

## TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Certificate of Conversion from a Corporation to a Limited Liability Company		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
MarketFare Foods, Inc.		04/18/2012	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	MarketFare Foods, LLC		
Street Address:	222 Rosewood Drive		
Internal Address:	2nd Floor, Suite 240		
City:	Danvers		
State/Country:	MASSACHUSETTS		
Postal Code:	01923		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 12			
Property Type	Number	Word Mark	
Registration Number:	2853302	ALLSTARS	
Registration Number:	1286250	AUNT BEA'S	
Registration Number:	2974035	BISTRO TO-GO	
Registration Number:	2879734	BISTRO TO-GO	
Registration Number:	3049989	DELI PRIDE	
Registration Number:	1294751	DELI PRIDE	
Registration Number:	2579293	MARKETFARE	
Registration Number:	1275428		
Registration Number:	3082334	OLD SANTA FE	
Registration Number:	1391003	OLD SANTA FE	
Registration Number:	0961608	SMILEYS	
Registration Number:	2570579	SONRITOS	
CORRESPONDENCE DATA			

900240338

TRADEMARK  
 REEL: 004912 FRAME: 0934

OP \$315.00 2853302

Fax Number:

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.*

Email: candersen@fulbright.com, DOIPDOCKET@fulbright.com

Correspondent Name: Linda M. Merritt

Address Line 1: 2200 Ross Avenue, Suite 2800

Address Line 2: Fulbright & Jaworski L.L.P.

Address Line 4: Dallas, TEXAS 75201-2784

ATTORNEY DOCKET NUMBER:

G9999/10024827

NAME OF SUBMITTER:

Chris R. Andersen

Signature:

/chris r andersen/

Date:

12/05/2012

**Total Attachments: 22**

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# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "MARKETFARE FOODS, LLC" AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE TWENTIETH DAY OF MAY, A.D. 1999, AT 12 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, FILED THE THIRD DAY OF JUNE, A.D. 2004, AT 12:56 O'CLOCK P.M.

CERTIFICATE OF CONVERSION, CHANGING ITS NAME FROM "MARKETFARE FOODS, INC." TO "MARKETFARE FOODS, LLC", FILED THE EIGHTEENTH DAY OF APRIL, A.D. 2012, AT 1:54 O'CLOCK P.M.

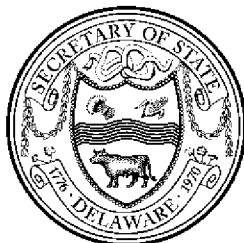
CERTIFICATE OF FORMATION, FILED THE EIGHTEENTH DAY OF APRIL, A.D. 2012, AT 1:54 O'CLOCK P.M.


CERTIFICATE OF MERGER, FILED THE EIGHTEENTH DAY OF APRIL, A.D. 2012, AT 2:04 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID LIMITED LIABILITY COMPANY, "MARKETFARE FOODS, LLC".

3045263 8100H

121146604



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 9929655

DATE: 10-19-12

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

TRADEMARK  
REEL: 004912 FRAME: 0936

The name of this corporation is MarketFare Foods, Inc.

A. The address of its registered offices in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

B. The name and mailing address of the incorporator is:

**M. A. Brzoska**

**The Corporation Trust Company**  
1209 Orange Street  
Wilmington, Delaware 19901

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

This corporation is authorized to issue one class of stock to be designated "Common Stock" with a par value of \$.001 per share. The total number of shares that this corporation is authorized to issue is 2,000,000 shares.

Except as otherwise provided in this Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of this corporation.

## ARTICLE VI

Except as otherwise provided in this Certificate of Incorporation, the number of directors of this corporation shall be fixed from time to time by a bylaw or amendment thereof duly adopted by the Board of Directors or by the stockholders.

## ARTICLE VII

Elections of directors need not be by written ballot unless the Bylaws of this corporation shall so provide.

## ARTICLE VIII

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of this corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of this corporation.

## ARTICLE IX

A director of this corporation shall, to the fullest extent permitted by the General Corporation Law as it now exists or as it may hereafter be amended, not be personally liable to this corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to this corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law is amended, after approval by the stockholders of this Article, to authorize corporation action further eliminating or limiting the personal liability of directors, then the liability of a director of this corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.

Any amendment, repeal or modification of this Article IX, or the adoption of any provision of this Certificate of Incorporation inconsistent with this Article IX, by the stockholders of this corporation shall not apply to or adversely affect any right or protection of a director of this corporation existing at the time of such amendment, repeal, modification or adoption.

## ARTICLE X

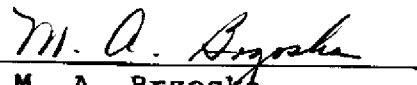
This corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

## ARTICLE XI

To the fullest extent permitted by applicable law, this corporation is authorized to provide indemnification of (and advancement of expenses to) agents of this corporation (and any other persons to which General Corporation Law permits this corporation to provide indemnification) through bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law, subject only to limits created by applicable General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to this corporation, its stockholders, and others.

Any amendment, repeal or modification of the foregoing provisions of this Article XI shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of this corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

I, the undersigned, as incorporator and for the purpose of forming a corporation pursuant to the General Corporation Law of Delaware, do make this certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 20th day of May, 1999.

  
M. A. Brzoska

**CERTIFICATE OF AMENDMENT  
TO  
CERTIFICATE OF INCORPORATION  
OF  
MARKETFARE FOODS, INC.**

\* \* \* \* \*

**Adopted in accordance with the provisions  
of §242 of the General Corporation Law  
of the State of Delaware**

\* \* \* \* \*

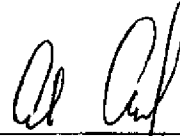
Al Carfora, being the President of MarketFare Foods, Inc., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. That the Certificate of Incorporation of the Corporation be, and hereby is, amended by deleting Article Four in its entirety and substituting in lieu thereof a new Article IV to read as set forth on **Exhibit A** attached hereto.
2. That the Board of Directors of the Corporation approved the foregoing amendment by unanimous written consent pursuant to the provisions of Section 141(f) and 242 of the General Corporation Law of the State of Delaware and directed that such amendment be submitted to the stockholders of the Corporation entitled to vote thereon for their consideration, approval and adoption thereof.
3. That the stockholders entitled to vote thereon approved the foregoing amendment by unanimous written consent in accordance with Section 228 and 242 of the General Corporation Law of the State of Delaware.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned does hereby certify under penalties of perjury that this Certificate of Amendment to the Certificate of Incorporation of the Corporation is the act and deed of the undersigned and the facts stated herein are true and accordingly has hereunto set his hand this 3<sup>rd</sup> day of June, 2004.

MARKETFARE FOODS, INC.



Al Carfora, President



**EXHIBIT A**

[Article IV]

## ARTICLE IV

### A. AUTHORIZATION.

The total number of shares of stock which the Corporation has authority to issue is 2,004,000 shares consisting of:

(i) 4,000 shares of Class A Convertible Preferred Stock, par value \$.001 per share (the "Class A Preferred"); and

(ii) 2,000,000 shares of Common Stock, par value \$.001 per share (the "Common Stock").

### B. PREFERRED STOCK.

There shall be designated one series of Preferred Stock of the Corporation: Class A Preferred. The designations, powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof in respect of the Preferred Stock are set forth below.

#### Section 1. Dividends.

1A. General Obligation. When and as declared by the Corporation's Board of Directors and to the extent permitted under the General Corporation Law of Delaware, the Corporation shall pay preferential dividends in cash or as otherwise provided in paragraph 1D below to the holders of the Class A Preferred Stock as provided in this Section 1. Dividends on each share of the Class A Preferred (a "Share") shall accrue on a daily basis at the rate of 18% *per annum* of the sum of the Liquidation Value thereof plus all accumulated and unpaid dividends thereon from and including the date of issuance of such Share to and including the first to occur of (i) the date on which the Liquidation Value of such Share (plus all accrued and unpaid dividends thereon) is paid to the holder thereof in connection with the liquidation of the Corporation or the redemption of such Share by the Corporation, (ii) the date on which such Share is converted into shares of Conversion Stock hereunder or (iii) the date on which such share is otherwise acquired by the Corporation. Such dividends shall accrue whether or not they have been declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. The date on which the Corporation initially issues any Share shall be deemed to be its "date of issuance" regardless of the number of times transfer of such Share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Share.

1B. Dividend Reference Date. To the extent not paid on each anniversary of date of issue, beginning on the first anniversary of the date of issue (the "Dividend Reference Date"), all dividends which have accrued on each Share outstanding during the twelve-month period ending upon each such Dividend Reference Date shall be accumulated and shall remain accumulated dividends with respect to such Share until paid to the holder thereof.

1C. Distribution of Partial Dividend Payments. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued

with respect to the Class A Preferred, such payment shall be distributed *pro rata* among the holders thereof based upon the aggregate accrued but unpaid dividends on the Shares held by each such holder.

1D. Participating Dividends. In addition to any other dividends accruing or declared hereunder, in the event that the Corporation declares or pays any dividends upon the Common Stock (whether payable in cash, securities or other property) other than dividends payable solely in shares of Common Stock, the Corporation shall also declare and pay to the holders of the Class A Preferred at the same time that it declares and pays such dividends to the holders of the Common Stock, the dividends which would have been declared and paid with respect to the Common Stock issuable upon conversion of the Class A Preferred had all of the outstanding Class A Preferred been converted immediately prior to the record date for such dividend, or if no record date is fixed, the date as of which the record holders of Common Stock entitled to such dividends are to be determined.

## Section 2. Liquidation.

Upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), each holder of Class A Preferred shall be entitled to be paid, before any distribution or payment is made upon any Junior Securities, an amount in cash equal to the aggregate Liquidation Value of all Shares held by such holder (plus all accrued and unpaid dividends thereon). If upon any such liquidation, dissolution or winding up of the Corporation, the Corporation's assets to be distributed among the holders of the Class A Preferred are insufficient to permit payment to such holders of the aggregate amount which they are entitled to be paid under this Section 2, then the entire assets available to be distributed to the Corporation's stockholders shall be distributed *pro rata* among such holders based upon the aggregate Liquidation Value (plus all accrued and unpaid dividends) of the Class A Preferred held by each such holder. Not less than 10 days prior to the payment date stated therein, the Corporation shall deliver written notice of any such liquidation, dissolution or winding up to each record holder of Class A Preferred, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Share and each share of Common Stock in connection with such liquidation, dissolution or winding up. Any Change in Ownership or Fundamental Change shall be deemed to be a liquidation, dissolution or winding up of the Company for purposes of this Section 2, and the holders of Class A Preferred shall be entitled to receive payment from the Company of amounts payable with respect to the Class A Preferred upon a liquidation, dissolution or winding up of the Company under this Section 2 in cancellation of their shares of Class A Preferred upon consummation of any such transaction.

In addition to and after payment in full of all other amounts payable to the holders of the Class A Preferred under this Section 2, upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), the holders of the Class A Preferred shall be entitled to participate on an as if converted basis with the holders of Common Stock as a single class in the distribution of assets of the Corporation with respect to the Common Stock.

## Section 3. Priority of Class A Preferred on Dividends and Redemptions.

So long as any Class A Preferred remains outstanding, without the prior written consent of the holders of all of the outstanding shares of Class A Preferred, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire directly or indirectly any Junior Securities, nor shall the Corporation directly or indirectly pay or declare any dividend or make any distribution upon any Junior Securities; provided that the Corporation may repurchase securities (i) granted to present and former employees of the Corporation and its Subsidiaries, and (ii) in accordance with the terms of the BHC Warrant.

Section 4.     Redemptions.

4A.     Optional Redemption. The Corporation shall, at the request (by written notice given to the Corporation) of the holders of all of the outstanding shares of Class A Preferred, redeem all of the outstanding Shares of Class A Preferred at a price per Share equal to the Liquidation Value thereof (plus all accrued and unpaid dividends thereon). The Corporation shall be obligated to redeem all Shares within 30 days after receipt of the notice provided for in this paragraph 4A.

4B.     Redemption Payments. For each Share which is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Share) (i) an amount in cash equal to the Liquidation Value of such Share (plus all accrued and unpaid dividends thereon), and (ii) issuance of shares of Common Stock in an amount equal to the number of shares of Conversion Stock issuable with respect to such Share pursuant to Section 6A(i) as if such Share was converted immediately prior to such redemption. If the funds of the Corporation legally available for redemption of Shares on any Redemption Date are insufficient to redeem the total number of Shares to be redeemed on such date, those funds which are legally available shall be used to redeem the maximum possible number of Shares *pro rata* among the holders of the Shares to be redeemed based upon the aggregate Liquidation Value of such Shares held by each such holder (plus all accrued and unpaid dividends thereon). At any time thereafter when additional funds of the Corporation are legally available for the redemption of Shares, such funds shall immediately be used to redeem the balance of the Shares which the Corporation has become obligated to redeem on any Redemption Date but which it has not redeemed.

4C.     Notice of Redemption. Except as otherwise provided herein, the Corporation shall mail written notice of each redemption of any Class A Preferred to each record holder thereof not more than 60 nor less than 30 days prior to the date on which such redemption is to be made.

4D.     Dividends After Redemption Date. No Share shall be entitled to any dividends accruing after the date on which the Liquidation Value of such Share (plus all accrued and unpaid dividends thereon) is paid to the holder of such Share. On such date, all rights of the holder of such Share shall cease, and such Share shall no longer be deemed to be issued and outstanding.

4E. Redeemed or Otherwise Acquired Shares. Any Shares which are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

4F. Other Redemptions or Acquisitions. The Corporation shall not, nor shall it permit any Subsidiary to, redeem or otherwise acquire any Shares of Class A Preferred, except as expressly authorized herein.

4G. Payment of Accrued Dividends. The Corporation may not redeem any Class A Preferred, unless all dividends accrued on the outstanding Class A Preferred through the immediately preceding Dividend Reference Date have been declared and paid in full.

#### Section 5. Voting Rights.

The holders of the Class A Preferred shall be entitled to notice of all stockholders meetings in accordance with the Corporation's bylaws, and the holders of the Class A Preferred shall be entitled to vote on all matters submitted to the stockholders for a vote together with the holders of the Common Stock voting together as a single class with each share of Common Stock entitled to one vote per share and each Share of Class A Preferred entitled to one vote for each share of Common Stock issuable upon conversion of the Class A Preferred as of the record date for such vote or, if no record date is specified, as of the date of such vote.

#### Section 6. Conversion.

##### 6A. Conversion Procedure.

(i) At any time, the holders of all of the outstanding shares of Class A Preferred may cause all of the holders of Class A Preferred to convert all of the Shares of Class A Preferred (including any fraction of a Share) held by each such holder into a number of shares of Conversion Stock equal to (A) 15% of the Common Stock Deemed Outstanding at the date of such conversion multiplied by (B) a fraction, the numerator of which is the number of Shares held by such holder immediately prior to such conversion and the denominator of which is the aggregate number of Shares outstanding immediately prior to such conversion.

(ii) Except as otherwise provided herein, each conversion of Class A Preferred shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Class A Preferred to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the Shares converted as a holder of Class A Preferred shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Conversion Stock represented thereby.

(iii) The conversion rights of any Share subject to redemption hereunder shall terminate on the Redemption Date for such Share unless the Corporation has failed to pay to the holder thereof the Liquidation Value of such Share (plus all accrued and unpaid dividends thereon).

(iv) As soon as possible after a conversion has been effected (but in any event within five business days in the case of subparagraph (a) below), the Corporation shall deliver to each converting holder:

(a) a certificate or certificates representing the number of shares of Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as each converting holder has specified; and

(b) payment in an amount equal to the Liquidation Value plus all accrued dividends with respect to each Share converted which have not been paid prior thereto.

(v) The issuance of certificates for shares of Conversion Stock upon conversion of Class A Preferred shall be made without charge to the holders of such Class A Preferred for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Conversion Stock. Upon conversion of each Share of Class A Preferred, the Corporation shall take all such actions as are necessary in order to ensure that the shares of Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(vi) The Corporation shall not close its books against the transfer of Class A Preferred or of Conversion Stock issued or issuable upon conversion of Class A Preferred in any manner which interferes with the timely conversion of Class A Preferred. The Corporation shall assist and cooperate with any holder of Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(vii) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Conversion Stock, solely for the purpose of issuance upon the conversion of the Class A Preferred, such number of shares of Conversion Stock issuable upon the conversion of all outstanding Class A Preferred. All shares of Conversion Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, charges and encumbrances. The Corporation shall take all such actions as may be necessary to assure that all such shares of Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action which would cause the number of authorized but unissued shares of Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Class A Preferred.

6B. Reorganization, Reclassification, Consolidation, Merger or Sale. Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common

Stock, is referred to herein as an "Organic Change". Prior to the consummation of any Organic Change, the Corporation shall make appropriate provisions (in form and substance satisfactory to the holders of all of the Class A Preferred then outstanding) to ensure that the Class A Preferred shall not be canceled or retired as a result of such Organic Change and each of the holders of the Class A Preferred shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Class A Preferred, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had converted its Class A Preferred immediately prior to such Organic Change. In each such case, the Corporation shall also make appropriate provisions (in form and substance satisfactory to the holders of all of the Class A Preferred then outstanding) to ensure that the provisions of this Section 6 shall thereafter be applicable to the Class A Preferred. The Corporation shall not effect any such Organic Change, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from such Organic Change assumes by written instrument (in form and substance satisfactory to the holders of all of the Class A Preferred then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

6C. Notices.

(i) The Corporation shall give written notice to all holders of Class A Preferred at least 20 days prior to the date on which the Corporation closes its books or takes a record (a) with respect to any dividend or distribution upon Common Stock, (b) with respect to any *pro rata* subscription offer to holders of Common Stock or (c) for determining rights to vote with respect to any Organic Change, dissolution or liquidation.

(ii) The Corporation shall also give written notice to the holders of Class A Preferred at least 20 days prior to the date on which any Organic Change or conversion pursuant to Section 6A shall take place.

Section 7. Registration of Transfer.

The Corporation shall keep at its principal office a register for the registration of Class A Preferred. Upon the surrender of any certificate representing Class A Preferred at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Shares as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Class A Preferred represented by such new certificate from the date to which dividends have been fully paid on such Class A Preferred represented by the surrendered certificate.

Section 8. Replacement.

Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Shares of Class A Preferred, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Class A Preferred represented by such new certificate from the date to which dividends have been fully paid on such lost, stolen, destroyed or mutilated certificate.

Section 9.     Definitions.

"BHC Warrant" means Warrant No. 1 issued on June 2, 2004 by the Company to BHC Interim Funding, L.P. and BHC Interim Funding II, L.P.

"Change in Ownership" means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Corporation's capital stock by the Corporation or any holders thereof which results in any Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934), other than the holders of Common Stock as of the date of the Purchase Agreement, owning capital stock of the Corporation possessing the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors.

"Common Stock" means the Corporation's Common Stock, par value \$.001 per share and any capital stock of any class of the Corporation hereafter authorized which is not limited to a fixed sum or percentage of par or stated value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon any liquidation, dissolution or winding up of the Corporation.

"Common Stock Deemed Outstanding" means, at any given time, (i) the number of shares of Common Stock actually outstanding at such time, plus (ii) the maximum number of shares of Common Stock (including shares of Common Stock issuable upon conversion of the Class A Preferred) that are issuable upon the exercise, exchange or conversion of any unexpired right or unexpired option or warrant to subscribe for, to purchase or to receive Common Stock regardless of whether any of the foregoing are actually exercisable at such time, provided that the number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company and any Subsidiary.

"Conversion Stock" means shares of the Corporation's Common Stock, par value \$.001 per share; provided that if there is a change such that the securities issuable upon conversion of the Class A Preferred are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then the term "Conversion Stock" shall mean one share of the security issuable upon conversion of the Class A Preferred if such security



is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

"Convertible Securities" means any stock or securities (other than Options) directly or indirectly convertible into or exchangeable for Common Stock.

"Fundamental Change" means (a) any sale or transfer of more than 50% of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Corporation's Board of Directors) in any transaction or series of transactions (other than sales in the ordinary course of business) and (b) any merger or consolidation to which the Corporation is a party, except for a merger in which the Corporation is the surviving corporation, the terms and relative priorities of the Class A Preferred are not changed, the Class A Preferred is not exchanged for cash, securities or other property, and after giving effect to such merger, no Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934), other than holders of the Class A Preferred as of the closing under the Purchase Agreement, owns (x) capital stock of the Corporation possessing voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors or (y) a majority of the outstanding Common Stock determined on an as-converted, fully-diluted basis.

"Junior Securities" means any capital stock or other equity securities of the Corporation, except for the Class A Preferred.

"Liquidation Value" of any Share as of any particular date shall be equal to \$1,350.00.

"Options" means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Purchase Agreement" means the Stock Purchase Agreement, dated as of June 2, 2004, by and among the Corporation and certain investors, as such agreement may from time to time be amended in accordance with its terms.

"Redemption Date" as to any Share means the date specified in the notice of any redemption at the holder's option or the applicable date specified herein in the case of any other redemption; provided that no such date shall be a Redemption Date unless the Liquidation Value of such Share (plus all accrued and unpaid dividends thereon with respect thereto) is actually paid in full on such date, and if not so paid in full, the Redemption Date shall be the date on which such amount is fully paid.

"Subsidiary" means any corporation of which the shares of outstanding capital stock possessing the voting power (under ordinary circumstances) in electing the board of

directors are, at the time as of which any determination is being made, owned by the Corporation either directly or indirectly through Subsidiaries.

Section 10. Amendment and Waiver.

No amendment, modification, alteration, repeal or waiver of any provision of Sections 1 to 11 of this Article IVB (Preferred Stock) shall be binding or effective without the prior written consent of the holders of all of the Class A Preferred outstanding at the time such action is taken; including, without limitation (a) the rate at which or the manner in which dividends on the Class A Preferred accrue or the times at which such dividends become payable or the amount payable on redemption of the Class A Preferred or the times at which redemption of Class A Preferred is to occur, (b) the number of shares or class of stock into which the Class A Preferred is convertible, or (c) the percentage required to approve any change described in clauses (a) and (b) above, provided that no amendment, modification, alteration, repeal or waiver of the terms or relative priorities of the Class A Preferred may be accomplished by the merger, consolidation or other transaction of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of all of the Class A Preferred then outstanding.

Section 11. Notices.

Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

C. COMMON STOCK.

The number of shares of Common Stock shall be as set forth in this Article IV. The designations, powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof in respect of the Common Stock are as follows:

Section 1. Voting Rights.

Except as otherwise required by the General Corporation Law of the State of Delaware, the holders of Common Stock shall be entitled to one vote per share on all matters to be voted on by the shareholders of the Corporation.

Section 2. Dividends.

As and when dividends are declared or paid with respect to the Common Stock, whether in cash, property or securities of the Corporation, the holders of Common Stock shall be entitled to participate in such dividends ratable on a per share basis. The right of the holders of Common Stock to receive dividends are subject to the provisions of the Class A Preferred.

Section 3.     Liquidation.

Subject to the rights and preferences of the Class A Preferred, the holders of the Common Stock shall be entitled to participate ratably on a per share basis in all distributions to the holders of Common Stock in any liquidation, dissolution or winding up of the Corporation.

Section 4.     Stock Splits.

If the Corporation in any manner subdivides (by any stock split, stock dividend, recapitalization or otherwise) or combines (by reverse stock split or otherwise) the outstanding shares of one class of Common Stock, the outstanding shares of the other classes of Common Stock shall be proportionately subdivided or combined in a similar manner.

Section 5.     Registration of Transfer.

The Corporation shall keep at its principal office (or such other place as the Corporation reasonably designates) a register for the registration of shares of Common Stock upon the surrender of any certificate representing shares of any class of Common Stock at such place, the Corporation shall, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefore representing in the aggregate the number of shares of such class represented by the surrendered certificate, and the Corporation forthwith shall cancel such surrendered certificate. Each such new certificate will be registered in such names and will represent such number of shares of such class as is requested by the holder of the surrendered certificate and will be substantially identical in form to the surrendered certificate. The issuance of new certificates shall be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such issuance.

Section 6.     Replacement.

Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder will be satisfactory) of the ownership and the loss, theft, destruction or mutilations of any certificate evidencing one or more shares of any class of Common Stock, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution, other institutional investor or executive officer of the Corporation, such holder's own agreement will be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

STATE OF DELAWARE  
CERTIFICATE OF CONVERSION  
FROM A CORPORATION TO A  
LIMITED LIABILITY COMPANY  
PURSUANT TO SECTION 18-214 OF THE LIMITED LIABILITY COMPANY ACT  
OF  
MARKETFARE FOODS, INC.

1. The jurisdiction where MarketFare Foods, Inc. (the "Corporation") first formed is the State of Delaware.
2. The jurisdiction of the Corporation immediately prior to filing this Certificate of Conversion is the State of Delaware.
3. The date the Corporation first formed is May 20, 1999 under the name of "MarketFare Foods, Inc."
4. The name of the Corporation immediately prior to filing this Certificate of Conversion is MarketFare Foods, Inc.
5. The name of the Limited Liability Company as set forth in the Certificate of Formation is MarketFare Foods, LLC.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conversion on the 18<sup>th</sup>  
day of April, 2012.

MARKETFARE FOODS, INC.

By: 

Name: Rod Coleman

Its: President and Chief Executive Officer

CERTIFICATE OF FORMATION

OF

MARKETFARE FOODS, LLC

This Certificate of Formation is being executed as of April 18, 2012, for the purpose of forming a limited liability company pursuant to the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101, et seq.

The undersigned, being duly authorized to execute and file this Certificate of Formation, does hereby certify as follows:

1. Name. The name of the limited liability company (the "Company") is MarketFare Foods, LLC.

2. Registered Office and Registered Agent. The address of its registered office in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, Delaware, 19904. The name of its registered agent at such address is National Registered Agents, Inc.

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Formation as of the date first above written.



Rod Coleman  
Authorized Person

**CERTIFICATE OF MERGER**

**OF**

**GRENCORE DMS, INC.**

**WITH AND INTO**

**MARKETFARE FOODS, LLC**

The undersigned MarketFare Foods, LLC, a Delaware limited liability company, DOES HEREBY CERTIFY:

FIRST: The constituent business entities participating in the merger herein certified are:

(i) Grencore DMS, Inc., which is incorporated under the laws of the State of Delaware;  
and

(ii) MarketFare Foods, LLC, which is organized under the laws of the State of Delaware, successor by conversion to MarketFare Foods, Inc., a Delaware corporation.

SECOND: The Agreement and Plan of Merger, dated as of April 17, 2012 (the "Agreement and Plan of Merger"), by and among Grencore USA, Inc., a Delaware corporation ("Buyer"), Grencore DMS, Inc., a Delaware corporation and a direct wholly owned subsidiary of Buyer ("Merger Sub"), New York Life Capital Partners, L.P., a Delaware limited partnership (the "Seller"), and MarketFare Foods, LLC, a Delaware limited liability company ("Company"), has been approved, adopted, certified, executed and acknowledged by each of the constituent entities in accordance with the provisions of Section 18-209(b) of the Delaware Limited Liability Company Act and in accordance with the provisions of Section 264 of the General Corporation Law of the State of Delaware.

THIRD: The name of the surviving limited liability company in the Merger herein certified is MarketFare Foods, LLC, which will continue its existence as said surviving limited liability company upon the effective date of said Merger pursuant to the provisions of the Delaware Limited Liability Company Act (the "Surviving Company").


FOURTH: This Certificate of Merger, and the Merger, shall become effective at the time this Certificate of Merger is filed with the Secretary of State of the State of Delaware in accordance with the provisions of Section 264 of the General Corporation Law of the State of Delaware and Section 18-209 of the Delaware Limited Liability Company Act.

FIFTH: The executed Agreement and Plan of Merger is on file at the office and place of business of the Surviving Company at 12 Kent Way, Byfield, MA 01922.

SIXTH: A copy of the Agreement and Plan of Merger will be furnished by the Surviving Company, on request and without cost, to any stockholder or member of the constituent companies.

IN WITNESS WHEREOF, the Surviving Company has caused this certificate to be signed by an authorized officer on April 18, 2012.

MARKETFARE FOODS, LLC

By:   
Name: Rod Coleman  
Title: President and Chief Executive Officer