

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	MERGER		
EFFECTIVE DATE:	01/01/1999		
<b>CONVEYING PARTY DATA</b>			
Name	Formerly	Execution Date	Entity Type
Gutwein & Company, L.P.		12/18/1998	LIMITED PARTNERSHIP: INDIANA
<b>RECEIVING PARTY DATA</b>			
Name:	Gutwein & Co., Inc.		
Street Address:	4824 Tazer Drive		
City:	Lafayette		
State/Country:	INDIANA		
Postal Code:	47905		
Entity Type:	CORPORATION: INDIANA		
<b>PROPERTY NUMBERS Total: 2</b>			
Property Type	Number	Word Mark	
Registration Number:	2245892	SUNRISE WILD BIRD FOOD	
Registration Number:	2255270	MORNING SONG	
<b>CORRESPONDENCE DATA</b>			
Fax Number:	(765)742-7641		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	(765) 742-9066		
Email:	asg@bennettlaw.com		
Correspondent Name:	Andrew S. Gutwein		
Address Line 1:	415 Columbia St., #1000		
Address Line 2:	P. O. Box 469		
Address Line 4:	Lafayette, INDIANA 47902-0469		
ATTORNEY DOCKET NUMBER:	2211.1		
NAME OF SUBMITTER:	Andrew S. Gutwein		

OP \$65.00 2245892

Signature:	/andrew s. gutwein/
Date:	11/17/2005
Total Attachments: 7 source=00000001#page1.tif source=00000002#page1.tif source=00000003#page1.tif source=00000004#page1.tif source=00000005#page1.tif source=00000006#page1.tif source=00000007#page1.tif	



by all of the members of the Board of Directors, adopting and authorizing the execution thereof by the undersigned President of the Surviving Corporation for and on its behalf.

**ARTICLE V: MANNER OF ADOPTION  
AND VOTE OF NONSURVIVING ENTITIES**

The Plan and Agreement of Merger was adopted by all of the General and Limited Partners of Gutwein & Co., L.P., and all of the Shareholders and Board of Directors of E. L. Gutwein, Inc., the nonsurviving entities, by Unanimous Joint Written Consents executed on October 30, 1998, signed by the holders of all issued and outstanding units of general and limited partnership interests and shares of each nonsurviving entity entitled to vote in respect of the Plan and Agreement of Merger, and by all of the members of the Board of Directors of E. L. Gutwein, Inc., nonsurviving entities, adopting and authorizing the Plan and Agreement of Merger.

**ARTICLE VI: EFFECTIVE DATE OF MERGER**

The effective date of these Articles of Merger of Gutwein & Co., L.P. and E. L. Gutwein, Inc. (the non-surviving entities) into Gutwein Milling Co., Inc. (the surviving corporation), shall be **12:01 A.M. on January 1, 1999.**

IN WITNESS WHEREOF, the undersigned being the President of the surviving corporation executes these Articles of Merger/Share Exchange and verifies, subject to penalties for perjury, that the statements contained herein are true, this 18 day of December, 1998.

**GUTWEIN & CO., INC.  
f/k/a Gutwein Milling Co., Inc.**

By: \_\_\_\_\_

**Elden Gutwein, President**

This instrument was prepared by **Andrew S. Gutwein**, of the Firm of **BENNETT, BOEHNING & CLARY**, Attorneys at Law, Sixth Floor, Lafayette Bank & Trust Building, 133 North Fourth Street, Post Office Box #469, Lafayette, Indiana 47902 - Telephone: (765) 742-9066.  
(R:Gutwein Milling Co., Inc./Merger/Articles of Merger)

PLAN AND AGREEMENT OF MERGER  
OF  
GUTWEIN & CO., L.P. AND E. L. GUTWEIN, INC.  
INTO  
GUTWEIN MILLING CO., INC.,  
To Be Known As  
GUTWEIN & CO., INC.  
Following Merger

GUE ANNE GILROY

CORRECTED

RECEIVED  
CORPORATIONS DIV.

This Plan and Agreement of Merger merging **Gutwein & Co., L.P., an Indiana Limited Partnership, and E. L. Gutwein, Inc., an Indiana Corporation**, both organized under the laws of the State of Indiana, with their principal offices located at P. O. Box 98, Francesville, Indiana 47946 (hereinafter referred to as the "Merging Entities") into **Gutwein Milling Co., Inc.**, a corporation organized under the laws of the State of Indiana, with its principal office located at P. O. Box 98, Francesville, Indiana 47946 (hereinafter referred to as the "Surviving Corporation") will be adopted by the General and Limited Partners of Gutwein & Co., L.P., and by the Shareholders and Board of Directors of E. L. Gutwein, Inc., at meetings duly called and held for that purpose or, in lieu thereof, by unanimous written consent pursuant to the Indiana Business Corporation Law.

RECITALS

A. Merging Entities. The Merging Entities are **Gutwein & Co., L.P., an Indiana Limited Partnership, and E. L. Gutwein, Inc., an Indiana Corporation.**

B. Surviving Corporation. The Surviving Corporation is **Gutwein Milling Co., Inc.**, an Indiana Corporation, and such name shall change as a result of the merger to **Gutwein & Co., Inc.**

C. Ownership.

(1) The Surviving Corporation is presently authorized to issue 3,000 common shares. The Surviving Corporation has a total of 299 shares issued and outstanding; the Surviving Corporation also has a total of 849 Treasury Shares. Gutwein Milling Co., Inc. is owned as follows:

<u>Shareholder:</u>	<u>Number of Shares:</u>
Elden Gutwein	249
Braden Gutwein	<u>50</u>
	299

(2) The Merging Entity, Gutwein & Co., L.P., has a total of 100 Units, of which 90 Units are General Partnership Units and 10 Units are Limited Partnership Units. Gutwein & Co., L.P. is owned as follows:

<u>General Partner:</u>	<u>Limited Partners:</u>	<u>Number of Units:</u>
E. L. Gutwein, Inc.		90
	Elden Gutwein	3
	Braden Gutwein	1
	Cary Gutwein	1
	Daniel Gutwein	1
	Gutwein Milling Co., Inc.	<u>4</u>
		100

The Merging Entity, E. L. Gutwein, Inc., is authorized to issue 1,000 common shares, a total of 100 shares are issued and outstanding, and there are no Treasury shares. E. L. Gutwein, Inc. is owned as follows:

<u>Shareholder:</u>	<u>Number of Shares:</u>
Elden Gutwein	50
Braden Gutwein	30
Cary Gutwein	10
Daniel Gutwein	<u>10</u>
	100

D. **Desirability of Merger and Applicable Law.** The General and Limited Partners, and the Shareholders and Boards of Directors of the constituent entities deem it desirable and in the best interests of the entities and their partners and shareholders that the Merging Entities be merged into the Surviving Corporation, in accordance with the provisions of I.C. §23-1-40-1 et. seq., in order that the transaction qualify as a "reorganization" within the meaning of Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended, and I.C. §23-1-40 et. seq.

E. **Value.** Gutwein & Co., L.P., E. L. Gutwein, Inc., and Gutwein Milling Co., Inc. (to be known as Gutwein & Co., Inc.) acknowledge and agree that the only value of Gutwein Milling Co., Inc. and E. L. Gutwein, Inc. is the value of their respective interests in Gutwein & Co., L.P. Therefore, all shares in the Surviving Corporation will be issued in a manner to match the current ownership of Gutwein & Co., L.P.

F. **Transfer of Real Estate.** Gutwein & Co., L.P., E. L. Gutwein, Inc., and Gutwein Milling Co., Inc. (to be known as Gutwein & Co., Inc.) acknowledge that Gutwein & Co., L.P. will be transferring certain real property prior to the merger, as more particularly described on Exhibit A. Said real property will be transferred to Gutwein Properties LLC subject to Gutwein Properties LLC assuming all indebtedness applicable to said properties.

In consideration of the mutual covenants, and subject to the terms and conditions hereinafter set forth, the constituent entities agree as follows:

#### **SECTION I** **MERGER**

**Gutwein & Co., L.P. and E. L. Gutwein, Inc. shall merge into Gutwein Milling Co., Inc., which shall be the Surviving Corporation.**

#### **SECTION II** **AMENDMENT OF NAME OF SURVIVING CORPORATION**

Gutwein Milling Co., Inc. shall be known as **GUTWEIN & CO., INC.** following the merger.

#### **SECTION III** **CONVERSION OF UNITS/SHARES OF MERGING ENTITIES**

The manner and basis of converting the shares of the Merging Entities into shares of the Surviving Corporation is as follows:

(a) The Shareholders of Gutwein Milling Co., Inc., prior to merger, will exchange their issued and outstanding shares for a lesser number of shares as follows:

<u>Name of Shareholder</u>	<u>Shares to Exchange</u>	<u>Shares to be Issued</u>
Elden Gutwein	249	33
Braden Gutwein	50	7

These exchanges by Elden Gutwein and Braden Gutwein are made to account for the agreement that the sole value of Gutwein Milling Co., Inc. is its 4% ownership in Gutwein & Co., L.P. After merger, the shares received by Elden Gutwein and Braden Gutwein in exchange will equal 4% of the Surviving Corporation.

(b) All limited partnership units of the Merging Entity, Gutwein & Co., L.P., issued and outstanding on the Effective Date of merger shall be converted into 10 shares of the common stock of the Surviving Corporation, which shares of common stock of the Surviving Corporation shall thereupon be issued and outstanding. However, in no event shall fractional shares of the Surviving Corporation be issued. The converted shares shall be issued to the following:

<u>New Shareholder:</u>	<u>Number of Shares of Gutwein Milling Co., Inc.:</u>
Elden Gutwein	30
Braden Gutwein	10
Cary Gutwein	10
Daniel Gutwein	10

(c) All shares of the common stock of the Merging Entity, E. L. Gutwein, Inc., issued and outstanding on the Effective Date of the merger shall be converted into 10 shares of the common stock of the Surviving Corporation, which shares of common stock of the Surviving Corporation shall thereupon be issued and outstanding. However, in no event shall fractional shares of the Surviving Corporation be issued. The converted shares shall be issued to the following:

<u>New Shareholder:</u>	<u>Number of Shares of Gutwein Milling Co., Inc.:</u>
Elden Gutwein	450
Braden Gutwein	270
Cary Gutwein	90
Daniel Gutwein	90

(d) The Surviving Corporation, following merger, shall be held as follows:

<u>Shareholder</u>	<u>Number of Shares</u>
Elden Gutwein	513
Braden Gutwein	287
Cary Gutwein	100
Daniel Gutwein	100
	<u>1000 issued &amp; outstanding</u>

(c) After the Effective Date of the merger, each holder of certificates for units of general and limited partnership interests and shares of common stock of the Merging Entities, if so represented by a certificate, shall surrender them to the Surviving Corporation or to its duly appointed agent, in such manner as the Surviving Corporation shall legally require. On receipt of such unit and share certificates, the Surviving Corporation shall issue and exchange therefor certificates for shares of common stock in the Surviving Corporation, representing the number of shares of such stock to which such holder is entitled as provided above.

(c) Holders of certificates of general and limited units and common stock of the Merging Entities shall not be entitled to dividends payable on shares of stock in the Surviving Corporation until certificates have been issued

to such shareholders. Thereafter, each such shareholder shall be entitled to receive any dividends on shares of stock of the Surviving Corporation issuable to them hereunder that may have been declared and paid between the effective date of the merger and the issuance to such shareholder of the certificate for his shares in the Surviving Corporation.

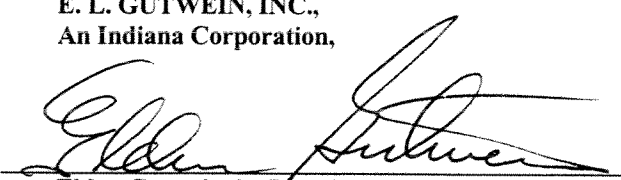
**SECTION IV**  
**REGULATORY PROVISIONS**

1. **Effective Date.** The Effective Date of the merger, as that phrase is used in this Plan and Agreement, shall mean 12:01 A.M. on January 1, 1999.
2. **Surviving Corporate Entity.** Upon the effective date of the merger, the Merging Entities shall merge into and become a part of the Surviving Corporation, and their separate existence shall thereupon cease. The Surviving Corporation shall continue in existence under the name, Gutwein Milling Co., Inc.
3. **Attributes and Property of the Surviving Corporation.** Upon the Effective Date of the merger, the Surviving Corporation shall be vested with all the rights, privileges, immunities, powers and franchises and all property, real and personal, and all accounts, contract rights and other choses in action of the Merging Entities, without the necessity of any further act or deed, as provided for by the Indiana Business Corporation Law.
4. **Liabilities of the Surviving Corporation.** Upon the Effective Date of the merger, the Surviving Corporation shall assume all of the debts, liabilities and obligations of the Merging Entities; provided that any liens or security interests held by any person upon any property or asset of the Merging Corporations shall be limited to the property in or upon which they were held immediately prior to the Effective Date of the merger.
5. **Articles and By-Laws of the Surviving Corporation.** The Articles of Incorporation, as amended, of the Surviving Corporation, and the By-Laws of the Surviving Corporation, as amended from time to time, shall continue in effect until changed or amended in accordance with the terms thereof.
6. **Board of Directors and Officers of the Surviving Corporation.** The Directors and Officers of the Surviving Corporation shall continue in their respective positions, for the same terms and on the same conditions as prior to the Effective Date of the merger.
7. **Stated Capital and Surplus of the Surviving Corporation.** There shall be added to the stated capital of the Surviving Corporation, in respect of its common shares, in an amount equal to the sum of the capital accounts of Gutwein & Co., L.P. and E. L. Gutwein, Inc. as of December 31, 1998. There shall be added to the earned surplus of the Surviving Corporation an amount equal to the earned surplus of the Merging Entities. The remaining value of the net assets of the Merging Entities shall be reflected on the balance sheet of the Surviving Corporation by changes in capital surplus, if any.

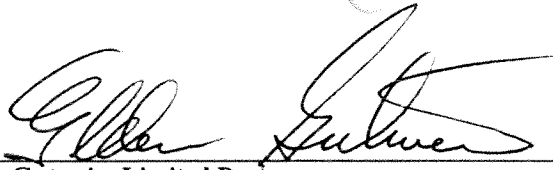
IN WITNESS WHEREOF, the Merging Entities and the Surviving Corporations have caused their legal names to be hereunto subscribed by their duly authorized partners and officers.

**MERGING ENTITIES:**

GUTWEIN & CO., L.P.,  
An Indiana Limited Partnership  
By: E. L. GUTWEIN, INC.,  
An Indiana Corporation,

By:   
Elden Gutwein, its President  
Its General Partner





Elden Gutwein, Limited Partner



Braden Gutwein, Limited Partner



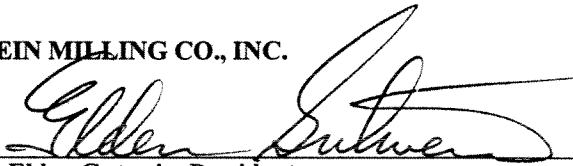
Cary Gutwein, Limited Partner



Daniel Gutwein, Limited Partner

GUTWEIN MILLING CO., INC.

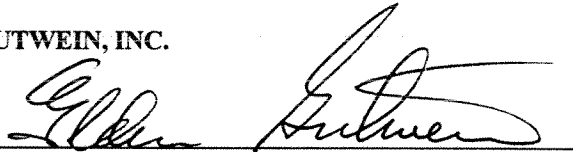
By:



Elden Gutwein, President  
Limited Partner

E. L. GUTWEIN, INC.

By:

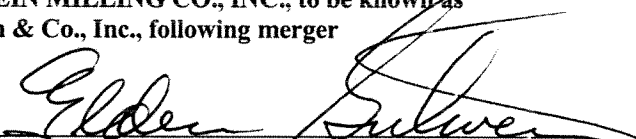


Elden Gutwein, President

SURVIVING CORPORATION:

GUTWEIN MILLING CO., INC., to be known as  
Gutwein & Co., Inc., following merger

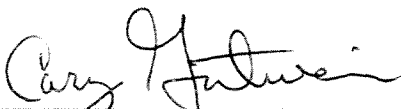
By:



Elden Gutwein, President

Attest:

By:



Cary Gutwein, Secretary

(R:Gutwein Milling Co., Inc./Merger/Plan & Agreement of Merger)