

SEPARATION AGREEMENT AND GENERAL RELEASE

This agreement ("Agreement") is made and entered into this _____ day of _____, 20____, in _____ (location), by and between _____, in his individual capacity ("Employee"), and _____ "Company").

RECITALS

WHEREAS, the parties recognize Employee, during the term of his employment with the Company, enjoyed access to a broad spectrum of information of a proprietary, operational or competitive nature not intended for disclosure to any entities outside the Company's employ.

WHEREAS, the Company desires to secure certain covenants and agreements from Employee (a) to prohibit any actions to engage in any actions deemed to be in competition with the business of the Company; (b) to prohibit the solicitation of the Company's customers or employees within defined geographic limits for a specified duration; (c) to preserve the confidentiality of certain proprietary information; (d) to release any and all claims which may have arisen during, or related to, his employment with the Company, and; (e) to prohibit either party to this Agreement from disclosing any terms or conditions of this Agreement to any entity.

NOW, THEREFORE, and in consideration of the promises, covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties agree and covenant to be bound to the following provisions:

TERMS AND CONDITIONS

1. Incorporation. The foregoing recitals are hereby incorporated and otherwise made a material part of this Agreement through this reference as if set forth here in full and represent additional consideration upon which both the Company and Employee consent to the terms of this Agreement.
2. Consideration. The consideration for all covenants and agreements contained herein shall be remitted in the following form and upon the following timetable. In exchange for Employee's faithful performance of all covenants, terms and conditions

of this Agreement, he shall be entitled to a payment from the Company in the aggregate amount of Ninety Thousand and 00/100 Dollars (\$90,000.00). Of this amount, the Company shall remit to Employee the sum of \$30,000.00 upon the execution and delivery of this Agreement. The Company shall remit the balance of \$60,000.00 to Employee in equal monthly installments over a period of twelve (12) months for each and every month Employee remains in compliance with the covenants and conditions contained in this Agreement.

3. Covenant to Not Compete.

- a) For a period of twelve (12) calendar months from the date of this Agreement, Employee shall not directly or indirectly, be a stockholder, employee, director or officer, consultant, independent contractor or agent of any entity doing business in competition with the Company.
- b) This covenant to not compete with the Company shall extend to all areas within the metropolitan area of _____ (location) which shall be defined as within a seventy-five (75) mile radius of _____ town's City Hall).
- c) For the purpose of this covenant, the Company's business is the purchase and sale of fresh or frozen fruits and vegetables in either a wholesale or a food service capacity.
- d) Employee hereby acknowledges that the terms and conditions of this covenant to not compete are fair and are reasonably necessary to protect the legitimate proprietary interests of the Company.

4. Non-Solicitation.

- a) Customers. For a period of twelve (12) calendar months from the date of this Agreement, Employee shall not directly or indirectly solicit, call upon, visit or otherwise contact any person or entity which had a customer relationship with the Company at any time during the term of Employee's employment with the Company or with whom Employee dealt during the term of his employment with the Company.
- b) Employees. For a period of twelve (12) calendar months from the date of this Agreement, Employee shall not directly or indirectly contact, solicit, divert or appropriate to any competing business, on his own

behalf or in the service of any substantially similar or competing business, any person or entity who is, at the time, an employee, agent or representative of the Company at any time during the two (2) year period prior to Employee's departure from the Company.

5. Confidentiality. Employee acknowledges and agrees that, during the term of his employment with the Company, he was provided with access to and actually received information, documents and materials of a confidential and proprietary nature to Company which he would not have received but for his position within the Company. Such information included, without limitation, customer and prospective customer data, pricing information, financial information about Company or its customers, marketing techniques, operational practices and occurrences and employment practices, policies or performance review data (collectively "Confidential Information"). Employee warrants and represents he has not taken with him, and does not currently possess any papers, files, documents or other materials containing any information about the Company, including any such materials which may refer to any Confidential Information.

Employee further acknowledges and agrees that any and all such information, including the Confidential Information, is an asset of Company, is of a confidential nature and not generally known to any entities outside the Company, and, in order to protect and preserve the goodwill of Company, the Confidential Information must be kept strictly confidential and not disclosed to any entity. Employee covenants and agrees he will not, without the prior written consent of Company, use for his own benefit or disclose to any person or entity any of the Confidential Information or other knowledge he may have acquired, directly or indirectly, during his employment with the Company. Employee agrees to remain liable for any and all damages in any way related to his failure to safeguard the confidentiality of such information, including any and all attorney's fees and costs the Company may incur to enforce the provisions of this covenant or any other terms of this Agreement.

6. General Release. **THIS IS A GENERAL RELEASE OF ALL CLAIMS**

For and in consideration of the payments provided for under the terms of this Agreement, and for other good and valuable consideration, from the Company to Employee, the receipt and sufficiency of which is hereby expressly acknowledged,

Employee, together with any of his heirs, agents, legal representatives, successors and assigns, or any person or entity acting for or on behalf of any of the foregoing entities' interests (collectively, the "Releasing Entities"), all forever remise, release and discharge the Company, together with any parent, division, subsidiary, affiliate, past or present officer, director, shareholder, agent, representative or attorney, or any successor or assign of any of the foregoing entities (collectively, the "Released Entities"), of and from any and all known or unknown action, cause, cause of action, suit, debt, sum of money, account, bond, bill, specialty, covenant, controversy, agreement, promise, variance, trespass, damage, judgment, execution, claim or demand, whatsoever, in law or in equity, for any reason and, without limiting the generality of the foregoing, this General Release shall specifically include any and all claims brought or which could be brought by, through or on behalf of any of the Releasing Entities against any of the Released Entities for any reason whatsoever.

Employee further states he has read this General Release in its entirety, has been advised to seek the advise of legal counsel to review its terms and explain such terms to him, and understands this document to be a general release of all claims by, against or between the Releasing Entities and the Released Entities, as defined herein, whenever any such claim may have accrued or may yet accrue, and further acknowledges, represents and warrants he is duly authorized to execute this document on behalf of all parties for which he acts and that he expressly intends to be legally bound by the terms of this General Release.

7. Non-disclosure of Agreement's Terms. Both parties to this Agreement hereby represent and warrant they will take no action to disclose the terms of this Agreement to any entity, for any reason.

8. Enforcement. The covenants contained herein shall be construed as independent covenants and the existence of any claim, demand or cause of action against the Company, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the Company's enforcement of such covenants. In the event any court or governmental agency should declare any covenant contained in this Agreement to be invalid, such invalidity shall not in any manner affect the validity or enforceability of any other covenant. Employee further agrees that a breach of any covenant contained herein will result in irreparable injury to the Company and, accordingly, in addition to other remedies provided by law, Employee consents to the Company's request and entitlement to the entry of an injunction to prevent any actual,

prospective or contemplated breach of such covenants.

9. Remedies for Breach. In the event Employee fails to perform as agreed herein, or otherwise fails to abide by any covenants and agreements recited in this Agreement, the following remedies shall be construed as cumulative and non-exclusive: the Company's obligations to continue making the monthly payment set forth in ¶ 2 of this Agreement shall immediately cease and Employee shall also be obligated to return any and all sums previously received from the Company pursuant to terms of this Agreement. Such monetary relief shall be in addition to the injunctive relief contained in the preceding paragraph.

10. Indemnification. Employee, together with all other Releasing Parties, jointly and severally, covenant and agree to indemnify and hold the Company and the Released Parties harmless from and against any loss, damage, expenses or other sums (including, without limitation, reasonable attorneys' and accountants' fees) suffered by the Company which arise out of, or relate to:

- a) any material misrepresentation by Employee or the breach of any term, covenant or agreement made by Employee in this Agreement;
- b) any effort by the Company to enforce the terms and conditions of this Agreement due to the failure of Employee to perform as agreed herein;
- c) all liabilities, obligations or claims against the Company or the Released Parties which arise out of, or in any way relate to, any events which took place during the term of Employee's employment with the Company;
- d) any and all liability for claims made against the Company by any federal, state or local governmental agency relating to any violation of any rule, ordinance, law, statute or regulation which occurred during the term of Employee's employment with the Company, and;
- e) any and all claims made against the Company by any former or current employee of the Company which arises out of, relates to, or was in any way motivated by a disclosure of the terms of this Agreement to any person or entity in violation of the covenant of confidentiality.

11. Assignment. Employee may not, without the prior written consent of the Company, assign, transfer or convey this Agreement, or any rights, interests or obligations hereunder, to any entity. The Company may assign or transfer any and all rights, interests or obligations hereunder, to any successor in interest or other entity, provided the assignee assumes all obligations to Employee as same are set

forth herein.

12. General Provisions.

- a) Entire Agreement. All understandings and agreements between the parties are merged into this Agreement which fully and completely expresses their agreement and supersedes any prior agreement or understanding relating to the subject matter. No modification or waiver of any provision of this Agreement shall be binding unless executed in writing by both Employee and the Company.
- b) Governing Law. This Agreement and the agreements contemplated herein shall be construed in accordance with and governed by the laws of the State of _____.
- c) Litigation. Any controversy or claim arising out of, or relating to, this Agreement shall be litigated in the State of _____.
- d) Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to be fully valid, enforceable and binding on the parties.
- e) Counterparts. This Agreement may be executed in several counterparts, all of which together shall constitute one instrument.
- f) Descriptive Headings. The descriptive headings of the several paragraphs of this Agreement are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

IN WITNESS WHEREOF, the parties hereto enter into this Agreement as of the date first set forth above.

(Employee) , both individually and on behalf of all Releasing Entities, as defined herein

(Company)

Sign: _____

By: _____

Print: _____

Its: _____

WITNESS:

Sign: _____

Print: _____