



# Vendor Policies and Guidelines

**November 2018**

# Vendor Policies and Guidelines

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# Vendor Policies and Guidelines

## 1 Introduction

TONY's Fine Foods is a wholly owned subsidiary of United Natural Foods Inc. ("TONY'S"). This Vendor Policies document outlines the expectations and requirements for doing business with TONY'S.

TONY'S offers many successful promotional and marketing vehicles to support its Vendors Products to the trade and to consumers. Your TONY'S Category Director ("CD") will be able to give you comprehensive information on these programs.

If you have any questions regarding any sections of this document, please contact your TONY'S Category Director.

*The policies outlined and described in this document supersede any conflicting policies submitted by Vendor(s) to TONY'S unless special exceptions have been made in writing by an authorized member of TONY'S management.*

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## 2 TONY'S National Contact List

Advertising Agreement Questions	<a href="mailto:Category_Dirs@TonysFineFoods.com">Category_Dirs@TonysFineFoods.com</a>
Deductions and MCB's Invoices/backup	Vendor Portal for MCB invoices or <a href="mailto:Accts_Payable@TonysFineFoods.com">Accts_Payable@TonysFineFoods.com</a>
Inbound Routing	<a href="http://www.retalixtraffic.com">www.retalixtraffic.com</a>
Invoices  A/P Fax: 877-799-9870	TONY'S Accounts Payable PO Box 1501 West Sacramento, CA 95605-1501 E-Mail To: <a href="mailto:Accts_Payable@TonysFineFoods.com">Accts_Payable@TonysFineFoods.com</a>
New Item Information	Contact your applicable Category Director prior to submitting a 'New Item Request' through TONY's Vendor Portal
Access to Vendor Portal	E-mail to <a href="mailto:TFFVenPortal@TonysFineFoods.com">TFFVenPortal@TonysFineFoods.com</a>
Pack Changes All Pack Changes shall be submitted through the Vendor Portal as a new item	<a href="http://tff.bssmanagement.com/">http://tff.bssmanagement.com/</a> Must e-mail appropriate Category Director
Promotional Schedules	<a href="http://tff.bssmanagement.com/">http://tff.bssmanagement.com/</a> Promotional Module
Price Changes All Price Changes shall be submitted through the Vendor Portal	<a href="http://tff.bssmanagement.com/">http://tff.bssmanagement.com/</a> Price Change Module
Product Images and Information Updates  <i>Instructions for how to submit Product Images and Logos can be found on the Vendor Portal</i>	TONY's Fine Foods E-mail hi-res Product photos to: <a href="mailto:artwork@TonysFineFoods.com">artwork@TonysFineFoods.com</a>
Product Recalls Product Recall information must be initiated through the Vendor Portal	Submit a recall letter to: <a href="mailto:Recall@TonysFineFoods.com">Recall@TonysFineFoods.com</a> <a href="http://tff.bssmanagement.com/">http://tff.bssmanagement.com/</a>
Certificate of Insurance annual renewals, Organic, and Kosher Certificates shall be emailed into our document manager.	Submit Certificates to: <a href="mailto:TonysDocs@TonysFineFoods.com">TonysDocs@TonysFineFoods.com</a>

Visit <http://tff.bssmanagement.com/> for general Vendor support, forms, new item information, promotions, price changes and advertising agreements, etc.

# Vendor Policies and Guidelines

## 3 Definitions

In these policies, the below terms are used as follows:

- “Consumer” means any entity or person who buys from TONY’S Customer (as defined below).
- “Customer” means any entity that purchases Products from TONY’S.
- “Product(s)” means goods, including, but not limited to, foods, perishables, consumables, dry goods, personal care items, nutritional supplements, vitamins and non-food items.
- “Reclaim” is defined in accordance with the terms outlined in the FMI “Joint Industry Report”, which can be found at:  
[http://www.fmi.org/docs/supply/GMA\\_Unsale.pdf](http://www.fmi.org/docs/supply/GMA_Unsale.pdf).
- “Vendor” means the entity that supplies TONY’S with Products.
- “CD” means TONY’S Category Director.
- “Buyer” means TONY’S Inventory Manager.

## 4 General Policies and Guidelines

All forms and accompanying information must be completed and returned to your TONY’S Category Director.

### A. TERMS OF PAYMENT

TONY’S requires payment terms of 2%, 10 days, net 30 from the date TONY’S receives the invoice, the date the Vendor’s invoice is post-marked or from the date TONY’S receives the Product, whichever is later. Payment of initial invoices will be made 90 days after receipt of initial orders or sooner if a second order is placed for the same product prior to the (90) days. All appropriate deductions will be deducted from Vendor payment(s) by TONY’S. If TONY’S cannot deduct amounts due to it by Vendor within 30 days, TONY’S will bill Vendor. Any such amounts billed shall be due immediately.

TONY’S may offset amounts due to Vendor with amounts due by Vendor to TONY’S.

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## **B. INVOICES and Purchase Orders**

Please send all invoices to:

TONY'S, Accounts Payable  
P.O. Box 1501  
West Sacramento, CA 95605  
E-Mail To: [Accts\\_Payable@TonysFineFoods.com](mailto:Accts_Payable@TonysFineFoods.com)  
Fax: 877-799-9870

TONY'S reserves the right to conduct 3<sup>rd</sup> party audits on our Accounts Payable records and execute justified deductions as necessary.

All allowances offered "off invoice" must be reflected on the invoice.

- Orders/Confirmations: TONY'S will electronically send, fax, or telephone orders for Products. Orders will include quantities. Vendor shall send TONY'S written confirmation of each order, including quantity, delivery date and pricing, within 2 business days of Vendor's receipt of the order. The terms of this Agreement will supersede any conflicting terms in Vendor's confirmation.
- Note that Pricing may change due to market conditions, and 45 days' written notice to TONY'S is required on all price changes except for commodity items which can change on a weekly basis. Changes in pricing will be reflected on the Purchase Order. When Vendor requests a price change, it is the Vendor's responsibility to enter the price change in TONY'S Vendor Portal. When a P.O., previously accepted by the Vendor, conflicts with an Invoice or any other documentation, TONY'S reserves the right to have the P.O. price prevail.

## **C. GENETICALLY MODIFIED ORGANISMS (GMOs)**

TONY'S supports sustainable agriculture and organic farming and is very concerned about the proliferation of genetically modified organisms in foods. TONY'S supports a moratorium on the use of GMOs until more in-depth research on their long-range consequences is completed. TONY'S encourages its Vendors to require independent third party non-GMO verification from their own Vendors and to use only ingredients that have not been genetically modified.

## **D. QUALITY ASSURANCE**

Vendor shall adopt and operate in accordance with good manufacturing practices (GMPs). Annually, Vendor shall provide TONY'S with a copy of Vendor's most recent food safety audit as performed by an independent third party. TONY'S will treat said documents as Confidential. Notwithstanding however, TONY'S reserves the right to, and Vendor acknowledges that TONY'S may, share these documents with TONY'S Customer when requested.

Upon TONY'S request, with respect to consumable/food Products, Vendor must provide TONY'S with the results of any sanitation or food safety audits made by



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or for Vendor during the term of Vendor's relationship with TONY'S related to any Facility. Vendor must notify TONY'S immediately of any third party food safety or sanitation audits or analyses that indicate the presence of *Listeria monocytogenes*, *Salmonella*, *E. coli*, *E. coli* 0157:H7 or other harmful or pathogenic bacteriological, viral or fungal presence in the Facilities or the Products or any of Vendor's other products manufactured at the Facilities during the term of Vendor's relationship with TONY'S.

Vendor must also inform TONY'S immediately of any non-routine inquiry, investigation or inspection by any federal, state or local governmental agency in connection with the Facilities or the Products that reveal a food safety or sanitation deficiency or a possible recall, labeling or allergen alert and provide TONY'S with a copy of any reports related thereto. Vendor must inform TONY'S immediately upon receipt and provide a copy of any FDA Form 483 involving a Facility; of any entry Vendor makes to the Reportable Food Registry involving the Products; and of any "Warning Letter" or "Dear Manufacturer" letter received by Vendor related in any way to the Facilities or the Products.

TONY'S will not treat any of the above information as confidential and may provide such information to its Customers upon request.

## **E. TEMPERATURE TESTING**

To adhere to TONY'S HACCP requirements, all perishable and frozen Products delivered to a TONY'S facility must, when delivered, satisfy certain temperature requirements. Perishable Products must temperature test at 40 degrees Fahrenheit or less; eggs must temperature test at 45 degrees ambient Fahrenheit or less; and Frozen Products must temperature test at 20 degrees Fahrenheit or less, provided that if Vendor has specified a temperature less than 20 degrees Fahrenheit, such Products must temperature test in accordance with that specification.

Receivers at TONY'S facilities will verify the temperature of perishable and frozen Products and eggs by non-invasively probing the exterior packaging of a sample of the Product. In the event that the temperature of the exterior packaging exceeds the limit specified above, the TONY'S receiver will open the exterior packaging to probe the actual Product. If the temperature of the actual Product exceeds the acceptable limit specified above, TONY'S will refuse Vendor's entire shipment of such Product, which may not be re-delivered to TONY'S at any time.

## **F. DISCLOSURE OF SUPPLY CHAIN INFORMATION**

TONY'S may require Vendors to identify the country, and the specific region of such country, where each of the ingredients, components or parts of Vendor's Product are grown, produced and/or manufactured. In the event of an actual or contemplated product recall, withdrawal or other similar circumstances affecting Vendor's Product or other products that are of the same sort or similar to Vendor's

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Product, and upon request from TONY'S, Vendor shall promptly identify the direct Vendor or source of any of the ingredients, components or parts of Vendor's Product. Vendor further agrees that TONY'S may provide such information to its Customers upon request from such Customers.

In order to allow both Vendor and TONY'S to be able to definitively trace the source of Products as well as the place and time of their processing, all Products must bear a unique lot or batch number that isolates the processing of Products between sanitation efforts. Products produced in a facility or through a process that does not undergo sanitation must be designated by field and harvest date.

## **G. CALIFORNIA TRANSPARENCY IN SUPPLY CHAINS ACT of 2010**

The California Transparency in Supply Chains Act of 2010 requires retailers and manufacturers doing business in California to disclose their efforts to combat human trafficking and forced labor in their own direct supply chains. Even if TONY'S is neither a retailer nor a manufacturer, it is committed to meeting the requirements of the Act and requires its Vendors to do so. As well, certain TONY'S Customers require TONY'S, as one of their direct Vendors, to help them satisfy the Act's disclosure requirements. As a result, TONY'S requires its Vendors to certify that they have met the Act's requirements.

Specifically, each Vendor must certify that:

1. It verifies its Product supply chains to evaluate and address risks of human trafficking and slavery (and will disclose to TONY'S whether a third party conducted the verification);
2. It audits its own Vendors to evaluate compliance with Vendor's company standards (and will specify to TONY'S whether the audits are independent and unannounced);
3. It requires its direct Vendors to certify that the products they provide to Vendor comply with the laws of the country in which the Vendor does business;
4. It maintains internal accountability standards for employees and contractors concerning human trafficking and slavery; and
5. It ensures that Vendor employees and management responsible for supply chain management are trained to identify human trafficking and slavery and how to mitigate risks within supply chains.

Each Vendor must also certify that it and all employees and agents involved in the manufacturing, processing or delivery of the Products strictly adhere to all applicable federal, state and local laws, regulations and prohibitions of the United States, its territories and all countries in which the Product is produced or delivered with respect to the operation of their production facilities and their other business and labor practices, including but not limited to the California Transparency in

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Supply Chains Act of 2010, and comply with existing local and federal laws regarding slavery and human trafficking in the country or countries in which TONY's business with Vendor is being conducted.

## **H. COMPLIANCE WITH FOOD SAFETY LAWS**

TONY'S expects its Vendors to be aware of and comply with all applicable laws, rules and regulations regarding food safety, including, but not limited to, the Federal Food, Drug and Cosmetic Act, as amended by the Food Safety and Modernization Act ("FSMA"), and rules and regulations adopted thereunder (collectively, the "FD&C Act"), and all applicable provisions of the Meat Inspection Act ("MIA"), Poultry Product Inspection Act ("PPIA") and/or Egg Product Inspection Act ("EPIA"), including all applicable rules and regulations adopted thereunder.

## **I. PESTICIDES AND PRODUCT REGISTRATION**

1. A pesticide is defined as any substance intended to control, destroy, repel, or attract a pest. Any living organism that causes damage or economic loss or transmits or produces disease may be the target pest. Pests can be animals (e.g. insects or mice), unwanted plants (e.g. weeds), or microorganisms (e.g. plant diseases or germs that is, viruses and bacteria). Pesticide products include not only insecticides and herbicides, but many products not typically thought of as pesticides, including algacides (e.g. pool chlorine), disinfectants and sanitizers (such as toilet bowl cleaner), repellants (e.g. mosquito repellent), rodenticides (e.g. rat poison), and fungicides (e.g. rose dust).
2. Pesticides are required to be registered with the Federal Government and with certain states, including California. California also requires pesticide manufacturers to pay an assessment on sales of pesticides sold in the state.
3. Before selling any Product to TONY'S, Vendors must complete TONY'S Pesticide Questionnaire, which is included in your Vendor Packet and can also be obtained from your Category Director.
4. The Vendor is responsible for registering, at its sole cost (including fees or assessments), any Product that is required by the EPA or any applicable state agency to be registered as pesticides. The Vendor is also responsible for filing any reports related to such registration. An example of such a registration and assessment is the California "Mill Assessment."

## **J. DANGEROUS GOODS**

TONY'S requires that prior to selling or shipping a hazardous material to TONY'S Vendors provide TONY'S with the proper shipping name, the unit/type, the hazard class, UN/NA ID number, the packing group, the total quantity, emergency response information (including a 24 hour telephone number), and the shipper's name and address. Vendors must also provide TONY'S with a safety data sheet

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for each hazardous material sold or shipped to TONY'S. TONY'S expects its Vendors to comply with the requirements and obligations regarding the transportation of hazardous materials, as set forth in 49 CFR Parts 171-180.

## **K. PROPOSITION 65**

TONY'S requires that its Vendors provide all warnings required under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Section 25249.5 ("Proposition 65") (or any similar local, state, or federal law or regulation) which requires a specific warning on any products containing certain chemicals known to cause cancer or reproductive toxicity.

## **L. GIFT POLICY**

TONY'S employees cannot accept gifts or travel worth \$100 or more without senior management approval.

## **M. PRODUCT INFORMATION AND INTELLECTUAL PROPERTY**

In an effort to best market Vendor's Products, TONY'S requires and Vendor agrees to provide TONY'S with the following items as frequently as reasonably necessary and upon request from TONY'S: (1) a current list of Products offered, with corresponding TONY'S item numbers, UPCs, GTIN, descriptions and case packs; (2) Product photography, descriptions, video footage and/or clips; (3) nutritional information; and (4) other advertising and labeling content. Where Vendor does not submit the Product information to their Category Director through the Vendor Portal, in whole or in part, Vendor authorizes TONY'S to obtain and use Product information.

All intellectual property or proprietary rights in any Product, Product information, Product labels, Product packaging, nutritional content, and other advertising copy, including any photographs, images or other content delivered or obtained in accordance with the foregoing and/or provided by Vendor in connection with the Products are Vendor's intellectual property rights ("Product IP Rights"). Vendor further authorizes TONY'S to use the Product information and Product IP Rights therein in connection with the sale and promotion of the Products, no matter how the Product information is received or obtained by TONY'S. Vendor grants TONY'S a worldwide, nonexclusive, royalty-free right and license to use and further sublicense the Product IP Rights for TONY'S business purposes, but only in connection, directly or indirectly, with the sale and promotion of the Products. Vendor may terminate such license and any related sublicense upon reasonable, written notice to TONY'S, which notice shall be deemed a notice of termination pursuant to the Vendor Agreement. Notwithstanding any such termination, TONY'S and its sublicensees shall have the right to continue to use the Product IP Rights while exhausting their respective inventory of Products on hand at the time of the termination.

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## N. PRESS RELEASE POLICY

TONY'S senior management must pre-approve any reference to TONY'S in a press release, posting on Social Media, or reference in print publication *prior to* publication or distribution.

## O. ORGANIC AND KOSHER CERTIFICATION

For an item to be identified as organic and/or kosher in TONY'S publications, TONY'S Vendor must have a current organic and/or kosher certificate on file and must be willing to provide a copy to TONY'S upon request. These can be submitted to: [TonysDocs@TonysFineFoods.com](mailto:TonysDocs@TonysFineFoods.com) .

## P. PRODUCT LOSS CLAIMS AND UNSALABLE PRODUCTS

Product Loss Claims ("PLCs")/Unsalables/Spoils are generated in 3 ways: defective Product reported by Customers; Product returned by Consumers to our Customers; and shelf worn Product. It is TONY'S expectation that all PLCs / Unsalables are covered 100% by the Vendor.

1. **Defective/Recalled Product** – This includes defects in Product that may not be apparent until the case is opened by the Customer, such as poorly sealed Product, tops/ends not glued shut, dented cans/damaged boxes inside a sealed, undamaged case, and Product that spoils before the expiration date on the Product. These types of (PLCs) will result in a 15% processing fee based on TONY'S current delivered cost. If product is shipped and picked up by TONY'S, there will be an additional 15% handling/processing fee.
2. **Consumer Returns** – Products returned by the Consumer to the Retail Customer where they purchased it. TONY'S asks its Retail Customers to provide explanations and lot/date codes for these returns, but cannot guarantee that it will receive them and be able to pass that information on to Vendors. In the event that a Vendor notifies TONY'S that excessive quantities have been returned, TONY'S may, in its sole discretion, investigate.
3. **Unsalable** – Products that are removed from the primary channel of distribution for any reason (such as out of date, discontinued, damaged, etc.). They will be disposed of at store level.
4. **Discontinued Items** – As our mutual Customers review and update retail assortments, there is always the risk of residual inventory being returned from Customer. With the proper information and notification, we will do our best to minimize any excess inventory at the Customer level. However, if a Customer discontinues Product, it is the Vendor's responsibility to cover this excess or returned inventory.

PLCs/Unsalables/Spoils are generally reported monthly and are deducted at TONY's landed cost. Except for some full cases or excessive quantities, PLCs/Unsalables are not picked up by TONY'S, but are destroyed at the store level.

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## **Q. CREDITS, RECLAIM AND SPOILS**

1. Certain Customers, primarily supermarkets, require reclaim support from their Vendors. This support service is typically a required condition of doing business in the supermarket channel. TONY'S defines "reclaim" according to the terms outlined in the FMI "Joint Industry Report." For more information, visit: [http://www.fmi.org/docs/supply/GMA\\_Unsale.pdf](http://www.fmi.org/docs/supply/GMA_Unsale.pdf). TONY'S considers out of code at the shelf, damages at the shelf, promotional residual and reset residual to be included in the definition of "reclaim."
2. Certain Customers, including supermarkets, may utilize a 3rd party reclaim service or manage their reclaims internally, and, in rare circumstances, TONY'S may act as the reclaim operator for the Customer. Fees will be imposed on the Vendor in all three of these situations. Fees may be imposed by TONY'S for serving as the reclaim operator. Any fees will be consistent with the fees imposed by both 3rd party reclamation services and by Customer accounts who manage this process internally.
3. In addition, certain Customers, including supermarkets, may contract TONY'S to act as a 3<sup>rd</sup> party billing agent for reclaims support. In these cases, TONY'S may impose an administrative fee on the Vendor for this service/support which will be added on to the invoice at the time of billing. These fees depend on many factors and are subject to change.
4. Spoils allowances, given off invoice, are intended to address spoils within TONY'S Distribution Centers ("DC") and not to support credits at retail. These spoils allowances, which are typically significantly lower than retail reclaim credits, are intended to share the expense driven by packaging issues, products that go out of code within the DC, etc.

## **R. W-9 TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION, OR W-8**

A current W-9 Taxpayer Identification Number and Certification with an actual or electronic signature must be on file with TONY'S. Visit <http://www.irs.gov/pub/irs-pdf/fw9.pdf> to retrieve the form. Canadian and other international Vendors may be required to complete a Form W-8 in order to claim exempt status from certain tax withholdings.

## **S. VENDOR INFORMATION CHANGES**

Changes to Vendor's address or Broker Representative must be submitted in writing on Vendor's letterhead, be signed by an officer or owner of the business, and be received 10 days prior to the effective date. This information should be sent to: [Vendorfilemaintenance@Tonysfinefoods.com](mailto:Vendorfilemaintenance@Tonysfinefoods.com) and copied to the Vendor's Category Director. Also, any changes in access rights to the Vendor Portal for a broker or Vendor representative must be made to [TFFVenPortal@TonysFineFoods.com](mailto:TFFVenPortal@TonysFineFoods.com).

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All changes should be submitted directly to [Vendorfilemaintenance@Tonysfinefoods.com](mailto:Vendorfilemaintenance@Tonysfinefoods.com) and copied to the Vendor's Category Director

For more information and forms, please visit the TONY'S Vendor Portal site at: <http://tff.bssimanagement.com/>.

TONY'S must also be informed of certain other changes to Vendor's business and Vendors are required to submit new documents to reflect such changes.

1. TONY'S must be provided a minimum of thirty (30) days' written notice of changes to Vendor's pick up location. Changes to Vendor's pick up location may affect freight rates and wholesale price. If TONY'S is not timely notified of an address change, and Vendor's failure to provide timely notice results in increased freight rates/charges to TONY'S, TONY'S shall not be responsible for such increases until TONY'S adjusts its pricing with its Customers. Vendor must submit new FOB and Delivered pricing information in the Vendor Portal and to the Category Director for final approval.
2. Vendor may not assign any rights or delegate any obligations without the prior written consent of TONY'S, including changes necessitated by an assignment or transfer of ownership. Where an assignment or transfer of ownership has occurred, a new Vendor Agreement, Application, Insurance Certificate, letter explaining date of change and W-9 or W-8 is required in order to continue doing business with TONY'S.
3. TONY'S must be informed of acquisitions or name changes 30 days prior to effective date of change.
  - a. Acquisition – In the event that a Vendor is acquired, a new Vendor Packet must be completed by the acquiring entity.
  - b. Vendor Name Change
    - In the event that a Vendor is changing its name and maintaining its Taxpayer Identification Number ("TIN"), TONY'S must be notified of this change to ensure that the Vendor information is updated in its host system and a new Vendor Packet must be submitted
    - If the Vendor is changing its TIN, TONY'S requires that a new Vendor be set up. Vendor must complete and submit a new Vendor Packet in order to be set up as a Vendor and do business with TONY'S under the new TIN.

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- Any Vendor name change, regardless of whether Vendor retains or changes the TIN, requires a new W-9 evidencing the new Vendor name and TIN.

## **T. INVENTORY TRANSFERS AND BALANCING**

TONY'S strives to provide a strong service level to our Customers. With this focus, we will, on occasion, request help from Vendors in balancing inventory across our DCs. If we are unable to secure inventory from a Vendor because a Product is out of stock and we have inventory available in other DCs, TONY'S will transfer or require Vendor to transfer Product in order to meet Customer service level expectations, and Vendor shall be responsible for the cost associated with such transfer.

## **U. PRICING, PRICE CHANGE, BLACK OUT PERIOD, UPC, SIZE AND PACK CHANGES**

1. TONY'S will not accept and implement changes on Products that are on promotion until after the promotional period ends. Show periods will have additional lead-time requirements notated in the Participation Contract.
2. Forty-five (45) days' prior written notice is required on all price changes, including changes to off-invoice allowance programs (excluding commodities). Price changes must be submitted through the Vendor Portal and written documentation explaining the change submitted to the Category Director. In the event that the price change is not submitted with the required forty-five (45) days' notice, TONY'S reserves the right to charge and enforce the Purchase Order price. Changes in pricing will be reflected on the Purchase Order ("P.O.").
3. Forty-five (45) days' prior written notice is required on all UPC, size and pack changes and must be submitted to the Vendor's Category Director and entered in the Vendor Portal as a New Item Request. A \$150 per item fee will be assessed for all pack changes per DC. Failure to provide the required notice may result in assessment of a \$200 fee per occurrence.
4. Forty five (45) days' prior written notice is required for any material changes to Vendor's Product formulation, labels and or packaging.
5. Upon notification that an item has been discontinued by Vendor or TONY'S or has undergone a UPC, size or pack change, TONY'S will:
  - a. Supply inventory count of items and verify the landed cost of inventory by disposition date.
  - b. Remove Product from inventory and send a notice to the Vendor to arrange for pick up.
  - c. Supply the accounting department with the anticipated credit amount. If the credit amount should exceed open invoices, all payments will be held until the credit amount is cleared from the account.



# Vendor Policies and Guidelines

- d. Charge \$35 per hour (one hour minimum) for any additional TONY'S labor.
6. If Vendor has not picked up or made arrangements to have the Product picked up within fourteen (14) days from notice, TONY'S will send the Product to the local food bank and charge the full landed cost back to Vendor or dispose of it as TONY'S sees fit.
7. Any change to one of the following will require a new TONY'S item number (Normal Setup Fee Applies):
  - a. Case pack
  - b. Retail UPC code
  - c. Brand name
  - d. Country of Origin
  - e. Unit size
    - Only exception is an increase in unit size in an amount less than 1 ounce.
  - f. Any change in organic status
    - A change from organic to non-organic will also require a new UPC code.
  - g. Description
    - No longer recognizable from original description and is normally associated with an ingredient change.
  - h. Ingredient change
    - Any ingredient change that adds or removes an allergen as set forth in the then-current FDA allergen list will be assigned a new TONY'S product number. For example, milk, eggs, fish (bass, flounder, cod, etc.), crustacean shellfish (crab, lobster, shrimp, etc.), tree nuts (pecans, etc.), peanuts, wheat and/or soybeans.
    - Any ingredient change that may cause a material change to the Product will be reviewed for a possible TONY'S number change (e.g. non-hydrogenated oil to hydrogenated oil).

## **V. BRIGHT LINE TESTS FOR THE HANDLING OF PRODUCTS THAT UNDERGO CHANGE IN ORGANIC STATUS**

The following are guidelines in the event a Vendor makes material changes to its Product content and/or label which could mislead Customers and/or the Consumers as to the new/changed Product contents. This is intended to ensure TONY'S continues to comply with its legal requirements, maintains its certification as an organic handler, meets its obligations to Customers and Consumers, and does what it believes is the right thing in such instances.

# Vendor Policies and Guidelines

TONY'S requires Vendors to promptly notify TONY'S of any proposed change to a Product's organic status as defined under the USDA NOP labeling standards. In the case of material changes as discussed below, a new UPC code may need to be assigned to the Product.

Vendors that promptly coordinate Product changes with TONY'S may avoid interruptions to the distribution of their Products, particularly by providing TONY'S with proper and timely notification of changes and by assigning a new UPC code when a Product changes from 100% organic or other organic status to a lesser organic or natural status.

In the event the Vendor does not provide timely notification of proposed material Product changes to TONY'S, thereby precluding appropriate coordination between TONY'S and the Vendor, the following guidelines apply:

1. Once TONY'S becomes aware of a change in a Product's organic status, such as where a Vendor has previously and conspicuously labeled a Product as "organic" and then eliminates any labeling references to the organic status as provided under the USDA/NOP labeling standards, but does not change the Product UPC code, we will notify our relevant Customers and the Vendor that we are putting the Product on hold until the UPC code is changed to reflect and communicate a Product change.
2. Once TONY'S becomes aware of a change in a Product's organic status, whether or not a Vendor has previously and conspicuously labeled a Product as "organic" as set out above, but the Vendor has previously otherwise represented that the Product is 100% Organic, Organic, or Made With Organic as defined by the USDA/NOP labeling standards, and the Vendor now represents the Product to be less than the previously listed designated organic category, and the Vendor does not alter or change the Product's UPC code, we will notify our relevant Customers and the Vendor that we are putting the Product on hold until the UPC code is changed to reflect and communicate a Product change.
3. Once TONY'S becomes aware of a change in a Product's organic status, where a Product has never been conspicuously labeled as "100% Organic, Organic, or Made With Organic" as defined by the USDA/NOP labeling standards, although the previous Product had some organic ingredients as defined under the USDA/NOP labeling standards, but the Product now is changed to contain fewer or no organic ingredients or a previous certification representing it included some organic ingredients, although less than 70%, has now been eliminated, but, in any or all cases, the Vendor has not changed the Product's UPC code, TONY'S may change its internal Product code accordingly. TONY'S will require the Vendor to immediately create an appropriate Customer notification letter, to be pre-approved by TONY'S, to be distributed by TONY'S and/or the Vendor, as determined solely by TONY'S, to all impacted Customers. If Vendor is designated by TONY'S to distribute such

# Vendor Policies and Guidelines

communications to the impacted Customers, the Vendor, after timely distributing those communications, shall represent in writing to TONY'S that all impacted Customers have been so notified before TONY'S will ship the correctly labeled Product.

## W. INSURANCE CERTIFICATES

Before a new Vendor can be set up in TONY'S system, a certificate of insurance must be submitted to: [Vendorfilemaintenance@TonysFineFoods.com](mailto:Vendorfilemaintenance@TonysFineFoods.com) demonstrating the coverage outlined below. All future annual renewals of certificate of insurance must be submitted to: [TonysDocs@TonysFineFoods.com](mailto:TonysDocs@TonysFineFoods.com)

1. If Vendor's products include any of the following:
  - a. supplements;
  - b. raw, or cooked, fresh and/or frozen meats (including beef, poultry, pork, lamb and deli meats);
  - c. raw or cooked, fresh and/or frozen seafood; then the following shall apply:

Vendor will maintain, in any combination of primary and excess policy(ies), commercial/comprehensive general liability insurance (including but not limited to product/completed operations, independent contractors and contractual liability insurance) from a carrier or carriers reasonably satisfactory to TONY'S, in a minimum amount of five million dollars (\$5,000,000) combined single limit for bodily injury and property damage per occurrence; five million dollars (\$5,000,000) for products/completed operations aggregate; and five million dollars (\$5,000,000) general aggregate.

2. If Vendor's Products do not include any of the Products identified in X.1.(a) through X.1.(c) above, then the following shall apply:

Vendor will maintain one million dollars (\$1,000,000) combined single limit for bodily injury and property damage per occurrence; two million dollars (\$2,000,000) for products/completed operations aggregate; and two million dollars (\$2,000,000) general aggregate.

2. Vendor will also maintain the following insurance coverages:

<u>Worker's Compensation:</u>	Statutory as required by states
<u>Employers' Liability:</u>	\$100,000 per accident for Bodily Injury or Disease
	\$500,000 in the Aggregate for Disease

Commercial Automobile Liability: \$1,000,000 Combined Single Limit covering Bodily Injury and Property Damage arising out of the use of any Owned, Non-Owned, Leased and Hired Autos.

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4. The policy(ies) will designate “TONY’s Fine Foods and its affiliates” as additional insureds on a primary non-contributory basis, and will be endorsed to provide contractual liability insurance in the amount specified above, specifically covering Vendor's obligations to defend and indemnify TONY’S as set forth in the TONY’S Vendor agreement and specifying that such coverage is primary and not contributory. The policy(ies) will also contain a waiver of subrogation in favor of Tony’s Fine Foods and its affiliates.

5. Vendor will provide a certificate of insurance for such coverage, provided by a carrier or carriers with an A.M. Best rating of at least A-, Financial Size category 7, and stating that “United Natural Foods, Inc. and its affiliates” are additional insureds. Vendor will deliver the certificate(s) to their TONY’S Buyer or Category Director no later than the Effective Date, and annually thereafter. Vendor’s failure to provide a current, updated COI may result in a disruption of service and may prevent TONY’S from purchasing from Vendor.

6. The policy(ies) and certificate(s) will also specify that TONY’S will be given at least thirty (30) days prior written notice by the insurer in the event of any material modification, cancellation or termination of coverage.

## **X. AUDITS AND INVOICING**

TONY’S reserves the right to conduct third party audits on payments and invoices, which may result in a deduction after the original payment is made.

These audits may be conducted within twenty-four (24) months of the close of the TONY’S fiscal year in which the transaction(s) occurred.

## **Y. RECALLS AND PRODUCT WITHDRAWALS**

1. Vendor shall cooperate with TONY’S on all recalls and market withdrawals, promptly provide information requested by TONY’S as needed for TONY’S to administer a recall or market withdrawal and comply with all applicable requirements, including but not limited to TONY’S Recall Policy for Vendors on the Vendor Portal as may be amended from time to time. In the event of a recall or market withdrawal (as defined below), TONY’S will charge Vendor back for all fees related to the recall or market withdrawal, including, but not limited to, any Customer fees related to the recall and charged to TONY’S, costs associated with Product retrieval from retail stores, storage, shipping, disposal related costs, and all communication related expenses. Furthermore, TONY’S reserves the right to charge back to Vendor any costs and/or fees assessed to or imposed upon TONY’S by its Customer(s) resulting from or relating to a press release, government advisory or warning letter relating to the Product. TONY’S may utilize a third party recall notification service company called Recall Info Link. This service allows TONY’S to contact all

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Customers within four (4) hours, allowing TONY'S to meet compliance regulations. The charges for customer contact via Recall Info Link will be charged back to affected Vendors. For customers not reached via Recall Info Link, TONY'S Customer Service will contact said customers and will charge back Vendor for costs incurred.

1. Recall means a Vendor's removal or correction of a Product that the FDA or USDA considers to be in violation of the laws it administers and against which an agency may initiate legal action (e.g. seizure). Recall does not include a market withdrawal or stock recovery. Market withdrawal means a Vendor's removal or correction of a Product which does not pose a potential threat to consumer health or safety, is not materially misleading, and is not subject to legal action by the FDA or USDA.
2. Vendor must promptly notify TONY'S of all recalls and market withdrawals involving Vendor's Products. Vendor must make every reasonable effort to notify TONY'S prior to any public announcement of a recall or market withdrawal involving Vendor's Products, but such notification must, in all events, occur within six (6) hours of Vendor's decision to recall or announce a market withdrawal.
3. In the event of a recall, Vendor must promptly notify TONY'S by submitting a recall letter to [Recall@TONYsFineFoods.com](mailto:Recall@TONYsFineFoods.com) and contact the respective Category Director at 916-374-4000.

## Z. UNACCEPTABLE PRODUCTS

"Unacceptable Product" means any one of the following if applicable to Vendor's Products:

1. The Product is unable to maintain its quality and integrity in accordance with industry standards for the duration of the Product's shelf life;
2. The Product is unable to maintain its integrity with respect to its packaging, labeling and/or UPC compliance in accordance with industry standards;
3. The Product fails to meet the applicable warranties of this Agreement; or
4. The Product is the subject of a recall.

TONY'S may refuse to accept delivery of Unacceptable Products. If Unacceptable Product has been delivered to TONY'S or if, after delivery to TONY'S or its customer, the Product is discovered to be Unacceptable Product through no fault of TONY'S or its customer, Vendor shall accept Products for return, for full credit and with freight paid by Vendor. Alternatively, at Vendor's discretion and expense, TONY'S may dispose of such Unacceptable Product in a manner as the circumstances may reasonably dictate and Vendor shall reimburse TONY'S for any amount by which the sale or disposal price realized by TONY'S will be less than TONY'S cost of the Product plus 15% handling fee (based on TONY'S landed cost) for such sale or disposition. Notwithstanding any other provision of this Section, Vendor will not be required to reimburse TONY'S for Unacceptable

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Product if the unacceptability resulted solely from negligence or willful misconduct in the handling of the Product by TONY'S or a TONY'S customer.

## **AA. VENDOR & BROKER VELOCITY REPORTS**

Where Vendors use a broker, TONY'S may provide aggregated information to facilitate broker compensation. *Vendors and Brokers Vendor Breakout Reports*, and *Sales by State Reports* are available to a Vendor or Broker upon execution of the required form found on the Vendor Portal. The reports are provided within the time frames outlined in the Agreement. Vendor will be charged \$30 to \$75 depending on the report selected.

## **5 New Products/Store Openings**

### **A. NEW PRODUCTS / INTRODUCTIONS**

All new item introductions must conform to TONY'S Terms and Conditions. All new item information must be accompanied by actual samples of the product and an actual shipping case must be submitted for shipping information and product accuracy. If incorrect data is submitted by Vendor or its agents on more than one occasion, a fee of \$200 per item plus any retailer penalty fee assessed to Buyer will be charged to Vendor.

Vendor shall pay a new item set up fee per distribution center of \$150 per stock keeping unit ("SKU") for item master and distribution center setup. A New item is defined as: an item that is new to TONY'S, a change in pack, a change in UPC or a change in ingredient(s).

TONY'S requires a 90 day guaranteed sale on all new items. If any Products, when purchased by TONY'S for the first time, do not reach a minimum sales level of three (3) cases per week in the first three months of introduction, Vendor will arrange for the remaining Products to be promptly picked up from TONY'S and will accept them for return and a full refund, unless the parties otherwise mutually agree on disposition. After the 90 days, the vendor may, with TONY'S consent, elect to keep the product in stock for additional time in order to build up monthly sales. TONY'S will charge a monthly stocking fee of \$50 per month per item. This fee may be deducted or billed separately. During this period if the item movement reaches three (3) cases per week the fee will be waived for that month.

### **B. PRODUCT SAMPLES AND DISPLAY MATERIAL POLICY**

Samples for customers approved by Vendor will be charged back to Vendor at TONY'S delivered cost plus a 10% handling fee. In addition, display racks,

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shelving units and other marketing material warehoused and shipped by TONY's will be charged a handling fee of \$40 per rack (single pallet or less) or \$5 per case for smaller case items (not to exceed 2.0 cube). Any questions regarding TONY's Product Samples Policy should be directed to the Vendor's Category Director or Buyer.

## **C. OPENING ORDERS AND RETAILER PLACEMENTS**

TONY'S retail Customers generally require complimentary goods support for any new items or new stores. Because Vendors typically do not have a financial relationship directly with the retailer, these charges are normally passed through TONY'S and are either a lump sum payment / deduction agreed to between Vendor and Customer or in the value of a free product equivalent. The value of the placement is calculated at the items landed cost plus 10%, as TONY'S will have performed the supply chain and SG&A (selling, general and administrative expenses) activity to distribute the new items to the account and in many cases physically cut them into the sections. It is expected that all Vendors agree to support these programs. If the Vendor is unwilling to support their placement cost into retail distribution then TONY's will not offer complimentary goods to its customer.

## **6 Product Promotions**

### **A. PROMOTIONAL PLANNING AND EXPECTATIONS**

1. Yearly promotional plans are encouraged with emphasis on monthly promotions per Product group.
2. TONY'S offers some marketing programs that require a Product's performance to be in the top segment of its category. TONY'S encourages its Vendors to plan promotional spending for a Product in order to improve its category position.
3. TONY'S Promotional Programs shall be completed and emailed to the Category Director and entered in through the Vendor Portal.
4. Where TONY'S is unable to purchase Products during a promotional period due to excess inventories, TONY'S will require that Vendor shall credit TONY'S for the difference in price of the current inventory carried and the promotional discount. This will permit TONY'S to honor the promotion.
5. If TONY'S cannot purchase sufficient quantities during a promotional period to cover the quantities shipped at the discount, it will, require a credit for the difference in the price of the current inventory carried and the promotional discount. This will allow TONY'S to honor the promotion. This will be deducted automatically with no prior authorization or notice given and is expected to be honored.

# Vendor Policies and Guidelines

6. Promotional allowances not received off-invoice will be subject to a 2% administrative fee, with the exception of Magazine allowances.

## **B. MANUFACTURER CHARGE BACK (MCB)**

1. All payments received from Vendor must be accompanied by TONY'S MCB invoice number or statement of the purpose for payment. TONY'S will deduct amounts not received by the due date shown on the billback invoice from future payments due to Vendor from TONY'S. TONY'S allows 7 days from the invoice date before deducting for MCB's.
2. All invoices along with supporting documentation will be posted to the Vendor Portal within 5 business days of TONY'S generating such invoices.
3. Allowances not received off-invoice to TONY'S will be subject to a 2% administrative fee, with the exception of Magazine allowances.
4. MCB disputed by Vendor must be presented to TONY'S within 60 days of the billback invoice date. If the claim is made after the 60 day period, there will be a charge of \$60 per hour for researching the dispute. No claim will be researched or honored after 120 days from the billback invoice date. Vendor inquiries for A/R invoice deductions can be found on the Vendor Portal under Vendor Invoices . Any other deductions made on checks must be emailed to the Accounts Payable Department, [Accts\\_Payable@TonysFineFoods.com](mailto:Accts_Payable@TonysFineFoods.com).
5. TONY'S may charge Vendor interest on any MCB invoices past due in excess of 30 days from the due date at a rate equal to 1½% per month, or the highest rate allowed by law.

## **C. EVERYDAY LOW PRICING (EDLP) AND PROMOTIONS**

1. EDLPs are Customer specific deals submitted by a Vendor/broker for a minimum of six (6) months. EDLPs submitted for any store that is a member of a chain will be honored for all members of that chain.
2. EDLPs must be submitted through the Vendor Portal. TONY'S requires a twenty-one (21) day lead time. EDLPs cannot be backdated. Credits will not be issued for EDLPs not submitted timely. EDLPs must be submitted with a specific end date (e.g. DD/MM/YY-Must start on a Monday and end on a Sunday) or they may be submitted as "ongoing." EDLPs identified by the Vendor as "ongoing" require a sixty (60) day lead time and will end only after receiving sixty (60) days notification from the Vendor or Vendor's broker. It is the Vendor's/Vendor's broker's responsibility to inform the Customer of the EDLP end date.
3. Any extensions to an EDLP must be entered through the Vendor Portal on a new EDLP form with the appropriate lead time. TONY'S will not issue credits for lapsed EDLPs.



# Vendor Policies and Guidelines

4. TONY'S will not be responsible for tracking, monitoring, or providing performance reporting on any Customer on an EDLP program, and will not be responsible for enforcing case minimums or maximums.
5. Changes to Product pricing or pack size, additions/deletions of SKUs, or introduction of new seasonal or special promotional items that necessitate a change to the original EDLP shall be submitted by Vendor or Vendor's broker. Vendor must submit such changes with a new EDLP Form through the Vendor Portal. Vendors that fail to comply with these notice requirements may forfeit EDLP discounts. TONY'S reserves the right not to issue credits for discounts missed due to untimely submission of an EDLP.
6. Corporate Allowance Requests not received with a twenty-one (21) day lead time will be subject to a \$50 late fee. TONY'S will have the right to review any CAR not received in the 21 day lead time. If the late request is honored, a \$50 late fee will be deducted off the next invoice. If a Corporate Allowance Request is received after the publishing date of Buyer's Price List (10 days prior to the effective date), an additional \$50 processing fee will apply. In the event Vendor's lack of timeliness in presenting Corporate Allowance Requests results in Buyer having to process a credit or issue a check to Buyer's customer for a missed allowance, Buyer shall deduct from Vendor an additional \$200 processing fee.
7. Promotional allowances must be submitted through the Vendor Portal. No price changes will be accepted during deal periods, unless approved by Tony's..
8. TONY'S must receive all Magazine Promotions at least one hundred and twenty (120) days in advance. Ad Bulletin allowances require sixty (60) days lead time and major chain store promotions require a twenty-one (21) day lead time based on the effective date of the promotion

## **D. ADMINISTRATIVE FEES**

Our Customers may elect to engage TONY'S to process billings for various programs, many of which are often directly negotiated and determined by the Vendor (or their representative) and the Customer. Vendors have the option to manage and process these financial and/or marketing transactions directly with the Customer and avoid any TONY'S administrative fees. By electing to process any financial/marketing transactions through TONY'S, the Vendor expressly agrees to all TONY'S policies related to these administrative fees. The administrative fee for processing these types of transactions includes, but is not limited to a processing fee of \$50 per invoice and/or deduction.

## **E. RESETS AND OTHER RETAIL SERVICES**

TONY'S, TONY'S Vendors and TONY'S Customers all share responsibility for promoting a Vendor's Products. Many of TONY'S Customers, including supermarkets, have retail services programs in place to help promote Products that

# Vendor Policies and Guidelines

may include, but are not limited to: category updates, major resets, minor resets, shelf strip updates, hardware maintenance and hardware updates. Customers bill TONY'S directly for the costs and administrative fees associated with such programs and services and TONY'S is then expected to collect these funds from its Vendors. These costs and fees are typically collected in the form of a deduction. It is the Vendor's responsibility to cover all of the costs and fees charged to TONY'S by its Customers for resets and other retail services performed in connection with the promotion of Vendor's Products.

## 7 Marketing and Advertising

TONY'S Advertising & Marketing Programs have been designed to promote Vendor Products to TONY'S Customers and to the end consumer. TONY'S programs build brand awareness, advertise promotions and seasonal Products, educate store buyers and target specific channels such as natural/organic retailers, supermarkets and foodservice.

Participation in these programs is encouraged for the long-term growth and success of a Vendor's product line.

### A. **TRADE MARKETING AND ADVERTISING PROGRAMS**

These programs target retailers, supermarkets and foodservice.

1. Monthly Magazine Specials – The Monthly Magazine Specials offers the opportunity to focus attention on a Vendor's new products, promotions and seasonal products.
2. Ad Bulletin and Co-op programs – These monthly programs offer discounts to the customers to promote and build volume by offering Ad reimbursement and off-invoice promotional discounts.
3. Bookings and Trade Shows – There are several booking events and Trade Shows throughout the year that use product catalogs and bring customers, Vendors and sales representatives all to one central location. The physical Trade Shows are usually a one day event with products booked for a specific delivery period.

### B. **CONSUMER MARKETING AND ADVERTISING PROGRAMS**

1. Trailer Advertising – TONY'S trailers can be used as rolling billboards and can be targeted to focus on certain specific geographic regions.

Additional information about the above programs is available through your Category Director.

# Vendor Policies and Guidelines

**\*\*NOTE: Prices and program options for Marketing and Advertising Programs are subject to change. TONY'S will deduct all TONY'S payments due on advertising invoices from TONY'S payments to Vendor.**

## 8 Shipping and Receiving Products

### A. BACKORDERS

TONY'S does not accept back orders. If needed, TONY'S buyer will authorize and create a new purchase order.

### B. BIOTERRORISM ACT OF 2002

The Establishment and Maintenance of Records under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the "Bioterrorism Act") states, in part:

"Persons who manufacture, process, pack, distribute, receive, hold, or import food in the United States must establish and maintain the following records to identify the immediate previous sources and immediate subsequent recipients for all food they receive and release . . . : Name, address, telephone number and, if available, fax number, and e-mail address of the immediate previous source and subsequent recipient; adequate description; date received or released; for persons who manufacturer, process, or pack food, the lot or code number or other identifier; quantity and how the food is packaged; and name, address, telephone number and, if available, fax number, and e-mail address of the transporter who transported the food to and from you". 69 Federal Register 236, Dec. 9, 2004, 71563-564.

1. Deliveries: All deliveries to TONY'S of Products covered by the Bioterrorism Act (e.g. "food" and beverages for humans and animals and related packaging, as defined in the Bioterrorism Act) must comply with the Bioterrorism Act, including, but not limited to the requirements set for in Section V(B)(2).
2. DC receiving and shipping: Each driver shall provide the following information to the TONY'S receiving or shipping office personnel at the time of the driver's scheduled check-in:
  - a. Driver's name and photo proof of identity: valid commercial driver's license (CDL) and/or company issued photo badge identification. All identification will be photocopied.
  - b. Transporter/carrier company name and street address, city, state, zip code (a P.O. Box address is insufficient), telephone number, fax number and e-mail address.

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*If any driver is unable or unwilling to supply this information, the load will not be loaded or unloaded at any TONY'S location, including TONY'S distribution centers, or any delivery location designated by TONY'S.*

## **C. PRODUCT TAMPERING**

TONY'S reserves the right to refuse Products that appear to have been tampered with.

## **D. DATE CODES**

1. TONY'S requires that all Products be identified with an open coded shelf life or "use by" date, which shall appear on the Product and be printed on the outside of the shipping case. TONY'S reserves the right to accept products that do not adhere to this requirement, however in all such cases Vendor must provide the actual expiration date, by product, on the packing slip and/or Bill of Lading.
2. TONY'S requires that the shelf life of all Products be equal to or greater than the minimum guaranteed production shelf life as previously agreed upon by the parties during item set up and requires that the Vendor provide the appropriate Category Director written updated information regarding production shelf life and guaranteed minimum shelf life at time of receipt. Products received below the minimum guarantee that are not sold before the expiration date will be billed back to the Vendor.
3. If Products do not have a human readable calendar expiration date on the outside shipping case, TONY'S will bill-back any Products that are not sold before the expiration date on the inside package.

## **E. MIS-SHIPS/SHORTAGES/OVER-SHIPS**

1. Vendor shall maintain a 98.5% fill rate or higher. Failure to meet or exceed the acceptable service level may result in item replacement and discontinuation or financial penalty. If not corrected within such cure period, and in extreme situations, at TONY'S discretion Vendor may be held responsible for lost profit and any additional delivery expenses resulting from such product shortages, each calculated from the initial notification date. If TONY'S is shorted items on incoming orders and Product subsequently becomes available, Vendor shall notify and expedite these items to our distribution centers at the Vendor's expense.
2. With Vendor approval, TONY'S may substitute another Vendor's product for product that was under contract between Vendor and customer that has been shorted by the Vendor. The difference between the higher cost of the substituted product (if any) and the contract cost of the shorted product will be charged back to Vendor. In the event of a mis-ship and TONY'S receives Product that it did not order, TONY'S will notify Vendor of the Product and

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inventory count, and Vendor will be responsible for all costs associated with the mis-ship.

3. Vendor must notify the TONY'S Buyer of any shortages/out of stocks before delivery or pickup. Any Product shorted will be placed on a new PO and will be shipped at Vendor's expense.
4. In the event an over-ship occurs, TONY'S may agree to receive the Product above and beyond the purchase order quantity at a minimum discounted rate of 35% Off Invoice, with a \$35 minimum charge, unless instructed otherwise by Vendor. If the item is new to TONY'S, it will be subject to a setup fee of \$150 plus \$35 administration fee.
5. Where an over-ship occurs and TONY'S declines to receive the Product into inventory, TONY'S may, in its sole discretion, store the Product in its DC. Any such Product must be removed from the DC within two weeks of the date that it was received at the DC. In the event that the Product is not removed from the DC within two weeks, TONY'S may, in its sole discretion, dispose of any such Product stored in the DC, and assess a fee of \$25 per pallet per week for any such product that TONY'S. Any costs associated with removal, as well as the \$25 per pallet per week fee, shall be borne by and charged back to Vendor. TONY'S assumes no liability for any over-shipments stored in its DC.

## **F. TITLE AND RISK OF LOSS**

Title to and risk of loss of Products pass to TONY'S, free of any encumbrances, on pick-up by TONY'S at Vendor's dock or, if applicable, upon delivery to the destination designated by TONY'S. Each delivery will be invoiced by Vendor, and the invoice will include Product description and quantities sold. Vendor acknowledges and accepts that all shipments and/or pick-ups of Product for delivery to TONY'S are subject to final count by TONY'S. The parties agree to work in good faith to resolve any disputes relating to Product count.

## **G. LATE/UNSCHEDULED LOADS**

A delivery appointment specifying the date and time of delivery is required for all loads. Vendors will be assessed a fee for late and/or unscheduled deliveries. These fees, set forth below, are subject to change without notice and at any time at TONY'S sole discretion. All fees must be paid by Vendor or Vendor's carrier at the time of delivery and prior to unloading. No exceptions will be made.

31 – 60 Minutes Late	\$50.00 per occurrence
Over 60 Minutes Late	\$200.00 per occurrence
Unscheduled Load	\$200.00 per occurrence

# Vendor Policies and Guidelines

No Show/Rescheduled with less than 12 hours of the appointment time	\$200.00 per occurrence
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TONY’S reserves the right to refuse delivery of any late or unscheduled load.

Delivery drivers and co-drivers are not allowed on TONY’S docks without permission from TONY’S management. TONY’S may, in its sole discretion, invite drivers and/or co-drivers onto a TONY’S dock while TONY’S verifies temperature readings.

## **H. LOADS UNLOADED PRIOR TO SCHEDULED APPOINTMENT**

A delivery appointment specifying the date and time of delivery is required for all loads. In the event that Vendor asks to unload prior to Vendor’s scheduled appointment, TONY’S will, in its sole discretion, determine if the request can be accommodated. If TONY’S accommodates Vendor’s request to unload prior to its scheduled appointment, TONY’S will assess a fee. These fees must be paid at the time of delivery and prior to unloading. No exceptions will be made.

Unloading 24 hours or more prior to the appointment date and within normal receiving hours	\$200.00 per occurrence-Plus applicable labor fees
Unloading 24 hours or more prior to the appointment date and outside of normal receiving hours	\$200.00 per occurrence – Plus applicable labor fees

## **I. LOADS NOT AVAILABLE AT TIME OF SCHEDULED PICK-UP**

TONY’S schedules loads for pick up at the Vendor’s dock according to an agreed upon schedule. In the event that loads are not available for a scheduled pick-up by TONY’S or its carrier or if TONY’S or its carrier is detained at Vendor’s dock, TONY’S shall assess the following fees:

Truck Order Not Used (TONU)	\$200 per occurrence
Detention	\$100 per hour after 1 hour from the original pick-up appointment. If TONY’S or its carrier is late, detention fees shall not apply.

## **J. Product Shortages and Concealed Damage**

TONY’S driver or freight agent will sign all load sheets (“shipper load and count”). If shortages or concealed damages are found upon receiving the product at TONY’S DC, such shortages and damages will be communicated

# Vendor Policies and Guidelines

within 48 hours of receipt at TONY'S DC. Shortages and concealed damages will be deducted from Vendors invoice.

## **K. PALLETIZATION OF PRODUCTS**

All Products will be palletized on standard GMA pallets according to the Tier/High (TI/HI) specifications when provided by TONY'S. Anytime multiple SKUs are shipped on a pallet they must be separated by a pallet or they will be subject to lumper fees.

## **L. PALLET EXCHANGE POLICY**

1. TONY'S does not participate in any pallet pool programs (e.g. CHEP) nor will TONY'S accumulate pallets for return.
2. TONY'S does not accept iGPS plastic pallets.

## **M. CASE SPLITTING**

TONY'S reserves the right to charge \$0.50/case for any grocery items it case splits in its distribution centers to allow for one shelf facing at retail. This does not apply to inner packs or each pick items. TONY'S encourages Vendors to utilize proper case packs acceptable to the retail community instead of requiring case splitting.

## **N. LUMPER FEES**

Absent different language set forth in a contract, Vendor acknowledges and agrees that Vendor and/or Vendor's carrier shall use a third-party unloading service selected by TONY'S. TONY'S does not permit "driver breakdown," and inbound shipments must be unloaded by this unloading service.

Vendor further acknowledges and agrees that Vendor shall be responsible for all fees associated with such unloading services, whether paid directly by Vendor to the third-party unloading service or negotiated between Vendor and Vendor's carrier as a portion of the transportation costs. Such fees have been negotiated between TONY'S and the unloading service and are available to Vendor upon request. All Vendors and/or Vendor's carriers must set up an account directly with the unloading service, as TONY'S does not permit the use of cash on its docks. Vendors should contact their Category Director for more information regarding setting up an account. TONY'S will not accept any charges related to Vendor-selected inbound carriers, nor will related charges be accepted on any Vendor invoice.

Any and all fees related to break down of any and all freight where TONY'S is the "bill to" party must be coded as a loading/unloading fee on a separate line item on the freight invoice. Fees for such charges will not be processed or paid if on separate invoices. Copies of the lumper fees as well as copies of the bills of lading must be included with Vendor's freight bill. In addition, if Vendor's deliveries are

# Vendor Policies and Guidelines

managed by TONY'S Inbound Logistics Team, in order to be processed for payment, Vendor must provide third party provider unloading receipts.

RATES ARE SUBJECT TO CHANGE. Changes will be posted on Vendor Portal with as much advance notification as possible.

If the Vendor/shipper is paying the freight expense, TONY'S is not responsible for the lumper charges. If carriers currently deliver both prepaid and collect freight from any of TONY'S facilities, please be prepared, as TONY'S isolates prepaid Vendors that will be required to pay for this service. The carrier will need to include these charges on its bills to those prepaid Vendors, not to TONY'S Inbound Logistics.



# Vendor Policies and Guidelines

## 9 Information & Forms

The following information and forms, among others, can be found on the Vendor Portal:

- A. 7 SIMPLE STEPS TO TONY'S NEW VENDOR SET UP PROCESS
- B. NEW VENDOR PRODUCT CHECKLIST
- C. COI (CERTIFICATE OF INSURANCE) EXAMPLE
- D. W-9 & W-8 (Canada)
- E. GUARANTEE SALE AGREEMENT
- F. TONY'S CODE OF CONDUCT
- G. TONY'S NEW DOCK POLICY AND FEES