VENDOR DIRECT ACCESS AGREEMENT

This Agreement ("Agreement") effective as of the ____ day of _____, 20__ (the "Effective Date") is entered into by and between Wakefern Food Corp., a New Jersey corporation, with its principal offices at 5000 Riverside Drive, Keasbey, NJ 08832 ("Wakefern"), and _____, a _____, with its principal offices at _____ ("User").

BACKGROUND

WHEREAS, User is a vendor/supplier to Wakefern pursuant to those certain guidelines, terms and conditions agreed to by the parties; and

WHEREAS, User has requested and Wakefern has agreed to allow User access to the Wakefern computer system to automate certain aspects of the parties' vendor relationship; and

WHEREAS, Wakefern has consented to provide User access to its computer systems on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows intending to be legally bound:

I. ACCESS TO WAKEFERN COMPUTERS.

Wakefern hereby agrees to grant User access to Wakefern's Systems (as hereinafter defined) for purposes related to vendor relationship and the transactions contemplated by the parties thereby.

II. SECURITY, POLICY AND GUIDELINES.

Wakefern and User mutually agree to control and protect the integrity of the System and the information and data contained therein (the "Information") in order to minimize the probability of financial loss to Wakefern or to other users resulting from unauthorized use or disclosure of Information or destruction or other action that causes an inability to retrieve data generated from the System. In accordance with Wakefern policy, User shall be permitted to have access to the System and to enter or copy Information therefrom pursuant to the following terms and conditions:

    a) <u>Definitions</u>:

> "User" shall have the meaning ascribed in the opening paragraph of this Agreement.

> "Approved Users" means those persons employed by User, listed on Exhibit A hereto, and any other person authorized by Wakefern, according to procedures set forth in Section IV hereof, to access the System.

"User Data", means data generated by User to be supplied to Wakefern or data accumulated by Wakefern to be supplied to User in accordance with transaction or transactions contemplated by Wakefern, Member and User.

"Authorized Use" means access to the System for the downloading or updating of User data.

"System" means Wakefern's mainframe computer/distributed processing systems and associated hardware, the communications network linking Authorized Hardware, if applicable, to Wakefern's mainframe computer/distributed processing systems and all data and software, including application programs and operating systems, resident thereon.

"Authorized Hardware" means all hardware, including computers, dedicated line, info key, storage media and/or terminals located which are under User's control and which are provided or approved by Wakefern for Authorized Use.

III. ACCESS TO SYSTEM.

a) Wakefern will provide User with Ids and passwords necessary to access the System. Such Ids and passwords will be provided only to Approved Users employed by or under the control of User. A separate password will be assigned to each Authorized User and may not be disclosed to any other person, including another Approved User. Approved Users as of the date of this Agreement are those persons listed on Exhibit A hereto. In the event User wishes to permit a person who is not currently an Approved User to access the System, it will make a request in writing in the form of request attached hereto and incorporated herein as Exhibit A, to Wakefern. Such request will identify the person to whom User requests access be given and the type of access requested. Wakefern will respond in writing to all such requests within ten (10) business days of receipt and will not unreasonably deny such request. In the event Wakefern grants such request, such person will become an Approved User and Wakefern will assign an Id and password to such person. User shall immediately inform Wakefern of any Approved User who is scheduled to leave, or has left, the employ of User or who no longer is working on with System and requires access.

b) User agrees that it will not disclose or permit to be disclosed any password to any person who is not an Approved User to whom such password has been assigned.

c) Wakefern may, at its sole discretion, change any password necessary to access the System. Except as provided in Section X, Wakefern will provide notice of such changes to Approved Users so as to permit, where practical, uninterrupted access to the System by User.

IV. SECURITY PROCEDURES.

User agrees to conform and require each Approved User to conform in all respects and at all times to the security procedures set forth below and to any other reasonable procedures, which may be required from time to time by Wakefern.

a) User shall take all reasonable precautions to prevent access to the System by persons that are not Approved Users.

b) In the event Authorized Hardware and/or Communications Software are utilized, access should be to Approved Users.

c) User shall not load or attempt to introduce any program or data onto the System other than User Data.

d) In the event Authorized Hardware is used, User shall not load or operate, and will take all reasonable precautions to prevent the loading or operation, of any software, programs or data on the said hardware other than the User Data and software approved in writing by Wakefern.

V. AUDIT OF SECURITY PROCEDURES.

User agrees to provide Wakefern or Wakefern's agent or representative's access to User's premises during regular business hours for the purposes of inspecting the Authorized Hardware, if applicable, and any records or other materials relating to the operation of such Hardware or User's access to the System.

VI. CONFIDENTIALITY.

a) User acknowledges that its access to the System gives access to certain information, materials and data concerning Wakefern, ShopRite operators and vendors thereto, some of which may be competitors of User. User further acknowledges that all of the information, material and data to which it has access, is considered by Wakefern to be confidential and proprietary to Wakefern ("Confidential Information"). In consideration of receiving direct access to the Wakefern System, the User agrees to keep confidential and to not disclose or use, except in connection with Authorized Use either during or subsequent to the period of time which the User has access to the Wakefern System, the Confidential Information obtained by the User or disclosed to the User as a result of its access to the System.

b) User covenants and agrees that it will not use any Confidential Information, except in connection with its vendor relationship with Wakefern. User will take reasonable security precautions, at least as great as the precautions it takes to protect its own trade secrets, with respect to the Confidential Information which it receives. With respect to Approved Users employed by User, the User shall take any and all lawful measures to prevent the unauthorized use or disclosure of such information and to prevent unauthorized persons from obtaining or using such information. User agrees to refrain from directly or indirectly taking any action, which would constitute or facilitate the unauthorized use or disclosure of such information. User further agrees that only those of its employees, agents, officers or directors with a need to

know such information for the purposes of performing User's legitimate business will be provided with access to such confidential information.

c) The term Confidential Information does not include information which (i) becomes generally available to the public other than as a result of disclosure by User in breach of this Agreement; (ii) was available to User on a non-confidential basis as shown in written records prior to its disclosure to User by Wakefern; (iii) becomes available to User on a non-confidential basis from a source other than Wakefern; *provided* that such source is not bound by a confidentiality agreement with Wakefern or is otherwise prohibited from transferring the information to User by a contractual, legal or fiduciary obligation; or (iv) is independently developed by User without any use of or benefit from the Confidential Information and such independent development can be documented by Recipient with written records..

d) In the event User is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, it is agreed that User will provide Wakefern with prompt notice of such request(s) so that Wakefern may seek an appropriate protective order or other appropriate remedy and/or waive compliance with the confidentiality provisions of this Agreement. In the event that such protective order or other remedy is not obtained, or Wakefern grants a waiver hereunder, User may furnish that portion (and only that portion) of the Confidential Information which User is legally compelled to disclose and will exercise its reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

e) Promptly following the earlier of (i) the termination of this Agreement and (ii) the written request of Wakefern, User will deliver to Wakefern all documents or other materials furnished by Wakefern to User constituting Confidential Information, together with all copies thereof, including computer disks in the possession of User. In the event of such request, all other documents or other materials constituting Confidential Information with notes made thereon or about such Confidential Information, together with all copies thereof in the possession of User, will be destroyed with any such destruction confirmed by Recipient in writing to Disclosing Party.

f) User shall notify Wakefern immediately of any security or confidentiality violations of which it becomes aware. In such case User agrees to terminate access to Wakefern's System until Wakefern has re-authorized User to access the Wakefern System. In addition, User shall cooperate fully with Wakefern to protect Wakefern' System and Information and will report to Wakefern any suspected inadequacy of physical or communications security.

g) The provisions of this Section VI shall survive the expiration or termination of this Agreement.

VII. WARRANTIES OF USER.

User represents and warrants that it has the right, power and authority to enter into this Agreement and bind itself and the Approved Users to the terms and conditions herein. User further represents and warrants that:

a) It will not access, and will take all reasonable precautions to prevent access to, the System for any purpose or use which is not an Authorized Use, including:

i) Loading or operating any software or programs on the Authorized Hardware, if applicable, or System other than software or programs provided to it or approved, in writing, by Wakefern;

ii) Introducing, storing or withdrawing data on or from the System which is not User Data;

iii) Introducing viruses, any other software, programs or data, which have, or are intended to have an adverse effect on the System; or

iv) Reviewing or withdrawing Information, which is not derived from User Data.

b) It will take all reasonable precautions to prevent access to or use of the System by any person who is not an Authorized User.

c) It will not communicate or attempt to communicate with the System with any unauthorized software tools.

d) It will conform to the security procedures and requirements set forth in this Agreement.

e) It will conform to procedures and requirements for the treatment of confidential information set forth in Section VII.

f) All User Data provided by User to Wakefern, by downloading such data onto the System or otherwise, will be free of defects and will accurately reflect the information provided to User for processing and conform in all respects to the data format agreed upon by Wakefern and User.

VIII. WAIVER.

Except for the gross negligence or willful misconduct of Wakefern, User hereby agrees that, in entering into this Agreement, it assumes all risks for any and all liabilities, losses, costs, damages or expenses, which it may incur based on, arising out of or related to its use of, or access to, the System, Communications Software or Authorized Hardware, if applicable. User further expressly agrees for itself, its successor and its assigns and all other persons under its control, not to bring, or cause to be brought, any action or proceeding in any court or other forum, any claim or demand against Wakefern, its members or shareholders, or any of their respective officers, employees, agents,

representatives, successors or assigns, based on, arising out of or related to its use of or access to the System, Communications Software or if applicable, Authorized Hardware, as the case may be.

IX.   INDEMNIFICATIONS.

   a) User hereby agrees to indemnify and hold harmless Wakefern, its members and shareholders, and any of their respective shareholders, officers, employees, agents, representatives, successors and assigns ("Wakefern Indemnitees"), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs (including reasonable legal costs and attorneys' fees), expenses and disbursements of any kind or nature whatsoever, which may be imposed on or incurred by Wakefern Indemnitees, arising out of or related to (i) any negligent act or omission of User or any Authorized User, respecting its use of, or access to, the System; (ii) User's breach of any representation or warranty or failure to adhere to any security procedures set forth in this Agreement; or accidents to persons or property pertaining to User or employees of User, whether occasioned by User, by said employee or by Wakefern or its employees or any other person or persons caused by the negligent acts or omissions of User or any Authorized User; provided that Wakefern gives User (x) prompt written notice of any such claim or threatened claim; (y) sole control of the defense, negotiations and settlement of such claim; and (z) full cooperation in any defenses or settlement of the claim. The foregoing indemnification obligation shall not apply to the extent that such claim or loss is caused by the gross negligence or omission of Wakefern.

   c) User shall at all times during the period that is permitted access to the System, keep in force, at its own expense, comprehensive general liability insurance sufficient to cover the indemnifications in naming Wakefern, its subsidiaries and affiliated companies as additional named insured.

X. –TERM AND TERMINATION.

   a) User's authorization to access and use the System shall terminate upon termination of its vendor relationship with Wakefern, unless earlier terminated in accordance with this Section X.

   b) In the event Wakefern, in its sole and absolute discretion, determines that User has breached, or is likely to breach, any of the representations and warranties contained herein, or that User has failed to adhere to in any respect to any security procedure reasonably established by Wakefern, Wakefern may terminate without prior notice, User's authorization to use the System and deny User further access to the System. Wakefern will promptly inform User of the reasons for termination and provide User a reasonable opportunity to dispute such termination.

   c) Wakefern's termination of the User's access to the System pursuant to this Section shall not limit or constitute a waiver of any claim Wakefern may have against User for breach of any term of this Agreement.

d) Notwithstanding anything herein to the contrary, User's obligations with respect to Wakefern's Confidential Information will survive termination of this Agreement.

XI.   NO OWNERSHIP; INDEPENDENT PARTIES.

Nothing in this Agreement, or in the course of User's dealings with Wakefern, will be construed as granting any ownership rights in User or any third party to the System or any Information received or obtained from Wakefern. Except as expressly set forth in this Agreement, Wakefern expressly reserves all rights, title and interest in and to its System and Information. Nothing in this Agreement shall be construed to create a joint venture, partnership, agency relationship, or any other form of joint enterprise between the parties. Neither party has the authority, without the other party's prior written approval, to bind or commit the other party in any way.

XII.   REMEDIES.

User acknowledges that money damages would be both incalculable and an insufficient remedy for any breach of this agreement by User and that any such breach would cause Wakefern irreparable harm. Accordingly, User also agrees that, in the event of any breach or threatened breach of this Agreement, Wakefern, in addition to any other remedies at law or in equity it may have, shall be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance.

XIII. NOTICES.

All notices hereunder shall be in writing, and shall be given personally, by facsimile, certified mail or by overnight courier to the persons and the addresses set forth below.

> If to Wakefern:
>
> Wakefern Food Corp.
>
> _____
> _____
> Attention: _____
> Tel: _____
> Fax: _____
>
> With a copy to:
>
> Wakefern Food Corp.
> 5000 Riverside Drive
> Keasbey, NJ 08832
> Attention: General Counsel
>
> Fax: 732-512-6385

If to User:

(Please provide a contact name within the company, email or phone number within the company, and company's address.)

Contact Name: _____

Contact's email: _____

      OR

Contact's Telephone: _____

Company Address: _____

      With a copy to:

Any party may from time to time change its address for receiving notices or other communications by providing notice to the other party in the manner provided in this Section XII.

XIV. <u>GOVERNING LAW.</u>

This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey applicable to agreements entered into and performed wholly within the State of New Jersey, and without regard to its conflict of law principles.

XV. <u>AMENDMENTS.</u>

This Agreement may not be and shall not be deemed or construed to have been modified, amended, rescinded or canceled in whole or in part, except by written instrument signed by the parties hereto, which written instrument makes specific reference to this Agreement and which specifies that this Agreement is being modified, amended, rescinded or canceled.

XVI. <u>SEVERABILITY.</u>

If any provision of this Agreement shall be declared invalid or illegal for any reason whatsoever, then, notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein.

XVII. <u>WAIVERS.</u>

No failure on the part of Wakefern to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or a future exercise thereof or the exercise of any other right or remedy granted hereby, or by any related document, or by law. Any failure of User to comply with any obligation contained in this Agreement may be waived by Wakefern only by a written instrument duly executed and delivered by Wakefern, which instrument makes specific reference to this

Agreement and the provision to which it relates and describes the right or obligation consented to, waived or purported to be violated.

XVIII. ENTIRE AGREEMENT; NO ASSIGNMENT; COUNTERPARTS.

This Agreement contains the entire agreement and understanding between the Parties hereto relating to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter

hereof. This Agreement may not be assigned by User by operation of law or otherwise without the written consent of Wakefern, in its sole and absolute discretion. This Agreement may be executed in several counterparts, each of which will be deemed an original, and all of which taken together will constitute one single Agreement between the parties with the same effect as if all the signatures were upon the same instrument.

XIX. HEADINGS.

The headings of this Agreement are intended solely for convenience of reference and shall be given no effect in the interpretation or construction of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

	WAKEFERN FOOD CORP.
Company Name	
By:_____	By:_____
(Signature)	(Signature)
Name: _____	Name:_____
Title: _____	Title: _____

Exhibit: A   **Agreement Regarding Direct Access to Computer System(s) of Wakefern Food Corp.**

Access should be granted to the following associate(s) of _____ AP Vendor # _____
<div align="center">(PRINT Company / Vendor Name)</div>

Check ALL that apply:

<table>
<tr><td>NAME (include middle initial)
(PLEASE PRINT)</td><td align="center">FUNCTION</td></tr>
<tr><td>

Add/Delete_____

Existing Wakefern User ID _____

</td><td>

☐ VRA1   **Add Vendor Billing** (Vendors billing via the Internet ONLY)

☐ VRA2   **Do you have / need access to more than one vendor #?**
    (If yes, please list all vendor numbers below)

AP Vendor # _____   _____   _____   _____

☐ DIR1   **Check Inquiry** (DIR3 Remittance, VRR1 Remittance)

☐ VRD1   **Vendor Data** (VRD2 Vendor Details; VRD3 Invoice Audit Trail)
_____

</td></tr>
<tr><td>

Add/Delete_____

Existing Wakefern User ID _____

</td><td>

☐ VRA1   **Add Vendor Billing** (Vendors billing via the Internet ONLY)

☐ VRA2   **Do you have / need access to more than one vendor #?**
    (If yes, please list all vendor numbers below)

AP Vendor # _____   _____   _____   _____

☐ DIR1   **Check Inquiry** (DIR3 Remittance, VRR1 Remittance)

☐ VRD1   **Vendor Data** (VRD2 Vendor Details; VRD3 Invoice Audit Trail)
_____

</td></tr>
<tr><td>

Add/Delete_____

Existing Wakefern User ID _____

</td><td>

☐ VRA1   **Add Vendor Billing** (Vendors billing via the Internet ONLY)

☐ VRA2   **Do you have / need access to more than one vendor #?**
    (If yes, please list all vendor numbers below)

AP Vendor # _____   _____   _____   _____

☐ DIR1   **Check Inquiry** (DIR3 Remittance, VRR1 Remittance)

☐ VRD1   **Vendor Data** (VRD2 Vendor Details; VRD3 Invoice Audit Trail)

</td></tr>
</table>

Email address for Proof of Delivery (POD) Requests: _____

Email Address for Vendor Error Notification: _____
 (Group email if applicable)

Authorized Representative SIGNATURES:

<table>
<tr><td></td><td align="center">FOR WAKEFERN USE ONLY:</td></tr>
<tr><td>

_____
<div align="center">(PRINT Company Name)</div>

By: _____
<div align="center">(Signature)</div>

_____
<div align="center">(PRINT Name)</div>

_____
<div align="center">(Title)</div>

Date: _____

</td><td>

By: _____
<div align="center">(Signature)</div>

_____
<div align="center">(PRINT Name)</div>

_____
<div align="center">(Title)</div>

Date: _____

</td></tr>
</table>

Strictly Confidential – Wakefern Food Corp.   10