

VENDOR AGREEMENT

Vendor:		State of Incorporation:	
Attention:		Tax Payer ID/FEIN:	
Title:		Address:	
Telephone:		City, State, Zip:	
Fax No.:		Territory:	
E-mail:		Effective Date:	

This Vendor Agreement (“Agreement”) sets forth the terms and conditions applicable to the purchase of perishable and non-perishable food items and other goods (“Products”) from the Vendor identified above for the purpose of distribution, marketing and resale by DPI Specialty Foods, Inc., a Delaware corporation with its principle place of business located at 601 Rockefeller Avenue, Ontario, California 91761 (“DPI”) and DPI Divisions. As used herein, “DPI Division” shall mean a DPI subsidiary or related entity (currently consisting of, and subject to change, DPI Specialty Foods West, Inc., DPI Specialty Foods Northwest, Inc., DPI Specialty Foods Mid Atlantic, Inc., DPI Specialty Foods Rocky Mountain, Inc., and DPI Dedicated Logistics, Inc.). Each DPI Division is a wholly-owned subsidiary of DPI and is hereby made a party to this agreement.

1. APPOINTMENT AND TERRITORY

Vendor authorizes DPI to market, promote, sell and distribute the Products within the geographic region identified above (“Territory”).

2. PRICING

Vendor will sell the Products to DPI at Vendor’s current standard list price or as otherwise agreed between the parties in writing. All prices, discounts and promotions offered to DPI shall be no less favorable than those prices, discounts and promotions extended to any other customer of Vendor.

3. ORDERS

DPI may purchase Products by issuing a purchase order via facsimile, email or Electronic Data Interchange, specifying the stock keeping unit (“SKU”) and quantity, the method of delivery, the required delivery date and the “ship to” location (“P.O.”). Within one (1) business day of receipt, Vendor shall confirm the P.O. information to DPI. Cost discrepancies must be reconciled by Vendor at the time that the P.O. is confirmed. When DPI provides access to Vendor, Vendor must monitor and use DPI’s web portal for all data entry regarding P.O.’s, pricing and allowances. Prior to delivery, DPI may, in its sole discretion, accept or cancel any P.O. that differs from those terms previously approved in writing. Vendor shall be liable for any additional costs incurred by DPI due to Vendor’s non-compliance with this section. DPI has the right to cancel, reschedule, change the location of delivery or change the number of Product units in a P.O., without penalty, by providing Vendor with written notice at least two (2) business days prior to the scheduled shipment date for orders shipped within the continental United States, or reasonably prior to the scheduled shipment date for all other orders.

4. SHIPMENT AND DELIVERY

If Vendor arranges for the transportation of Products from Vendor’s location to DPI via a carrier of Vendor’s choosing, the shipment is FOB destination with Vendor bearing all costs for freight, insurance, duties, taxes and other shipping expenses to the destination specified in the P.O. and shall bear all risk of loss until the goods are received by DPI at the specified destination. If DPI arranges for the transportation of Products from Vendor’s location via a carrier of DPI’s choosing, Products will be shipped FOB origin, with DPI bearing risk of loss and taking title upon delivery of the Product to the carrier. Vendor or Vendor’s carrier must schedule a dock appointment with the applicable DPI location at least seventy-two (72) hours in advance of delivery. Receipt of an order does not constitute acceptance of all Products in that order. DPI has the right to inspect and reject all or part of any order for non-conforming Product, Product shortages or shipping damage. Vendor will correct any such defects and DPI will deduct credit amounts from any open invoice or require Vendor to issue a check in the amount of the credit, in DPI’s sole discretion. In no event does acceptance constitute approval or waiver of any latent defect, nor waiver of any warranty.

5. PAYMENT

Vendor will invoice DPI upon shipment. Unless otherwise specified on the P.O., payment terms are 2% 10 Net 35 days EFT calculated from the date of actual receipt of goods or the date of DPI’s receipt of the invoice, whichever is later. Invoiced amounts should be equal to the gross purchase order cost less any applicable discounts and allowances. Invoiced quantities are confirmed against receiving documents and are paid based on received quantities after verification against DPI’s purchase order and bill of lading. DPI may offset any amounts due from Vendor against any invoice. Account discrepancies or payment disputes shall be resolved with the applicable DPI Division within sixty (60) calendar days of

the payment or deduction. If the parties are unable to resolve the dispute, the matter shall be escalated to DPI's National Vendor Relations team. No DPI Division may be placed on credit hold unless the parties are unable to resolve the dispute within sixty (60) days after escalation to DPI's National Vendor Relations team. No dispute may be initiated more than ninety (90) days from the date the payment was made or the deduction was taken, whichever is later. Vendor's payment terms for amounts owed to DPI are as stated in the applicable sections of this Agreement or, if not stated, Net 30 days from the date of invoice or debit memo. DPI may deduct amounts owed by Vendor from any outstanding invoice. If Vendor's account is referred to an attorney or collection agency for collection, Vendor shall pay all of DPI's expenses incurred in such collection efforts including, but not limited to, collection agency fees, court costs and reasonable attorneys' fees.

6. CREDITS, RETURNS, AND RETAILER FEES

DPI shall have the right to return, at Vendor's expense, and for full credit or refund, any Products that are: (i) shipped in error or in non-conformance with a P.O.; (ii) defective or past the expiration date; or (iii) not manufactured, packaged or labeled in accordance with industry standards and/or applicable laws, ordinances, rules and regulation. If requested by Vendor, DPI shall hold damaged Product for a maximum of seven (7) days for inspection. At the end of the 7-day period, unless directed by Vendor to return the product, DPI shall dispose of the Product and charge back Vendor for the cost of the Product and all costs associated with its disposal. All returns will be at Vendor's sole cost and risk of loss. Vendor shall be liable, and shall reimburse DPI, for 100% of the reclamation costs incurred by DPI for store-level returns and chargebacks from DPI customers. All store-level returns will be destroyed in field and will not be sent back to Vendor. Vendor shall be solely liable and responsible for all chargebacks, including without limitation, charges for depletion, scan down, customer program pass-throughs, customer fines, coupon redemptions, advertising fees, cut or split cases, food and trade show expenses, new item setup, resets, promotional allowances, spoils and reclamations, special events, returns, invoice discrepancies, in-store demonstrations, slotting fees, product recalls and third party audits. DPI will charge Vendor a processing fee of \$10.00 for each chargeback per invoice per DPI Division. Upon Vendor's request, DPI will provide reasonable supporting documentation for customer chargebacks.

7. INSURANCE

During the term of this Agreement, and for a period of three (3) years after, Vendor shall maintain, at its sole cost and expense: (i) General & Commercial Liability Insurance and Personal and Advertising Injury in amounts not less than \$2 million per occurrence and \$4 million annual aggregate (an Excess Liability/Umbrella policy may be used to increase the primary General Liability limits); (ii) Automobile Liability Insurance in amounts not less than \$1 million per occurrence and \$2 million annual aggregate; (iii) Workers' Compensation Insurance in no less than the statutory minimum for the State(s) in which Vendor operates. Within ten (10) days of execution of this Agreement and annually thereafter, Vendor shall provide a current Certificate of Insurance reflecting the types of coverage and limits required, and name "DPI Specialty Foods, Inc., its parents, subsidiaries and affiliates" as additional insureds. The certificate should be sent electronically to: DPI-MDM-COI@dpspecialtyfoods.com. In addition, the Certificate of Insurance will indicate that 30 days' written notice will be given in the case of cancellation of the policy. Except as expressly provided in this Agreement, these insurance requirements shall not limit Vendor's liability to DPI in the event insurance recoveries/proceeds are less than Vendor's liability to DPI.

8. INDEMNIFICATION

Vendor shall indemnify, defend and hold harmless DPI, its parents, affiliates, subsidiaries, related entities, and their officers, directors, employees, agents, successors and assigns (collectively, "Indemnified Party") from and against any third party claims, demands, liabilities or losses, damages, and expenses (including reasonable attorneys' fees and costs) related to the including, without limitation, claims based upon: (i) any product liability or similar claims arising or resulting from the use or consumption of any Product, including claims seeking damages for personal injury or property damage arising from or in relation to Products; (ii) any intentional misconduct or negligence by Vendor or its employees or agents in performing its obligations under this Agreement; (iii) any third party claim that a Product, or any part thereof, infringes or misappropriates any Intellectual Property Right of a third party; (iv) the failure or alleged failure of Products to comply with any express or implied warranties of Vendor; (v) the violation or alleged violation of any law, statute or governmental ordinance due or related to the manufacture, possession, use or sale of any Products; (vi) any actual or alleged unfair business practices, false advertising, misrepresentation or fraud resulting from the Products or materials related to the Products and provided by Vendor; (vii) any breach or alleged breach of a Vendor representation or warranty or any other provision of this Agreement by Vendor. An Indemnified Party shall promptly notify Vendor in writing if a credible claim is made or threatened; provided, however, that any delay or failure to give such notice will not waive nor diminish any rights of an Indemnified Party except to the extent that the rights of Vendor are actually prejudiced thereby. Vendor shall conduct the defense of such claim at its sole cost and expense, provided that the Indemnified Party may join in the defense of such claim and employ counsel at its own expense. Vendor may not settle or compromise the claim without the Indemnified Party's consent unless such settlement (A) includes a release of all covered claims pending against the Indemnified Party; (B) contains no admission of liability or wrongdoing by the Indemnified Party; and (C) imposes no

obligations upon the Indemnified Party. The Indemnified Party agrees to provide reasonable assistance to Vendor in the defense of such claim or action, at the Vendor's expense.

9. REPRESENTATIONS AND WARRANTIES

Vendor represents and warrants that all Products (including Products grown, produced or manufactured outside of the United States) shall: (i) conform to the specifications, descriptions and labels; (ii) be merchantable; (iii) be free from defects in workmanship, material, packaging, construction, and design, (iv) be fit and sufficient for the purpose for which it is intended and/or which is stated on any packaging, labeling or advertising, (v) be free of any and all liens and encumbrances of any kind, (vi) conform to all domestic and international legal requirements and shall not be in violation or cause DPI to be in violation of any applicable law, rule or regulation (including without limitation, export, environmental and hazardous substance laws, regulations, rules and directives) and (vii) comply with all applicable federal, state or local laws, regulations, ordinances, or administrative orders or rules, regarding all food labeling, disclosure and safety laws, rules, regulations and ordinances, as of the date of such shipment or delivery, are not adulterated or misbranded and are not articles which cannot be introduced into interstate commerce. **DISCLAIMER. THE FOREGOING EXPRESS WRITTEN WARRANTIES BETWEEN THE PARTIES ARE EXCLUSIVE AND ARE IN LIEU OF ANY OTHER WARRANTIES OR REMEDIES, EXPRESS, IMPLIED OR STATUTORY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO THE EXTENT THAT IT IS ILLEGAL OR UNENFORCEABLE UNDER APPLICABLE LAW.**

10. PRODUCT SAFETY & RECALLS

Vendor shall be in compliance with all FDA, USDA and other federal, state and local laws, rules or regulations, including, without limitation, all food labeling, disclosure and safety laws, rules, regulations and ordinances and the Bioterrorism Act, at the time of shipment and delivery of any product. Annually, Vendor shall provide DPI with a copy of its third party food or product safety audit within thirty (30) days after the audit has been performed. In addition, DPI may require Vendor to provide appropriate documentation, including photographs, to validate compliance with this section. Vendor also agrees that DPI may conduct pre-arranged visits and audits of Vendor's facilities during normal production hours. Prior to shipment of any product, Vendor shall provide DPI with: (i) a copy of its Food Safety Program, which shall include a functioning HACCP and /or HARPC plan; (ii) a copy of an audited, third party approved, Food Safety Program; and (iii) proof of FDA or USDA facility registration or other documentation as required for DPI to determine that the products supplied are produced within a framework of a food or product safety system. Product recall notifications shall be immediately sent by Vendor to DPI-FoodSafety@dpispecialtyfoods.com with a copy to DPI's General Counsel via U.S. mail to 601 Rockefeller Avenue, Ontario, California 91761 and shall include the severity level of the recall (Class I, II or III), applicable UPCs, product descriptions, code dates, ship dates, product photographs and DPI purchase order numbers. The product recall notification shall also include explicit instructions as to what actions Vendor requires DPI to perform. Vendor shall fully indemnify and reimburse DPI for any and all costs associated with a recall, including without limiting, DPI's inventory, customer returns, customer fees and cost of product being disposed of or returned. DPI will charge Vendor a recall processing fee of \$500 per SKU per distribution center. This processing fee will be waived with participation in the Administrative Efficiencies Allowance (AEA) program as indicated in Exhibit A.

11. AUDIT

Vendor shall keep full and detailed accounts for a period of not less than two (2) years and shall permit DPI to audit up to two (2) years of Vendor's books and records at any time with respect to Vendor's charges, policies, procedures and transactions with DPI.

12. CONFIDENTIALITY

"Confidential Information" means any information disclosed by one party or its agents (the "Disclosing Party") to the other (the "Receiving Party") that is designated as confidential or that should reasonably be considered confidential given the nature of the information or the circumstances surrounding its disclosure, including without limitation, any information relating to the Disclosing Party's technology, business plans, products, services, customer information, pricing information, financial statements, and third-party information that the Disclosing Party is obligated to keep confidential. Confidential Information does not include information that is: (a) publicly known at the time of disclosure, (b) lawfully received from a third party free from restrictions of confidentiality, (c) subsequently made public by the Disclosing Party, (d) generated independently by the Receiving Party, or (e) required to be furnished by law, subpoena or court order, provided that the Disclosing Party shall be given prior written notice of such legal request within a reasonable time to seek a protective order or other appropriate relief with respect to such Confidential Information. The Receiving Party, shall protect Confidential Information and shall not disclose Confidential Information except to its officers, advisors, consultants or employees who have a reasonable need to know such Confidential Information and owe a duty of confidentiality. Each party shall use at least a reasonable degree of care in protecting the Confidential Information. The Parties agree that a breach of the confidentiality obligations hereunder would cause immediate and irreparable harm to the Disclosing Party

and shall, in addition to all other remedies, entitle the Disclosing Party to seek injunctive relief without requiring the Disclosing Party to prove irreparable harm or provide the posting of a bond.

13. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall remain in force for one (1) year. Thereafter, the Agreement will automatically renew for additional one (1) year terms until terminated as per the agreement. Either party may terminate this Agreement, with or without cause, by providing sixty (60) days' prior written notice to the other party. Either party may terminate this Agreement within thirty (30) days upon written notice to the other party, if the other party materially breaches any term of this Agreement and fails to cure such breach within the 30-day period. Either party may immediately terminate this Agreement without liability in the event that: (i) a receiver is appointed for the other party or its property; (ii) the other party becomes insolvent or unable to pay its debts or makes an assignment for the benefit of its creditors; (iii) any proceedings are commenced by or for and/or against the other party under any bankruptcy, insolvency or debtors relief law; or (iv) the other party is liquidated or dissolved.

14. NOTICES

Notices will be in writing and delivered by facsimile transmission with confirmation of receipt, in person, national overnight carrier, or mailed by certified or registered mail, postage prepaid and addressed as set forth on the signature page of this Agreement. If notice is given by facsimile, in person, or overnight carrier, it will be effective upon receipt; if notice if given by mail, it will be effective three (3) business days after deposit in the mail.

15. INDEPENDENT CONTRACTORS

DPI and Vendor are independent contractors and nothing in this Agreement creates the relationship of partner, joint venturer, principal and agent or of any association or relationship between the parties other than that of buyer and seller. Neither party shall make any representation to any third party either directly or indirectly indicating that it has, in any way, authority to act for or on behalf of or to obligate the other party in any way whatsoever. Each party is responsible for all taxes, duties and other governmental assessments incurred as a result of such party's performance under this Agreement.

16. MISCELLANEOUS

This Agreement shall be governed by and construed in accordance with the laws of the State of California, exclusive of choice of law rules. Venue for action under this Agreement shall be brought in a court of competent jurisdiction in San Bernardino County, California. In the event of litigation between the parties, the prevailing party shall be entitled to recover its cost and expenses in such litigation, including, without limitation, court costs, reasonable attorneys' fees and disbursements. Neither this Agreement, nor any rights granted hereunder, may be assigned by either party voluntarily or by operation of law without the other party's prior written consent, which shall not be unreasonably withheld or delayed. The parties have engaged in arms-length negotiation in arriving at this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of this Agreement. The failure of either party to require performance at any time by the other party of any provision hereof shall not affect in any way the full rights to require such performance at any time thereafter. The waiver by either party of a breach of any provisions hereof shall not be taken, construed, or held to be a waiver of the provision itself or a waiver of any breach thereafter or a waiver of any other provision hereof. A judicial determination that any provision of this Agreement is invalid, in whole or in part, shall not affect the enforceability of those provisions unaffected by the finding of invalidity. Notwithstanding the termination or expiration of the term of this Agreement or any renewal period thereof, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such expiration or earlier termination shall survive. This Agreement may be executed in any number of counterparts or duplicate originals, all of which shall be considered one and the same agreement. Facsimile signatures on one or more counterparts of this Agreement shall be as effective as original signatures.

17. ENTIRE AGREEMENT

This Agreement, including any Exhibits attached hereto and fully incorporated herein, constitutes the entire agreement between the parties pertaining to the subject matter hereof, and fully supersedes any and all prior or contemporaneous written or oral communications or agreements between the parties hereto respecting the subject matter hereof, including but not limited to any terms and conditions contained on any pre-printed forms, purchase orders, purchase order acknowledgement and invoice. In addition, no amendment or modification to this Agreement shall be valid unless set forth in writing and signed by an authorized representative each of the parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above. Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and that the terms of this Agreement are binding upon and enforceable against the entity on whose behalf it is signed.

Agreed:

- without Amendment
- with Amendment (as attached)

VENDOR

DPI SPECIALTY FOODS, INC.

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

Send a copy of notices to:

Send a copy of notices to:

DPI Specialty Foods, Inc.
601 Rockefeller Ave.
Ontario, CA 91761
Attn: General Counsel

EXHIBIT A

ADMINISTRATIVE FEES

In the process of bringing Manufacturers' products to the marketplace, DPI incurs administrative expenses that will be assessed to the Vendor as a non-negotiable fee per the schedule below. Vendors have the option to pay fees as they are incurred or to participate in the Administrative Efficiencies Allowance program at 1% of purchases and have fees waived.

Please indicate the method you select for addressing administrative fees by initialing as indicated in the fee schedule below. By initialing your selection of the Administrative Efficiencies Allowance, you are authorizing DPI to apply a 1% off invoice allowance in lieu of the listed administrative fees. If you do not indicate a preferred method, fees will be assessed as they are incurred.

DPI ADMINISTRATIVE FEE SCHEDULE

SELECT METHOD FOR ADDRESSING ADMIN FEES		
ASSESS FEES AS INCURRED <i>Initial to indicate selection:</i> _____	OR	ADMINISTRATIVE EFFICIENCIES ALLOWANCE (AEA) PROGRAM (1%) <i>Initial to indicate selection:</i> _____
Item Set Up / Item Changes / Item Activation		Fees Covered by Administrative Efficiencies Allowance
Bill Back Processing		
Non-compliant Shelf Life Handling		
Recall Processing Fee		

EXHIBIT B

NEW & EMERGING VENDORS

1. DPI classifies a Vendor as “New and Emerging” if it meets all of the following criteria:
 - A. Company annual revenue is less than \$1M and there are no more than 50 employees
 - B. Vendor has not sold product to any DPI Division in the past 7 years
2. The “New and Emerging” classification will apply until total DPI annual purchases exceed \$100,000, but no longer than 2 years.
3. DPI recognizes that there is upfront investment spend incurred by small businesses when launching new and innovative products to the retail market. We want to support innovation and small business but need to be mindful of the costs and exposure incurred by DPI. Therefore, we have implemented the following changes to our standard policy for New and Emerging Vendors:
 - A. Administrative Fees: New and Emerging Vendors will participate in the Administrative Efficiency Allowance program at a rate of 1%. This allowance will cover the administrative costs incurred by DPI and the following fees will be waived: new item set up fee, item change fee, item activation fee, billback processing fee, shelf life non-compliance handling fee, and recall admin fee.
 - B. Payment: Payment terms are 1% 10, Net 35 days EFT, unless other payment terms have been agreed upon in writing. All cash discount days shall be calculated from the date of actual receipt of goods or the date of the invoice is received, whichever is later. Notwithstanding the foregoing, payment terms for an initial order from any New and Emerging Vendor shall be Net 90 days date of invoice. In the event that a significant portion of the initial order inventory remains on hand beyond the 90 day term, DPI may extend this initial payment period to allow for receipt of DPI customer marketing charges.
 - C. Initial Orders: Vendor will allow DPI to order less than the published minimum order quantity for the first three (3) orders to any DPI warehouse. Vendor will guarantee Products purchased by DPI for the initial six (6) months of distribution of each Product. All products are sold to DPI by Vendor as a guaranteed sale item unless otherwise agreed to in writing by both parties.

Does Vendor Qualify as New and Emerging Vendor Status? _____ (Initial here if qualified)

By initialing above, you are requesting New and Emerging Vendor status and agreeing to all terms stated above.

Vendor may be required to provide proof that shows company revenue is less than \$1M and employee count is no greater than 50.

EXHIBIT C

DPI SPECIALTY FOODS VENDOR POLICIES

DPI may modify these Vendor Policies, in its sole discretion, upon fifteen (15) days' prior written notice.

1. Initial Order Payment Terms

- A. Payment terms for an initial order from any new Vendor shall be Net 90 days date of invoice.
- B. In the event that a significant portion of the initial order inventory remains on hand beyond the 90 day term, DPI may extend this initial payment period to allow for receipt of DPI customer marketing charges.

2. New Item Introduction

- A. New item introductions and information must include either actual samples of the product and an actual shipping case for the product or clearly legible photos of all key elements of the product packaging accompanied by a product specification sheet
- B. A standard Introductory Promotional Allowance of 18% will be applied to the initial purchase order for each DPI division. DPI uses this allowance to cover the marketing exposure and introductory communication programs and publications for all customers serviced by the DPI division.
- C. DPI Customers often require a "free fill" for new item placement. The "free fill" cost calculation shall be at DPI's selling cost to the customer. If vendor elects to pay DPI customer slotting charges directly to customer (in lieu of free fill), vendor is to provide DPI with acceptable documentation of Customer agreement and payments.

3. Product Guarantee / Product Spoils

- A. Vendor will fully guarantee all products for the initial six (6) months of distribution for each item.
- B. Following the initial 6 month period, all items will be considered fully guaranteed unless other spoils agreements are documented as an amendment to the vendor agreement

4. Promotions

- A. Promotional allowances shall be evenly divisible by case pack to ensure proper pass through to the retailer.
- B. Buyer requires advance notification for all promotion periods as follows:
 - 1. One hundred eighty (180) days for Center Store Grocery, GM/HBC, Candy, and Frozen Product
 - 2. One hundred twenty (120) days for Perishable Chilled/Refrigerated and Perishable Shelf Stable Product
- C. All promotions are to be submitted utilizing the DPI Promotion Form as provided to vendor by DPI representative or via the DPI Web Portal once access is provided.

5. Vendor Cost Change Policy

- A. Cost Change Schedule
 - 1. All non-commodity based cost changes will be accepted and implemented based on the current DPI Cost Change Calendar as published on the Vendor Data Management Web Portal (<https://isupplier.dpispecialtyfoods.com/>) or per customer requirements. DPI will reject any cost change that is not properly submitted within the submission date range.
 - 2. DPI will not allow cost changes to be submitted with effective dates during November and December.
 - 3. Cost changes should not conflict with previously presented promotional programs. Cost changes that conflict with scheduled promotions will not go into effect until after the scheduled promotion

has ended or will require cost protection of the agreed to promotional net cost.

- B. DPI does not accept cost changes by way of P.O. confirmations. If a cost change is not properly submitted within DPI requirements, a claimed cost discrepancy at time of P.O. Confirmation will be denied.
- C. Cost changes must be submitted through the Vendor Data Management Web Portal (<https://isupplier.dpispecialtyfoods.com/>). In the event that the Web Portal is not available, cost changes will be submitted to each DPI division using the DPI Cost Change Form provided by the division procurement team.
- D. All submitted cost changes must include the following and will not be considered submitted if any item is missing:
 - 1. Completed DPI Cost Change Form
 - 2. Written communication on Vendor letterhead clearly explaining the specific factors driving the cost change with supporting documentation (e.g., market changes tied to ingredients, packaging, etc.).
 - 3. Updated Standard Cost List reflecting new costs and effective date for all products available for purchase.
- E. If customer(s) of DPI refuse to accept a vendor submitted cost change, vendor shall determine whether they will (i) rescind the cost change, (ii) provide a bill back to cover the cost difference for that customer(s), or (iii) discontinue distribution of their product to that customer(s).

6. Warehouse Policy

- A. Vendor Delivery
 - 1. All shipments shall be palletized and shrink wrapped and include a clearly visible packing slip affixed on the surface area of one side of one pallet. Packing lists must include:
 - a) Vendor and shipper name
 - b) DPI P.O. number
 - c) SKU number/item number
 - d) Order quantity (must match P.O. quantity)
 - e) Proof of Delivery receipt (DPI must be able to retain a copy of the signed POD)
 - f) closed coded shelf life dates, which shall be interpreted with actual expiration dates
 - g) accurate counts of cases shipped and number of pallets, and
 - h) accurate total gross weight, including the weight of the pallets
 - i) Bill of Lading
 - 2. For all "Catch Weight Items", the invoiced weight and/or weight sheet must accompany the shipment. If the total actual weight is not provided or incorrect, this may cause a delay in payment or DPI may refuse to accept the order.
 - 3. Identical SKU's must be shipped together on the same pallet unless ordered in greater or less than pallet quantities. Any identical sku's shipped with mixed expiration dates must be separated at the time of delivery. Products ordered in even layers, as identified by Vendor, must be shipped in such layers. All shipments must be configured to DPI's "tie and high" standards upon arrival at the DPI Division. If mixed or non-conforming pallets are shipped, then Vendor shall be responsible for all sorting and segregating charges, including, without limitation, any lumper fees. DPI pickups are not subject to lumping fees.
 - 4. Multiple P.O.'s scheduled for delivery to the same DPI Division must be written on one bill of lading, so as to constitute one shipment.
 - 5. For all inbound freight, Vendor or Vendor's carrier must schedule a dock appointment with the applicable DPI Division, at least seventy-two (72) hours in advance of delivery.
 - 6. Upon receipt of Product and for convenience, DPI will exchange Vendor pallets with equal quality standard 40"x48" four way pallets. If an exchange is not possible, DPI shall reimburse Vendor in an amount equal to \$4.75 per used pallet or current industry used pallet rate, whichever is less.

DPI shall not exchange rental or (CHEP) pallets.

7. Vendor will be notified of any non-conforming shipment. DPI shall provide Vendor with a count and quantity of the non-conforming item(s) received. DPI shall reject and return the shipment, in whole or in part, at Vendor's sole cost and risk of loss.
 8. Within forty-eight (48) hours of delivery, Vendor will be notified of any concealed damage to any Product. If requested by Vendor, DPI shall hold damaged Product for a maximum of seven (7) days for inspection. At the end of the 7-day period, unless directed by Vendor to return the product, DPI shall dispose of the Product and charge back Vendor for the cost of the Product and all costs associated with its disposal. All returns will be at Vendor's sole cost and risk of loss.
 9. Any back orders shipped by Vendor shall be rejected by DPI and returned at Vendor's sole cost and risk of loss.
- B. DPI Pickup
1. DPI or its designated agent ("Carrier") may pick up Product at Vendor's dock. If the Carrier is required to wait at Vendor's dock for more than thirty (30) minutes beyond the scheduled pick up time, Vendor shall be liable for any and all detention charges that may be assessed by the Carrier.
 2. Once a shipping appointment has been made, Vendor's shipping department is required to notify DPI and Carrier if load size has changed by more than 10% in weight or volume. Vendor shall be liable for any and all additional freight costs incurred by DPI Vendor's failure to provide adequate notice.
 3. If Vendor does not allow case counts at Vendor's dock during loading, Carrier shall sign all load sheets "shipper load and count" (SLC) or "said to contain" (STC). If any shortage is discovered upon delivery, DPI will deduct the amount of shortage from Vendor's invoice.
- C. Vendor Performance Levels
1. Vendor shall maintain a fill rate of 98% or higher ("Fill Rate Threshold") on a consistent basis. If the fill rate falls below the Fill Rate Threshold for more than two (2) consecutive P.O.s, Vendor shall provide written notice to DPI. Such notice shall state the reasons for the inability to meet the Fill Rate Threshold and the anticipated date for a return to compliance with the Fill Rate Threshold. All notifications shall be sent to National Vendor Relations at DPI-VendorStockouts@dpispecialtyfoods.com, as well as any and all DPI Divisions purchasing the Product.
 2. Vendor shall provide written notice to DPI within five (5) days of identification of any expected long term stock shortage. Such notice shall state the reasons for the expected long term stock shortage and the anticipated date when Vendor shall be able to ship or deliver product. All notifications shall be sent to the National at DPI-VendorStockouts@dpispecialtyfoods.com, as well as any and all DPI Divisions purchasing the Product.
- D. Product Handling
1. Refrigerated, frozen and ice cream products (collectively, "Temperature Sensitive Products") will be transported and delivered using appropriate climate control measures, with temperature levels not to exceed maximum product temperatures of 40°F for refrigerated products, 0°F for frozen products (excluding ice cream), and -15°F for ice cream products. For the purposes of this provision, ice cream products include frozen confections and novelties.
 2. Upon delivery of Temperature Sensitive Products, Vendor or Vendor's carrier must provide DPI with appropriate documentation, including documentation detailing the climate control or thermal readings for the Temperature Sensitive Products throughout the transportation route from pick-up to delivery. Does not apply to FOB Origin.
 3. If the documentation shows that the environment of the Temperature Sensitive Products exceeded the maximum temperature at any time prior to delivery, DPI may, in its sole discretion, reject the product as non-conforming. Upon such rejection, the non-conforming products shall become the sole responsibility of Vendor. DPI shall have no obligation to pay for the products or any costs associated therein. If Temperature Sensitive Products are delivered without the required documentation, DPI may, in its sole discretion, accept the delivery and such acceptance will not

excuse Vendor from any indemnity obligations to DPI. Does not apply to FOB Origin.

4. DPI may inspect any Temperature Sensitive Products up to seventy-two (72) hours from receipt of such goods to determine quality and salability. If DPI determines that the Temperature Sensitive Products are defective, DPI shall hold the Product for a maximum of seven (7) days for inspection. At the end of the 7-day period, unless directed by Vendor to return the product, DPI shall dispose of the Product and charge back Vendor for the cost of the Product and all costs associated with its disposal. All returns will be at Vendor's sole cost and risk of loss.
- E. Shelf Life Policy
1. Vendor must provide DPI with the total product shelf life, in days, at the time of production.
 2. All open coded products must be open coded with a conspicuous "sell by" or "use by" date. The date must be stamped on both the shipping case and on the product. All closed coded products must show the actual expiration date on the shipping documents or packing list.
 3. Vendor shall ship product so that it has a minimum 67% of its shelf life remaining when it is received by DPI. If product is manufactured with greater than 365 days of shelf life, Vendor shall ship the lesser of 67% or 1 year remaining shelf life.
 4. DPI will assess an administrative fee of 12.75% of cost on all cases received with less than the required shelf life remaining. Warehouse spoils of non-compliant product will be deducted from the Vendor at the laid in cost to DPI. This administrative fee will be waived with participation in the Administrative Efficiencies Allowance (AEA) program as indicated in Exhibit A.
 5. DPI buyers will notify Vendors of non-compliant product and take one of the following actions based on the specific situation. DPI reserves the right to refuse product delivery at their discretion.
 - a) Arrange for pick up and replacement of non-compliant product at the Vendors expense.
 - b) Accept additional marketing support to increase sale and reduce potential spoils.
 - c) Agree with supplier to allow for normal inventory depletion.

7. Web Portal

- A. When DPI Provides access to Vendor, Vendor must use DPI's "Web Portal" for all data entry regarding
 1. New Item Set up
 2. Purchase Orders, Pricing, and Allowances
 3. Promotions
 4. Cost Changes

8. Supplier Diversity Initiative

- A. It is the policy of DPI to offer minority and women owned businesses the opportunity to compete on an equal basis with all other suppliers.
- B. Vendor must provide proof of certification by a national or regional Diversity Supplier Development Council to be so listed.

EXHIBIT D

NATIONAL VENDOR PROGRAMS

1. **MARKETING SOLUTIONS PROGRAM (1%)** **PARTICIPANT** **DECLINED**

PROGRAM NOTES:

2. **STRATEGIC SUPPLIER PROGRAM** **PARTICIPANT** **DECLINED**

Base Purchase Allowance: _____

Growth Purchase Allowance: _____

PROGRAM NOTES:

3. **MARKETING AGREEMENT INTERNAL NOTES:**

Internal Use Only

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above. Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and that the terms of this Agreement are binding upon and enforceable against the entity on whose behalf it is signed.

VENDOR

DPI SPECIALTY FOODS, INC.

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date