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**BEL AIR** **NOB HILL** **FOOD SOURCE**

**Terms and Conditions of Purchase  
Non-Resale Goods and Services**

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The following Terms and Conditions (“Agreement”) apply to all orders for the purchase of Goods or Services by Raley’s. Vendors placing or processing orders for Raley’s agree to be bound to these Terms and Conditions.

1. Definitions:

- i. “Raley’s” means Raley’s or any parent company or applicable subsidiary, including but not limited to Bel Air Mart, Nob Hill General Store, Inc., or Warehouse Concepts dba Food Source.
- ii. “Vendor” means the company or its authorized representative who sells Goods to Raley’s.
- iii. “Goods” means any products sold or services provided to Raley’s pursuant to a purchase order or any other agreement between Raley’s and Vendor.

2. Vendor, by accepting this Agreement or by shipping or sending the described goods to Raley’s or by providing services to Raley’s, agrees to all terms and conditions herein. If Vendor has an existing, written and fully-executed contract with Raley’s, then any term or condition contained in the fully executed contract that is inconsistent with this Agreement shall govern. Otherwise, any other document which contains additional or inconsistent terms, or a rejection of any term or condition found in this Agreement, will be deemed to be superseded, or to be a counteroffer to Raley’s which shall not be binding unless Raley’s acceptance is delivered in a writing signed by Raley’s after the date of this Agreement. Any performance by Vendor in the absence of Raley’s written and signed acceptance of any such counteroffer shall be deemed to be performance in accordance and agreement with the terms of this Agreement. Vendor warrants and guarantees that all goods or services furnished under this Agreement (“Goods”) (i) shall comply with, and be packed and shipped in compliance with, applicable federal, state, county and local laws, ordinances, regulations and codes (“Applicable Law”), including without limitation ADA and Cal OSHA, and (ii) will not infringe any patent, trademark, tradename or other intellectual property rights of a third party.

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**3. Warranties & Representations:**

- i. Vendor warrants that (i) Vendor has good title to the Goods sold hereunder and guarantees that said title is and shall remain free and clear of any and all liens, mortgages, financing statements and encumbrances of whatsoever nature, (ii) all services shall be performed in a good workmanlike manner and in compliance with Applicable Law, (iii) all Goods delivered hereunder are free from defects in design, material and workmanship, (iv) the Goods conform to applicable specifications, drawings, samples or other description provided by Vendor to Raley’s, (v) the Goods comply with commonly accepted agency specifications (for example, NSF, ISO, U.L. Listings), (vi) the Goods will be merchantable and suitable for the purposes intended, (vii) the Goods will comply with all Applicable Laws, including but not limited to, California’s Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Section 25249.5, et seq. (“Proposition 65”), (viii) Vendor is a legal entity duly organized and in good standing under the laws of the state of its organization, with full capacity to sue and to be sued, (ix) Vendor is authorized to enter into and be bound by the terms of this Agreement, and (x) neither this Agreement nor Vendor’s performance hereof shall be a violation of applicable law or the terms of any material contract, instrument or agreement between Vendor and any third party. The foregoing warranties are in addition to all other warranties provided by law or provided by custom in the industry or given by Vendor. If within the agreed upon warranty period (or if none, if within one year) after the Goods are delivered to Raley’s any part of the design, material or workmanship shall prove to be defective, Vendor will replace or repair such defective parts to the satisfaction of Raley’s and without cost to Raley’s upon receipt of notice of such defect from Raley’s. The foregoing shall not limit or restrict any liability of Vendor or Raley’s under any Applicable Law or usage under any agreement or warranty, express or implied.
  
- ii. Vendor represents and warrants that Vendor does business ethically and will avoid all forms of corruption, including bribery, extortion, embezzlement, theft, fraud, or

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other abuse of power to gain an improper advantage. Vendor agrees that it is now in compliance with, and will continue to comply with, all applicable laws and regulations prohibiting bribery or corruption, including but not limited to the Foreign Corrupt Practices Act (FCPA) and all other applicable anti-bribery or anti-corruption laws of other jurisdictions. Vendor will not offer or provide money or anything else of value to any agent or representative of any government, government agency, or government owned entity (also commonly called state owned entities) in order to obtain or retain business, or to improperly influence any business matter or transaction. Vendor has established controls to ensure and monitor compliance and shall notify Raley’s in writing immediately upon the occurrence of any event that may render the above representations and warranties or any other provision of this Section incorrect.

- iii. Vendor represents and warrants that Vendor does not do business with or otherwise engage in or facilitate transactions involving individuals or entities that are subject to sanctions or other applicable trade control restrictions. Vendor agrees that it is now in compliance with, and will continue to comply with, the United States, United Nations, and all other applicable import, export and trade sanctions laws and regulations ("Trade Regulations"). Vendor further represents and warrants that neither Vendor, its directors, executive officers, senior management, key employees, agents, shareholders, persons having a controlling interest in Vendor, nor any other party with which it conducts business are (i) persons located or incorporated in, or overseas entities (e.g., Embassy or Consulate) of Crimea, Cuba, Iran, North Korea, Syria, or any other territory or country that Raley’s prohibits as a matter of internal policy or that is subject to comprehensive trade sanctions (“Sanctioned Territories”), or; (ii) persons targeted by national, regional, or multinational trade or financial sanctions under applicable laws and regulations, including but not limited to persons designated on the Office of Foreign Asset Controls (“OFAC”) List of Specially Designated Nationals and Other Blocked Persons, the OFAC Consolidated Non-SDN Sanctions List (including the Sectoral Sanctions Identifications List and the Foreign

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Sanctions Evaders List), the United States State Department Non-proliferation Sanctions Lists, the United States Department of Commerce Denied Parties List, Entity List or Unverified List, the United Nations Financial Sanctions Lists or (iii) persons directly or indirectly owned or controlled by or acting on behalf of such persons identified above (together, "Restricted Persons"). Vendor shall not import, source, or purchase the Goods or any related goods, in whole or in part, directly or indirectly, from Sanctioned Territories or Restricted Persons. Vendor has established controls to ensure and monitor compliance and shall notify Raley's in writing immediately upon the occurrence of any event that may render the above representations and warranties or any other provision of this Section incorrect.

- iv. Vendor warrants that it does not use forced labor, including forced child labor, prison labor, indentured labor, bonded labor or any other form of labor regarded by the U.S. government as forced labor, including the labor of North Korean nationals (collectively, "Forced Labor"), and that it does not knowingly benefit from the use of Forced Labor by others. If, subsequent to the execution of this Agreement, additional categories of labor are determined by the U.S. government to constitute forced labor, 30 days following receipt of written notice by Raley's, the definition of Forced Labor set forth in this paragraph shall be deemed expanded to encompass such new category or categories of labor. Vendor warrants that it screens its own suppliers and subcontractors to ensure that it does not do business with any entities which use or benefit from Forced Labor. Vendor warrants that all Goods sold by Vendor to Raley's are not made wholly or in part with Forced Labor, and that if any Good sold to Raley's is detained by U.S. Customs and Border Protection pursuant to enforcement of the U.S. import ban on goods made with Forced Labor (19 U.S.C. § 1307) or any other U.S. law used to combat Forced Labor (collectively, "Forced Labor Enforcement"), Vendor will provide Raley's with all information necessary to establish the labor conditions under which such Good was produced. Such information shall include, at a minimum, evidence establishing the condition of labor utilized by Vendor, and the condition of labor utilized by all vendors, suppliers and subcontractors involved in

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producing goods or materials purchased by Vendor. Without limitation to any other penalties or rights which may accrue under this Agreement or applicable law pursuant to a breach of the provisions set forth in this paragraph, Vendor agrees that payment shall not be due under this Agreement for any Goods detained, seized or denied entry into the United States pursuant to Forced Labor Enforcement, and that Vendor shall indemnify Raley’s with respect all reasonable costs, including attorneys’ fees, incurred in seeking to contest such detention, seizure, or denial of entry, or to defend against civil or criminal penalty actions related to the same.

- v. **PENALTIES:** Unless prohibited by law, in the event Raley’s determines that Vendor is not in compliance with Vendor's representations or warranties in Sections 3(ii) through 3(iv) of this Agreement (collectively, "Representations"), at its election and in addition to all other rights set forth herein, Raley’s shall be entitled to a penalty of two (2) times the amount of costs and expenses incurred by Raley’s, including reasonable attorneys' or auditor's fees, in evaluating whether Raley’s was in compliance with such Representations, as well as any other remedy it may obtain in law or in equity.
  
- vi. **Set-Off:** Without limiting anything in this Agreement to the contrary, without limiting any other rights and remedies available to it, and except as otherwise prohibited by law, Raley’s may, without notice to Vendor, set off or recoup any liability it owes to Vendor against any liability for which Raley’s reasonably determines Vendor is liable to Raley’s due to Vendor’s noncompliance with the Representations.
  
- vii. In addition, Vendor agrees to provide such information as Raley’s may reasonably request to enable Raley’s to comply, and to facilitate Raley’s compliance, with applicable federal, state, and local statutes, rules, regulations, ordinances, orders, and other imperatives (collectively, “Requirements”). The Requirements include Vendor agreeing to affix a label to all Goods, warnings required under Proposition 65. Vendor further agrees to comply with such rules as may be promulgated by Raley’s with

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respect to such Requirements. Vendor warrants, now and as of the time of each shipment of Goods hereunder, that such information as it shall provide to Raley's under this Section 3 shall be true, accurate, and complete in all material respects.

4. Vendor shall inspect all Goods prior to shipment to Raley's and shall retain, and make available to Raley's upon request, all inspection records relating to the Goods. Notwithstanding any prior inspection or payments, all Goods will be subject to final inspection at the destination set forth in the Agreement. Should Raley's determine that the Goods are non-conforming or defective, Raley's may, at its election, (i) cancel this Agreement, (ii) accept such Goods with an agreed-upon reduction in price, or (iii) return the Goods and require replacement or credit. Should Vendor fail to deliver replacement for such non-conforming or defective Goods promptly, Raley's may cover and charge Vendor costs occasioned thereby.
5. Vendor acknowledges and agrees that it has received Raley's Supplier Quality Expectation Manual and agrees to comply (to the extent permitted by applicable law) with Raley's requirements as mentioned in the manual.
6. All shipments will be made in accordance with Raley's General Shipping Instructions, as amended, incorporated herein by this reference. Notwithstanding any prior inspection, Vendor will bear all risk of loss, damage or destruction of the ordered Goods until final inspection and acceptance of the Goods by Raley's. Vendor will bear all risk of loss, damage or destruction with respect to any Goods rejected by Raley's. Vendor shall pay all freight to Raley's designated location unless otherwise provided in the General Shipping Instructions.
7. This Agreement is not assignable by the Vendor unless agreed to in a writing signed by Raley's.
8. In the event a lower price for any item becomes effective prior to the Due Date, the price for such item set forth herein shall be automatically amended to such lower price.
9. Vendor agrees to indemnify, defend and hold harmless Raley's, Raley's affiliates, and their respective officers, directors, shareholder, employees, agents and representatives from and against any and all claims, losses, actions, fines, penalties, liabilities, damages, injuries, costs and expenses (including, without limitation, costs and expenses for investigation and litigation and reasonable attorneys' fees) which arise out of or in connection with (i) Vendor's or any of its representatives', employees', agents',

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subcontractors', or independent contractors' breach of any covenants, warranties or representations made herein, and (ii) any Goods furnished by Vendor. Without limiting the generality of the foregoing, Vendor agrees to defend, indemnify and hold harmless Indemnified Parties from any claims, liabilities, losses, costs, fines, penalties, demands, damages, and expenses (including reasonable attorneys' fees) arising out of Vendor's failure to comply with Proposition 65 and/or Section 3's (above) Requirement to affix a label to all Goods, warnings required under Proposition 65. This section shall survive the expiration or termination of this Agreement. T

**10. In no event shall Raley's liability under this Agreement, whether based on contract, tort or otherwise, exceed the purchase price of the Goods specified on the face of this Agreement. IN ADDITION, RALEY'S SHALL NOT BE LIABLE TO VENDOR, UNDER ANY CIRCUMSTANCES, FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF DATA OR PROFITS, IN CONNECTION WITH THE AGREEMENT, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.**

11. Any specifications, drawings, models, samples, technical information, proprietary data, or other information furnished to Vendor shall remain Raley's property. All copies of this information in written, graphic or other tangible form shall be returned to Raley's, at Raley's request, and shall be kept confidential by Vendor to be used only for fulfilling this Agreement.

12. The failure of a party to enforce any provisions of this Agreement or to require at any time the performance by the other party of the provisions herein will not be construed to be a waiver of such provisions.

13. Time is of the essence in this Agreement. Raley's reserves the right to cancel this Agreement if shipment of all Goods is not received by the Due Date, or if no Due Date is indicated, if not timely received, or in the case of services to be performed, at any time. Vendor will notify Raley's of any delays or threats of delay in the timely delivery or performance of Goods.

14. If Vendor becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of creditors, has a trustee appointed to take possession of Vendor's property or business, or materially breaches any term of this Agreement, this Agreement and any related agreements may be cancelled, without liability, at Raley's option.

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- 15. This transaction is governed by the law of California, excluding its conflict of laws rules. Both parties acknowledge that the Superior Court of the State of California in and for the County of Yolo and the associated federal and appellate courts shall have exclusive jurisdiction to hear and decide any dispute, controversy or litigation regarding arising out of or related to this Agreement or any portion thereof.
- 16. Raley’s does not accept cash on delivery (C.O.D.) shipments.
- 17. Nothing in this Agreement is intended to limit Raley’s remedies or rights unless specifically stated otherwise in this Agreement.
- 18. Vendor must submit invoice showing applicable taxes, if any. Manufacturers’ and retailers’ federal, excise, state or municipal sale and use taxes, when applicable, shall be billed as separate items on Vendor’s invoices. To the extent Raley’s may be exempt from any tax, Vendor agrees to help Raley’s prove this exemption to the appropriate taxing authority.
- 19. Vendor must include model and serial numbers, if any, for the Goods in the invoice.
- 20. The Purchase Order number must appear on all invoices.
- 21. At its own expense, Vendor shall maintain insurance coverage set forth herein. Vendor shall not change or cancel any of the following policies of insurance without providing Raley’s with at least thirty (30) days’ prior written notice: (1) Commercial General Liability Insurance for injury to persons or damage to property in an amount not less than \$2,000,000 for each occurrence, and \$4,000,000 aggregate. These insurance limits can be complied with by a combination of primary and excess insurance; (2) Workers’ Compensation Insurance in statutory amounts and Employer’s Liability Insurance required by applicable state law; (3) Automobile Insurance for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000) for each accident (including owned, non-owned and hired vehicles); and (4) Products Liability or Excess Insurance in an amount of not less than \$4,000,000 combined single limit for bodily injury or property damage per occurrence. Such insurance policy(ies) shall be maintained with responsible insurers acceptable to Raley’s and who have a Best’s financial rating of at least A- VIII. Such Commercial General Liability and Automobile insurance policies shall be endorsed naming “Raley’s, and its subsidiaries and

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trade names as now exist or may be constituted hereafter and their directors, officers, employees, agents, and representatives” as additional insureds and that such insurance shall be primary and non-contributory. The Vendor shall furnish Raley’s a Certificate of Insurance evidencing that these policy(ies)’ terms and conditions are maintained in force as well as any endorsements pertaining to the insurance policy(ies).

22. The relationship between Vendor and Raley’s under this Agreement is intended to be that of independent contractors. Nothing in this Agreement is intended to be construed to constitute Vendor and Raley’s as principal and agent, partners or joint venturers. This Agreement does not convey nor shall either party claim any property interest in the other party's corporate name, trademarks, service marks, trade names, trade designations or other intangible property rights, except as expressly provided for herein. Both Vendor and Raley’s shall have the sole right, authority and obligation to fix, pay or otherwise provide the compensation and employee benefits of its respective employees, and to provide workers' compensation insurance and to pay payroll taxes for such employees. No employee of Vendor shall be deemed to be an employee of Raley’s and vice versa and neither Vendor nor Raley’s shall have any responsibility to pay any expenses related to employees of the other party.

23. Confidentiality:

- i. Definition of Confidential Information: The parties may have access to each other’s Confidential Information. “Confidential Information” means this Agreement and all proprietary or confidential information of a party (“Disclosing Party”) that is disclosed to the other party (“Receiving Party”), whether orally or in writing, which is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. “Confidential Information” shall include, without limitation, information and materials relating to the Disclosing Party’s (a) financial and business affairs, (b) know-how, processes, trade secrets, procedures, or methods of operation, (c) proposed or existing projects, programs, and products, (d) sales and marketing materials and methodologies, and (e) employees, customers, vendors, and suppliers.

“Confidential Information” does not include the following: (i) information which is now

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or hereafter becomes, through no act or failure of the Receiving Party, generally available to the public; (ii) information which was lawfully received by the Receiving Party without restriction as to use or disclosure before it was disclosed by the Disclosing Party; (iii) information which is independently developed by the Receiving Party independently of and without aid of the Confidential Information received from the Disclosing Party (and the Receiving Party can sufficiently document such independent development); (iv) information which lawfully becomes known to the Receiving Party through a third party which lawfully has the information and discloses such information to the Receiving Party without breaching confidentiality obligations to the Disclosing Party; and/or (v) information which is disclosed pursuant to court order or as otherwise required by law, after giving the Disclosing Party notice of such required disclosure and after assisting the Disclosing Party in its reasonable efforts to prevent or limit such disclosure.

- ii. **Protection of Confidential Information:** Each party will take all action reasonably necessary to protect the confidentiality of the other party’s Confidential Information in its possession, including, without limitation, implementing and enforcing commercially reasonable operating procedures to minimize the possibility of unauthorized use or copying of the Confidential Information. The Receiving Party will enforce compliance with the non-disclosure obligations of this Agreement by its employees, or former employees, authorized sub-contractors and agents who receive Confidential Information and will immediately give notice to the Disclosing Party upon discovering any unauthorized use or disclosure of Confidential Information. The Receiving Party agrees to assist the Disclosing Party in remedying any unauthorized use or disclosure of Confidential Information. Neither party shall communicate any information to the other party in violation of the proprietary rights of any third party. This section shall survive termination and expiration of this Agreement.
- iii. **Return of Confidential Information:** Upon termination or expiration of the Agreement, a party must: (a) promptly return to the other party all Confidential Information (as defined above), or (b) upon the other party’s request, destroy, or otherwise make

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unreadable through shredding, erasing or otherwise modifying, all Confidential Information of the other party, whether in paper, electronic, or any other form.

- 24. If any provision of this Agreement, including the incorporated General Shipping Instructions, is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed severable from this Agreement. The remaining provisions of this Agreement will remain in full force and effect.
- 25. Without limiting any other rights or remedies available (unless otherwise specified in this Agreement, either party to this Agreement may terminate the Agreement upon thirty (30) days written notice to the other party that the party is in default of this Agreement and must cure such default. A party is in default if it has breached or for any reason failed to comply with any of the material terms of this Agreement. This Agreement shall terminate if the defaulting party fails to cure the default within the thirty-day notice period. Notwithstanding the foregoing, Buyer may also terminate this Agreement immediately in the event of Vendor's breach of Sections 3(ii), 3(iii), and/or 3(iv) of this Agreement. Raley's may also terminate this Agreement, at any time, with or without cause, by providing Vendor with at least thirty (30) days written notice.
- 26. Notices: Any notices required to be sent during the term of this Agreement shall be sent to the following:

Raley's  
 500 West Capitol Ave.  
 West Sacramento, CA 95605-2696  
 Attn: Trading Partner Management  
 Cc: General Counsel

[SIGNATURE PAGE TO FOLLOW]

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27. This Agreement constitutes the entire and integrated agreement between the parties with respect to the matters herein and supersedes all prior negotiations, communications, understanding, commitments and agreements of the parties, whether written or oral.

IT IS HEREBY AGREED:

Vendor Company's Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PLEASE COMPLETE AND SIGN ABOVE, AND INCLUDE ALL PAGES OF THIS AGREEMENT (NOT JUST THE SIGNATURE PAGE) WITH YOUR SUBMISSION OF REQUIRED DOCUMENTATION.**

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