

CONFIDENTIAL

CONTINUING FOOD GUARANTEE AND INDEMNITY AGREEMENT

To: PACIFIC FOOD DISTRIBUTORS

1. The undersigned Seller, on behalf of its affiliates, divisions, subsidiaries and successors (“Seller”), hereby guarantees that all food products (“Products”) Seller ships or delivers to PACIFIC FOOD DISTRIBUTORS, shall, as of the date such Products leave Seller’s custody and control:

(a) Not be adulterated or misbranded within the meaning of the United States Federal Food, Drug and Cosmetic Act and any amendment thereto, and shall not be articles of food which may not, under the provisions of such Act, be introduced into interstate commerce; and

(b) Not be adulterated or misbranded within the meaning of the terms of the United States Federal Insecticide, Fungicide and Rodenticide Act and any amendment thereto; and

(c) Not be adulterated or misbranded within the meaning of any state or local law or regulation which is comparable to the Federal Food, Drug and Cosmetic Act or the Federal Insecticide, Fungicide and Rodenticide.

2. Seller agrees to defend and indemnify PACIFIC FOOD DISTRIBUTORS, its affiliates, divisions, subsidiaries, successors, and assignees from any and all claims, actions or suits made or brought by any third party (collectively “Claims”) that allege bodily injury and/or property damage as a result of or in connection with the consumption of the Products or that alleges bodily injury and/or property damage as a result of any breach by the Seller of one of the foregoing guarantees, provided PACIFIC FOOD DISTRIBUTORS gives Seller timely notice of any such claim, action or suit, and except to the extent that such Claims arise from (1) negligent acts or willful misconduct of PACIFIC FOOD DISTRIBUTORS; (2) PACIFIC FOOD DISTRIBUTORS’s failure to hold, store or distribute the Products in accordance with good business practices from the time of its receipt of the Products until final sale by PACIFIC FOOD DISTRIBUTORS; or (3) Pacific Food Distributors Content, herein defined as statements, trademarks, product claims, images or other content or intellectual property included on Product labels, packaging or consumer communications other than the following label elements (a) statement of identity (name of the food), (b) net quantity statement, (c) ingredients list, (d) nutrition facts panel, (e) any required allergy labeling, (f) production codes, (g) country of origin, if required, and (h) other elements to the extent required by the Federal Food, Drug and Cosmetic Act. PACIFIC FOOD DISTRIBUTORS agrees to indemnify Seller against Claims related to Pacific Food Distributors Content of Products. However, in no event will Seller be responsible for any liability associated with products sold or consumed in any country or territory other than the United States, Canada, Mexico or Puerto Rico.

3. This food guarantee is continuing, superseding all prior guarantees, and shall remain in full force unless revoked by written notice.

DATE: October 1, 2020

RED GOLD, LLC



(Authorized Official)
P.O. Box 83
Elwood, IN 46036