

**HOLD HARMLESS AGREEMENT and GUARANTEE/WARRANTY OF PRODUCT**

To Whom It May Concern:

The undersigned person or entity ("Seller"), for value received, hereby represents and agrees as follows:

1. The articles contained in any shipment or delivery made by Seller, its subsidiaries or divisions (a "Product") made to or on the order of Shamrock Foods Company, its subsidiaries, affiliates or divisions (collectively referred to as "Buyer") is hereby guaranteed, as of the date of such shipment or delivery (a) to not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetics Act (the "Act"), (b) to not be an article which cannot be introduced into interstate commerce under the provisions of Section 404 and 505 of the Act, and (c) to be in compliance with all applicable federal, state and local laws.
  - a. Seller makes no other representations or warranty with respect to the Product except as set forth in this Guarantee and Warranty. All other warranties, including the warranties of merchantability and fitness for a particular purpose are hereby disclaimed and excluded.
2. Seller agrees to defend, indemnify and hold harmless Buyer and its employees, agents, representatives, directors and customers individually ("Indemnified Party") from all actions, suits, claims, demands and proceedings ("Claims"), and any judgments, losses, debts, liabilities, penalties, fines, costs and expenses (including reasonable attorneys' fees and costs) resulting there from whether arising out of contract, tort, strict liability, misrepresentation, violation of applicable law and/or any cause whatever.
  - a. Brought or commenced by federal, state or local governmental authorities against any Indemnified Party alleging that any Product shipped or delivered by Seller to or on the order of Buyer did not, as of the date of delivery, meet the guarantee set forth in Paragraph 1; or,
  - b. Brought or commenced by any employee (statutory or other), agent, representative, officer and director of Seller or its contractors for personal injury, death or loss or damage of property arising out of or alleged to have arisen out of any occurrence or alleged occurrence on owned, leased, permanent, or temporary property or premises of Buyer, provided however; that Seller's Indemnification obligation shall not apply to the extent that Claims are caused by the negligence of Buyer.
  - c. Brought or commenced by any person or entity against any Indemnified Party for the recovery of damages for the injury, illness and/or death of any person or loss of damage of property arising out of or alleged to have arisen out of: (a) any defect in any Product, or (b) the negligent acts or omissions of Seller; provided, however, that Seller's Indemnification obligations hereunder shall not apply to the extent that Claims are caused by the negligence of Buyer.
  - d. Notwithstanding any claim to the contrary contained in this Agreement and Guarantee/Warranty, under no circumstances will Seller be liable to Buyer for indirect, incidental, consequential, special, punitive or exemplary damages.
3. Seller's agreement to maintain and provide insurance on behalf of Buyer in Paragraph 4 below is a result of the requirement for indemnity and defense outlined in this paragraph. Buyer shall notify Seller promptly of the service of process or the receipt of an actual notice of any claim.
4. Seller agrees to maintain in effect insurance coverage with reputable insurance companies, including workers' compensation and employer's liability, automobile liability, commercial general liability, including product-completed operations liability, broad form contractual liability and excess liability, all with such limits as are sufficient in Buyer's reasonable judgment as outlined in the accompanying insurance requirements, to protect Seller and Buyer from the liabilities insured against by such coverage. Seller's insurance described herein shall be primary and not contributory with Buyer's insurance. Seller shall furnish a certificate evidencing the obligation of its insurance carriers not to cancel or materially amend such policies without thirty (30) days' prior written notice to Buyer. In addition, Buyer shall be named as an additional insured using Form CG 20 15 Broad Form Vendor's Endorsement, or its equivalent with respect to the commercial general liability policy, including products liability. Automobile liability and excess/umbrella liability coverage will also name Buyer as an additional insured. All policies shall provide waivers of subrogation in favor of Buyer. The obligation to provide insurance set forth in this paragraph is separate and independent from all other obligations contained in this Guarantee/Warranty and Agreement.
5. If any portion of this Guarantee/Warranty and Agreement is ruled invalid for any reason, such ruling shall not affect the other portions of this Guarantee/Warranty and Agreement and all remaining covenants, terms and conditions of this Agreement shall remain in full force and effect.
6. This Agreement and Guarantee/Warranty is continuing and shall be in full force and effect and shall be binding upon the Seller with respect to each and every Product shipped or delivered to Buyer by the Seller before the receipt of the Buyer of written notice of revocation thereof.
7. This guaranty and agreement shall be governed by the laws of the State of Arizona. Each of the parties hereto hereby submits to the federal or state courts located in the County of Maricopa, State of Arizona for the exclusive jurisdiction of any disputes in connection with this Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
Seller's name

\_\_\_\_\_  
Signature of Authorized Official and Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code