



**PURE FOOD GUARANTY AND INDEMNIFICATION AGREEMENT**  
(Continuing Form)

**Tyson Foods, Inc., for itself and its wholly-owned subsidiaries** (“Seller”), guarantees that the articles of food (the “Products”) sold by Seller to **Pacific Food Distributors** (“Buyer”), for the period during which this guaranty is effective, shall not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended (the “FDC Act”); the Federal Meat Inspection Act, as amended; the Poultry Products Inspection Act, as amended (collectively, and as applicable, the “Acts”); or within the meaning of any applicable state food and drug law, the adulteration and misbranding provisions of which are (i) identical with or substantially the same as those found in the Acts, and (ii) are not preempted by the Acts or otherwise by federal law. The Products are not articles that may not, under the provisions of section 331(d) of the FDC Act, be introduced into interstate commerce. Seller guarantees that no Products shall be classified as hazardous materials subject to Department of Transportation regulations contained in 49 CFR 177.800 – 177.870. Seller represents that it is in compliance with relevant HACCP food safety systems requirements of the USDA/FSIS, the provisions of the Public Health Security and Bioterrorism Preparedness and Response Act, the registration requirements of the Food Safety Modernization Act, and the country-of-origin labeling provisions of the Farm Security and Rural Investment Act, as amended. For Products shipped under Buyer’s labels, Seller’s responsibility for misbranding is limited to direct damages resulting from the failure of the Products to conform to the labels furnished by Buyer and accepted by Seller. Notwithstanding anything to the contrary herein, Seller does not guarantee against the Products becoming adulterated or misbranded within the meaning of the Acts by reason of causes beyond Seller’s control after shipment.

Seller agrees to indemnify and hold Buyer harmless from direct damages arising out of or resulting from any breach of this guaranty; *provided, however*, the foregoing shall not apply to any damage or liability resulting from (i) Product becoming adulterated or misbranded after such Product has left Seller’s control, (ii) the negligence or intentional act or omission of Buyer (including any employee or agent thereof) or any third party, (iii) Buyer’s refusal to cooperate with Seller in the investigation or defense of a claim covered by this guaranty, (iv) Buyer agreeing to settle a claim covered by this guaranty without Seller’s written consent, (v) the Products being resold by Buyer other than in the ordinary course of Buyer’s business, or (vi) any warranty, express or implied, that is not specifically stated herein.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY, TO THE EXTENT PERMITTED BY LAW, FOR ANY LOSS OF BUSINESS, LOST PROFITS, BUSINESS INTERRUPTION, DAMAGE TO GOODWILL OR REPUTATION, DEGRADATION IN VALUE OF BRANDS OR OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. EXCEPT FOR THE EXPRESS WARRANTIES HEREIN, SELLER HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

This guaranty shall continue to be effective as it relates to the Products until it is revoked by Seller by the giving of written notice to Buyer. As to current or future Products sold to Buyer, this guaranty revokes and automatically supersedes any prior guaranty provided by Seller, and this guaranty may not be amended by any document issued by Buyer unless otherwise specifically agreed by Seller in writing.

Date: January 22, 2019

**TYSON FOODS, INC.**

By: Scott Rouse  
Its: Scott Rouse  
Chief Operations Officer

**Tyson Foods, Inc.**  
2200 Don Tyson Parkway, Springdale, AR 72762-6999  
Phone: 479-290-4000 Fax: 479-290-7967  
www.tysonfoods.com