

Form PTO-1594 (Rev. 06/04)
OMB Collection 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

Ohio Pure Foods, Inc.

- Individual(s)
- General Partnership
- Corporation-State OH
- Other _____
- Association
- Limited Partnership

Citizenship (see guidelines) _____

Execution Date(s) October 22, 2004

Additional names of conveying parties attached? Yes No

3. Nature of conveyance:

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

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: The Prudential Insurance Company of America, as Collatrcal Agent

Internal Address: c/o Prudential Capital Group

Street Address: 1114 Avenue of the Americas, 30th Floor

City: New York

State: NY

Country: USA Zip: 10036

- Association Citizenship _____
- General Partnership Citizenship _____
- Limited Partnership Citizenship _____
- Corporation Citizenship _____
- Other Insurance Co. Citizenship NJ- USA

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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

None

B. Trademark Registration No.(s)

See Attached

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

See Attached

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

Name: Michelle Walters Fournier, RP, Senior Paralegal

Internal Address: Bingham McCutchen LLP

Street Address: One State Street

City: Hartford

State: CT Zip: 06103

Phone Number: 860-240-2935

Fax Number: 860-240-2513

Email Address: michelle.fournier@bingham.com

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 65.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers 8930
Expiration Date 10/07

b. Deposit Account Number _____

Authorized User Name _____

9. Signature: Michelle Walters Fournier Signature

October 29, 2004

Date

Michelle Walters Fournier, RP, Senior Paralegal

Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 27

Documents to be recorded (including cover sheet) should be faxed to (703) 306-6995, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

TRADEMARK

OP \$65.00 1798077

Credit Card Payment Form

Ohio Pure Foods, Inc.

Trademark Registration No.(s)

**Trademark
or
Service Mark**

**Registrations --
United States Patent and Trademark Office**

Registration No. Registration Date

Sungift
Dairyline

RN 1798077 October 12, 1993
RN 830681 June 20, 1967

Execution Copy

**TRADEMARK COLLATERAL
SECURITY AND PLEDGE AGREEMENT**

Dated as of October 22, 2004

by and between

OHIO PURE FOODS, INC.

and

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,

as Collateral Agent

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**TRADEMARK COLLATERAL
SECURITY AND PLEDGE AGREEMENT**

THIS TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT, dated as of October 22, 2004, is by and between OHIO PURE FOODS, INC., an Ohio corporation, (together with its successors and assigns, the "Assignor"), and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, as collateral agent (hereinafter, in such capacity and together with its successors and assigns as permitted under the Securities Purchase Agreement, the "Collateral Agent") for THE PRUDENTIAL INSURANCE COMPANY OF AMERICA (together, with its successors and assigns, "Prudential") and PRUDENTIAL RETIREMENT INSURANCE AND ANNUITY COMPANY (together with its successors and assigns, "PRIAC" and together with Prudential, the other holders from time to time of Senior Notes and the Collateral Agent, the "Secured Parties").

WHEREAS, the Assignor, Prudential, PRIAC and various other institutions on the signature pages thereto are parties to a Securities Purchase Agreement dated as of the date hereof (as amended and in effect from time to time, the "Securities Purchase Agreement") and the Assignor entered into a Senior Note Agreement dated as of the date hereof (as amended and in effect from time to time, the "Senior Note Agreement"), and certain other Financing Documents (defined in the Securities Purchase Agreement) with Prudential and PRIAC, pursuant to which Prudential and PRIAC, subject to the terms and conditions contained therein, has extended or will extend, certain financial accommodations to the Assignor;

WHEREAS, it is a condition precedent to Prudential's and PRIAC's making of any loans or otherwise extending credit to the Assignor under the Senior Note Agreement that the Assignor execute and deliver to the Collateral Agent an agreement in substantially the form hereof;

WHEREAS, the Assignor has executed and delivered a Security Agreement dated as of the date hereof (as amended and in effect from time to time, the "Security Agreement") to the Collateral Agent, pursuant to which the Assignor has granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in all of the Assignor's personal property and fixture assets, including without limitation the trademarks, service marks, trademark and service mark registrations, and trademark and service mark registration applications listed on Schedule A attached hereto, all to secure the payment and performance of the Obligations (as defined in the Senior Note Agreement); and

WHEREAS, this Trademark Agreement is supplemental to the provisions contained in the Security Agreement;

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **DEFINITIONS.**

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Senior Note Agreement and the Security Agreement. In addition, the following terms shall have the meanings set forth in this §1 or elsewhere in this Trademark Agreement referred to below:

Assignment of Marks. See §2.1.

Associated Goodwill. All goodwill of the Assignor and its business, products and services appurtenant to, associated with or symbolized by the Trademarks and the use thereof.

Pledged Intellectual Property. All of the Assignor's right, title and interest in and to all of the Trademarks, the Trademark Registrations, the Trademark License Rights, the Trademark Rights, the Associated Goodwill, the Related Assets, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

PTO. The United States Patent and Trademark Office.

Related Assets. All assets, rights and interests of the Assignor that uniquely reflect or embody the Associated Goodwill, including the following:

(a) all patents, inventions, copyrights, trade secrets, confidential information, formulae, methods or processes, compounds, recipes, know-how, methods and operating systems, drawings, descriptions, formulations, manufacturing and production and delivery procedures, quality control procedures, product and service specifications, catalogs, price lists, and advertising materials, relating to the manufacture, production, delivery, provision and sale of goods or services under or in association with any of the Trademarks; and

(b) the following documents and things in the possession or under the control of the Assignor, or subject to its demand for possession or control, related to the production, delivery, provision and sale by the Assignor, or any affiliate, franchisee, licensee or contractor, of products or services sold by or under the authority of the Assignor in connection with the Trademarks or Trademark Rights, whether prior to, on or subsequent to the date hereof:

(i) all lists, contracts, ancillary documents and other information that identify, describe or provide information with respect to any customers, dealers or distributors of the Assignor, its affiliates or franchisees or licensees or contractors, for products or services sold under or in connection with the Trademarks or Trademark Rights, including all lists and documents containing information regarding each customer's, dealer's or distributor's name and address, credit, payment, discount, delivery and other sale terms, and history, pattern and total of purchases by brand, product, style, size and quantity;

(ii) all agreements (including franchise agreements), product and service specification documents and operating, production and quality control manuals relating to or used in the design, manufacture, production, delivery, provision and sale of products or services under or in connection with the Trademarks or Trademark Rights;

(iii) all documents and agreements relating to the identity and locations of all sources of supply, all terms of purchase and delivery, for all materials, components, raw materials and other supplies and services used in the manufacture, production, provision, delivery and sale of products or services under or in connection with the Trademarks or Trademark Rights; and

(iv) all agreements and documents constituting or concerning the present or future, current or proposed advertising and promotion by the Assignor (or any of its affiliates, franchisees, licensees or contractors) of products or services sold under or in connection with the Trademarks or Trademark Rights.

Trademark Agreement. This Trademark Collateral Security and Pledge Agreement, as amended and in effect from time to time.

Trademark License Rights. Any and all past, present or future rights and interests of the Assignor pursuant to any and all past, present and future franchising or licensing agreements in favor of the Assignor, or to which the Assignor is a party, pertaining to any Trademarks, Trademark Registrations, or Trademark Rights owned or used by third parties in the past, present or future, including the right (but not the obligation) in the name of the Assignor or the Collateral Agent to enforce, and sue and recover for, any breach or violation of any such agreement to which the Assignor is a party.

Trademark Registrations. All past, present or future federal, state, local and foreign registrations of the Trademarks, all past, present and future applications for any such registrations (and any such registrations thereof upon approval of such

applications), together with the right (but not the obligation) to apply for such registrations (and prosecute such applications) in the name of the Assignor or the Collateral Agent, and to take any and all actions necessary or appropriate to maintain such registrations in effect and renew and extend such registrations.

Trademark Rights. Any and all past, present or future rights in, to and associated with the Trademarks throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise, including the following: all such rights arising out of or associated with the Trademark Registrations; the right (but not the obligation) to register claims under any state, federal or foreign trademark law or regulation; the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of the Assignor or the Collateral Agent for any and all past, present and future infringements or dilution of or any other damages or injury to the Trademarks, the Trademark Rights, or the Associated Goodwill, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, dilution, damage or injury; and the Trademark License Rights.

Trademarks. All of the trademarks, service marks, designs, logos, indicia, trade names, corporate names, company names, business names, fictitious business names, trade styles, elements of package or trade dress, and other source and product or service identifiers, used or associated with or appurtenant to the products, services and businesses of the Assignor, including all goodwill associated with any of the foregoing, that (i) are set forth on Schedule A hereto, or (ii) have been adopted, acquired, owned, held or used by the Assignor or are now owned, held or used by the Assignor, in the Assignor's business, or with the Assignor's products and services, or in which the Assignor has any right, title or interest, or (iii) are in the future adopted, acquired, owned, held and used by the Assignor in the Assignor's business or with the Assignor's products and services, or in which the Assignor in the future acquires any right, title or interest.

Use. With respect to any Trademark, all uses of such Trademark by, for or in connection with the Assignor or its business or for the direct or indirect benefit of the Assignor or its business, including all such uses by the Assignor itself, by any of the affiliates of the Assignor, or by any franchisee, licensee or contractor of the Assignor.

2. GRANT OF SECURITY INTEREST.

2.1. Security Interest; Assignment of Marks. As collateral security for the payment and performance in full of all of the Obligations, the Assignor hereby unconditionally grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and first priority lien on, and a conditional assignment of, the Pledged Intellectual Property, and pledges and mortgages (but

does not transfer title to) the Pledged Intellectual Property to the Collateral Agent for the benefit of the Secured Parties. In addition, the Assignor has executed in blank and delivered to the Collateral Agent an assignment of federally registered trademarks in substantially the form of Exhibit 1 hereto (the "Assignment of Marks"), and the Assignor hereby authorizes the Collateral Agent to complete as assignee and record with the PTO the Assignment of Marks upon the occurrence and during the continuance of an Event of Default and the proper exercise of the Collateral Agent's remedies under this Trademark Agreement, the Senior Note Agreement and the Security Agreement.

2.2. Conditional Assignment. In addition to, and not by way of limitation of, the grant, pledge and mortgage of the Pledged Intellectual Property provided in §2.1, the Assignor grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the holders from time to time of the Senior Notes, the Assignor's entire right, title and interest in and to the Pledged Intellectual Property; provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (i) upon or after the occurrence and during the continuance of an Event of Default and (ii) either (A) upon the written demand of the Collateral Agent at any time during such continuance or (B) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the Senior Notes is automatic under the Senior Note Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Assignor to the Collateral Agent or its nominee in lieu of foreclosure).

2.3. Supplemental to Security Agreement. Pursuant to the Security Agreement the Assignor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Pledged Intellectual Property). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Pledged Intellectual Property) thereunder, are hereby ratified and confirmed in all respects. In no event shall this Trademark Agreement, the grant, assignment, transfer and conveyance of the Pledged Intellectual Property hereunder, or the recordation of this Trademark Agreement (or any document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Pledged Intellectual Property) pursuant to the Security Agreement and this Trademark Agreement, the attachment and perfection of such security interest under the Uniform Commercial Code (including the security interest in the Pledged Marks), or any present or future rights and interests of the Secured Parties in and to the Collateral under or in connection with the Security Agreement, this Trademark Agreement or the Uniform Commercial Code. Any and all rights and interests of the Collateral Agent in and to the Pledged Intellectual Property (and

any and all obligations of the Assignor with respect to the Pledged Intellectual Property) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Collateral Agent (and the obligations of the Assignor) in, to or with respect to the Collateral (including the Pledged Intellectual Property) provided in or arising under or in connection with the Security Agreement and shall not be in derogation thereof.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS.

The Assignor represents, warrants and covenants that: (i) Schedule A sets forth a true and complete list of all Trademarks and Trademark Registrations now owned, licensed, controlled or used by the Assignor; (ii) the Trademarks and Trademark Registrations are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, and there is no litigation or proceeding pending concerning the validity or enforceability of the Trademarks or Trademark Registrations; (iii) to the Assignor's knowledge, each of the Trademarks and Trademark Registrations is valid and enforceable; (iv) to the Assignor's knowledge, there is no infringement by others of the Trademarks, Trademark Registrations or Trademark Rights; (v) no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person, and to the Assignor's knowledge, there is no material infringement by the Assignor of the trademark rights of others; (vi) the Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks (other than ownership and other rights reserved by third party owners with respect to Trademarks that the Assignor is licensed to use), free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by the Assignor not to sue third persons, other than the security interest and assignment created by the Security Agreement and this Trademark Agreement; (vii) the Assignor has the unqualified right to enter into this Trademark Agreement and to perform its terms; (viii) the Assignor has used, and will continue to use, proper statutory and other appropriate proprietary notices in connection with its use of the Trademarks; (ix) the Assignor has used, and will continue to use for the duration of this Trademark Agreement, consistent standards of quality in its manufacture and provision of products and services sold or provided under the Trademarks; (x) this Trademark Agreement, together with the Security Agreement, will create in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid and perfected first priority security interest in the Pledged Intellectual Property upon making the filings referred to in clause (xi) of this §3; and (xi) except for the filing of financing statements under the Uniform Commercial Code as set forth in Part 2.21(c) of Annex 3 to the Securities Purchase Agreement and the recording of this Trademark Agreement with the PTO, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (A) for the

grant by the Assignor or the effectiveness of the security interest and assignment granted hereby or for the execution, delivery and performance of this Trademark Agreement by the Assignor, or (B) for the perfection of or the exercise by the Collateral Agent of any of its rights and remedies hereunder.

4. INSPECTION RIGHTS.

The Assignor hereby grants to the Collateral Agent and its employees and agents the right to visit the Assignor's plants and facilities that manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto during regular business hours, *provided that*, in conducting such inspections, the Collateral Agent will use its best efforts not to disturb unnecessarily the conduct of the Assignor's ordinary business operations.

5. NO TRANSFER OR INCONSISTENT AGREEMENTS.

Without the Collateral Agent's prior written consent, the Assignor will not (i) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license or alienate any of the Pledged Intellectual Property, or (ii) enter into any agreement (for example, a license agreement) that is inconsistent with the Assignor's obligations under this Trademark Agreement or the Security Agreement.

6. AFTER-ACQUIRED TRADEMARKS, ETC.

6.1. After-acquired Trademarks. If, before the Obligations shall have been finally paid and satisfied in full, the Assignor shall obtain any right, title or interest in or to any other or new Trademarks, Trademark Registrations or Trademark Rights, the provisions of this Trademark Agreement shall automatically apply thereto and the Assignor shall promptly provide to the Collateral Agent notice thereof in writing and execute and deliver to the Collateral Agent such documents or instruments as the Collateral Agent may reasonably request further to implement, preserve or evidence the Collateral Agent's interest therein.

6.2. Amendment to Schedule. The Assignor authorizes the Collateral Agent to modify this Trademark Agreement and the Assignment of Marks, without the necessity of the Assignor's further approval or signature, by amending Exhibit A hereto and the Annex to the Assignment of Marks to include any future or other Trademarks, Trademark Registrations or Trademark Rights under §2 or §6.

7. TRADEMARK PROSECUTION.

7.1. Assignor Responsible. The Assignor shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Pledged Intellectual Property, and shall

hold the Secured Parties harmless from any and all costs, damages, liabilities and expenses that may be incurred by the Secured Parties in connection with the Secured Parties' interest in the Pledged Intellectual Property or any other action or failure to act in connection with this Trademark Agreement or the transactions contemplated hereby. In respect of such responsibility, the Assignor shall retain trademark counsel acceptable to the Collateral Agent. The Collateral Agent confirms that Hahn Loeser & Parks, LLP, Assignor's current trademark counsel, is acceptable trademark counsel for purposes of this Section 7.

7.2. Assignor's Duties, etc. The Assignor shall have the right and the duty through trademark counsel acceptable to the Collateral Agent, to prosecute diligently any trademark registration applications of the Trademarks pending as of the date of this Trademark Agreement or thereafter, to preserve and maintain all rights in the Trademarks and Trademark Registrations, including the filing of appropriate renewal applications and other instruments to maintain in effect the Trademark Registrations and the payment when due of all registration renewal fees and other fees, taxes and other expenses that shall be incurred or that shall accrue with respect to any of the Trademarks or Trademark Registrations, and shall prosecute such applications and to preserve and maintain such rights consistent with the best interests of the Assignor in its reasonable discretion. Any expenses incurred in connection with such applications and actions shall be borne by the Assignor. The Assignor shall not abandon any filed trademark registration application, or any Trademark Registration or Trademark, without the consent of the Collateral Agent, which consent shall not be unreasonably withheld.

7.3. Assignor's Enforcement Rights. The Assignor shall have the right and the duty to bring suit or other action in the Assignor's own name to maintain and enforce the Trademarks, the Trademark Registrations and the Trademark Rights, and shall bring such suits or other actions that are consistent with the best interests of the Assignor in its reasonable discretion. The Assignor may require the Collateral Agent to join in such suit or action as necessary to assure the Assignor's ability to bring and maintain any such suit or action in any proper forum if (but only if) the Collateral Agent is completely satisfied that such joinder will not subject the Collateral Agent to any risk of liability. The Assignor shall promptly, upon demand, reimburse and indemnify the Collateral Agent for all damages, costs and expenses, including legal fees, incurred by the Collateral Agent pursuant to this §7.3.

7.4. Protection of Trademarks, etc. In general, the Assignor shall take any and all such actions (including institution and maintenance of suits, proceedings or actions) as may be necessary or appropriate to properly maintain, protect, preserve, care for and enforce the Pledged Intellectual Property and as are consistent with the best interests of the Assignor in its reasonable discretion. The Assignor shall not take or fail to take any action, nor permit any action to be taken

or not taken by others under its control, that would adversely affect the validity, grant or enforcement of the Pledged Intellectual Property, unless such actions or failures to act are inconsistent with the best interests of the Assignor in its reasonable discretion.

7.5. Notification by Assignor. Promptly upon obtaining knowledge thereof, the Assignor will notify the Collateral Agent in writing of the institution of, or any final adverse determination in, any proceeding in the PTO or any similar office or agency of the United States or any foreign country, or any court, regarding the validity of any of the Trademarks or Trademark Registrations or the Assignor's rights, title or interests in and to the Pledged Intellectual Property, and of any event that has or could reasonably be expected to materially adversely affect the value of any of the Pledged Intellectual Property, the ability of the Assignor or the Collateral Agent to dispose of any of the Pledged Intellectual Property or the rights and remedies of the Collateral Agent in relation thereto (including but not limited to the levy of any legal process against any of the Pledged Intellectual Property).

8. REMEDIES.

Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have, in addition to all other rights and remedies given it by this Trademark Agreement, the Senior Note Agreement, the Security Agreement and the other Financing Documents, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the State of New York, and, without limiting the generality of the foregoing, the Collateral Agent may immediately, without demand of performance and without other notice (except as set forth below) or demand whatsoever to the Assignor, all of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Intellectual Property, or any interest that the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Intellectual Property all expenses incurred by the any Secured Party in attempting to enforce this Trademark Agreement (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations as set forth in or by reference in the Security Agreement. Notice of any sale, license or other disposition of the Pledged Intellectual Property shall be given to the Assignor at least five (5) days before the time that any intended public sale or other public disposition of the Pledged Intellectual Property is to be made or after which any private sale or other private disposition of the Pledged Intellectual Property may be made, which the Assignor hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Collateral Agent may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Intellectual Property or interests therein sold, licensed or otherwise disposed of.

9. COLLATERAL PROTECTION EXPENSES; PRESERVATION OF COLLATERAL.

9.1. Expenses Incurred by the Collateral Agent. If the Assignor shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of the Assignor shall be breached, the Collateral Agent, in its own name or that of the Assignor (in the sole discretion of the Collateral Agent), may (but shall not be obligated to) do such act or remedy such breach (or cause such act to be done or such breach to be remedied), and the Assignor agrees promptly to reimburse the Collateral Agent for any cost or expense incurred by the Collateral Agent in so doing.

9.2. The Collateral Agent's Obligations and Duties. Anything herein to the contrary notwithstanding, the Assignor shall remain obligated and liable under each contract or agreement comprised in the Pledged Intellectual Property to be observed or performed by the Assignor thereunder. The Collateral Agent shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Trademark Agreement or the receipt by the Collateral Agent of any payment relating to any of the Pledged Intellectual Property, nor shall the Collateral Agent be obligated in any manner to perform any of the obligations of the Assignor under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by the Collateral Agent in respect of the Pledged Intellectual Property or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to the Collateral Agent or to which the Collateral Agent may be entitled at any time or times.

10. POWER OF ATTORNEY.

If any Event of Default shall have occurred and be continuing, the Assignor does hereby make, constitute and appoint the Collateral Agent (and any officer or agent of the Collateral Agent as the Collateral Agent may select in its exclusive discretion) as the Assignor's true and lawful attorney-in-fact, with full power of substitution and with the power to endorse the Assignor's name on all applications, documents, papers and instruments necessary for the Collateral Agent to use the Pledged Intellectual Property or to grant or issue any exclusive or nonexclusive license of any of the Pledged Intellectual Property to any third person, or to take any and all actions necessary for the Collateral Agent to assign, pledge, convey or otherwise transfer title in or dispose of any of the Pledged Intellectual Property or any interest of the Assignor therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts that the Assignor is obligated to execute and do hereunder. The Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof and releases the

Secured Parties from any claims, liabilities, causes of action or demands arising out of or in connection with any action taken or omitted to be taken by the Collateral Agent under this power of attorney (except for the Collateral Agent's gross negligence or willful misconduct). This power of attorney is coupled with an interest and shall be irrevocable for the duration of this Trademark Agreement.

11. FURTHER ASSURANCES.

The Assignor shall, at any time and from time to time, and at its expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Collateral Agent may reasonably request or as may be necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of this Trademark Agreement, or to assure and confirm to the Collateral Agent the grant, perfection and priority of the Collateral Agent's security interest in the Pledged Intellectual Property.

12. TERMINATION.

At such time as all of the Obligations have been finally paid and satisfied in full, this Trademark Agreement shall terminate and the Collateral Agent shall, upon the written request and at the expense of the Assignor, execute and deliver to the Assignor all deeds, assignments and other instruments as may be necessary or proper to reassign and reconvey to and re-vest in the Assignor the entire right, title and interest to the Pledged Intellectual Property previously granted, assigned, transferred and conveyed to the Collateral Agent by the Assignor pursuant to this Trademark Agreement, as fully as if this Trademark Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Collateral Agent pursuant hereto or the Security Agreement.

13. COURSE OF DEALING.

No course of dealing between the Assignor and the Collateral Agent, nor any failure to exercise, nor any delay in exercising, on the part of the Collateral Agent, any right, power or privilege hereunder or under the Security Agreement or any other agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. EXPENSES.

Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Collateral Agent in

connection with the preparation of this Trademark Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Intellectual Property, or in defending or prosecuting any actions or proceedings arising out of or related to the Pledged Intellectual Property, shall be borne and paid by the Assignor.

15. OVERDUE AMOUNTS.

Until paid, all amounts due and payable by the Assignor hereunder shall be a debt secured by the Pledged Intellectual Property and other Collateral and shall bear, whether before or after judgment, interest at the rate of interest for overdue principal set forth in the Senior Note Agreement.

16. SECURED AMOUNTS.

Notwithstanding the foregoing or anything to the contrary elsewhere in this Trademark Agreement, nothing in this Trademark Agreement shall be deemed to grant any liens, right or benefits in favor of any Purchaser under the Securities Purchase Agreement other than the Senior Holders. To the extent a Senior Holder or the Collateral Agent holds other types of securities or notes pursuant to the Securities Purchase Agreement other than the Senior Notes, the liens, rights and benefits granted to such holder or the Collateral Agent (including the right to payment of any fees, costs and expenses to which the Collateral Agent may be entitled under the Financing Documents) hereunder or under the Securities Purchase Agreement shall apply solely to the extent of such holder's Senior Notes (and the Collateral Agent's right to such payments) and not to any other security.

17. NO ASSUMPTION OF LIABILITY; INDEMNIFICATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE SECURED PARTIES ASSUME NO LIABILITIES OF THE ASSIGNOR WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE ASSIGNOR'S OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED INTELLECTUAL PROPERTY OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE ASSIGNOR, AND THE ASSIGNOR SHALL INDEMNIFY THE SECURED PARTIES FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING LEGAL FEES,

INCURRED BY THE SECURED PARTIES WITH RESPECT TO SUCH LIABILITIES.

18. NOTICES.

All notices and other communications made or required to be given pursuant to this Trademark Agreement shall be made or given in the same manner as set forth in Section 7.1 of the Senior Note Agreement and at the address set forth therein with copies to parties requested therein, or at such other address for notice as the Assignor shall last have furnished in writing to the person giving the notice. Any such notice or demand shall be deemed to have been duly given or made and to have become effective as set forth in Section 7.1(b) of the Senior Note Agreement.

19. AMENDMENT AND WAIVER.

This Trademark Agreement is subject to modification only by a writing signed by the Collateral Agent (with the consent of the Required Senior Holders) and the Assignor, except as provided in §6.2. The Collateral Agent shall not be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the Collateral Agent. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

20. GOVERNING LAW; CONSENT TO JURISDICTION.

THIS TRADEMARK AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW RULES). The Assignor agrees that any suit for the enforcement of this Trademark Agreement may be brought in the courts of the State of New York or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Assignor by mail at the address specified in §18. The Assignor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

21. WAIVER OF JURY TRIAL.

THE ASSIGNOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS TRADEMARK AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, the Assignor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. The Assignor (i)

certifies that neither the Secured Parties nor any representative, agent or attorney of the Secured Parties has represented, expressly or otherwise, that the Secured Parties would not, in the event of litigation, seek to enforce the foregoing waivers, and (ii) acknowledges that, in entering into the Senior Note Agreement and the other Financing Documents to any Secured Party is a party, such Secured Party is relying upon, among other things, the waivers and certifications contained in this §21.

22. COUNTERPARTS.

Two or more duplicate originals of this Trademark Agreement may be signed by the parties, each of which shall be an original but all of which together shall constitute one and the same instrument. This Trademark Agreement may be executed in any number of counterparts and shall be effective when at least one counterpart shall have been executed by each party to this Trademark Agreement, and each set of counterparts which, collectively, show execution by each party to this Trademark Agreement shall constitute one duplicate original. Delivery of an executed counterpart of a signature page to this Trademark Agreement via telecopier shall be as effective as delivery of a manually executed counterpart to this Trademark Agreement.

23. MISCELLANEOUS.

The headings of each section of this Trademark Agreement are for convenience only and shall not define or limit the provisions thereof. This Trademark Agreement and all rights and obligations hereunder shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their successors and assigns from time to time. In the event of any irreconcilable conflict between the provisions of this Trademark Agreement and the Senior Note Agreement, or between this Trademark Agreement and the Security Agreement, the provisions of the Senior Note Agreement or the Security Agreement, as the case may be, shall control. If any term of this Trademark Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Trademark Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Assignor acknowledges receipt of a copy of this Trademark Agreement.

[Remainder of page intentionally left blank. Next page is signature page.]

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

OHIO PURE FOODS, INC.

By: Thomas A. Kolb
Name: Thomas A. Kolb
Title: Senior Vice President, CFO, & Treasurer

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss.

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 19th day of October, 2004, personally appeared THOMAS A. KOLB to me known personally and who, being by me duly sworn, deposes and says that he/she is the Sr. V.P., CFO & Treasurer of OHIO PURE FOODS, INC., and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said he acknowledged said instrument to be his/her and its free act and deed.

Suzanne M. Sokol
Notary Public
My commission expires: 8-18-06

SUZANNE M. SOKOL, Notary Public
State of Ohio, Cuyahoga County
My Commission Expires August 18, 2006

**THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA**
as Collateral Agent

By: 
Name: _____
Title: **Christopher H. Carey** *WHB*
Vice President

SCHEDULE A**Trademarks and Trademark Registrations****Trademark
or
Service Mark****Registrations –
United States Patent and Trademark
Office**

	Registration No.	Registration Date
Sungift	RN 1798077	October 12, 1993
Dairyline	RN 830681	June 20, 1967
Sungift	TM 13842	December 23, 1992*

*filed and registered with the State of Ohio

Pending Trademark Applications

<u>Mark</u>	<u>Serial Number</u>	<u>Filing Date</u>	<u>Country</u>
None			

Registered Foreign Trademarks

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>Country</u>
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None

Pending Foreign Trademark Applications

<u>Mark</u>	<u>Serial Number</u>	<u>Filing Date</u>	<u>Country</u>
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None

Abandoned Foreign Trademark Registrations

<u>Mark</u>	<u>Registration No.</u>	<u>Country</u>
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None

EXHIBIT 1

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, [_____] a [_____] organized and existing under the laws of the State of [_____] having a place of business at [_____] (the "Assignor"), has adopted and used and is using the trademarks and service marks (the "Marks") identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS, **THE PRUDENTIAL INSURANCE COMPANY OF AMERICA**, as collateral agent (the "Assignee"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks (U.S.) is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks (U.S.) below.

IN WITNESS WHEREOF, the Assignor, by its duly authorized officer, has executed this assignment, as an instrument under seal, on this ___ day of _____,

[_____]

By: _____
Title:

The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Assignor to the Assignee is hereby accepted as of the ___ day of _____, _____.

**THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA**
as Collateral Agent

By: _____
Name:
Title:

STATE OF _____)
) ss.
 COUNTY OF _____)

On this the ____ day of _____, before me appeared _____, the person who signed this instrument, who acknowledged that (s)he is the _____ of [_____] and that being duly authorized (s)he signed such instrument as a free act on behalf of said corporation.

 Notary Public

[Seal]

My commission expires:

ANNEX

Trademarks and Trademark Registrations

Trademark
or
Service Mark

Registrations --
United States Patent and Trademark
Office

Registration No. Registration Date

Registered Foreign Trademarks

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>Country</u>
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Pending Foreign Trademark Applications

<u>Mark</u>	<u>Serial Number</u>	<u>Filing Date</u>	<u>Country</u>
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Abandoned Foreign Trademark Registrations

<u>Mark</u>	<u>Registration No.</u>	<u>Country</u>
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Ohio Pure Foods, Inc.

Attachment to No. 4B & 4C

Trademark Registration No.(s)

**Trademark
or
Service Mark**

**Registrations –
United States Patent and Trademark Office**

Registration No. Registration Date

Sungift
Dairyline

RN 1798077 October 12, 1993
RN 830681 June 20, 1967