

SAVE MART SUPERMARKETS VENDOR AGREEMENT

wss/cmh
Vendor Agreement – Two Column
Rev. 6.27.14

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

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. Indemnification: Each Party agrees to defend, indemnify, and hold harmless the other Party and its directors, trustees, officers, employees, counsel, other advisors and agents to the full extent allowed by law or equity from and against any and all liabilities, losses, damages, civil penalties, costs to replace, reinstall or repair, assessments, fines, decrees, fees, judgment, awards (whether compensatory, exemplary or punitive but (excluding special, consequential or incidental)), expenses, costs including reasonable attorney's fees and interest ("Damages") incurred in connection with any actual or threatened claim, litigation, appeal, investigation, proceeding or action in any court or before any regulatory, administrative or other body, which in any way relate to, arise out of, or are in connection with: i) the engagement or performance of any services provided by one Party to the other; ii) any failure by a Party to comply with the terms of this Agreement; or iii) the presence of a Party's employees, agents or contractors on the premises controlled by a Party.

Upon twenty-one (21) days' written notice, if Vendor or Save Mart fails to assume or abide by its defense and indemnity obligations, the Party seeking indemnification 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 to require the party from which indemnification is sought to reimburse and indemnify for all Damages incurred.

A Party's obligations shall inure to the benefit of its successors and/or assigns and/or the other indemnified parties.

2. Insurance Requirement: Each Party warrants that it shall continuously maintain a policy or policies of general and automobile liability insuring such party against liability for bodily injury, property damage and personal injury liability equal to or exceeding the minimum limits set forth below. In addition, each Party warrants 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.

Vendor shall name Save Mart as an additional insured and provide 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 "Best" rating of B+ or higher.

Vendor's Certificate of Insurance shall contain the following:

- a. Effective Dates and Expiration Dates
- b. Coverage, per occurrence form, in the amount of \$2,000,000 for General Liability; \$1,000,000 for Business Auto Liability (if applicable); Workers' Compensation — Statutory Limits, with Employers Liability Limit of \$1,000,000 (if applicable).
- a. Forward certificate of insurance to:

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

Failure to receive an updated certificate of insurance in a timely manner may result in suspension of Vendor's account but shall not relieve Vendor of any of its responsibilities under this Agreement.

3. Warranties and Representations of Vendor: Vendor represents, warrants, and guarantees that it shall comply with all federal, state and local laws, including but not limited to environmental and health and safety laws.

Vendor represents and warrants that they comply with all laws regarding slavery and human trafficking and that Vendor does not knowingly conduct business with any vendors who engage in this activity. Vendor 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 Vendor.

Vendor 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.

4. Confidentiality: During the term of this Agreement, both parties will have access to and become acquainted with confidential information of the other party. All such materials are the property of the disclosing party and all such materials shall be considered confidential and proprietary. Neither party shall disclose, without the other party's written consent, to any person or entity, directly or indirectly, either during the term of this Agreement or any time thereafter.

5. 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.

b. **Entire Agreement/Amendment.** The Agreement, along with the terms and conditions of Save Mart's Purchase Order 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.

c. **Counterparts.** This Agreement may be executed by the parties in separate counterparts.

d. **Modification.** This Agreement may only be modified by written agreement of the parties.

e. **Survival of Terms.** The terms of this Agreement which by their very nature should survive, shall survive termination or cancellation of the business relationship between the parties.

f. **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.

g. **Time.** Time is of the essence in this agreement.

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

Save Mart:

SAVE MART SUPERMARKETS
Attn: Legal Department
1800 Standiford Avenue
Modesto, CA 95350-0180
(209) 574-6299

Vendor: _____

i. **Non Assignment.** Vendor 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 prior written consent.

j. **Attorneys' Fees and Costs.** If any legal action or other proceeding is commenced to interpret or enforce the terms and conditions of 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, proceeding or litigation.

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

SAVE MART SUPERMARKETS:

By: _____
Print Name: Cary Mergele
Title: Vice President and General Counsel
Date: _____

VENDOR:

By: _____
Print Name: _____
Title: _____
Date: _____