

MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ("Agreement") is made and entered into to be effective as of the 22 day of ~~JANUARY~~ 2008, by and between Bob Evans Farms, Inc., an Ohio corporation, having an office at 3776 South High Street, Columbus, Ohio 43207 ("Bob Evans"), and RESER'S FINE FOODS, INC, a(n) OREGON CORPORATION having an office at 15570 SW JENKINS ROAD, BEAVERTON, OR 97006 ("Company");

WITNESSETH:

WHEREAS, Bob Evans and Company desire to engage in discussions and information sharing to benefit their mutual business interests and relationship which will likely necessitate the disclosure by Company and Bob Evans to each other of certain of their and/or their Affiliates' proprietary, confidential and trade secret information and technology;

WHEREAS, Company and Bob Evans are willing to disclose such proprietary, confidential and trade secret information and technology solely for the purpose of enabling each other to freely engage in such discussions and information sharing to benefit their mutual business interests and relationship (collectively, the "Work") on the condition that such information and technology be kept confidential and not to be used except as provided hereby.

AGREEMENT:

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, and such other further consideration, the receipt and sufficiency of which is hereby acknowledged, Company and Bob Evans agree as follows, intending to be legally bound thereby.

Section 1. Certain Definitions. The following capitalized words have the following meanings in this Agreement:

(a) "Affiliates" means, with respect to any particular person or entity, any other person or entity controlling, controlled by or under common control with such person or entity.

(b) "Information" means all or any portion of any confidential or proprietary product or ingredient information (including recipes and formulas), product samples, product prototypes, manufacturing technology or processes, trade secret, business, financial, marketing, computer, pricing, operations, technical, vendor and customer (current and prospective) information, or other information, technology, data and materials, disclosed verbally or in writing by Company or Bob Evans to the other, or to which Company or Bob Evans obtains access from the other, or which is therefrom developed by Company or Bob Evans. Notwithstanding the immediately preceding sentence, the term "Information" does not include Information that either Company or Bob Evans establishes by competent evidence:

(i) was generally available to the public at the time of receipt thereof from the other or subsequently became generally available to the public, other than by disclosure by it;

(ii) was in its possession on a non-confidential basis from any source other than the other party prior to the time of receipt by it from the other party, provided that such Information is not known by it, after reasonable inquiry, to be subject to a confidentiality agreement between such source and the other party;

(iii) becomes available to it on a non-confidential basis from a source other than the other party, which source is not known by it, after reasonable inquiry, to be subject to a confidentiality agreement with the other party; or

(iv) was, or in the future is, developed independently by it without reference to the Information of the other party.

(c) "Representatives" means Affiliates, shareholders, members, partners, directors, officers, employees, representatives, consultants, principals and agents.

Section 2. Non-Disclosure of Information. Company and Bob Evans each acknowledges that the Information of the other is and shall remain the sole and exclusive property of the other, is valuable, special and unique to the other, and is the subject of and subject to measures designed to prevent it, in the ordinary course of business, from being available to persons other than those selected by the other party to have access thereto, and each agrees to:

(a) Use the Information of the other solely for the purpose of performing the Work, and in no event for any other purpose whatsoever;

(b) Restrict access to and disclose the Information of the other only to those of its Representatives, directly involved in the performance of the Work with a need to know such Information to perform the Work;

(c) Fully inform its Representatives of the contents of this Agreement prior to disclosing any of the Information of the other to such Representatives, and require that they agree not to use and to maintain the confidentiality of the Information pursuant to the provisions hereof as fully as if they were parties hereto, and Company and Bob Evans each agrees to be responsible for any failure of its Representatives to maintain such confidentiality;

(d) Not use or disclose any of the Information of the other except pursuant to paragraphs (a) through (c) above, or the fact that the Information of the other has been made available to it, except with the prior written consent of the other;

(e) Not attempt, by chemical or physical analysis or otherwise, to determine the composition of, or reverse engineer, any sample embodying any portion of the Information received from the other, or to determine the processes by which it was made, without the disclosing party's prior express written consent. Further, such samples will not be transmitted to any third party without the prior written consent of the disclosing party;

(f) Immediately return or destroy, at the discretion and upon the request of the other, all of the Information of the other, in whatever form, including all copies, summaries, analyses, compilations, extracts, notes, reports and other materials related thereto, whether or not prepared by or for it, and upon request of the other, such return or destruction shall be certified in writing by an authorized Representative supervising such return or destruction;

(g) Treat, hold and maintain the Information of the other with the highest degree of care, which shall be at least the same degree of care as it exercises in regard to its own Information, to prevent the disclosure of such Information other than in accordance herewith; and

(h) Immediately notify the other of any breach of this Agreement or misuse or misappropriation of the Information of the other which may come to its attention and provide all reasonable assistance necessary to minimize the effect of such occurrence.

Section 3. Permitted Disclosure. Notwithstanding anything to the contrary contained or implied in this Agreement, it is understood that, if either Company or Bob Evans is requested or required to disclose all or any portion of the Information of the other party other than in accordance with this Agreement, it will provide the other party with prompt notice thereof so that such party may seek appropriate protection or by mutual agreement waive compliance with the terms of this Agreement. It is further understood that, if in the absence of appropriate protection or the receipt of a waiver from the other party, either Company or Bob Evans is, in the opinion of its counsel, unconditionally compelled to disclose the Information of the other to any tribunal or else stand liable for contempt or suffer other material censure or penalty, it may disclose the same to such tribunal without liability hereunder.

Section 4. Remedies. Upon a breach of this Agreement by Company or Bob Evans, the non-breaching party may pursue all legal and equitable remedies available to it and will be entitled to recover its costs, expenses and reasonable attorneys' fees incurred in enforcing this Agreement. In furtherance of the foregoing, Company and Bob Evans agree that the disclosure of any Information in violation of the terms of this Agreement shall cause immediate and irreparable injury, loss and damage and that an adequate remedy at law for such injury, loss and damage may not exist. Therefore, Company and Bob Evans agree that, in the event of such disclosure or threatened disclosure through any means whatsoever, and in addition to any other remedy to which either may be entitled, each shall be entitled to institute and prosecute proceedings in a court of competent jurisdiction to obtain temporary and/or permanent injunctive relief to enforce any provision hereof, without the necessity of proof of actual injury, loss or damage.

Section 5. Intellectual Property. Nothing contained in this Agreement shall be construed as granting to Bob Evans or Company any right or license under any patent, trademark or other intellectual property or proprietary right of the other.

Section 6. Termination. Notwithstanding anything to the contrary herein, the obligations and restrictions herein on each party hereto and its respective Representatives with respect to each disclosure of Information by the other party shall terminate three (3) years after the date of such disclosure, except as to Information consisting of or containing the trade secrets of the other party, including without limitation, know how, formulas, recipes, processes, process knowledge and other similar information, as to which such obligations and restrictions will survive indefinitely except as otherwise provided herein.

Section 7. Notices. All notices, requests, demands or other communications required or permitted to be given under this Agreement shall be given in writing and shall be deemed to have been given if delivered by hand, certified mail, postage prepaid, recognized overnight courier or confirmed facsimile transmission, effective upon the receipt thereof, if given to the party to receive such notices, requests, demands or other communications at the address stated for such party below the signature area hereof. Either party to this Agreement may, by notice given in accordance with this Section 7, designate a new address for notices, requests, demands and other communications to such party.

Section 8. Duplicate Originals. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall be deemed to constitute a single instrument.

Section 9. Delay and Waiver. No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

Section 10. Entire Agreement. This Agreement constitutes the entire agreement between the parties in respect of the subject matter hereof and supersedes all prior and contemporaneous agreements between such parties in connection with the subject matter hereof.

Section 11. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns (including successive as well as immediate successors and assigns) of the parties; provided, however, that neither party may assign or in any way voluntarily transfer this Agreement, the Information of the other party, or its obligations hereunder, without the prior written consent of the other party.

Section 12. Modifications. This Agreement may be amended, changed and modified only in writing executed by both of the parties.


Section 13. Severability. If any clause, provision or section of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Agreement is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity or inoperability shall not affect the remainder thereof or any other clause, provision or section, or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into or taken thereunder or hereunder.

Section 14. Governing Law. This Agreement shall be governed by and construed in accordance with the local laws of the State of Ohio.

IN WITNESS WHEREOF, Company and Bob Evans have caused this Agreement to be executed by their respective duly authorized representatives to be effective as of the date first set forth above.

BOB EVANS FARMS, INC.

RESER'S FINE FOODS, INC
"Company"

By: 

By: 

Printed Name: RICHARD D. HALL

Printed Name: PAUL LEAVY

Title: SVP-CORPORATE PROCUREMENT

Title: CFO/TREASURER

Address:

Address:

Bob Evans Farms, Inc.
3776 South High Street
Columbus, Ohio 43207-0863
Attn: _____
Fax: _____

P.O. Box 8
BEAVERTON, OR 97075

Attn: _____
Fax: 503-277-5693