2, as security for the payment of all Liabilities and as security for any Rate Management Transactions, the Debtor assigns, pledges, and conveys to the Administrative Agent, for the benefit of the Lenders, and grants to the Administrative Agent, for the benefit of the Lenders, a continuing and unconditional first priority security interest in, the following, whether now existing or hereafter arising or acquired and wherever located:

- (a) all property of, or for the account of, the Debtor now or later coming into the possession, control or custody of, or in transit to, the Administrative Agent or any agent or bailee for the Administrative Agent or any parent, affiliate or subsidiary of the Administrative Agent or any participant with the Administrative Agent in the Loans (whether for safekeeping, deposit, collection, custody, pledge, transmission or otherwise), including all earnings, dividends, interest, or other rights in connection therewith and the products and proceeds therefrom, including the proceeds of insurance thereon; and
- (b) All of the Debtor’s:

- (i) Accounts;
- (ii) Chattel Paper;
- (iii) Commercial Tort Claims;
- (iv) Computer Hardware and Software and all rights with respect thereto, including, without limitation, any and all licenses, options, warranties, service contracts, program services, test rights, maintenance rights, support rights, improvement rights, renewal rights and indemnifications, and any substitutions, replacements, additions or model conversions of any of the foregoing;
- (v) Deposit Accounts;
- (vi) Documents;
- (vii) General Intangibles;
- (viii) Goods (including, without limitation, all of its Equipment, Fixtures and Inventory), together with all accessions, additions, attachments, improvements, substitutions and replacements to or for those Goods;
- (ix) Farm Products, including, without limitation, supplies used in Debtor's farming operations;
- (x) Instruments;
- (xi) Investment Property (including, without limitation, Commodity Accounts, Commodity Contracts, Securities (whether Certificated Securities or Uncertificated Securities), Security Entitlements and Securities Accounts);
- (xii) Letter-of-Credit Rights and letters of credit (as such term is defined in Article 5 of the UCC);
- (xiii) money (of every jurisdiction whatsoever);
- (xiv) trucks, trailers and vehicles (collectively with other property normally maintained in more than one location and rolling stock called "Mobile Goods");
- (xv) franchises, tax refund claims, guarantee claims, security interests and rights to indemnification;
- (xvi) to the extent not included in the foregoing, all books, records, writings, databases, information in whatever form and other property relating to, used or useful in connection with, evidencing, embodying, incorporating or referring to, any of the foregoing;
- (xvii) all Proceeds, products, offspring, rents, issues, profits and, distributions on, rights arising out of, returns of and from, and any and all claims and/or

insurance payments arising out of the loss, nonconformity, or interference with the use of, defects or infringements of rights in, or damage to, any of the foregoing; and

(xviii) other personal property of any kind or description to the extent not included in the foregoing.

Notwithstanding anything in this Section 2 to the contrary, the Debtor does not grant the Administrative Agent a collateral assignment in any right, title or interest it has in any Intellectual Property. Instead, the Debtor hereby conditionally assigns to the Administrative Agent, and grants to the Administrative Agent a continuing security interest in, the Intellectual Property, whether now or hereafter existing or acquired.

3. **Warranties.** The Debtor warrants that:

- (a) except as otherwise provided in the Credit Agreement, no financing statement (other than any which may have been filed on behalf of the Administrative Agent) covering any of the Collateral is on file in any public office;
- (b) except in the case of certain General Intangibles, none of the Collateral is of a type where a security interest or lien may be filed under, or notice thereof given under, any federal statute;
- (c) as of the date of this Agreement the addresses of all property on which Fixtures are located are listed on Schedule A, together with the names of the record owners of the property;
- (d) as of the date of this Agreement all Equipment, except Mobile Goods, is located at one of the locations indicated on the Schedule B;
- (e) as of the date of this Agreement the Debtor's chief executive office is located at the address indicated on the signature page hereof, and the Debtor keeps its records concerning Non-Goods Collateral at such address;
- (f) the Debtor's true legal name as registered in the jurisdiction in which the Debtor is organized or incorporated, state of incorporation or organization, organizational identification number as designated by the state of the Debtor's organization or incorporation, chief executive office and principal place of business are as set forth on Schedule C;
- (g) except as set forth on Schedule D, the Debtor is not now known, and during the five years preceding the date of this Agreement has not previously been known by any trade names, styles or doing business forms;
- (h) except as set forth on Schedule D, during the five years preceding the date of this Agreement, the Debtor has not been known by any legal name different from the one set forth on the signature page of this Agreement nor has the Debtor been the subject of any merger or corporate reorganization;

- (i) the Debtor is and will be the lawful owner of all Collateral, free of all liens and claims whatsoever, other than the security interest granted in this Agreement (except Liens permitted under Section 6.15 of the Credit Agreement), with full power and authority to execute this Agreement and perform the Debtor's obligations hereunder, and to subject the Collateral to the security interest granted in this Agreement; and
- (j) all information with respect to Collateral and Account Debtors set forth in any schedule, certificate or other writing at any time furnished by the Debtor to the Administrative Agent, and all other written information furnished by the Debtor to the Administrative Agent, is and will be true and correct in all material respects as of the date furnished.

4. **Use of Equipment.** Until the occurrence and during the continuance of a Default and then unless otherwise directed by the Administrative Agent, the Debtor may have possession of all Equipment and Fixtures and use the same in any lawful manner not inconsistent with this Agreement or with any policy of insurance on any of the Equipment or Fixtures.

5. **Processing and Sale.** Until the occurrence and during the continuance of a Default and then unless the Administrative Agent shall notify the Debtor of the revocation of such power and authority, the Debtor:

- (a) may, in the ordinary course of its business, at its own expense, sell, lease or furnish under contracts of service any of the Inventory normally held by the Debtor for such purpose, and use and consume, in the ordinary course of its business, any raw materials, work in process or materials normally held by the Debtor for such purpose;
- (b) will, at its own expense, endeavor to collect, as and when due, all amounts due with respect to any of the Non-Goods Collateral, including the taking of such action with respect to such collection as the Administrative Agent may reasonably request or, in the absence of such request, as the Debtor may deem advisable; and
- (c) may grant, in the ordinary course of business, to any party obligated on or with respect to any of the Non-Goods Collateral, any rebate, refund or allowance to which such party may be lawfully entitled, and may accept, in connection therewith, the return of goods, the sale or lease of which shall have given rise to such Non-Goods Collateral.

6. **Appointment of the Administrative Agent as Attorney-in-Fact and Collections.**

- (a) The Debtor hereby irrevocably designates, makes, constitutes and appoints the Administrative Agent (and all Persons designated by the Administrative Agent), after the occurrence and during the continuance of a Default, as its true and lawful attorney-in-fact, and authorizes the Administrative Agent, in the Debtor's or the Administrative Agent's name, to, in accordance with the Credit Agreement: (i) demand payment of Accounts; (ii) enforce payment of Accounts by legal proceedings or otherwise; (iii) exercise all of the Debtor's rights and remedies

with respect to proceedings brought to collect an Account; (iv) sell or assign any Account upon such terms, for such amount and at such time or times as the Administrative Agent deems advisable; (v) settle, adjust, compromise, extend or renew an Account; (vi) discharge and release any Account; (vii) take control in any manner of any item of payment or proceeds thereof; (viii) prepare, file and sign the Debtor's name on any proof of claim in bankruptcy or other similar document against an Account Debtor; (ix) endorse the Debtor's name upon any items of payment or proceeds thereof and deposit the same in the Administrative Agent's account on account of the Liabilities; (x) endorse the Debtor's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Account or any goods pertaining thereto; (xi) sign the Debtor's name on any verification of Accounts and notices thereof to Account Debtors; (xii) notify the post office authorities to change the address for delivery of the Debtor's mail to an address designated by Administrative Agent, have access to any lock box or postal box into which any of the Debtor's mail is deposited, and open and dispose of all mail addressed to the Debtor and (xiii) do all acts and things which are necessary, in the Administrative Agent's reasonable discretion, to fulfill the Debtor's obligations under this Agreement.

- (b) Upon request of the Administrative Agent, during the existence of a Default, the Debtor will forthwith, upon receipt, transmit and deliver to the Administrative Agent, in the form received, all cash, checks, drafts, chattel paper and other instruments or writings for the payment of money (properly endorsed, where required, so that such items may be collected by the Administrative Agent) which may be received by the Debtor at any time in full or partial payment or otherwise as proceeds of any of the Collateral. Any such items which may be held by the Debtor at the time of such request by the Administrative Agent or received by the Debtor thereafter will not be commingled with any other of its funds or property, but will be held separate and apart from its own funds or property and upon express trust for the Administrative Agent until delivery is made to the Administrative Agent.
- (c) Except for payments made by the Debtor in accordance with the Credit Agreement, all items or amounts which are received by the Administrative Agent from the Debtor or any other party on account of partial or full payment or otherwise as proceeds of any of the Collateral shall be deposited to the credit of a deposit account (the "**Assignee Deposit Account**") of the Debtor with the Administrative Agent, as security for payment of the Liabilities. During the existence of a Default, the Debtor shall have no right to withdraw any funds deposited in the Assignee Deposit Account. The Administrative Agent may, from time to time, in its discretion, and shall upon request of the Debtor made not more than once in any week, apply all or any of the then balance, representing collected funds, in the Assignee Deposit Account, in accordance with Section 7 hereof, and the Administrative Agent may, from time to time, in accordance with the Credit Agreement, release all or any of such balance to the Debtor.

The Administrative Agent is authorized to endorse, in the name of the Debtor, any item,

howsoever received by the Administrative Agent, representing any payment on or other proceeds of any of the Collateral.

7. **Application of Proceeds.** The proceeds of sale of Collateral sold pursuant to the terms of Section 6 hereof, whether or not deposited in the Assignee Deposit Account, shall be applied by the Administrative Agent as follows:

First: to the Liabilities in accordance with the Credit Agreement;

Second: the balance, if any, of such proceeds shall be held by the Administrative Agent until this Agreement shall terminate pursuant to Section 18, and if any proceeds shall then remain, such proceeds shall be paid to the Debtor, its successors and assigns, or as a court of competent jurisdiction in any pending proceeding may direct.

8. **Certificates, Schedules and Reports.** The Debtor will furnish to the Administrative Agent or the Collateral Agent:

- (a) from time to time, as the Administrative Agent or the Collateral Agent may request, a schedule identifying each Account (not previously so identified) subject to the security interest hereunder, accompanied (if the Administrative Agent or the Collateral Agent so requests) by a true and correct copy of the invoice evidencing such Account and by evidence of shipment or performance;
- (b) immediately upon learning of the occurrence of any event causing material loss or depreciation in value of Inventory or Equipment, written notice thereof, describing the same, and specifying the amount of such loss or depreciation; and
- (c) from time to time, as the Administrative Agent or the Collateral Agent may request, such additional schedules and such certificates and reports respecting all or any of the Collateral at the time subject to the security interest hereunder and the items or amounts received by the Debtor in full or partial payment or otherwise as proceeds of any of the Collateral, all to such extent as the Administrative Agent or the Collateral Agent may request.

Each of the foregoing schedules, certificates, reports and notices shall be executed by a duly authorized officer of the Debtor and shall be in such form and detail as the Administrative Agent or the Collateral Agent may reasonably specify.

9. **Agreements of the Debtor.** The Debtor:

- (a) will, upon request of the Administrative Agent, execute such financing statements and other documents (and pay the cost of filing or recording the same in all public offices deemed necessary by the Administrative Agent) and do such other acts and things, all as the Administrative Agent may from time to time request, to establish and maintain a valid security interest in the Collateral (free of all other liens, claims and rights of third parties whatsoever, except as otherwise disclosed in the Credit Agreement) to secure the payment of the Liabilities, including, without limitation, depositing with the Administrative Agent any certificate of

title issuable with respect to any of the Equipment and noting thereon the security interest hereunder. The Debtor agrees that any carbon, photographic or other reproduction of this Agreement or of any such financing statement shall be sufficient for filing as a financing statement;

- (b) irrevocably authorizes the Administrative Agent at any time and from time to time to file in any jurisdiction any initial financing statements and amendments thereto (i) that indicate the Collateral as all assets of the Debtor or words of similar effect and as any property that becomes collateral pursuant to Section 9-315(a)(2) of the UCC, whether or not this Agreement expressly covers such Proceeds and (ii) that contain any other information required by part 5 of Article 9 of the UCC for the sufficiency of filing office acceptance of any financing statement or amendment;
- (c) will keep its records concerning Non-Goods Collateral at its address shown on the signature page hereof unless the Administrative Agent shall be given prompt prior notice in writing, which records will be of such character as will enable the Administrative Agent or its designees to determine at any time the status of the Non-Goods Collateral;
- (d) will keep all Equipment, except Mobile Goods, at one of the locations indicated on Schedule B, unless the Administrative Agent shall be given prompt prior notice in writing; and will not use any Mobile Goods outside the territorial limits of the United States, unless the Administrative Agent shall otherwise consent in writing;
- (e) will keep all Fixtures at the respective addresses shown on Schedule A, unless the Administrative Agent shall be given 30-days prior notice in writing;
- (f) will not, unless the Administrative Agent shall be given 30-days prior notice in writing, change the location of its chief executive office or its chief place of business;
- (g) will furnish the Administrative Agent not less than 30 days written notice prior to changing its name or adopting or changing any trade name, style or doing business form;
- (h) will furnish the Collateral Agent such information concerning the Debtor, the Collateral and the Account Debtors as the Collateral Agent may from time to time reasonably request;
- (i) will permit the Collateral Agent and its agents or its designees, from time to time on reasonable notice, to inspect and evaluate the Collateral or any thereof, and to inspect, audit and make copies of and extracts from all records and all other papers in the possession of the Debtor, and will, upon request of the Collateral Agent, following Default, deliver to the Collateral Agent all of such records and papers which pertain to the Collateral and Account Debtors;
- (j) will, upon request of the Administrative Agent, stamp on its records concerning

the Collateral a notation, in form satisfactory to the Administrative Agent, of the security interest of the Administrative Agent hereunder;

- (k) except as otherwise provided in the Credit Agreement and except for the sale or lease of Inventory in the ordinary course of its business (which does not include a transfer in partial or total satisfaction of Indebtedness), will not, unless the Administrative Agent and the Collateral Agent shall otherwise consent in writing, sell, lease, transfer, assign or otherwise dispose of, or create or permit to exist any lien on or security interest in, any Collateral other than obsolete Equipment to or in favor of anyone other than the Administrative Agent;
- (l) will at all times keep all Inventory, Equipment and Fixtures insured against loss, damage, theft and other risks, in such amounts and with such companies and under such policies and in such form, all as shall be reasonably satisfactory to the Administrative Agent and the Collateral Agent, which policies shall provide that loss thereunder shall be payable to the Administrative Agent as its interest may appear (and the Administrative Agent may apply any proceeds of such insurance which may be received by it toward payment of Liabilities, whether or not due, in accordance with the Credit Agreement), and those policies will, if the Administrative Agent so requests, be deposited with the Administrative Agent;
- (m) will at all times keep all Equipment and Fixtures in good order and repair, excepting any loss or damage or destruction which is covered by proceeds of insurance required hereunder and excepting ordinary wear and tear;
- (n) will reimburse the Administrative Agent and the Lenders upon demand for all reasonable costs and expenses, including reasonable fees of attorneys (who may be employees of the Administrative Agent or the Lenders) and legal expenses, incurred by the Administrative Agent and the Lenders in seeking to collect or enforce any rights under the Collateral and, in case of Default, in seeking to collect the Liabilities and to enforce rights hereunder, including expenses of any repairs to any realty or other property to which any of the Equipment or Fixtures may be affixed or be a part;
- (o) will reimburse the Administrative Agent and the Collateral Agent upon demand for all reasonable costs and expenses incurred by the Administrative Agent and the Collateral Agent, their respective agents or their respective designees in the course of the evaluations, audits, extractions and other activities referred to in Section 9(i);
- (p) will pay, when due, all taxes, assessments, governmental charges and other similar charges levied against any of the Collateral, except and so long as the Debtor is contesting such taxes, assessments or charges in good faith and by appropriate proceedings and the Debtor has set aside on its books such reserves or other appropriate provisions therefor as may be required by generally accepted accounting principles;

- (q) will, if at any time prior to the occurrence of a Default, any Account Debtor returns any Inventory to the Debtor with a value in excess of Five Hundred Thousand Dollars (\$500,000), promptly determine the reason for such return and, if the Debtor accepts such return, issue a credit memorandum (with a copy to be sent to the Collateral Agent if the Collateral Agent has so requested) in the appropriate amount to such Account Debtor. After the occurrence of a Default, the Debtor shall hold all returned Inventory in trust for the Lenders, shall segregate all returned Inventory from all other property of the Debtor or in its possession and shall conspicuously, if possible, label said returned Inventory as the property of the Administrative Agent. The Debtor shall, in all cases, immediately notify the Collateral Agent of the return of any Inventory with a value in excess of Five Hundred Thousand Dollars (\$500,000), specifying the reason for such return and the location and condition of the returned Inventory; and
- (r) will not during any Default, without the Administrative Agent's and the Collateral Agent's prior written consent, grant any extension of the time for payment of any of the Accounts, compromise, compound or settle the same for less than the full amount thereof, release, wholly or partly, any Person liable for the payment thereof, or allow any credit or discount whatsoever thereon other than in each case, in the ordinary course of business of the Debtor.
- (s) The Debtor will regularly update, and provide Administrative Agent and the Collateral Agent with such updated, schedules and exhibits hereto, so that the Schedules and Exhibits shall reflect the current status at all times.

The Administrative Agent may from time to time, at its option, perform any agreement of the Debtor as described in this Agreement which the Debtor shall fail to perform and take any other action which the Administrative Agent deems necessary for the maintenance or preservation of any of the Collateral or its interest therein, and the Debtor agrees to forthwith reimburse the Administrative Agent for all expenses of the Administrative Agent in connection with the foregoing, together with interest on those expenses from the date incurred until reimbursed by the Debtor at the applicable rate set forth in Section 2.11 of the Credit Agreement.

10. **Safekeeping of Inventory; Inventory Covenants.** Neither the Administrative Agent nor any Lender shall be responsible for (a) the safekeeping of the Inventory; (b) any loss, damage, or destruction of the Inventory occurring or arising in any manner or fashion from any cause, (c) any diminution in the value of Inventory or (d) any act or default of any carrier, warehouseman, bailee or forwarding agency or any other Person in any way dealing with or handling the Inventory, except to the extent that the Debtor incurs any loss, cost, claim or damage from any of the foregoing as a result of the gross negligence or willful misconduct of the Administrative Agent or such Lender. All risk of loss, damage, distribution or diminution in value of the Inventory shall, except as noted in the previous sentence, be borne by the Debtor.

11. **Default and Remedies.** Whenever a Default shall be existing, and in accordance with

the Credit Agreement, (a) all Liabilities may (notwithstanding any provisions thereof), at the option of the Administrative Agent, and without demand or notice of any kind, be declared, and shall immediately become, due and payable; (b) the Administrative Agent may, from time to time, without demand or notice of any kind, appropriate and apply toward the payment of such of the Liabilities, and in such order of application, as the Administrative Agent may from time to time elect, any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or moneys of or in the name of the Debtor then or thereafter with the Administrative Agent; and (c) the Administrative Agent may exercise from time to time any rights and remedies available to it under applicable law. The Debtor agrees, in case of Default, to assemble, at its expense, all Inventory, Equipment and Fixtures at a convenient place acceptable to the Administrative Agent.

Without limiting the foregoing, upon Default the Administrative Agent may, to the fullest extent permitted by applicable law, without notice, hearing or process of law of any kind:

- (a) enter upon any premises where any of the Collateral may be located and take possession of and remove such Collateral;
- (b) use, license or, to the extent permitted by any applicable license, sublicense, whether general, special or otherwise, and whether on an exclusive or non-exclusive basis, any General Intangibles throughout the world for such term or terms, on such conditions, and in such manner, as the Administrative Agent shall in its sole discretion determine, without compensation to the Debtor;
- (c) sell any or all of the Collateral, free of all rights and claims of the Debtor therein and thereto, at any public or private sale; and
- (d) bid for and purchase any or all of such Collateral at any such sale.

The Debtor hereby expressly waives, except for notice of a Uniform Commercial Code sale or other sale of Collateral, to the fullest extent permitted by applicable law, any and all notices, advertisements, hearings or process of law in connection with the exercise by the Administrative Agent of any of its rights and remedies upon Default. Any notification of intended disposition of any of the Collateral required by law shall be deemed reasonably and properly given if given at least 10 days before such disposition. Any proceeds of any disposition by the Administrative Agent of any of the Collateral may be applied by the Administrative Agent to the payment of expenses in connection with the Collateral, including reasonable fees of attorneys (who may be employees of the Administrative Agent) and legal expenses, and any balance of such proceeds may be applied by the Administrative Agent toward the payment of such of the Liabilities, and in such order of application, as the Administrative Agent may from time to time elect.

In the event of the occurrence and during the continuation of a Default, the Debtor hereby authorizes and empowers the Administrative Agent to make, constitute and appoint any officer or Administrative Agent of the Administrative Agent as the Administrative Agent in its sole discretion may select as the Debtor's true and lawful attorney-in-fact, with the

power to endorse the Debtor's name on all applications, documents, papers and instruments necessary for the Administrative Agent to use any General Intangibles or to grant or issue any exclusive or nonexclusive general, special or other license or sublicense to any party or necessary for the Administrative Agent to assign, convey or otherwise transfer title in or dispose of any of the Collateral to any party. The Debtor ratifies all that such attorney will lawfully do or cause to be done by virtue of this Agreement. This power of attorney is irrevocable and is coupled with an interest.

12. Nature of Liabilities.

- (a) The Debtor acknowledges and agrees that the Borrowers shall be jointly and severally liable for the Liabilities. The Debtor represents and warrants to the Lenders at all times that the extension of credit under the Credit Agreement to each of the other Borrowers directly or indirectly confers a material benefit on the Debtor.
- (b) Upon a final determination by a court of competent jurisdiction that the Debtor's liability under the Credit Agreement or any other Loan Document, may be avoided, in whole or in part, according to any of the laws described below, then notwithstanding any provision herein or in any other Loan Document to the contrary, the Debtor's liability under the Credit Agreement and the other Loan Documents shall be limited to the amount which could be claimed due by the Administrative Agent and the Lenders from the Debtor under the Credit Agreement and the other Loan Documents without rendering such claim void or avoidable under Section 548 of Chapter 11 of the United States Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law; provided, that this clause (b) shall not otherwise or in any other circumstance be deemed to limit, at any time, the liability of the Debtor to pay all of the Liabilities or to fulfill any other obligation of the Debtor under the Loan Documents.

13. No Marshalling. To the extent the Administrative Agent holds a security interest in other assets of the Borrowers, nothing contained herein shall require the Administrative Agent to proceed against any security interest against any of the assets of the Borrowers prior to enforcing its rights in the Collateral.

14. Custody and Preservation of Collateral. The Administrative Agent shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if it takes such action for that purpose as the Debtor requests in writing, but failure of the Administrative Agent to comply with any such request shall not of itself be deemed a failure to exercise reasonable care, and no failure of the Administrative Agent to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by the Debtor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

15. Indemnity. The Debtor shall indemnify, defend and hold harmless the Administrative

Agent, the Lenders, their agents, officers and employees, and every attorney appointed pursuant to this Agreement (a) in respect of all liabilities and expenses incurred by them in good faith in the execution of purported execution of any rights, powers or discretions vested in them pursuant to this Agreement, and (b) for any losses arising in connection with the exercise or purported exercise of any of their rights, powers and discretions under this Agreement except that the Administrative Agent and the Lenders, their agents, officers and employees and each attorney will be liable for any liabilities, expenses and losses which arise as a result of their own willful misconduct or gross negligence.

16. Notices.

- (a) Except as otherwise permitted in the Credit Agreement with respect to borrowing notices, all notices, requests and other communications to any party will be in writing (including electronic transmission, facsimile transmission or similar writing) and will be given to such party: (a) in the case of the Debtor or the Administrative Agent, at its address or facsimile number set forth in the signature page of this Agreement, (b) in the case of any Lender, at its address or facsimile number set forth in the Credit Agreement or (c) in the case of any party, at such other address or facsimile number as such party may hereafter specify for the purpose by notice to the Administrative Agent and the Debtor in accordance with the provisions of this Section 16(a). Each such notice, request or other communication shall be effective (i) if given by facsimile transmission, when transmitted to the facsimile number specified in this Section and confirmation of receipt is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, or (iii) if given by any other means, when delivered (or, in the case of electronic transmission, received) at the address specified in this Section.
- (b) The Debtor, the Administrative Agent and any Lender may each change the address for service of notice upon it by a notice in writing to the other parties to this Agreement;

- 17. Waiver and Amendments.** No failure or delay on the part of the Administrative Agent in the exercise of any power, right or remedy, and no course of dealing between the Debtor and the Administrative Agent, operates as a waiver of that power, right or remedy, nor will any single or partial exercise of any power, right or remedy preclude other or further exercise of that power, right or remedy or the exercise of any other power, right or remedy. The remedies provided for in this Agreement are cumulative and not exclusive of any remedies which may be available to the Administrative Agent at law or in equity. No notice to or demand on the Debtor not required will in any event entitle the Debtor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Administrative Agent to any other or further action in any circumstances without notice or demand. No amendment, modification or waiver of, or consent with respect to, any provision of this Agreement will in any event be effective unless the same is in writing and signed and delivered by the Administrative

Agent and the Debtor. Any waiver of any provision of this Agreement, and any consent to any departure by the Debtor from the terms of any provision of this Agreement, will be effective only in the specific instance and for the specific purpose for which it is given.

18. **Termination of Agreement.** The Debtor agrees that its security under this Agreement will, unless sooner terminated by the Administrative Agent (notwithstanding, without limitation, that at any time or from time to time all Liabilities may have been paid in full) terminate only when (a) the Liabilities (including, without limitation, any and all extensions or renewals of any Liabilities, any and all interest on any Liabilities, and any and all expenses incurred by the Administrative Agent in seeking to collect any of the Liabilities and to collect or enforce any rights under the Collateral) have been satisfied in full and all other obligations of the Debtor under this Agreement or otherwise have been fully performed, or (b) such Collateral is sold or otherwise transferred by the Debtor in accordance with the express terms hereof or of the Credit Agreement, at which time the Administrative Agent shall reassign and redeliver (or cause to be reassigned and redelivered) to the Debtor, or to such Person or Persons as such Debtor shall designate, such of the Collateral (if any) secured hereunder by the Debtor as shall not have been sold or otherwise applied by the Administrative Agent pursuant to the terms of this Agreement and shall still be held by it hereunder, together with appropriate instruments of reassignment and release. Any such reassignment pursuant to the foregoing provisions shall be without recourse upon, or representation or warranty by, the Administrative Agent.
19. **Severability.** Any provision in this Agreement that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Agreement are declared to be severable.
20. **Successors and Assigns.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Debtor and the Administrative Agent and their respective successors and assigns, except that (a) the Debtor shall not have the right to assign its rights or obligations under this Agreement and (b) any assignment by the Administrative Agent must be made in compliance of the Credit Agreement.
21. **CHOICE OF LAW. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (INCLUDING, WITHOUT LIMITATION, 735 ILCS SECTION 105/5-1 ET SEQ., BUT OTHERWISE WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF ILLINOIS, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.**
22. **WAIVER OF JURY TRIAL. THE DEBTOR, THE ADMINISTRATIVE AGENT AND EACH LENDER WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS**

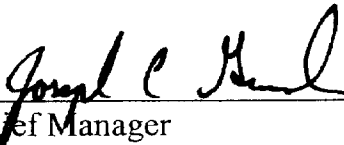
AGREEMENT OR THE RELATIONSHIP ESTABLISHED IN THIS AGREEMENT.

23. **CONSENT TO JURISDICTION.** THE DEBTOR IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR ILLINOIS STATE COURT SITTING IN CHICAGO, ILLINOIS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE DEBTOR IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR SUBSEQUENTLY HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING IN THIS AGREEMENT WILL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY LENDER TO BRING PROCEEDINGS AGAINST THE DEBTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY THE DEBTOR AGAINST THE ADMINISTRATIVE AGENT OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT SHALL BE BROUGHT ONLY IN A COURT IN CHICAGO, ILLINOIS.
24. **No Immunity.** The Debtor agrees that if the Administrative Agent brings any judicial proceedings in relation to any matter arising under this Agreement, no immunity from such judicial proceedings, from the attachment of its properties or from execution of any judgment shall be claimed by or on behalf of the Debtor or with respect to its properties, any such immunity hereby being irrevocably waived by the Debtor.
25. **Counterparts.** This Agreement may be executed in any number of counterparts by original or facsimile signature, each such counterpart shall be an original instrument, and all such counterparts together shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by the Debtor and the Administrative Agent.

* * * * *

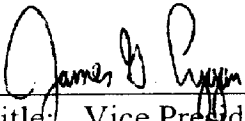
IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

KOCH FOODS OF MISSISSIPPI LLC

By: 
Title: Chief Manager
1300 West Higgins Road, Suite 100
Park Ridge, Illinois 60068

Attention: Mark J. Kaminsky
Telephone: (847) 384-5940
Fax: (847) 384-5962

AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO, as Administrative Agent

By: 
Title: Vice President
120 South LaSalle Street, Second Floor
Attention: James G. Cygan
Telephone: (312) 661-5370
Fax: (312) 661-3566

Schedule A

TO

SECURITY AGREEMENT

BETWEEN

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

AND

KOCH FOODS OF MISSISSIPPI LLC

PROPERTY WITH FIXTURES

Owner of Record

Address of Property

Koch Foods of Mississippi LLC

McComb Plant
Adams Road
McComb, Mississippi

Koch Foods of Mississippi LLC

Morton Processing Plant
State Highway 13,
Fourth Street and Magnolia Street
Morton, Mississippi

Koch Foods of Mississippi LLC

Forest Plant
State Highway 501
Forest, Mississippi

Koch Foods of Mississippi LLC

Forest Plant – South Property
State Highway 501 and Elm Street
Forest, Mississippi

Koch Foods of Mississippi LLC

Morton Outlet Store
U.S. Highway 80
Morton, Mississippi

Koch Foods of Mississippi LLC

McComb Outlet Store
South Broadway Street
McComb, Mississippi

Schedule B

TO

SECURITY AGREEMENT

BETWEEN

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

AND

KOCH FOODS OF MISSISSIPPI LLC

LOCATION OF EQUIPMENT

Address of Property

McComb Plant
Adams Road
McComb, Mississippi

Morton Processing Plant
State Highway 13,
Fourth Street and Magnolia Street
Morton, Mississippi

Forest Plant
State Highway 501
Forest, Mississippi

Forest Plant – South Property
State Highway 501 and Elm Street
Forest, Mississippi

Morton Outlet Store
U.S. Highway 80
Morton, Mississippi

McComb Outlet Store
South Broadway Street
McComb, Mississippi

Schedule C

TO

SECURITY AGREEMENT

BETWEEN

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

AND

KOCH FOODS OF MISSISSIPPI LLC

**TRUE LEGAL NAME, STATE OF ORGANIZATION, ORGANIZATIONAL
IDENTIFICATION NUMBER, LOCATION OF CHIEF EXECUTIVE OFFICE AND
PRINCIPAL PLACE OF BUSINESS**

Koch Foods of Mississippi LLC

Mississippi

36-4483973 (FEIN)

1300 W. Higgins, Suite 100
Park Ridge, Illinois

4688 Highway 80 East
Morton, Mississippi 39117

Schedule D

TO

SECURITY AGREEMENT

BETWEEN

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

AND

KOCH FOODS OF MISSISSIPPI LLC

TRADE NAMES, STYLES OR DOING BUSINESS FORMS

<u>Debtor</u>	<u>Trade name</u>	<u>Doing Business</u>
Koch Foods of Mississippi LLC	None	None

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Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Chicago, Illinois 60606-1229
312-201-2000
312-201-2555 fax
www.wildmanharrold.com



Wildman Harrold
Attorneys and Counselors

Geoffrey C. Cockrell
312-201-2422
cockrell@wildmanharrold.com

January 3, 2002

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

Re: Recordation of Security Agreements for Koch Foods of
Mississippi LLC and Koch Meat Co., Inc.

To the Honorable Commissioner of Patents and Trademarks:

Enclosed please find two documents for recordation: (1) Security Agreement between Koch Foods of Mississippi LLC and American National Bank and Trust Company of Chicago; and (2) Security Agreement between Koch Meat Co., Inc. and American National Bank and Trust Company of Chicago. Please contact me at 312-201-2422 with any questions concerning this request.

Very truly yours,

A handwritten signature in black ink, appearing to be 'G. Cockrell', written over a horizontal line.

Geoffrey C. Cockrell

GCC/Encl.