



MUTUAL NONDISCLOSURE AGREEMENT

Vendor's Company Name:

Vendor's Address:

Vendor's Fax# (including area code):

Vendor's Phone # (including area code):

Vendor's Contact:

Vendor's Contact Title:

Vendor's Contact E-mail:

Albertson's Contact Name:

Albertson's Contact Phone#:



MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NONDISCLOSURE AGREEMENT ("**Agreement**") is made and entered into as of ~~20~~ ~~20~~ ("**Effective Date**") by and between Albertsons Companies, LLC, a Delaware limited liability company, located at 250 E. Parkcenter Blvd., Boise, Idaho 83706 and ~~located at~~ ~~located at~~ ("**Company**").

1. **Purpose.** The parties wish to share information for the purpose of evaluating the suitability of entering into a business relationship or in furtherance of an existing business relationship ("**Purpose**") and in connection therewith, the disclosing party or its Representatives, hereinafter defined (collectively, "**Disclosing Party**") desires that the receiving party or its Representatives (collectively, "**Receiving Party**") treat such information as confidential. As used in this Agreement, "**Representatives**" shall mean the applicable party's parent, affiliates and subsidiaries, and its and their officers, directors, employees, contractors, consultants, agents and representatives.

2. "**Confidential Information**" means any and all information of the Disclosing Party and each of its parent, affiliates and subsidiaries that is not available to the public, including, but not limited to: trade secrets; techniques; methods; methodologies; product specifications; volume, manufacturing, marketing, development, customer (personal and aggregate), employee, financial or operations information; technical, scientific, laboratory, experimental, research or statistical data; tooling; machinery; diagrams; drawings; forecasting; business and new product plans; reports; procedures; designs; formulae; recipes; improvements; records; knowledge; processes; know-how or data that is disclosed or made accessible to the Receiving Party directly or indirectly, in any form, whether written, oral, photographic, electronic, magnetic, computer, by inspection of tangible objects, or otherwise (including materials, records, reports, documents, prototypes, samples, plant and equipment). The Purpose, the existence of this Agreement and any negotiations and agreements entered into by the parties in connection with the Purpose shall also be considered "Confidential Information."

3. **Exceptions.** Confidential Information shall not include any information that the Receiving Party can establish: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known and made generally available after disclosure by the Disclosing Party to the Receiving Party through no breach of this Agreement by the Receiving Party; (iii) is already known by or legally in the possession of the Receiving Party at the time of disclosure by the Disclosing Party; (iv) is lawfully disclosed to the Receiving Party, without confidentiality obligation, by a third party; or (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; provided that, notwithstanding the foregoing exceptions, personal information of customers and employees of either party shall be deemed Confidential Information hereunder to the full extent required by applicable law, and provided further that no damages shall accrue with respect to information unlawfully provided by a third party unless the Disclosing Party can demonstrate that the Receiving Party knew or should have known that such disclosure was unlawful.

4. **Non-use and Non-disclosure.** The Receiving Party agrees: (i) to use Confidential Information solely for the Purpose, and for no other purpose; (ii) not to disclose any Confidential Information except as expressly permitted by, or to enforce, this Agreement and (iii) to disclose Confidential Information only to its Representatives who need to know the Confidential Information for the Purpose and who are bound to keep such Confidential Information confidential consistent with the obligations of this Agreement. Neither party shall export, reverse engineer, disassemble or decompile any prototypes, software or other tangible objects that embody the other party's Confidential Information.

5. **Disclosure Required by Law.** In the event any Confidential Information is required to be disclosed by the Receiving Party under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction, or by a demand or information request from an executive or administrative agency or other governmental authority, the Receiving Party shall, unless prohibited by the terms of a subpoena, order or demand: (i) notify the Disclosing Party of the prospective disclosure as soon as practicable; (ii) cooperate with the Disclosing Party, as appropriate and at the Disclosing Party's expense, in seeking such protective orders or relief from such disclosure as may be available; (iii) request the highest level of confidentiality available for such information under the terms of the production order and any applicable protective order; and (iv) maintain the confidentiality of such Confidential Information in accordance with the terms hereof to the fullest extent practicable under the circumstances. Disclosure in accordance with this paragraph shall not, by itself, vitiate the status of such information as Confidential Information.

6. **Maintenance of Confidentiality.** The Receiving Party agrees that it shall take commercially reasonable measures to protect the secrecy of, and avoid unauthorized disclosure and/or use of, the Confidential Information of the Disclosing Party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own confidential information of similar import. The Receiving Party shall reproduce the Disclosing Party's proprietary rights notices on any copies of Confidential Information in the same manner that such notices were set forth in or on the original. The Receiving Party will notify the Disclosing Party immediately of any breaches of security or unauthorized access to the Receiving Party's systems that it detects or becomes aware of that involves Disclosing Party's Confidential Information.

7. **No Warranty.** Nothing in this Agreement shall be interpreted as a representation or warranty as to the accuracy, validity or completeness of all or any part of the Confidential Information or of any information provided by one party hereto to the other party.

8. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate any discussions contemplated by this Agreement.

9. **Return of Materials.** Any Disclosing Party Confidential Information in the possession of the Receiving Party (including notes, records, reports, copies, summaries or extracts thereof) shall be and remain the property of the Disclosing Party and shall, notwithstanding termination or expiration of this Agreement, remain subject to the confidentiality and non-use provisions of this Agreement. Upon the written request of the Disclosing Party, the Receiving Party shall promptly return or destroy the Disclosing Party's Confidential Information, and, in the case of destruction, shall provide a certification as to such destruction. Notwithstanding the foregoing, (i) the Receiving Party may retain a single copy of such Confidential Information as may be reasonably required for purposes of compliance with applicable laws and regulations; and (ii) the Receiving Party shall not be required hereunder to destroy or remove Confidential Information stored in an electronic database until such time as such data would, in the regular course of business, be purged.

10. **No License.** Nothing in this Agreement is intended to grant any intellectual property or other rights or licenses to intellectual property by the Disclosing Party to the Receiving Party. Any and all rights not expressly granted herein are exclusively reserved by the Disclosing Party.

11. **Term.** The term of this Agreement commences on the Effective Date and continues until terminated by the parties in writing, provided, that each party's confidentiality obligations shall survive such termination until such time as the Confidential Information of the other party disclosed pursuant to this Agreement becomes publicly known and made available through no breach of this Agreement by the Receiving Party ("**Public Information**"). Furthermore, the fact that a portion of the Confidential Information may be Public Information shall not affect Receiving Party's obligations to maintain as confidential any other portion of the Confidential Information that is not Public Information.

12. **Remedies.** The parties acknowledge and agree that any violation of this Agreement will cause irreparable injury to the Disclosing Party. The parties therefore acknowledge and agree that, in addition to such remedies as may be available at law, equitable relief, including (but not limited to) injunction, shall be an appropriate remedy for any such violation or threatened violation.

13. **Notices.** Any notice required hereunder shall be in writing and shall be delivered as follows and deemed to have been duly given: (i) the same day if personally delivered, (ii) the next day if sent by an

overnight courier service or (iii) after five (5) business days if sent by certified mail, return receipt requested, postage prepaid, to the parties at their respective addresses:

To Albertsons Companies, LLC:

250 E. Parkcenter Blvd.

Boise, Idaho 83706

Attn:

With a copy to: Legal Department

To Company:

Attn:

Either party may change the person and address to which written notices shall be given at any time upon prior written notice to the other party.

14. Miscellaneous. This Agreement shall be governed by the laws of the State of California, without reference to conflict of law principles, contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior representations and understandings, whether oral or written with regard to such subject matter. The Receiving Party shall not assign or delegate its rights or obligations under this Agreement, in whole or in part, to any third party by operation of law or otherwise, without the prior written consent of the Disclosing Party. Any attempted assignment or delegation that does not comply with this section shall be null and void and of no effect. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. If any provision of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely approximating the intention of the parties. This Agreement may not be amended, nor any obligation waived, except by a writing signed by the authorized representatives of the parties. The facsimile or e-mail transmission of any signed original counterpart of this Agreement, and transmission or re-transmission of any signed facsimile or e-mail transmission, shall be the same as delivery of an original. At the request of either party, the parties hereto will confirm facsimile and e-mail transmitted signatures by signing an original document for delivery between them.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement to become effective as of the Effective Date above.

ALBERTSONS COMPANIES, LLC

Signature

Printed Name

Title

Date

Signature

Printed Name

Title

Date