



### **Agreement for Insurance Advising Services**

This Memorandum of Agreement is required in order to comply with certain State Insurance Department regulations relating to licensed insurance advisers, as well as to outline services to be performed on your behalf and the terms of payment for such services and covering the following firms or entities (hereafter referred to as Client): Interstate Bakeries Corporation.

1. J.H. Albert International Insurance Advisors, Inc., dba Albert Risk Management Consultants, (hereafter referred to as Advisor) agrees to furnish services indicated below to Client, effective as of May 5, 2005.
2. Special Assignment – Loss Management and Risk Management Consulting

Specific services and fees as indicated in the proposal letter of 4/22/05 (attached as Exhibit 1 to this Agreement), except for the following terms that amends and supercedes the terms in the 4/22/05 proposal letter:

- a. Advisor's fees for services related to working with the Client, its insurance carriers and the claims administrators to evaluate, price and settle prepetition tort claims that have been properly filed and asserted against the Client and/or its estate shall be billed at an hourly rate of \$175;
  - b. Client may also request that Advisor work with Client's insurance carriers to evaluate, price and settle prepetition tort claims that have been properly filed and asserted against Client;
  - c. Client shall have the discretion to select the claims on which Advisor shall perform its services;
  - d. Client shall have the discretion to decide whether to use Advisor in negotiations with the Client's insurance carriers to reduce the letters of credit that are being held as collateral on the prepetition insurance programs; and
  - e. For claims that Client has reserved \$10,000 or less (the "Small Claims"), Advisor may spend a maximum of one (1) hour of time performing its services for each of the Small Claims. Advisor must receive written approval from Client to spend more than one (1) hour of time performing its services on any Small Claim.
3. All fees are in addition to charges for reasonable out-of-pocket expenses (such expenses include travel, lodging, food allowance, facsimile and telephone charges, express mail and outside photocopying).
  4. Either party may cancel services at any time by providing written notice to the other party. Such written notice should be sent to the party signing this Agreement and at the address listed below. In such event, Client shall promptly pay for services rendered by Advisor to date of cancellation.

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5. It is understood and agreed that Advisor will not undertake nor be responsible for Client's insurance account bookkeeping, the payment of premiums to agents, brokers and companies, the giving of notice of loss or filing proof of loss, the procuring and maintaining of insurances without specific written instruction and authorization, the securing of renewals of expired policies, or the replacement or reinstatement of cancelled policies. It is further understood and agreed that neither J. H. Albert International Insurance Advisors, Inc. nor its employees shall be responsible for the financial integrity of any insurer or organization providing insurance, risk management or other services to Client.
6. Client and Advisor each agree with the other that for the period described hereinafter ("Period") it will not solicit for employment, as a consultant or otherwise, (whether part-time, full time, during or after business hours) any person or persons employed by the other during the Period for services related to this Agreement. Solicitation does not mean public employment advertisements. The Period shall mean the period beginning on the date of this Agreement and continuing until one (1) year after the completion of all services performed by Advisor under this Agreement.
7. In order for the Advisor to perform its services, it will require the cooperation of the Client in providing access to necessary information. Accordingly, the Client agrees to provide Advisor with (1) all of the Client's existing policies of insurance in the area(s) that Client has asked Advisor to review, (2) all business, financial, or personal information requested by the Advisor; and (3) all such other information as shall be reasonably requested by Advisor. Advisor shall be entitled to rely, without further verification, upon the information provided by Client in providing advice and counseling to Client. Advisor shall bear no responsibility for the adequacy of, or failure to provide, advice to Client should Client fail to provide complete and accurate information to Advisor. Any information provided to Advisor by Client must be maintained at an appropriate level of confidentiality, and such information shall not be used by Advisor for any other purpose other than performing its services under this Agreement. Client shall have the right to seek the return of any and all information provided to Advisor by Client. Client's request for Advisor's return of information shall be made in writing and sent to the party signing this Agreement and at the address listed below.
8. Client understands that the Advisor is not serving as a risk manager for the Client, and as such does not assume the liabilities associated with such a position. Accordingly, except for situations where Advisor's conduct is willful and wanton, reckless or grossly negligent, to the fullest extent permitted by law, Client agrees that the total liability of Advisor, including its owners, officers, directors, employees, and agents, in the aggregate, for any and all claims the Client may have against the Advisor of any type, whether in law, equity, or subrogation, arising out of or relating to any alleged act, error, omission, misrepresentation, or breach by Advisor, shall not exceed the total compensation received by Advisor under this Agreement.
9. Prior to the initiation of any legal proceedings, subject to the limitation of liability contained in the preceding paragraph #8, the parties agree to submit all claims, disputes, or controversies arising out of or relating to any services provided under this Agreement to mediation. Mediation shall be conducted under the auspices of the American Arbitration Association in accordance with its then existing terms and procedures. The cost of mediation shall be borne equally by the parties. The party seeking to initiate mediation shall do so by submitting a formal written request to the other party to this Agreement and the American Arbitration Association. This provision shall survive completion or termination of this Agreement, but under no circumstances shall either party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceedings to litigate such a claim or dispute under the laws of the Commonwealth of Massachusetts.

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- 10. Client also agrees to pay Advisor for any time and expenses incurred which relate to litigation instituted by Client against third parties or by third parties against Client related to services under this Agreement, including but not limited to, time spent to comply with discovery orders, depositions, trial testimony, etc. It is agreed that the provisions of this paragraph shall survive the termination of this Agreement and that Client shall continue to be bound by its terms.
- 11. This Agreement represents the full and complete understanding of the parties hereto, and supercedes any and all other agreements, understandings, and exchanges, whether written or oral. Any change to this Agreement must be made in writing and signed by both Client and Advisor.
- 12. This Agreement shall be governed under the law of the Commonwealth of Massachusetts.
- 13. If any provision herein shall be held to be invalid, illegal or unenforceable, it shall be construed so as to be enforceable to the maximum extent permitted by applicable law, and the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired.

Both parties accept this Memorandum of Agreement as constituting the entire understanding between them with respect to all services to be rendered to Client and its compensation therefore. A copy of this agreement is to be retained by each party.

**Client:** \_\_\_\_\_

Accepted by: \_\_\_\_\_

Date \_\_\_\_\_

**J. H. Albert International Insurance Advisors, Inc.**

72 River Park  
Needham, MA 02494

Accepted by: \_\_\_\_\_ /s/ *Alfred Nagelberg*

Date May 5, 2005

Executed in duplicate on \_\_\_\_\_, 20\_\_

This Agreement is furnished as required by Section 177C of Chapter 175 of the General Laws of Massachusetts.