



Good food. Responsibly.®

**CONTINUING FOOD GUARANTY AND INDEMNIFICATION AGREEMENT**

The entity identified below, on behalf of itself and its subsidiaries and affiliates, (“Seller”) guarantees that all articles or materials sold by Seller to **Smithfield Foods, Inc.** or any of its subsidiaries or affiliated companies (each a “Buyer”) (the “Products”) will, as of the date of such delivery, (i) not be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, as amended (the “FD&CA”) or the Meat Inspection Act, and all regulations adopted under either of the foregoing, or within the meaning of any other federal or state food and drug law, (ii) not be produced or shipped in violation of Sections 301 or 404 of the FD&CA, and (iii) be in compliance with all other applicable federal, state, and local laws and regulations. Seller further guarantees that all Products will be made, packaged, and labeled in compliance with the Product’s specifications, meet the quality standards communicated in writing by Buyer from time to time, and be merchantable and fit for human consumption.

Seller agrees to indemnify, defend, and hold Buyer, and its officers, directors, shareholders, employees, and agents, harmless from any and all damages arising out of, resulting from, or in connection with (i) an allegation or finding of any breach of warranty, guaranty, or certification, (ii) the manufacture, production, sale, or consumption of Products, and (iii) an allegation or finding of infringement or misappropriation of any patent, trademark, copyright, or similar rights of any third parties arising from the purchase, use, or sale of Products. Notwithstanding the foregoing, Seller will have no obligation to indemnify, defend, or hold Buyer harmless to the extent the damage or liability was caused by the negligence or misconduct of Buyer.

If any Product fails to meet the guaranty or warranty provided herein, Buyer shall provide notice to Seller, and Seller shall promptly reimburse Buyer by refund or credit for the purchase price of the Products. The foregoing remedy shall not be Buyer’s exclusive remedy or damages.

While Products are being offered for sale by Buyer, Seller shall comply with Buyer’s insurance requirements set forth on Exhibit A attached hereto.

State and federal courts located in the Eastern District of Virginia will have exclusive jurisdiction over all disputes arising out of or relating to the sale of Products by Buyer to Seller. SELLER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO ITS SALE OF PRODUCTS TO BUYER.

This guaranty shall continue to be effective until it is revoked by Seller upon ten days’ written notice to Buyer. This guaranty supersedes and replaces any prior guaranties, limitations, or disclaimers provided by Seller or applicable to the Products and may not be amended or abridged by any document issued by Buyer which has not been accepted and signed by Seller. No revocation of this guaranty shall be effective as to any Product which is ordered prior to its revocation.

SELLER: \_\_\_\_\_  
(print entity’s legal name)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



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## EXHIBIT A INSURANCE REQUIREMENTS

### **Required Verbiage for the Certificate Holder:**

Smithfield Foods, Inc.  
200 Commerce Street  
Smithfield, VA 23430  
Attn: Food Safety

### **Required Verbiage under “Descriptions of Operations” in the Certificate of Insurance:**

Smithfield Foods, Inc. and all subsidiaries, related entities and affiliates, shareholders, directors, officers, agents, managers, partners, and members of the foregoing entities are named as an additional insured. The coverage is primary and noncontributory and there is a waiver of subrogation in favor of Smithfield Foods, Inc.

### **Coverage Requirements:**

**General Liability Insurance** including bodily injury, property damage, personal injury and advertising injury, products/completed operations, and blanket contractual liability. Coverage must be per industry form ISO CG 00 01 or equivalent and occurrence form. Minimum liability limits must be as follows: \$2,000,000 each occurrence, \$5,000,000 general aggregate.

**Product Contamination Insurance** including a Recall Liability endorsement that provides third-party coverage to cover Smithfield’s expenses associated with recalling Product. The coverage must apply to accidental contamination, malicious contamination, product rehabilitation, replacement costs, consequential damages, and loss of gross profits. Minimum liability limits must be as follows: \$3,000,000 each occurrence.

**Automobile Liability Insurance** against claims for bodily injury, death, and property damage. The coverage must apply to owned autos, non-owned autos, and hired autos. Smithfield must be included as an additional insured. Minimum liability limits must be as follows: \$1,000,000 combined single limit.

**Workers’ Compensation Insurance** in accordance with the statutory requirements of the state where the product is manufactured or the work is performed.

**Employer’s Liability Insurance** against claims for bodily injury and death. Minimum liability limits must be as follows: \$1,000,000 per accident.

### **General Insurance Requirements:**

The insurance company must have an A.M. Best Rating of A-VII or better. Limits may be provided in a layered program (e.g. by means of primary and umbrella/excess liability policies). The insurance must apply as primary and noncontributory to any other insurance or self-insured programs of Smithfield Foods, Inc. or any of its subsidiaries or affiliated companies. Waiver of subrogation wording must be included for general liability.