



Expect Perfection:

400 Park Ave  
Moody, AL 35004  
205-577-4000

Subject: <b>Food Safety Terms &amp; Conditions</b>	Issue Date: 05.31.2023	Revision Date: NEW	Document Number:
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## Food Safety Terms & Conditions

To the extent that Vendor supplies to Red Diamond, Inc. ("**Red Diamond**") food (as defined by the Food Drug and Cosmetic Act ("**FDCA**") or food contact materials, Vendor shall abide by the following terms and conditions:

1. Vendor shall provide Red Diamond with products ("**Products**") of consistent quality composed of safe and wholesome ingredients, manufactured, labeled, packaged, stored, and shipped under conditions compliant with all applicable federal, state and local laws and regulations, including, without limitation, (i) the Food, Drug, and Cosmetic Act, as amended (the "**Act**"); (ii) the Public Health Security and Bioterrorism Preparedness and Response Act; and (iii) the Food Safety Modernization Act ("**FSMA**"); and the Sanitary Food Transportation Act (Section 416 of the FDCA) (collectively, "**Applicable Laws**"). All Products also must be manufactured, labeled, packaged, stored, and shipped in strict compliance with the specifications, manufacturing process, supply chain requirements, quality control standards, and coding systems (collectively, the "**Specifications**"), if any, set forth in any applicable purchase order submitted by Red Diamond to Vendor or as otherwise agreed to by Red Diamond and Vendor in a separate written instrument. Vendor shall implement such changes in such Specifications as Red Diamond may from time-to-time request in writing provided that such changes do not alter Vendor's costs. Such changes shall not be effective unless in writing and signed by an authorized representative of Red Diamond. Changes which would materially increase Vendor's costs must be mutually agreed to in writing by duly authorized representatives of Vendor and Red Diamond. Vendor agrees to notify Red Diamond promptly, and not later than 48 hours, of Vendor becoming aware of any changes to the Specifications not requested by Red Diamond or any problems related to the authenticity of any Product or components thereof.
2. Manufacturer agrees to manufacture the Products only at its facilities approved in writing by Red Diamond (each a "**Facility**," collectively, the "**Facilities**"). The Facilities must be registered by the Food & Drug Administration ("**FDA**") and operate in accordance with all Applicable Laws. Vendor must maintain throughout the Term of this Agreement certification with a Global Food Safety Initiative ("**GFSI**") certifying body (e.g. SQF); provided, however, that to the extent that Vendor operates as a Co-Manufacturer or Co-Packer for Red Diamond (i.e., producing Products bearing a brand owned or controlled by Red Diamond) and Red Diamond considers such Vendor's products or processes to be



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“high risk” pursuant to the then-current Safe Quality Food (“SQF”) Food Safety Code for Food Manufacturing, Vendor must maintain an appropriate SQF certification or have undergone an audit by Red Diamond or its agent or subcontractor to confirm compliance with the SQF Food Safety Code. Vendor must submit to Red Diamond on an annual basis during the applicable term of any agreement between the parties a third-party food safety audit from a GFSI-approved scheme. If a Facility fails to pass a third-party audit, Vendor must notify Red Diamond’s quality assurance representative within forty-eight (48) hours. Documented corrective actions must be submitted to Red Diamond and a follow-up audit must be conducted and communicated to Red Diamond.

3. All Products which are produced or packaged for Red Diamond, and all packaging and other materials which come in contact with such Products, will not at the time of shipment to Red Diamond or Red Diamond’s agent be adulterated, contaminated or misbranded within the meaning of the FDCA or any other federal, provincial, state or local law, rule or regulation, and that such Products, packaging and other materials will not constitute articles prohibited from introduction into interstate commerce under the provisions of Sections 301(d), 404, 405 or 505 of the FDCA.
  
4. All Products shall be manufactured and packaged in accordance with the Specifications and good manufacturing practices prevailing in the industry, the applicable provisions of the Hazard Analysis and Critical Control Point food safety program (“HAACP”), and as required by state or federal authorities. Vendor shall promptly notify Red Diamond of any noncompliance with such practices or provisions. If Vendor learns of any condition that raises the possibility of Products being adulterated or misbranded within the meaning of any federal, state, or local law, Vendor shall notify Red Diamond within 24 hours of first notice. Vendor agrees to cooperate fully with Red Diamond and to provide all information necessary for Red Diamond to decide as to whether a product recall or market withdrawal is necessary. Vendor has provided Red Diamond a copy of its current Recall Policy and shall promptly provide Red Diamond all updates or amendments to such policy.
  
5. Vendor agrees to respond to Red Diamond acknowledging the receipt of a customer complaint within 48 hours of the first notification. Vendor must provide details about the reasons for the deviation and submit a corrective action report within 2 weeks after the first notification.



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6. Vendor will ensure that all of its suppliers of any ingredients to be incorporated into the Products satisfy the requirements of a GFSI-approved scheme.
  
7. If any of Vendor’s Facilities, processes, inventories or equipment are in an unsanitary condition or do not otherwise comply with Applicable Laws, or with the terms and conditions of any purchase order or other agreement with Red Diamond, Vendor shall promptly take such action to correct the deficiencies and bring such Facility, process, inventories and equipment into compliance with Applicable Laws and the terms and conditions of this Agreement and shall notify Red Diamond’s quality assurance representative within forty-eight (48) hours.
  
8. Vendor shall maintain and submit to Red Diamond upon Red Diamond’s reasonable request the quality control records and reports pertaining to the Products manufactured for Red Diamond and shall also furnish to Red Diamond at Red Diamond’s expense a reasonable number of samples from each production run of Red Diamond Product as reasonably may be requested by Red Diamond for quality control purposes.
  
9. Prior to commencement of, and at any time during, production, packaging, storage and shipping operations, Red Diamond shall have the right upon reasonable notice to send one or more of its authorized employees or representatives to observe and inspect, during regular business hours, the Facilities and to inspect all documentation and records pertaining to the operation of the Facilities and production of Red Diamond Products.
  
10. Vendor shall make available to Red Diamond, at Red Diamond's request, the results of all federal, state and local inspection reports and sanitation audits as well as any inspections by any private entity, conducted from thirty (30) days before to thirty (30) days after the term of any agreement between the parties, and relating to or affecting (i) the Facilities; or (ii) equipment, raw materials, ingredients, packaging materials, work-in-process, or Product located therein.
  
11. Vendor acknowledges Red Diamond shall reject any load of Products (including foods subject to the Perishable Agricultural Commodities Act) for violations of the Sanitary Food Transportation Act (Section 416 of the FDCA) of which Red Diamond is aware, including failure to maintain required records. Vendor assumes responsibility for ensuring loads of



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Products rejected by Red Diamond are not sold or distributed unless a qualified individual determines the Products are not unsafe consistent with 21 CFR § 1.908. For purposes of this paragraph the terms shipper, carrier, loader, and receiver mean those terms as defined in 21 CFR § 1.902. Vendor acknowledges Red Diamond shall not serve as shipper, carrier or loader unless otherwise agreed to in writing. In circumstances where Red Diamond arranges for transportation, Vendor shall not be responsible for serving as shipper, or carrier unless Vendor is actually acting as a motor carrier for Foods. In circumstances where Vendor is acting as a loader, Vendor assumes the responsibilities of providing the carrier with all necessary sanitary specifications for the carrier's vehicle and transportation equipment to prevent the Products transported from becoming unsafe consistent with 21 CFR § 1.908(b)(1) and providing operating temperatures for Foods that require time/temperature control for safety consistent with 21 CFR § 1.908(b)(2).