

EXHIBIT A

Program Agreement

PROGRAM AGREEMENT

THIS AGREEMENT entered into by and between OLD REPUBLIC INSURANCE COMPANY, Greensburg, Pennsylvania (herein, "Old Republic"), and GOLD KIST INC. (FEIN #910862317), Atlanta, Georgia (herein, "Insured").

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0255560

WITNESSETH:

WHEREAS, the Insured has requested Old Republic to issue to it for its benefit and for the benefit of its subsidiaries or affiliates, effective July 1, 1998, certain Workers' Compensation and Employers' Liability, Automobile Liability and Commercial General Liability insurance coverages with respect to the Insured's operations and those of its subsidiaries or affiliates, and Old Republic has agreed to do so on the terms and conditions set forth below, as well as those in the insurance policies it issues to Insured.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein set forth, and intending legally to be bound, the parties agree as follows:

1. **Insured and its Subsidiaries**

This Agreement is entered into by the Insured for its own benefit and, subject to section 3 below, the benefit of the Insured's subsidiaries or affiliates, and shall be a binding obligation of Insured and its subsidiaries and affiliates.

2. Application and Effective Date

This Agreement, and the Schedules A, B and C attached hereto, which are a part of this Agreement, applies to each and every one of the insurance coverages described in section 3 below. This Agreement will be effective as of the effective date(s) of such insurance coverages as shown on Schedule A and will continue in full force and effect until terminated in accordance with the provisions of section 15 hereof.

3. The Insurance Coverages

Old Republic will issue to Insured, for the Insured's own benefit and for the benefit of such of the Insured's subsidiaries or affiliates as the Insured designates from time to time, Old Republic's policies as shown on Schedule A. Coverage will be provided under the Policies in the amounts and with such retentions and/or deductibles, if any, as are set forth in the Schedule A attached hereto. Any renewals shall be set forth on an Addendum to Schedules A, B and C. In addition to the standard exclusions, the Policies will be endorsed as the parties may agree to from time to time.

4. Definitions

As used in this Agreement:

- (a) "Loss" or "Losses" means any claim or claims for which there is coverage under any one of the Policies, and any extra-contractual, punitive or exemplary damages liability which may be covered or imposed under or with respect to any of the Policies.
- (b) "Allocated Loss Adjustment Expenses" means the expenses which are incurred in conjunction with the defense, adjustment or settlement of claims made under any

one of the Policies and which are allocable to such claims according to generally accepted insurance industry practices; such expenses include allocable medical and legal costs, attorneys' fees, costs of appeals bonds, interest accrued before and after judgment, expenses incurred in obtaining recovery against any third party, and the fees and expenses to any firm or company to render any field investigation with respect to claims arising under any of the Policies, but such expenses do not include any ordinary office expenses of Old Republic or any wages or salaries paid to Old Republic's employees, nor the unallocated fees or charges of any third party claims administrator selected in accordance with the provisions of section 10 below.

- (c) "Insured's Retention" means the amount, if any, of each and every occurrence, which is retained by the Insured or its insured subsidiaries or affiliates, indicated on Schedule A as the retention of the Insured on each of the Policies.
- (d) "Occurrence" has the same meaning as that given it under the related terms of the respective Policies.
- (e) "Collateral Requirement" means the sum of the estimated incurred losses less loss amounts paid and allocated loss adjustment expenses applicable to the Insured's Retention, determined from time to time by Old Republic, which will include Old Republic's estimates of case reserves for such losses and expenses outstanding as of the date of such estimate or calculation, and reserves for such losses incurred but not reported, together with an estimate of future allocated loss adjustment expenses applicable thereto.
- (f) "Policies" means the insurance policies issued by Old Republic to the Insured which are set forth on Schedule A.

5. Premium Charges

5.1. The premiums for each of the Policies are payable to Old Republic as provided in Schedule C.

5.2. The premiums for the Policies will be subject to adjustments based upon Old Republic's rights of audit under the terms of the Policies, and will also be subject to adjustment to reflect the addition or deletion of any subsidiaries as named insureds under the Policies during the term of coverage.

6. Allocated Loss Adjustment Expenses

Under policies for which Schedule A specifies that the Insured's Retention amount is inclusive of Loss and Allocated Loss Adjustment Expense, such expenses incurred with respect to each occurrence shall be the responsibility of the Insured to the extent that the sum of Loss and Allocated Loss Adjustment Expenses paid by the Insured in any one accident or occurrence does not exceed the amount of the Insured Retention.

Under policies for which Schedule A specifies that the Insured's Retention amount is inclusive of Loss only, Allocated Loss Adjustment Expenses incurred with respect to each occurrence will be pro-rated between the Insured and Old Republic in the same ratio as each party is required to pay toward the loss, net of allocated loss adjustment expenses. For purposes of such pro-ration, any extra-contractual, punitive or exemplary damages will be excluded from the amount of the net loss. Allocated Loss Adjustment Expenses with respect to losses which are entirely within the Insured's Retention, as well as claims which are successfully defended and result in no loss payment will not be pro-rated but will be fully the responsibility of the Insured.

7. Hold Harmless

7.1. In consideration of Old Republic's agreement to enter into this Agreement and to issue the Policies on the terms and conditions set forth in this Agreement, including entering into an agreement for third party administration of claims in accordance with section 10 below, the Insured hereby unconditionally agrees to indemnify and hold Old Republic harmless from all claims, losses, costs and expenses which Old Republic may incur or suffer (net of reinsurance recoveries by Old Republic) under the Policies or this Agreement or any third party claims administration agreement, or for which Old Republic may be held liable by a final order of a court or regulatory authority as a result of issuing such Policies and entering into this Agreement or such third party claims administration agreement. Such indemnification obligations do not extend, however, to any liability suffered or incurred by Old Republic as a direct result of its own negligence, willful misconduct, or lack of good faith in performing or failing to perform its obligations under this Agreement and the Policies. The liability to indemnify Old Republic hereunder will remain in full force and effect, notwithstanding any change in the ownership or control of the Insured or its subsidiaries or affiliates insured under the Policies, for as long as this Agreement remains in effect.

7.2. In further consideration of the fact that Old Republic may from time to time be requested by the Insured to file certificates or other evidence of insurance with various regulatory authorities and others certifying to coverage other than and/or ^{with} limits in excess of those provided on the subject policies, the Insured hereby agrees to indemnify and hold harmless Old Republic against any claim, loss or expense occasioned by a requirement to pay a loss, provide a defense against a claim or incur any other expense which would not have been paid, provided or incurred except for the issuance of such certificate or evidence of insurance. This obligation of the

Insured to hold harmless and defend Old Republic shall not be limited by the amount of the Insured's Retention.

8. No Aggregate or Stop Loss Coverage

Notwithstanding the limits of the Insured's Retention as to any one occurrence, there is no limitation of the Insured's liability on a cumulative or aggregate basis, and it is understood that under the terms and conditions set forth in this Agreement, Old Republic does not undertake to limit Insured's liability with respect to coverage within Insured's Retention through any aggregate, stop loss or similar protection.

9. Letters of Credit

9.1. As security for the payment of all of the foregoing charges, other charges and adjustments, as well as for the indemnification obligations and the loss and loss expense funding obligations described in section 10 below, the Insured will provide to Old Republic one or more clean, unconditional, irrevocable Letters of Credit establishing credits in favor of Old Republic or other security acceptable to Old Republic in the aggregate sum equal to the Collateral Requirement. Such Letter(s) of Credit will be issued by a bank(s) which is a member of the Federal Reserve System and is acceptable to Old Republic. The form of the Letter(s) of Credit will be a form acceptable to Old Republic (see Appendix A). Each such Letter of Credit will be issued for a term of at least twelve (12) months and shall be, by its terms, subject to an unlimited number of automatic renewals thereafter for additional terms of at least twelve (12) months, unless the issuer bank advises Old Republic in writing of its intention not to have the Letter(s) of Credit renewed at least thirty (30) days prior to the next expiration date. In that case, the Insured must furnish Old Republic, within not less than ten (10) business days before the expiry date, with a

replacement Letter(s) of Credit issued to Old Republic by an equally acceptable bank(s), or other security as may be acceptable to Old Republic, establishing credit or security in an amount equal to the credit which remained under the Letter(s) of Credit being replaced. Such security will remain in place until all ultimate incurred losses and allocated loss adjustment expenses under the Policies have been paid, unless such security has been exhausted before then by drafts on the Letter(s) of Credit.

- 9.2. At such times as Old Republic deems it appropriate or necessary, before and after the expiration or any cancellation of coverage under the Policies, until all liability of Old Republic with respect to the Policies has been concluded or has terminated in the ordinary course, Old Republic will prepare a statement (hereinafter "Statement of Collateral Requirements") indicating the Estimated Ultimate Incurred Loss and Allocated Loss Adjustment Expense amounts outstanding under the Policies, within the Insured's Retention for each policy term under this Agreement. From the amounts indicated, all sums drawn by Old Republic under the Letter(s) of Credit and not returned to the Insured will be subtracted. With each Statement of Collateral Requirements, the amount of credit then remaining available to Old Republic under the Letter(s) of Credit provided to it hereunder will be adjusted, as necessary to equal 70% of the amounts indicated on the statement. It is understood that Old Republic's willingness to accept less than 100% security from Gold Kist is dependent on no material ^{adverse} changes in the net equity shown on Gold Kist's audited year end financial statements, no ^{material adverse} changes to the ownership position and no voluntary or involuntary filing of bankruptcy by Gold Kist and that any such material changes will give Old Republic the right to request 100% security and Gold Kist will honor such a request. If the result of such calculation exceeds the amount of credit remaining available to Old Republic under the Letter(s) of Credit it holds as of the calculation date, the Insured will provide Old Republic with additional credit or Letter(s) of Credit equal to the amount of such excess within fifteen (15) days of the

Insured's receipt of the Statement of Collateral Requirements. If the result of the above calculation is less than the remaining credit available to Old Republic under the Letter(s) of Credit it then holds, the total amount of such credit will be reduced by the amount of such difference, and Old Republic will execute any document necessary in order to reduce the amount of such credits in accordance with this section.

9.3. Old Republic or its successors in interest may draw upon any Letter of Credit at any time and from time to time, and such funds shall be applied without diminution because of the insolvency of Insured or Old Republic, for one or more of the following purposes only:

- a. to reimburse Old Republic for Insured's share of losses or allocated loss adjustment expenses paid by Old Republic under Insured's Retention;
- b. to fund an account with Old Republic for the full amount secured under this Agreement by Letter of Credit in the event Insured has failed to replace timely any expiring Letter of Credit as required by paragraph 9.1. hereof or to adjust timely the amount secured hereunder as required by paragraph 9.2. hereof, and such failure would result in a deficiency in the total amount secured by Insured as reflected in the most recent statement of Collateral Requirements furnished by Old Republic;
- c. to fund an account with Old Republic for the full amount secured by Letter of Credit in the event of the filing of a voluntary or involuntary petition in bankruptcy by Insured, the insolvency of Insured, the admission in writing by Insured of its inability to pay its debts as they become due, or a general assignment by Insured of its assets for the benefit of creditors;

- d. to pay any other amounts Old Republic claims are due to it under the Policies or this Agreement.

In the event Old Republic draws upon a Letter of Credit pursuant to items (b) or (c) above, Old Republic will be free to hold the proceeds thereof, without liability for interest thereon, until Insured has fully remedied the circumstance for which the draw was made, whereupon Old Republic shall promptly return the proceeds held by it, less portions allocable to amounts due it under item (a) above, upon receipt of written instructions from Insured, signed by a duly authorized officer of Insured, indicating to whom such return is to be made.

10. Claims Administration

- 10.1. Claims arising under the Workers' Compensation and Employers' Liability Policies will be administered by a third party claims adjusting firm approved by and under contract with Old Republic. Claims arising under policies other than Workers' Compensation and Employers' Liability may be administered by a third party claims adjusting firm under contract with either the Insured or Old Republic. Fees and expenses for such services will be strictly the responsibility of the Insured.
- 10.2. If claims under the policies are not adjusted by a third party claims adjusting firm under contract with Old Republic, Insured will provide a monthly report to Old Republic showing the status of all claims including details of payment and outstanding reserves in a format acceptable to Old Republic.
- 10.3 The Insured will fund an imprest account (Escrow Account) directly with the third party adjusting firm to be used for the payment of losses and loss expenses within the Insured's Retention. In the event said funds are deemed insufficient by Old

Republic or the third party administrator, it will be the responsibility of the Insured to replenish and/or increase the funds to the required level.

10.4. It is understood and agreed, and will similarly be understood and agreed by any third party claims administrator, that, except as otherwise provided herein, in the event of any disagreement as to case reserves, allocated loss adjustment expenses, claims handling decisions, the choice of defense counsel or claims administrators, the final authority will rest with Old Republic in its sole discretion. In the event the claims administrator ceases to provide the services required of it or is unable to provide such services, for whatever reason, and an acceptable replacement is not immediately engaged, and the Insured does not select another which is reasonably acceptable to Old Republic, Old Republic will have the option of selecting one of its own choice or assuming the claims administration function itself until a reasonably acceptable administrator is selected. For any such period of time, Old Republic will be entitled to receive claims administration fees and reimbursement equal to the greater of what the unacceptable administrator would have been paid for the same services, or to what any one of the national claims administration firms would have charged for the same services.

11. Breach of Obligations

If the Insured fails to perform in a timely manner any obligation due Old Republic hereunder at any time during the term of the Policies, and if such failure continues for at least (10) business days following the Insured's receipt of written notice of such failure, Old Republic will have the option of canceling all of the Policies for non-payment of charges, and any such cancellation shall be deemed to have been made at the Insured's request. Old Republic may, at its sole discretion, draw on the Letter(s) of Credit or other security furnished to it under this Agreement in payment of the monies due from the Insured, but will be under no obligation to do so and will be free instead to cancel the Policies and retain the Letter(s) of

Credit or other security furnished as security for the payment of losses, allocated loss adjustment expenses and other expenses subject to indemnification under section 7.

12. Renewal Option

Old Republic is under no obligation, and unless otherwise agreed to in writing, Old Republic will not be under any obligation in the future, to renew any of the coverages under the Policies or to offer renewal of the coverages under the same terms and conditions following the expiration of the Policies. If Old Republic elects not to renew and/or to cancel coverage, it will furnish to Insured of its intent not to renew and/or cancel consistent with the terms and conditions of the Policies.

13. Joint Obligations

The obligations set forth in the preceding sections 5, 7, 9.1, 9.2, and 10 are obligations of the Insured and its insured subsidiaries and affiliates jointly and severally. While Old Republic agrees to look primarily to the Insured for all such obligations, its recourse is not limited to the Insured, and Old Republic has the right at all times to hold any or all of the insured subsidiaries and affiliates liable for any such obligations due it. The Insured hereby expressly represents and warrants that it is authorized to enter into this Agreement on behalf of, and to bind, its insured subsidiaries and affiliates to this section 13 and all of the other terms and conditions hereof, and stipulates that the foregoing representation and warranty is material and has been specifically relied upon by Old Republic in entering into this Agreement and agreeing to issue the Policies.

14. Financial Statements, Access to Records

14.1. Annually while this Agreement remains in force, the Insured will provide to Old Republic copies of audited financial statements for the Insured and its insured

subsidiaries and affiliates and the Insured's 10K and 10Q Reports to the Securities and Exchange Commission, each of which will be mailed to Old Republic within thirty (30) business days after the date on which such documents are filed with the Securities and Exchange Commission. In the event the Insured ceases to be a reporting company required to file such forms, it will provide Old Republic with copies of quarterly financial statements certified by its chief financial officer and annual financial statements certified by independent auditors within sixty (60) days after the end of each calendar quarter and within one hundred and twenty (120) days after the end of each calendar year while this Agreement remains in effect.

14.2. At all times while this Agreement remains in effect, Old Republic will have full and free access to the books and records of the Insured, its subsidiaries and affiliates insured under the Policies, and those of the third party claims administrator(s) described above, as respects information pertaining to the subject coverages. Such access will be limited however, to normal business hours and shall be afforded only at reasonable intervals and upon reasonable prior written notice.

15. Term and Duration

All of the foregoing terms and conditions will remain in full force and effect while the Policies remain in force and effect, and those described in section 4, 5, 6 through 10.3, 13, 14 and 16 through 24 will survive any breach or cancellation of the Policies, as well as the normal expiration of the Policies, and will remain in full force and effect until all losses and allocated loss adjustment expenses covered under the Policies have been paid or otherwise concluded.

16. Entire Agreement, Amendment

Apart from any agreement entered into for the administration of claims by a third party claims adjuster, this Agreement, together with the Policies issued hereunder, represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement may only be changed by written amendment signed by duly authorized officers of the respective parties. No other change will be binding or enforceable.

17. Governing Law

This Agreement will be governed in all respects by the laws of the state of Illinois.

18. Notices

All notices or other communications required hereunder will be in writing, sent by registered mail to:

OLD REPUBLIC INSURANCE COMPANY
445 South Moorland Rd., Suite 300
Brookfield, WI 53005
Attention: Barry Martin

GOLD KIST INC.
P.O. Box 2210
Atlanta, GA 30301
Attention: Paul Pressley

or such other addresses as may be designated in the same manner from time to time.

19. No Waiver

The failure on any occasion by either party to enforce the terms of this Agreement will not be deemed or construed as a waiver of that party's right to enforce those or any other terms of this Agreement on any other occasion.

20. Construction

The terms and conditions of this Agreement will be liberally construed so as to give the fullest possible effect to the intentions of the parties.

21. Severability

If any term or provision of this Agreement is in violation of the law of any state, such term or provision shall be void in the jurisdictions where it is unlawful. The remainder of this Agreement shall remain binding on the parties so that the terms of this Agreement are binding only to the extent lawful under applicable laws. If any provision of this Agreement is determined by a court of law to be unenforceable, the parties hereto agree, and it is their desire, that the court shall limit such provision to the extent necessary to be deemed enforceable by such court. As so modified, the provision shall be binding upon the parties as if originally set forth herein.

22. Assignment

Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party.

23. Remedies

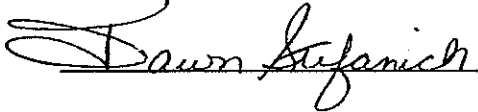
The rights and remedies granted to the parties hereunder will be in addition to, and not in lieu of, any rights or remedies they may otherwise have.

24. Successors

The terms and conditions of this Agreement will be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers on the 12 day of January, 1999.

ATTEST:



OLD REPUBLIC INSURANCE COMPANY

BY: 

TITLE: Vice President

DATE: 1/12/99

ATTEST:



GOLD KIST INC. for itself and on behalf of its
insured subsidiaries and affiliates

BY: 

TITLE: CFO

DATE: 2/2/99

APPENDIX A - LETTER OF CREDIT

For Internal Identification:

Purposes Only

Our No. _____ Other _____

Applicant _____

(Issue Date)

IRREVOCABLE LETTER OF CREDIT NO. _____

TO: (Beneficiary)

We hereby establish this irrevocable Letter of Credit in favor of the aforesaid addressee ("Beneficiary") for drawings up to United States \$ _____ effective immediately. This Letter of Credit is issued, presentable and payable at our office at (issuing bank's address) and expires with our close of business on _____, 19____.

The term "Beneficiary" includes any successor by operation of law of the named Beneficiary including, without limitation, any liquidator, rehabilitator, receiver or conservator.

We hereby undertake to promptly honor your sight draft(s) drawn on us, indication our Credit No. _____, for all or any part of this Credit if presented at our office specified in paragraph one on or before the expiry date or any automatically extended expiry date.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. The obligation of (issuing bank) under this Letter of Credit is the individual obligation of (issuing bank), and is in no way contingent upon reimbursement with respect thereto.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiry date hereof, or any future expiration date, unless 30 days prior to any expiration date we notify you by registered mail that we elect not to consider this Letter of Credit renewed for any such additional period.

This Letter of Credit is subject to and governed by the Laws of the State of New York and the 1993 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500) and, in the event of any conflict, the Laws of the State of New York will control. If this Credit expires during an interruption of business as described in Article 17 of said Publication 500, the bank hereby specifically agrees to effect payment if this Credit is drawn against within 30 days after the resumption of business.

Very truly yours,

(Issuing Bank)