

## **CONFIDENTIALITY AND PRODUCT SAMPLE AGREEMENT**

Whereas, \_\_\_\_\_ (“BUYER”) and McCarthy Spice & Blends Company (“MSBC”) hereby enter into this Confidentiality and Product Sample Agreement (“Agreement”) for the purpose of preparing and blending seasonings and other products of the BUYER (hereinafter BUYER’s “Products”) to create one or more free samples for BUYER to evaluate and determine if BUYER wants to engage MSBC for additional services to manufacture BUYER’s Products; and

Whereas, as part of the services to be performed by MSBC, MSBC will obtain knowledge of trade secrets, formulas and recipes provided by BUYER to MSBC (BUYER’s “Confidential Information”).

NOW, therefore, MSBC and BUYER agree as follows:

- 1) BUYER’s Confidential Information provided to MSBC as part of this Agreement is the sole and exclusive property of BUYER.
- 2) MSBC will use BUYER’s Confidential Information to prepare and blend BUYER’s Product(s) to provide one or more samples at no charge to BUYER in accordance with the specifications and instructions of BUYER in order for BUYER to determine if it wishes to move forward with engaging MSBC to manufacture its Product(s).
- 3) MSBC will not copy, publish, distribute nor communicate directly or indirectly, nor use for its benefit, the Confidential Information of BUYER, other than to create samples or manufacture BUYER’s Products in accordance with BUYER’s instructions.
- 4) MSBC agrees to limit to as few employees as possible of MSBC the Confidential Information of BUYER during the course of providing services to BUYER.
- 5) At BUYER’s request, MSBC will return to BUYER all copies and documents provided by BUYER to MSBC, including BUYER’s Confidential Information and further agrees that the terms of this Agreement shall survive indefinitely.
- 6) BUYER shall have the option to move forward with retaining MSBC to manufacture BUYER’s Products on mutually agreeable terms. MSBC shall have no obligation to manufacture BUYER’s Products, or provide any other services to BUYER, unless the parties mutually agree on the terms of such manufacturing or other services, including payment terms.
- 7) All formulas created by MSBC in preparing and blending BUYER’s Products using BUYER’s Confidential Information, whether to create samples or for manufacturing purposes, are the sole and exclusive property of MSBC.

- 8) BUYER ACKNOWLEDGES AND AGREES THAT THE LABELING, SUBSTANTIATION, AND DECISION MAKING OF ALL CLAIMS FOR BUYER'S PRODUCTS IS BUYER'S SOLE RESPONSIBILITY. MSBC MAKES NO GUARANTEES OR WARRANTIES REGARDING THE CONTENT OR ACCURACY OF BUYER'S PRODUCT LABELS OR ANY ADVERTISING OR PROMOTIONS ASSOCIATED WITH BUYER'S PRODUCTS INCLUDING, BUT NOT LIMITED TO, ANY CLAIMS THAT THE PRODUCTS ARE 'ALL NATURAL', HAVE NO PRESERVATIVES, OR ANY OTHER CLAIMS. BUYER AGREES TO INDEMNIFY, DEFEND, AND HOLD MSBC AND ALL OF ITS AFFILIATES, AGENTS, OWNERS, OFFICERS, DIRECTORS, AND EMPLOYEES HARMLESS FROM ANY CLAIMS RELATING TO BUYER'S PRODUCT LABELS OR ANY ADVERTISING OR PROMOTIONS ASSOCIATED WITH BUYER'S PRODUCTS. MSBC RECOMMENDS THAT BUYER CONSULT REGULATORY AND LEGAL ADVISORS FAMILIAR WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS PRIOR TO MAKING LABELING CLAIMS AND DECISIONS.
- 9) This Agreement shall be construed pursuant to the laws of the State of Missouri and is binding upon each parties' heirs, successors, and assigns, agents, employees, officers, and directors.

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

  
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McCarthy/Spice & Blends Company

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BUYER