

**SAVE MART SUPERMARKETS
SUPPLIER AGREEMENT**

This **Supplier Agreement** (this "Agreement") is made and entered into as of _____ by and between _____ ("Supplier") and Save Mart Supermarkets, a California corporation dba The Save Mart Companies ("Save Mart"). Supplier and Save Mart are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

WHEREAS, Save Mart is in the business of providing fungible and non-fungible goods, merchandise and products ("Goods") directly to consumers; and,

WHEREAS, Supplier is a manufacturer or distributor of Goods desiring to accept orders and sell and distribute such Goods to Save Mart;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Delivery and other General Terms and Conditions

a. This Agreement sets forth the terms and conditions on which Supplier shall sell and/or distribute Goods to Save Mart and describes all of the terms and conditions applicable to each separate Purchase Order ("P.O.") issued by Save Mart to the Supplier at any time and from time to time for such purchases. No changes or modifications to this Agreement or any P.O. may be made without the express written agreement of Save Mart and Supplier. Supplier may use no form or other method to accept and agree to a P.O. other than the P.O. itself. Moreover, Supplier may attach no additional or different terms and conditions to a P.O.; any such additional or different terms or conditions purported to be attached by Supplier will be void and of no effect *ab initio*.

b. Each P.O. is submitted (and shall in all cases be deemed to have been delivered to Supplier) only under the conditions of sale set forth therein and herein. In the event any terms or conditions set forth in this Agreement conflict with any terms or conditions set forth in a P.O., the terms and conditions set forth in this Agreement shall govern. The prices listed on each P.O. are firm and not subject to increase or adjustment of any kind. Supplier agrees to furnish, if and when requested by Save Mart, payroll affidavits, receipts, vouchers, releases of claims for labor and material from its subcontractors, suppliers, and materialmen, and any other documentation reasonably requested by Save Mart and Supplier agrees to promptly furnish such documents and information to Save Mart, in each case, in form and substance satisfactory to Save Mart (as determined by Save Mart in its sole discretion) before Save Mart shall be obligated to make any payment to Supplier under P.O. Save Mart may, at its option (as determined in its sole discretion), make any payment or portion thereof by joint check payable to Supplier and any of its subcontractors, suppliers, and materialmen. To the extent not prohibited by applicable law and in addition to any other remedy, Save Mart has the right but not the obligation to offset any amount that Supplier owes to Save Mart against any amounts due to Supplier from Save Mart.

c. Time is of the essence with respect to this Agreement and each P.O., in particular as it relates to the on-site date and estimated delivery date stated in each P.O. Save Mart's acceptance of Goods from Supplier after the on-site date or the estimated deliver date set forth in the P.O. is optional, in Save Mart's sole and absolute discretion. If Save Mart elects to accept the Goods, payment therefore will be submitted by Save Mart to Supplier only upon receipt of such Goods, per the terms set forth in the P.O., as modified herein. Save Mart may adjust the price payable to Supplier to take into account the delay in delivery of the Goods, unless Save Mart and Supplier have agreed otherwise in writing. Save Mart reserves the right to return all Goods received from Supplier if, after receipt, Save Mart determines (in its sole discretion) that the Goods are non-conforming to the requirements set forth in the P.O. or are otherwise not acceptable to the complete and sole satisfaction of Save Mart.

d. Save Mart accepts no responsibility, and will not be responsible, for Goods delivered by Supplier without a P.O. validly executed and delivered by Save Mart.

e. All shipments of Goods are F.O.B. destination unless expressly stated otherwise in the P.O. No additional charge will be allowed for packing, boxing, or cartage unless expressly authorized by Save Mart in writing. Merchandise shipped C.O.D. will be rejected.

f. Substitutions of Goods are not permitted and will not be accepted by Save Mart, unless Save Mart has expressly agreed to such substitution in advance in writing. Partial shipments of Goods are may be accepted or rejected in the sole and absolute discretion of Save Mart.

2. Additional Terms and Conditions Regarding any Recall or Withdrawal of Goods

a. If Save Mart determines or becomes aware of the existence of any quality or technical problems relating to any Goods supplied to Save Mart or delivered to any Save Mart stores, distribution centers or other locations, Save Mart will promptly notify Supplier by telephone, fax, e-mail or any other form of immediate communication. Save Mart may require Supplier to take all necessary action to recall all of the applicable Goods, or withdraw immediately any such Goods from the market or the trade, as the case may be. Save Mart will notify Supplier by telephone, fax, e-mail or any other form of immediate communication with written confirmed receipt, of the decision by Save Mart to require Supplier to recall the applicable Goods or withdraw such Goods from the market or trade, and Supplier must, upon receipt of such notice, immediately cease delivery of such Goods and take such other actions as may be reasonably required by Save Mart in connection with the recall of such Goods or withdrawal of such Goods from the market or trade.

b. In connection with any recall or withdrawal of Goods, in addition to all other remedies available to Save Mart at law or in equity, Supplier shall reimburse, immediately upon request, Save Mart for all of its out-of-pocket costs and expenses incurred in connection with such recall or withdrawal of such Goods. In addition, Supplier shall pay to Save Mart, as liquidated damages and not as a penalty, an amount equal to \$3,000.00 to cover labor costs incurred by Save Mart related to the removal of the Goods from Save Mart's stores and warehouses. For the sake of clarity, the liquidated damages are in addition to and not in lieu of a credit or refund (as elected by Save Mart) for the recalled Goods.

c. Supplier will permit Save Mart, its officers, agents or designees, at all times upon reasonable request by Save Mart, to enter and inspect the facilities, equipment and methods used by Supplier, whether directly or incidentally, in or for the manufacture, storage and handling of the Goods to be delivered to Save Mart to monitor Supplier's compliance with the terms of this Agreement, including this Section 2. Supplier will also provide Save Mart with all

the information regarding Supplier's compliance with the terms of this Agreement, including this Section 2, as Save Mart may reasonably request from time to time.

3. Exclusion of Liquor Suppliers: As they purport to apply to alcohol distributors, any terms and conditions contained in this Agreement, including but not limited to indemnity provisions and the requirement for Supplier to name Save Mart as an additional insured, that violate the California Beverage Control Act, the Federal Alcohol Administration Act or any other law or regulation governing the sale or distribution of alcohol products ("Alcohol Regulations"), shall not apply to Supplier with respect to the sale or distribution of products governed by such Alcohol Regulations.

4. Representations and Warranties of Supplier:

a. Supplier represents, warrants, and guarantees to Save Mart that, as of the date of delivery of any Goods: (i) the Goods shall comply with all federal, state and local laws, including but not limited to pure food and drug, and health, safety, and environmental laws; (ii) the Goods, as of the date of shipment or delivery, shall, on such date, not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, and regulations adopted there under (the "FD&C Act") or any similar health, safety or environmental laws, regulations, or ordinances of any state or other government authority which are applicable to such shipment or delivery; (iii) the Goods shall not be articles that are prohibited, under the provisions of Section 404 or 505 of the FD&C Act, or any successor thereto, from being introduced into interstate commerce; (iv) the Goods shall be merchantable and fit for their intended purpose, and shall pass without objection in trade; (v) all consumer Goods shall comply with all applicable federal consumer product safety standards (including those set forth in Title I, Section 106 of the Federal Consumer Product Safety Improvement Act ("CPSIA") and any additional requirements imposed under the CPSIA for those Goods intended for use by persons age 12 and under, as well as third-party testing or other requirements that may apply; (vi) the Goods shall comply with California Proposition 65, and its implementing regulations, California Health and Safety Code §§ 25249.6 et seq. and 27 Cal. Code Regs. §§ 25102 et seq. including the general requirement that all consumer Goods test at or below 100 parts per million ("ppm") for substrate lead, 90 ppm, for any surface coating lead, 300 ppm for cadmium, and at or below 1,000 ppm for the following phthalates: DEHP, BBP, DnHP, DBP, DIDP, DINP, and DnOP if in a children's product under CPSIA; (vii) all Goods that are food products shall be in compliance with Proposition 65 and shall not contain any chemical contaminants including, but not limited to, lead, arsenic, acrylamide and mercury, in violation of Proposition 65; (viii) all tests for accessible parts (as defined by CPSIA) of consumer products included as part of the Goods are performed by CPSIA certified laboratories; (ix) all Goods meet the labeling requirements of Title I, Section 105 of the CPSIA; (x) all Goods that come into contact with food comply with all U.S. Food and Drug Administration ("FDA") regulations including CFR Title 21 as well as California's Proposition 65 ("Prop 65") and any other applicable federal or state or local law requirements; (xi) any printed or painted glass or ceramic ware Goods will comply with all federal and state regulations including CFR Title 21 and Prop 65; (xii) with respect to Goods that are agricultural products, testing has been completed by state certified laboratories certifying that the level of pesticides or other foreign matters contained in such Goods falls within permissible legal limits; (xiii) container and/or packaging of the Goods will be free from chemicals or other agents, such as bisphenol A [BPA], that are known to cause physical harm or birth defects, unless certification exists to support that the presence of such chemical or agent is at a level acceptable in consumer products in compliance with applicable law; (xiv) will place any required warnings related to Prop 65 on the packaging of the Goods and shall not require Save Mart to use any in store or on shelf warnings; and (xv) that it has and, as of the date and time of shipment and as of the date and time of delivery, will have good title to the Goods supplied and that the Goods are free and clear from

all liens and encumbrances.

b. Supplier represents and warrants that it is in compliance with and at all times during the period this Agreement is in effect will comply with all applicable laws, statutes, rules and regulations applicable to the conduct of its business including, but not limited to, those applicable to the sale of Goods as contemplated hereunder.

c. Supplier represents and warrants to Save Mart that it will comply with Section 105 of the CPSIA and inform Save Mart of all required cautionary statements for Goods supplied to Save Mart. Supplier certifies that each consumer Good they supply Save Mart complies with all rules, bans, standards or regulations applicable to that Good under CPSIA and any other Act enforced by the CPSC and that upon request of Save Mart, Supplier shall within 72 hours provide true and accurate copies of all certifications and testing documentation for such Goods. Supplier warrants that Goods delivered to Save Mart will meet or exceed all future consumer safety legislation or regulations resulting in additional or alternative safety requirements.

d. Supplier represents and warrants that it complies with all laws regarding slavery and human trafficking and that Supplier does not knowingly conduct business with any suppliers or other third parties who engage in this type of activity. Supplier further agrees that it will not unlawfully discriminate, harass or permit harassment against any person because of their race, color, religion, sex, age, sexual orientation, ancestry, creed, marital status, national origin, disability, veteran's status or union activity. Any violation of this provision may result in Save Mart's suspension of any future business with Supplier, in addition to any other rights and remedies available to Save Mart under this Agreement or applicable law.

e. Supplier represents and warrants to Save Mart that any services, including but not limited to delivery, provided by Supplier hereunder will be performed in a first-class, professional manner, with the care, skill and diligence, and in accordance with, the applicable standards currently recognized in Supplier's applicable profession or industry. Supplier further represents and warrants that neither it nor any of its current directors, officers, employees, principals or agents are debarred, suspended, proposed for debarment, declared ineligible, or excluded by any federal or state department or agency from doing business with the federal government or a state government.

f. Supplier agrees to comply with the provisions of the Occupational Safety and Health Act of 1970 (OSHA) and the California General Industry Safety Orders and the standards and regulations issued thereunder and certifies that all goods and services furnished to Save Mart will conform to and comply with said standards and regulations.

g. Supplier acknowledges that Save Mart may purchase directly from the Supplier and/or be an indirect purchasing party, whereby a third party may purchase and/or distribute Goods from Supplier on behalf of or for the benefit of Save Mart (such third party, a "Distributor"; and collectively with Save Mart the "Purchasing Party"). Save Mart may change its Distributor from time to time in its sole discretion, by providing advance notice to Supplier. Supplier acknowledges that whether Goods are purchased directly by Save Mart or by Save Mart's Distributor(s), the intent of the Parties is that Supplier's Goods will be offered for sale to consumers in Save Mart's stores. The Parties hereby agree that the terms and conditions of this Agreement, as set forth herein, shall apply to Supplier irrespective of the identity of the Purchasing Party and/or Save Mart's use of a distributor.

h. Supplier represents and warrants to Save Mart that Supplier shall not, and shall cause all of its representatives, agents, employees and subcontractors (collectively, the "Representatives") not to utilize any in-store beacon tracking devices, location-based marketing and push notifications or any other similar technology

designed to specifically identify consumers in Save Mart's locations, in all cases, without the express prior written consent of Save Mart. Supplier acknowledges and agrees that, notwithstanding anything herein to the contrary, Supplier shall be liable for any breach by any of its Representatives of the representations and warranties of Supplier set forth herein.

i. Supplier agrees to promptly provide such information as Save Mart may reasonably request to enable Save Mart to assure its own compliance with applicable federal, state and local statutes, rules, regulations, and ordinances. Supplier shall provide such information to Save Mart through whatever reasonable means is requested by Save Mart, including through use of a third-party data upload and storage system (e.g., ReposiTrak) and supplier consents to storage and handling of such information by such third-party by or on behalf of Save Mart. The information provided to Save Mart shall be accurate and Supplier shall immediately alert Save Mart to any material changes in the information that has been provided. Supplier acknowledges and agrees that Save Mart shall not be liable under this agreement or otherwise in the event of a data breach or other release of such information from, through or by such third-party.

j. Unless otherwise expressly agreed in writing: (i) Supplier agrees that supplier or an entity other than Save Mart shall be identified as the "importer," as that term is defined in 21 CFR § 1.500 ("FSVP Importer"), of any Goods that are "food," as that term is defined in 21 CFR § 1.500 ("FSVP Food"), supplied to Save Mart when U.S. entry filings for such FSVP Food are made with U.S. Customs and Border Protection ("CBP"); (ii) Supplier shall not identify or cause Save Mart to be identified to CBP or the U.S. Food and Drug Administration ("FDA") as the FSVP Importer of any FSVP Food; and (iii) If Supplier is identified to CBP or FDA as the FSVP Importer, Supplier shall be in compliance with the FDA regulation regarding Foreign Supplier Verification Programs for Importers set forth in 21 CFR Part 1, Subpart L (§ 1.501 et seq.) (collectively, the "FSVP Regulations").

k. Unless otherwise expressly agreed in writing or food is transported by Save Mart, Supplier agrees that Save Mart is not the "shipper," as defined in 21 CFR §1.904, of any food supplied to Save Mart.

5. Save Mart shall have the right to utilize state certified labs to test samples of Goods that are agricultural products for pesticides and other foreign materials ("Contaminants"). In the event test results reveal Contaminant levels exceeding legally permissible levels in Goods delivered by Supplier to Save Mart, Save Mart shall have the right, but not the obligation, to (i) remove such Goods from its shelves and destroy such Goods immediately without further notice to Supplier; (ii) be credited by Supplier for the cost of all destroyed Goods (including an allocation of internal costs); (iii) be reimbursed for any expenses (including an allocation of internal costs) incurred relating to testing, removal and destruction; and, (iv) notify the appropriate agencies of the testing results, product information including origin, dates of delivery and producer identity.

6. Indemnification:

a. Supplier agrees to defend, indemnify, and hold Save Mart and its directors, trustees, officers, employees, counsel, other advisors and agents, successors and assigns (collectively, the "Save Mart Indemnified Persons") harmless to the full extent allowed by law or equity from and against any and all liabilities, losses, damages, claims, fines, penalties, costs to replace, reinstall or repair, assessments, product recalls, decrees, fees, judgment, awards (whether compensatory, exemplary or punitive but excluding special, consequential or incidental), expenses, costs (including reasonable attorney's fees, whether or not involving a third party claim) and interest (collectively, "Damages") incurred in connection with any actual or threatened claim, litigation, appeal, investigation, proceeding or action in any court, arbitration or mediation, or before

any other regulatory, administrative or other body (collectively, "Proceedings"), which in any way relate to, arise out of, or are in connection with: i) the engagement or performance of any services provided by Supplier to Save Mart; ii) any sale or delivery of the Goods by Supplier to Save Mart for use or resale; iii) any failure by Supplier to comply with any applicable federal, state or local laws, statutes, ordinances, governmental administrative orders, rules or regulations relating to any Goods or any of their components, ingredients, design, manufacture, or labeling; iv) any actual or alleged improper construction or design of or defect in said Goods; iv) any breach of the statutory, express or implied warranties of merchantability, fitness for a particular purpose or title including any claims that any of the Goods infringe on any patents, trademark, trade dress, trade name, copyright or other third party right; vi) any failure by Supplier to comply with the terms of this Agreement; vii) the presence of Supplier's employees, directors, representatives, agents or contractors on Save Mart's controlled premises and any actions or omissions of such employees, directors, representatives, agents or contractors; viii) any actual or alleged misrepresentation or omission made by, or on behalf of, or at the direction or approval of Supplier or its employees, directors, representatives, agents or contractors relating to the Goods; ix) any damages (including both internal allocated costs and out-of-pocket costs) arising from the existence of pesticides or other foreign materials at levels exceeding legally permitted limits, including the cost of all Good destroyed as a result of contamination, the cost incurred by Save Mart to engage a state certified lab to test Goods, and reimbursement for any cost of shipping the original order incurred by Save Mart or its representatives, or x) the negligent acts or omissions or willful misconduct of Supplier, its employees, directors, representatives, agents or contractors in connection with the performance of its obligations hereunder, including but not limited to the sale of Goods by Supplier to Save Mart hereunder.

b. Supplier shall be obligated to pay all Damages even if allegations are groundless, false or fraudulent. In addition, Supplier shall advance all expenses actually and reasonably incurred by any Save Mart Indemnified Person in connection with a Proceeding within ten (10) days after delivery to Supplier of a statement requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Such advances shall be unsecured and interest free and shall be made without regard to the Save Mart Indemnified Person's ability to repay such advanced expenses and without regard to the Save Mart Indemnified Person's ultimate entitlement to indemnification under the other provisions of this Agreement. Each Save Mart Indemnified Person shall be entitled to continue to receive advancement of expenses pursuant to this Section 6 unless and until the matter of the Save Mart Indemnified Person's entitlement to indemnification hereunder has been finally adjudicated by court order or judgment from which no further right of appeal exists. Save Mart hereby undertakes to repay such amounts advanced only if, and to the extent that, it ultimately is determined that the Save Mart Indemnified Person is not entitled to be indemnified by Supplier under the other provisions of this Agreement. Supplier specifically acknowledges and agrees that its obligation to indemnify Save Mart Indemnified Persons and advance expenses applies to transactions occurring between Supplier and Save Mart prior to the date hereof. In the event Supplier shall be obligated under this Section 6 to advance expenses with respect to any Proceeding, Supplier shall be entitled to assume the defense of such Proceeding, with counsel reasonably acceptable to the Save Mart Indemnified Persons, upon the delivery to such Save Mart Indemnified Persons of written notice of its election so to do. After delivery of such notice, approval of such counsel by the Save Mart Indemnified Person and the retention of such counsel by Supplier, Supplier will not be liable to the applicable Save Mart Indemnified Person under this Agreement for any fees of counsel subsequently incurred by the applicable Save Mart Indemnified Person with respect to the same Proceeding, provided that (i) such Save Mart Indemnified Persons shall have the right to employ counsel in any such Proceeding at such Save Mart Indemnified Persons' expense; and (ii) if (A) the employment of counsel by the Save Mart Indemnified Persons has been previously

authorized by Supplier, (B) the Save Mart Indemnified Persons shall have reasonably concluded that there may be a conflict of interest between Supplier and such Save Mart Indemnified Persons in the conduct of any such defense or (C) Supplier shall not, in fact, have employed counsel to assume the defense of such Proceeding, then the fees and expenses of the Save Mart Indemnified Persons' counsel shall be at the expense of Supplier. In addition, if there exists a potential, but not an actual conflict of interest between Supplier and the applicable Save Mart Indemnified Persons, the actual and reasonable legal fees and expenses incurred by such Save Mart Indemnified Persons for separate counsel retained by such Save Mart Indemnified Persons to monitor the Proceeding (so that such counsel may assume such Save Mart Indemnified Persons' defense if the conflict of interest between Supplier and the Save Mart Indemnified Persons becomes an actual conflict of interest) shall be deemed to be expenses that are subject to advancement and indemnification hereunder. The existence of an actual or potential conflict of interest, and whether such conflict may be waived, shall be determined pursuant to the rules of attorney professional conduct and applicable law. Supplier shall not be required to obtain the consent of the Save Mart Indemnified Persons for the settlement of any Proceeding Supplier has undertaken to defend if Supplier assumes full and sole responsibility for each such settlement; provided, however, that Supplier shall be required to obtain the applicable Save Mart Indemnified Persons' prior written approval before entering into any settlement which (1) does not grant such Save Mart Indemnified Persons a complete release of liability, (2) would impose any penalty or limitation on such Save Mart Indemnified Persons, or (3) would admit any liability or misconduct by such Save Mart Indemnified Persons. Upon twenty-one (21) days' written notice, if Supplier fails to assume or abide by its defense and indemnity obligations, Save Mart has the right but not the obligation to proceed on its own behalf to defend or settle the matter by way of engaging its own legal counsel and the services of other experts as it deems necessary to prepare and present a defense or settle such matter and Save Mart's Damages and costs incurred in connection therewith shall be subject to reimbursement and indemnification pursuant to this Section 6.

c. Save Mart agrees to defend, indemnify, and hold Supplier and its directors, trustees, officers, employees, counsel, other advisors and agents harmless, to the full extent allowed by law or equity, from and against any and all Damages incurred in connection with any actual or threatened Proceeding which in any way relate to, arise out of, or are in connection with: i) Save Mart's modification, alteration or re-packaging of any Goods received from Supplier; ii) Save Mart's material failure to follow written instructions provided by Supplier for the storage and handling of Goods; or iii) any failure by Save Mart to comply with applicable laws, statutes, ordinances, governmental orders, rules or regulations; provided, however, that Save Mart shall not be required to correct Supplier defects or indemnify Supplier for Supplier's negligent, intentional or omitted acts. Save Mart specifically acknowledges and agrees that its obligation to indemnify Supplier applies to transactions occurring prior to the date hereof. Save Mart shall control the defense of any Proceeding pursuant to which it is required to indemnify Supplier hereunder.

d. In addition to the indemnity obligations set forth above, in the event either Party receives notice (each, an "Agency Notice of Violation") from any administrative agency (each, an "Agency") (specifically including Prop. 65 Notices of Violation), the Party receiving such Agency Notice of Violation shall promptly notify and send a copy of the Agency Notice of Violation to the other Party. Both Parties shall cooperate with each other in investigating and preparing a response to such Agency Notice of Violation but it shall be Supplier's sole responsibility to submit a timely response on behalf of both Parties. Failure of Supplier to, within twenty-one (21) days after receiving an Agency Notice of Violation, acknowledge in writing to Save Mart that Supplier will provide a timely response to the Agency on it and Save Mart's behalf shall be deemed a default under the terms of this Agreement and Supplier agrees that Save

Mart may elect as additional remedies to: i) offset any costs incurred in connection with such default against any outstanding balances owed Supplier; or, ii) remove and return Supplier's Goods for a full credit (including shipping costs, along with an allocation of internal costs) from Save Mart's shelves until such time as Supplier provides a timely response and accepts responsibility for Save Mart's defense and its indemnity obligations. Time is of the essence with respect to this provision.

e. The provisions of this indemnity shall be in addition to any rights that the indemnified Party may have at common law or otherwise, and shall survive in full force and effect regardless of cessation or termination of the Parties relationship. A Party's obligations shall inure to the benefit of its successors and/or assigns and/or the other indemnified parties.

7. Insurance Requirement:

a. Each Party represents and warrants to the other Party that it shall continuously maintain a policy or policies of commercial general liability and automobile liability insurance insuring such party against liability for bodily injury, property damage and personal injury liability equal to or exceeding the minimum limits set forth below, including coverage or liability arising from premises, operations, independent contractors, products, completed operations, personal injury, liquor liability and advertising injury, and liability assumed under an insured contract, and crimes. In addition, each Party represents and warrants to the other Party that it shall continuously maintain workers' compensation coverage within prescribed limits for employees, temporary employees, and contractors in accordance with the laws of the State of California.

b. Supplier shall name Save Mart (and, if Supplier is engaging in an outdoor public event at a Save Mart location, Save Mart's landlord/property manager or any other persons reasonably requested by Save Mart) as an "additional insured(s)" on Supplier's general and automobile liability insurance policies and shall annually (except in the case of a single event wherein a Certificate of Insurance ("COI") for the event dates is sufficient) provide Save Mart an original COI – CG 2026 or equivalent (or if the policy has a blanket additional insured clause, a copy of that specific section of the policy will satisfy this requirement), and a Primary Clause Endorsement and Automobile Additional Insured Endorsement (if applicable), coinciding with the policy term renewal for each year that Supplier conducts business of any nature with Save Mart. Supplier shall give Save Mart no less than thirty (30) days prior written notice of cancellation or any material change in any insurance coverage. Coverage to be provided by a company with a minimum A.M. Best rating of A- or higher. The insurer for each of the insurance coverages shall waive all rights of subrogation against Save Mart. For any insurance claims related to the work to be performed by Supplier to Save Mart, Supplier's insurance will be primary insurance. Any insurance or self-insurance maintained by Save Mart will be in excess of Supplier's insurance and will not contribute with it.

c. Supplier's Certificate of Insurance shall contain the following:

- a. Coverage effective dates and expiration dates
- b. Coverage, per occurrence form, in the amount of **\$2,000,000** (or such higher amount requested by Save Mart from time to time) for General Liability; **\$1,000,000** (or such higher amount requested by Save Mart from time to time) for Business Auto Liability (if applicable); Workers' Compensation — Statutory Limits, with Employers Liability Limit of **\$1,000,000** (or such higher amount requested by Save Mart from time to time) (if applicable).

Forward certificate of insurance naming us as additional insured, by way of Special Endorsement attached to:

SAVE MART SUPERMARKETS
Legal Services Department
P.O. Box 4278
Modesto, CA 95352-4278

d. Prior to the execution of this Agreement and upon request by Save Mart at any time or from time to time, Supplier shall deliver to Save Mart a certificate, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. Failure to receive an updated certificate of insurance in a timely manner may result in suspension of Supplier's account but shall not relieve Supplier of any of its responsibilities under this Agreement.

8. Confidentiality: During the term of this Agreement, both Parties will have access to and become acquainted with confidential information of the other Party, including confidential information relating to plans, operational and business practices and procedures, pricing models, sales volume, business techniques/methods, strategic plans, operations and related matters. All such confidential information is the property of the disclosing Party and all such materials shall be considered confidential and proprietary. Any disclosure of such confidential information hereunder shall not be construed as an assignment, grant, option, license or other transfer of any such right, title or interest whatsoever to the receiving Party or any of its representatives. Neither Party shall disclose, without the other Party's express prior written consent, to any person or entity, directly or indirectly, either during the term of this Agreement or any time thereafter, any such data of the other Party except to the receiving Party's representatives (including as contemplated under Section 4 above) who need to know such information to assist the receiving Party in furtherance of this Agreement so long as such representatives treat such information of the disclosing Party in a confidential manner and in accordance with the terms of this Section 8 (it being understood that the receiving Party will be responsible for any breach of the terms of this Agreement by its representatives. Notwithstanding anything to the contrary herein, each Party shall be entitled to disclose Confidential Information of the other Party to a regulatory authority with competent jurisdiction when required by applicable law, statute, rule or regulation.

9. General Provisions:

a. **Governing Law; Interpretation; Section Headings.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California without regard to conflict-of-laws rules. The section headings contained herein are for purposes of convenience only and shall not be deemed to constitute a part of the Agreement or to affect the meaning or interpretation of this Agreement in any way.

b. **Entire Agreement/Amendment.** The Agreement, along with the terms and conditions of Save Mart's P.O. constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements or other communications between the parties with respect to the subject matter. In the event of any conflict between the terms and conditions of Save Mart's Purchase Order or the terms and conditions of this Agreement, the terms and conditions of Save Mart's Purchase Order shall govern.

c. **Counterparts.** This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

d. **Signatories.** The person executing this document represents that they are authorized representatives with the authority to bind the Party they represent.

e. **Modification.** This Agreement may only be modified or amendment, and the terms hereof may be waived, only by written agreement of both of the Parties.

f. **Term and Termination.** This Agreement shall continue until terminated by Save Mart. Save Mart may terminate this Agreement, with or without cause, by delivering written notice thereof to the Supplier.

g. **Survival of Terms.** The terms of this Agreement which by their very nature should survive, shall survive termination or cancellation of the Agreement. The Supplier's obligations under this Agreement and under each P.O. shall survive termination of this Agreement. Supplier shall remain obligated to fulfill its obligations under this Agreement, including without limitation the indemnification set forth in Section 6 hereof, and to fulfill all obligations under each unfulfilled P.O. notwithstanding the termination of this Agreement by Save Mart pursuant to Section 9(f).

g. **Severability.** In the event any term contained herein is deemed invalid by a court, arbitrator or other administrative proceeding, such provision shall be severed from this Agreement and the remaining terms and conditions shall remain in full force and effect.

h. **Time.** Time is of the essence in this Agreement.

i. **Non Assignment.** Supplier shall not assign this Agreement or any interest herein including any performance or any amount which may be due or may become due hereunder, without Save Mart's express prior written consent.

j. **Notices.** All notices required to be sent during the term of this agreement go to:

Save Mart: The Save Mart Companies
Attn: Legal Department
1800 Standiford Avenue
Modesto, CA 95350-0180
(209) 574-6299

Supplier: _____

k. **Attorneys' Fees and Costs:** If any legal action or other proceeding is commenced to interpret or enforce the terms and conditions of this Agreement or any Party is entitled to indemnity pursuant to the terms of this Agreement, the losing party shall pay the prevailing Party's reasonable attorneys' fees and costs incurred in connection with any actual or threatened claim or litigation, investigation of any claim leading to the Proceeding (and for these purposes Proceeding shall include but not be limited to regulatory or administrative and state and federal court proceedings), preparation for and participation in the Proceeding, any appeal or other post judgment motion and any action to enforce or collect the judgment including contempt, garnishment, levy, discovery, sanction and bankruptcy. For this purpose, "expenses" shall include without limitation, court or other proceeding costs, experts' and attorneys' fees and their expenses and allocation of the applicable Party's internal costs. The phrase "prevailing Party" shall mean the Party who is determined in the proceeding to have prevailed or who prevails by dismissal, default or otherwise.

IN WITNESS WHEREOF, intending to be legally bound hereby, the following have executed this Supplier Agreement as of the date first written above.

Save Mart Supermarkets, a California corporation

By: _____

Print Name: Cary Mergele

Title: Vice President and General Counsel

Date: _____

SUPPLIER: _____

By: _____

Print Name: _____

Title: _____

Date: _____