

# CONTINUING GUARANTY AND INDEMNITY AGREEMENT (Products)

Publix Super Markets, Inc.  
P.O. Box 32024  
Lakeland, FL 33802-2024  
Attention: Vice President, Risk Management

In consideration of the purchase, use and sale by Publix Super Markets, Inc., and/or any other corporation or entity which is now or hereafter becomes an affiliate of Publix Super Markets, Inc. (collectively "Publix"), of any of the products of our company or any of our company's affiliates (collectively, "Us" or "We"), We hereby provide Publix with the following guaranties (collectively, the "Guaranty"), which Guaranty applies to the goods or products comprising each shipment or other delivery made by Us to or in the order of Publix (the "Goods").

The Goods are hereby guaranteed, as of the date of shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (the "Act"), and not an article which may not, under the provisions of Section 404, 505 or 512 of the Act, be introduced into interstate commerce.

The Goods' packaging materials and the intended use of the Goods' packaging materials comply with the Act and all applicable federal and state food additive regulations.

The Goods are hereby guaranteed, as of the date of shipment, to be, on such date, not adulterated or misbranded within in the meaning of Georgia Code Annotated, Chapter 26-2 or within the meaning of any other food and drug or health, safety or environmental laws, regulations, rules or ordinances of any state or other governmental authority which are applicable to each of such Goods.

The Goods are hereby guaranteed as of the date of shipment, to be, on such date, in compliance with all federal, state and local laws, rules and regulations applicable to such Goods and to the sale, shipment or delivery of such Goods, including all labeling and disclosure law and regulations.

The Goods are hereby guaranteed as of the date of shipment, to meet, on such date, the specifications for such Goods as previously approved in writing by Publix. All Goods that are ordered frozen by Publix are guaranteed to be, at all times from the date of shipment to the date of delivery to Publix, frozen at a temperature of 0°F or colder.

The Goods are hereby guaranteed as of the date of shipment, to be labeled so as to identify all major food allergens (milk, eggs, fish, Crustacean shellfish, tree nuts, wheat, peanuts and soybeans) by their common name in the labeling of such Goods, including any major food allergen that may only be present in the Goods in an insignificant amount or inadvertently present in such Good.

If we provide flavor or flavoring to Publix designated as containing no artificial flavor, such flavor or flavoring does not contain any artificial flavor and no artificial flavor has been added to such flavor or flavoring.

Furthermore, we agree to defend, indemnify and hold Publix harmless from any loss, liability, claim or lawsuit arising from any injury or damage resulting from:

A breach or failure of the Guaranty;

The condition of any Good supplied to Publix by Us, except to the extent that the condition of the Good was created solely by Publix; or

Any product or advertisements, labels, configurations, point of purchase displays, and other items supplied to Publix by Us, except to the extent provided by or modified by Publix, that implicates or infringes upon a copyright, slogan, trademark, trade dress, patent, right of privacy, right of publicity,

name, likeness, or any other potential intellectual property right, including but not limited to rights arising under common law and statutory unfair competition laws.

In consideration of Publix permitting Us (or our employees or agents) from time to time to enter upon Publix's premises to provide services or products or to place or maintain equipment on Publix's premises, We agree to indemnify and hold Publix harmless from any claim, suit, liability or loss arising in any manner out of the presence, services or other activities of any of our employees, agents or contractors while on Publix's premises or out of the performance, use or operation of our products or equipment, except to the extent such incident, occurrence or damage giving rise to the claim, suit or loss was caused solely by the negligence of Publix or Publix's employees, agents or contractors.

For purposes of this agreement, the term "Publix" includes any affiliates and any agents, servants, and employees of Publix and any of its affiliates.

Our indemnity obligations as defined above extend to reasonable expenses for any investigation, litigation and/or settlement of any complaint, claim or legal action. Publix agrees to give prompt written notice of any such complaints, claims, or legal actions, to allow you the opportunity to defend and to cooperate in the defense of such complaints, claims or legal actions. The obligation to defend Publix stated herein is hereby deemed a separate and distinct obligation, fully severable from any other duty stated herein.

Our duty to indemnify Publix under this Agreement attaches to all Goods supplied to Publix by us and will not terminate with the termination of this Agreement.

We agree to include Publix and its employees as additional insured under our Commercial General Liability policy with respect to liability due to injury or damage arising out of the purchase, rental, use, or sale by Publix of any product or service provided by us.

**PUBLIX SUPER MARKETS, INC.**

**VENDOR NAME** \_\_\_\_\_

Buyer Name: \_\_\_\_\_

By: \_\_\_\_\_

*an authorized representative*

Vendor Number: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\*Please attach your Vendor Certificate of Insurance\*