




## CONTINUING GUARANTY AND HOLD HARMLESS AGREEMENT

- A. Fresca Mexican Foods, LLC (“Fresca”) hereby guarantees and warrants that each and every article of food or other product sold by Fresca shall be:
- (1) Not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act of June 25, 1938 (the “Federal Act”), as amended, the Federal Fair Packaging and Labeling Act, the regulations issued thereunder or within the meaning of any state food and drug law, the adulteration and misbranding provisions of which are identical with or substantially the same as those found in the Federal Act, and that such goods will not be produced or shipped in violation of Section 404 or 301(d) of said Federal Act; and
  - (2) Consistent with the packaging and other written specifications provided by Fresca.
- B. To the extent not arising out of the acts or omissions of Buyer, Fresca agrees to indemnify, defend and hold Buyer harmless from all actions, suits, claims and proceedings resulting from or arising out of breach of the foregoing warranties; provided the Buyer has given Fresca prompt notice of any such matter.
- C. Notwithstanding the foregoing, where goods are manufactured and shipped by Fresca according to and under labels provided by Buyer, Fresca’s responsibility for misbranding shall be limited to that resulting from the failure of the product to conform to the product specifications furnished by Buyer. UNDER NO CIRCUMSTANCES SHALL FRESCA BE LIABLE UNDER THIS AGREEMENT FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EXCEPT AS PROVIDED HEREIN, FRESCA MAKES NO WARRANTY, EXPRESSED OR IMPLIED, CONCERNING ITS PRODUCTS, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

This agreement revokes and supersedes any warranty or guarantee previously given by Fresca to Buyer. It is effective as of the date first set forth below and shall continue to be effective until it is revoked Fresca.

FRESCA MEXICAN FOODS, LLC

By:   
Andrew Savin  
President, CEO

Date: 01/06/2021