



CalRecycle
SB 1383 Implementation Tools

Model Food Recovery Agreement

DATE
Revised 1/25/2021

Prepared by
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In conjunction with
Diversion Strategies, LLC



DISCLAIMER

This Model Tool is for informational and example purposes only. It should not merely be duplicated without consideration of an individual jurisdiction, food recovery organization, food recovery service, or commercial edible food generator's particular needs or circumstances. It is not intended to cover each and every situation, nor can it anticipate specific needs. In developing this Model Tool, CalRecycle and its consultants (HF&H Consultants in conjunction with Diversion Strategies) have attempted to ensure that the language herein aligns with the SB 1383 regulations; however, in the event of any conflict, the language in the regulations shall prevail over language in the Model Tool and determination of regulatory intent and interpretation should be appropriately guided by the regulatory language and the official rulemaking record of which this Model Tool is not a component. CalRecycle and its consultants make no representation that use of this Model Tool will ensure compliance with regulatory requirements. This Model Tool does not constitute legal advice. Users of the Model Tool are encouraged to seek legal counsel appropriate to their particular circumstances regarding compliance with regulatory requirements.

ACKNOWLEDGEMENTS

This Model Food Recovery Agreement was prepared in partnership with CalRecycle, HF&H Consultants, and Diversion Strategies, with review and input from a Resource Group of experts in a variety of fields and geographic areas of the State. We would like to thank key members of the CalRecycle team and Resource Group members who contributed to this Model Food Recovery Agreement as follows:

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GUIDANCE ON THE MODEL FOOD RECOVERY AGREEMENT

The California Department of Resources Recycling and Recovery (CalRecycle) oversees a variety of programs and policy initiatives to reduce the amount of solid waste sent to landfills and promote recycling in California, including organic waste recycling under SB 1383. SB 1383, as enacted in 2017 (Lara, Chapter 395, Statutes of 2016), establishes Statewide targets to reduce the Statewide disposal of organic waste 50 percent by 2020 and 75 percent by 2025; and requires that not less than 20 percent of edible food that is currently disposed be recovered for human consumption by 2025. For the purposes of this document, “SB 1383 regulations” or “SB 1383 regulatory” requirements refer to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. The SB 1383 regulations set forth a variety of programmatic and policy-related requirements for jurisdictions, generators, and other entities to support the Statewide goals of SB 1383.

To support jurisdictions and other regulated entities with implementing programs and policies to reach compliance with SB 1383 regulations, CalRecycle offers four Model Implementation Tools including a Model Franchise Agreement, Model Mandatory Organic Waste Disposal Reduction Ordinance, Model Recovered Organic Waste Product Procurement Policy, and this Model Food Recovery Agreement. These tools are available for jurisdictions and other regulated entities to use and customize to meet their unique needs.

This guidance document provides an overview of the Model Food Recovery Agreement. The Model Food Recovery Agreement is intended to be customized and used by commercial edible food generators, food recovery organizations, food recovery services, and jurisdictions to assist with SB 1383 compliance and meet their unique edible food recovery needs.

INTRODUCTION

This Guidance Document supports the use of the Model Food Recovery Agreement (“Model”). The Model was created recognizing that many commercial edible food generators (“generators”), and/or food recovery organizations and food recovery services (“FRO/FRS”) throughout the State will be entering into new contracts or written agreements or amending existing contracts or written agreements to comply with SB 1383 regulatory requirements for commercial edible food generators. By establishing a contract or written agreement for food recovery, generators and/or FRO/FRSs can address provisions that support compliance with SB 1383 regulations as well as other

provisions related to safe food handling, self-hauling edible food, cost-sharing, recordkeeping, and other needs.

This Model has been developed to provide an easy-to-use and highly customizable template for creating a new edible food recovery agreement with SB 1383 regulatory provisions or as a source of agreement provisions related to SB 1383 regulations for amending an existing agreement. This Model may also be used by those who are not subject to SB 1383 regulations. The guidance provided herein highlights important considerations to keep in mind when using the Model; customization strategies to adapt the Model to fit the parties' unique conditions; and includes tips and a list of additional resources.

IMPORTANT CONSIDERATIONS

- **New Agreement or Amendment of Existing Agreement.** The Model is designed to be a highly customizable template agreement, providing numerous options to address a range of food recovery needs, as further described on the following page. It can be used by parties drafting new food recovery agreements and those amending existing agreements. For new agreements, the Model may be used as a starting point with customization; and for amendments to existing agreements, example provisions in the Model can be selected and integrated into the existing agreement(s).
- **SB 1383 Regulatory Requirements.** Each regulated entity under SB 1383 is responsible for understanding and achieving compliance with SB 1383 regulations. Use of the Model by a commercial edible food generator and/or FRO/FRS, or by a jurisdiction involved in food recovery activities, does not exempt that entity from complying with all SB 1383 regulatory requirements. The Model includes example provisions that support compliance with some, but not all SB 1383 regulatory requirements. It is advised that users of the Model thoroughly review the SB 1383 regulations and take necessary actions to ensure full compliance.

Language that is specific to SB 1383 is shown in **blue font**, and language not directly from SB 1383, but relevant for a food recovery agreement, is shown in black font.

- **Legal Review and Approval.** Any contract or written agreement that results from use of the Model shall not be considered to have undergone legal counsel review. Each party to the agreement is responsible for performing any legal review or approval processes typically required by the parties for approval of such agreements.
- **Example Language Only.** The provisions in the Model are examples only. Users of the Model are not required to use the language included in this Agreement. All language should be considered in the context of the parties' unique food recovery needs.

CUSTOMIZATION CONSIDERATIONS

The Model is designed to be customizable for a diverse range of parties to the agreement and transaction types, while providing flexibility for each party to reflect their food recovery needs. For example, the Model includes a range of options for allowable food, generator types, cost-sharing structures, reporting, documentation, and more.

The parties to an edible food recovery agreement will want to capture their local systems and unique approach to edible food recovery programs and services. As such, users of the Model are advised to consider the following general items when crafting their agreement. More specific guidance is included in the Model itself.

1. GUIDANCE AND OPTION NOTES

Guidance notes are integrated into the Model to explain how specific sections and provisions of the Model can be customized for a party's needs. General guidance notes are highlighted in green. Notes in blue identify various options or areas where specific information is to be inserted or selected.

The Model addresses common variations of programs and service options; however, addressing all food recovery scenarios was not practical. Given this, parties to the agreement may need to customize or eliminate some sections of the Model to reflect their conditions by drawing on example provisions in the Model as a starting point.

2. ADAPTABILITY OF THE MODEL TO A VARIETY OF TRANSACTION TYPES

Provisions within the Model are intended to apply to a variety of transaction types for food recovery programs and services (e.g., donation vs. fee for service, food bank vs. identified non-profit receiver, collection vs. delivery). However, there is not a “one size fits all” approach. Some of the sample provisions in the Model may be applicable to some arrangements or transactions and may have to be deleted or modified for others.

3. SOLUTIONS FOR REJECTED FOOD

For food that is rejected under the terms of the agreement or otherwise not accepted for human consumption, it is urged that the parties to the agreement utilize alternate solutions that prioritize the highest and best use of food to the full extent possible (e.g., redirection to another FRO/FRS, use as animal feed), followed by organic waste recovery methods (e.g., composting, anaerobic digestion) rather than landfill disposal, in accordance with local requirements, SB 1383 regulations, and other applicable laws. Options for how to handle rejected food may vary depending on the location and infrastructure in place for the processing of food waste.

4. ALIGNMENT OF DEFINED TERMS

The Model includes dozens of defined terms, some of which were obtained from SB 1383 regulatory definitions and many from existing food recovery agreements and programs. The nuances of defined terms and their relationship to one another can have a significant impact on the meaning of the provisions of the food recovery agreement. For this reason, parties to the agreement are advised to carefully review the definitions of the Model and SB 1383 regulations, as well as any definitions contained in existing agreement(s), if applicable. Users should modify existing definitions and/or integrate new ones where needed. It is likely that some of the definitions in the Model can be used without modification, while others will need to be tailored to the parties' unique needs, program, and contractual arrangements.

5. FOOD HANDLING/FOOD SAFETY CERTIFICATIONS

Parties to a food recovery agreement should consider including in their Agreement a requirement for having one or more staff or volunteers on site to have a safe food handling/food safety certification or food handler card. It is also highly recommended that the parties to a food recovery agreement contact their local Environmental Health Department for guidance on safe food handling practices.

6. FOOD WASTE SOURCE REDUCTION

Although not required under the SB 1383 regulations, a commercial edible food generator and FRO/FRS may also consider including language in the agreement regarding sharing information regarding food production and donation to decrease excess food production and prevent the creation of food waste. For example, if an FRO/FRS learns through observation or data collected that certain food donations are larger on certain days or events, that information could be shared with the commercial edible food generator so that the commercial edible food generator can order or produce less product on those days or events if possible, therefore generating less food waste.

7. NON-FOOD ITEMS

A FRO/FRS may also accept non-food items for collection. While the Model only addresses food, the Model is intended to be highly customizable to reflect the agreement between the specific parties. If a FRO/FRSs program does accept non-food items, the Model can be amended to include those items.

8. REFERENCE TO LOCAL, STATE, AND FEDERAL REGULATIONS

The Model refers to compliance of local, State, and federal laws by reference. Parties utilizing the Model may elect to incorporate these regulations by reference, list specific relevant regulations in the agreement, or attach the text of the relevant regulations as an attachment to the agreement.

ADDITIONAL TIPS FOR USING THE MODEL

1. **Modify Language.** Adjust the Model language to fit the user's specific needs. For example, "Generator" and "FRO/FRS" are used throughout the document, and will need to be changed to the parties' names, as applicable.
2. **Delete Guidance Notes and Unused Options.** Highlighted guidance notes are presented in the Model for reference only, and are to be removed by the user when preparing its final Food Recovery agreement. In cases where the Model offers multiple options, optional provisions that are not selected are to be deleted and section numbers must be modified accordingly.
3. **Blend Existing Provisions with Model Provisions.** Users that have existing Food Recovery agreements may want to select provisions from both the Model Agreement and their existing agreement to develop an agreement that best suits its needs.
4. **Style and Design.** The use of multiple font colors and highlighting to differentiate content in the Model, as described above, is not required in any final document produced, and the colors should be eliminated or made consistent with the user's standard document styles. The Model Food Recovery Agreement and this Guidance Document have been designed in accordance with CalRecycle's accessibility guidelines. SB 1383 regulations do not require specific styles or design to be used for food recovery agreements, and the final document style is at the discretion of the parties to the agreement.

ADDITIONAL RESOURCES

CalRecycle Resources

1. SB 1383 General Information: <https://www.calrecycle.ca.gov/organics/slcp>
2. SB 1383 Final Regulations: <https://www2.calrecycle.ca.gov/Docs/Web/118371> (for an accessible version, please use this link: <https://www2.calrecycle.ca.gov/Docs/Web/118368>)
3. SB 1383 Model Implementation Tools: <https://www.calrecycle.ca.gov/organics/slcp/education>

This webpage includes the following Model Tools:

- Model Food Recovery Agreement
- Model Franchise Agreement
- Model Mandatory Organic Waste Disposal Reduction Ordinance
- Model Recovered Organic Waste Product Procurement Policy

4. SB 1383 Case Studies: <https://www.calrecycle.ca.gov/organics/slcp/education>

Eight case studies are available including two each on food recovery programs and policies, franchise agreements, mandatory organic waste disposal reduction ordinances, and recovered organic waste product procurement.

5. SB 1383 Local Services Rates Analysis:

<https://www2.calrecycle.ca.gov/Publications/Details/1698>

6. Food Recovery Information: <https://www.calrecycle.ca.gov/organics/food/donation/>

Additional Food Recovery Resources

1. ANSI-CFP Accreditation Program, Food Handling and Safety:

<https://www.ansi.org/accreditation/credentialing/personnel-certification/food-protection-manager/alldirectorylisting?menuid=8&prgid=8&statusid=4>

2. California Retail Food Code:

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?toccode=hsc&division=104.&title=&part=7.&chapter=&article=

3. Limited Service Charitable Feeding Operation Guidelines:

https://www.ccdeh.org/content.aspx?page_id=70&club_id=909133 (search LSCFO)

Food Recovery Agreement
between the
Food Recovery Organization/Food Recovery Service
and
the Commercial Edible Food Generator

This Agreement (“Agreement”) is dated _____, 20__ between the Parties to this Agreement, _____ (“FRO/FRS”) and, _____ (“Commercial Edible Food Generator”).

The Commercial Edible Food Generator wishes to provide its Edible Food that would otherwise be disposed to FRO/FRS pursuant to the terms of this Agreement.

SECTION 1: ALLOWABLE FOODS

1.1 FOODS ACCEPTABLE AND/OR PREFERRED FOR FOOD RECOVERY

Guidance: Use this section to specify food types accepted and/or preferred by the FRO/FRS in your agreement. A FRO/FRS may choose to include one or more of the following options and sub-options (or combination thereof) depending on the kinds of foods the program will or will not accept. For streamlining of the body of the Agreement, and ease of amending the list in the future, the list of acceptable foods for Food Recovery is incorporated as an Attachment to the Agreement rather than indicated in the text of the Agreement itself.

Foods accepted and/or preferred for Food Recovery under this Agreement are listed and described in Attachment B.

1.2 FOODS NOT ACCEPTED FOR DONATION OR COLLECTION

Guidance: This section addresses specific food/food types that the FRO/FRS will not accept. The FRO/FRS may choose to also include nutritional guidelines to accompany this section. For streamlining of the body of the Agreement, and ease of amending the list in the future, the list of unacceptable foods for collection or donation is incorporated as an Attachment to the Agreement rather than indicated in the text of the Agreement itself.

Foods that are not acceptable for donation or collection under this Agreement are listed and described in Attachment B.

1.3 CONDITIONS FOR REFUSAL

FRO/FRS reserves the right to refuse food at any time if it meets the conditions for refusal. Conditions for refusal of food include but are not limited to food safety concerns, improper storage, provision of items not agreed upon for Food Recovery, lack of

transportation capacity or storage space, and/or food not currently needed by FRO/FRS.

Guidance: Parties to the Agreement may want to include a provision on employing best practices to minimize any ongoing rejections of food. This could include best practices such as inspecting the food before leaving the Commercial Edible Food Generator's site, prompt notification and communication between the Parties, and other practices that would help minimize rejected food and the costs and liability incurred as a result of the rejections.

Commercial Edible Food Generator agrees to provide food that meets all food safety standards in accordance with Section 2 of this Agreement and not knowingly or intentionally provide foods that do not meet these standards.

Rejection by FRO/FRS of food provided will be done so in good faith.

In the case of refusal or rejection, FRO/FRS must inform Commercial Edible Food Generator of the rejection and reason as soon as possible. Any rejected Edible Food that cannot be redirected to another FRO/FRS with the approval and consent of the alternate FRO/FRS will be treated as organic waste and shall not be disposed in a landfill, regardless of which Party is in possession of the food.

Guidance: Include details of documentation and process for donation refusal in this section, if desired. This documentation is not a requirement under SB 1383 regulations, but may be included if both Parties wish to have more detailed documentation. The optional language below can be used or amended.

Refused or rejected food by FRO/FRS must include documentation of refusal. Documentation must be in an electronic/hard copy format and include a description and/or photo of the rejected donation, reason for rejection, and time/date of donation rejection.

SECTION 2: FOOD SAFETY REQUIREMENTS AND PROTOCOLS

Both FRO/FRS and Commercial Edible Food Generator will maintain compliance with all federal, State, and local regulations for safe food handling and food safety recordkeeping requirements prior to and during transportation, storage, and handling.

When applicable, Commercial Edible Food Generator shall at all times maintain all licenses and permits required by the State of California and any other governmental authorities, including, without limitation, local and municipal governmental authorities, to operate a food establishment in accordance with the services provided by Commercial Edible Food Generator.

Guidance: If the Parties have other specific food safety protocols in addition to the food safety requirements of local, State, and federal laws, those may be additionally

specified in this Section, or added as an Attachment to this Agreement.

In the event of a food recall, Commercial Edible Food Generator will notify FRO/FRS of the specifics of the recall.

All food advisories, warnings, and recalls, including voluntary recalls, must be handled in compliance with all issued local, State, and federal instructions.

SECTION 3: TRANSPORTATION AND STORAGE

3.1 TRANSPORTATION

Guidance: This section outlines detail in the Agreement for transportation of the food to the FRO/FRS. The language establishes the party responsible for transportation and collection instructions for each option. Language can be amended to fit the needs of the transaction. For purposes of streamlining the Agreement, and ease of amending the document, detail on transportation and storage is incorporated into this Agreement as Attachment C.

Option 1a: Under this Agreement, FRO/FRS agrees to collect Edible Food that would otherwise be disposed from Commercial Edible Food Generator's site and transport it to FRO/FRS address provided in Attachment C.

Option 1b: Commercial Edible Food Generator agrees to self-haul their Edible Food that would otherwise be disposed to the FRO/FRS address provided in Attachment C. If Commercial Edible Food Generator self-hauls food to FRO/FRS outside the delivery or drop off window specified in this Agreement, FRO/FRS may reject the food. In addition, self-hauling food outside the delivery or drop off windows specified in this Agreement may result in FRO/FRS's immediate termination of the Agreement.

Provisions related to the staging, pick up, transport, and delivery of collected and donated food are listed and described in Attachment C.

3.2 MISSED OR DELAYED PICK-UPS

In the event of a delayed collection or delivery outside of the drop off window, the transporting Party will contact the receiving Party as soon as possible to notify them of the delay. If the delay cannot be accommodated (for example, delay results in a delivery after hours), Commercial Edible Food Generator will retain possession of the food and maintain safe storage and handling of the food until the delivery/collection can be rescheduled, or find alternative solutions if the food cannot be delivered in a safe or timely manner. Examples of alternative solutions may include redirecting Edible Food to another FRO/FRS, with the approval and consent of the alternate FRO/FRS; lawful use as animal feed; organic waste recovery or recycling such as composting or anaerobic digestion; or alternative diversion strategy that does not result in landfill disposal.

In the event that Commercial Edible Food Generator does not have food available for the scheduled pick-up day specified Attachment C, Commercial Edible Food Generator will notify FRO/FRS as soon as possible. In the event that Commercial Edible Food Generator does not contact FRO/FRS in advance, FRO/FRS may charge Commercial Edible Food Generator for any costs incurred.

Both Parties will notify each other of closures and holidays that may affect transportation.

FRO/FRS retains the right to reject the food in the event of a delayed delivery (see Section 1.3 of this Agreement).

Multiple delays or missed pick-ups without notification from the transporting Party to the receiving Party may be grounds for termination of this Agreement. Guidance: In the case of termination of the Agreement, the Commercial Edible Food Generator is still responsible for meeting the Edible Food Recovery requirements of SB 1383 regulations, and will still be required to contract with or establish a written agreement with a different FRO/FRS to arrange for Food Recovery activities.

3.3 DONATION DUMPING

Commercial Edible Food Generator will not knowingly provide unusable or unsuitable food, force Food Recovery after capacity has been reached, or intentionally deliver food outside of the specified collection/Food Recovery windows to the FRO/FRS (“donation dumping”). Doing so jeopardizes liability and brand protection, and may result in immediate termination of this Agreement (See Section 7F).

FRO/FRS will be compensated for costs incurred as a result of the donation dumping and Commercial Edible Food Generator may be reported to the local jurisdiction.

SECTION 4: EQUIPMENT PROTOCOLS

Guidance: Use this section if either Party is using equipment provided by the other Party (e.g., food transport containers, coolers, thermal blankets). This section should specify the type of equipment, protocol for maintenance and return of equipment, and sanitation of the equipment, if applicable. Language can be amended to accommodate the specific equipment, use protocols, and return protocols.

To assist in the execution of this Agreement, FRO/FRS/Commercial Edible Food Generator agrees to provide the FRO/FRS/Commercial Edible Food Generator with the equipment listed in Attachment D.

All equipment must be used and maintained as required by FRO/FRS/Commercial Edible Food Generator and the equipment manufacturer guidelines. FRO/FRS/Commercial Edible Food Generator will read all product manuals prior to use, and maintain equipment accordingly. All equipment must remain in

FRO/FRS/Commercial Edible Food Generator's possession until returned to FRO/FRS/Commercial Edible Food Generator. Equipment may not be loaned, stored at a different location, or transferred without prior approval from FRO/FRS/Commercial Edible Food Generator.

Guidelines for using and storing equipment are included in Attachment D to this Agreement.

All equipment provided under this Agreement must be cleaned, sanitized and returned in good, working condition. Loaned equipment will be returned to the FRO/FRS/Commercial Edible Food Generator by <equipment return protocol here, such as duration of loan, time windows for equipment drop off, etc.>.

Food-related and utensil-related equipment shall meet all federal, State, and local requirements, in accordance with Section 2 of this Agreement.

SECTION 5: DOCUMENTATION AND RECORDKEEPING

Guidance: This section outlines documentation and reporting requirements between the Parties. This can be documentation required internally or externally (e.g., for tax benefit purposes). Language can be amended to fit the needs of both Parties to the Agreement.

Option 1: Documentation required by Commercial Edible Food Generator

FRO/FRS will provide the following information to Commercial Edible Food Generator about the food that was recovered from Commercial Edible Food Generator: <number of meals or people served, types of food that were recovered, weight (in pounds), frequency that the food is recovered, time, date, signature/confirmation, etc.>.

The requirements outlined in this Section shall not take the place of any recordkeeping and reporting obligations required by local, State, and federal regulations.

Documentation shall be compiled via hard copy or electronically, including reports or data compiled through the use of cloud-based tracking, use of bar or QR codes, or other data collection platforms. Guidance: Select one or more documentation method(s) presented above, based on the standard practices and needs of both Parties to the Agreement

This information will be provided to Commercial Edible Food Generator on a <frequency> basis on <day>, and transmitted to <contact> via <US mail, email, etc.>. Guidance: Note that SB 1383 regulations (14 CCR Sections 18991.4 and 18991.5) specify that Commercial Edible Food Generators and FRO/FRSs shall maintain records of the quantity of Edible Food (in pounds) recovered per month. Consider this when selecting measurement units and documentation frequency.

FRO/FRS is required to retain all records for a minimum period of ___ years.

FRO/FRS agrees to cooperate with Commercial Edible Food Generator or designee for reporting to local, State, and federal agencies, as applicable.

Option 2: Documentation required by the FRO/FRS

Guidance: The SB 1383 regulations do not require Commercial Edible Food Generators to provide this documentation; however, in some cases it may be appropriate to delegate the responsibility of documentation to the Commercial Edible Food Generator based on the logistical arrangements between the Parties.

Commercial Edible Food Generator will provide the following information to the FRO/FRS for food provided by Commercial Edible Food Generator: <donation type and description, weight (in pounds), types of food that were recovered , established frequency that the food is recovered, time, date, signature/confirmation, etc.>.

The requirements outlined in this Section shall not take the place of any recordkeeping and reporting obligations required by local, State, and federal regulations.

Documentation shall be compiled via hard copy or electronically, including reports or data compiled through the use of cloud-based tracking, use of bar or QR codes, or other data collection platforms. Guidance: Select one or more documentation method(s) presented above, based on the standard practices and needs of both Parties to the Agreement.

This information will be provided to FRO/FRS on a <frequency> basis on <day>, and transmitted to <contact> via <US mail, email, etc.>. Guidance: Note that SB 1383 regulations (14 CCR Sections 18991.4 and 18991.5) specify that Commercial Edible Food Generators and FRO/FRSs shall maintain records of the quantity of Edible Food (in pounds) recovered per month. Consider this when selecting measurement units and documentation frequency.

Commercial Edible Food Generator is required to retain all records for a minimum period of ___ years.

Commercial Edible Food Generator agrees to cooperate with FRO/FRS or designee, for reporting to local, State, and federal agencies, as applicable.

SECTION 6: COMMERCIAL EDIBLE FOOD GENERATOR SERVICE FEES OR FINANCIAL CONTRIBUTIONS

Guidance: This section reflects the fee structure for service. Options are provided below to demonstrate examples of different fee structures, depending on the financial model of the FRO/FRS. Language can be amended to fit the needs of the Parties subject to this Agreement

Option 1: Fee for service

Guidance: The below language is an example of provisions for fee for service models. Since fee structures can vary, the language can be amended to fit the specific financial model.

In fulfillment of the services provided in this Agreement, Commercial Edible Food Generator agrees to pay a fee for service to FRO/FRS. The fee structure is as follows:

Option 1a: Commercial Edible Food Generator will pay a per-pick up fee of \$___ per pick up.

Option 1b: Commercial Edible Food Generator will pay a per-pound fee of \$___ per pound picked up.

Option 1c: Commercial Edible Food Generator will pay a flat rate of \$___ per month or other frequency, for ___ months or other frequency.

At the end of each month, FRO/FRS will prepare a statement that will be sent to Commercial Edible Food Generator's designated billing contact for payment.

Commercial Edible Food Generator's designated billing contact is: <name, contact information>

Commercial Edible Food Generator shall submit payment, including a copy of the monthly statement, to the FRO/FRS by <the due date>.

Delayed or late payments may be grounds for termination of this Agreement.

Option 2a: Financial Contribution

In fulfillment of the services provided in this Agreement, there is no fee for service and the foods are recovered by FRO/FRS free of charge. However, Commercial Edible Food Generator will make a financial contribution to FRO/FRS in the amount of <financial amount>, on a < monthly basis, annual basis, etc.>.

Upon receipt of the financial donation, FRO/FRS will prepare <specify necessary documentation> and submit to Commercial Edible Food Generator <and other relevant parties/agencies> within ___ days.

Option 2b: In-lieu Payment

In fulfillment of the services provided in this Agreement, there is no fee for service. In lieu of payment, FRO/FRS/Commercial Edible Food Generator agrees to provide the following:

<Specify the in-lieu compensation, for example a tax benefit may offset the cost of the program/donation; cost sharing, or an in-kind donation such as vehicles, refrigeration, or

storage space may be provided. This section would specify the structure and specify the necessary documentation and procedure for the Party(ies) to receive the benefit>.

Option 2c: Donation

In fulfillment of the services provided in this Agreement, there is no fee for service and the foods are recovered by FRO/FRS free of charge.

Option 3: Other Funding Mechanisms

Guidance: This section memorializes that payment would be provided as part of another funding mechanism, such as a third party, a General Fund, tip fees, etc.

Compensation under this Agreement is provided to <compensated Party> through <other funding mechanism>. Both FRO/FRS and Commercial Edible Food Generator are required to act in compliance with provisions set forth in <other funding mechanism agreement>.

SECTION 7: TERMS AND CONDITIONS

- A. This Agreement contains the entire Agreement between the Parties to this Agreement with respect to the subject matter herein and supersedes all prior understandings, agreements, representations and warranties, if any, whether oral or written, expressed, or implied, with respect to said subject matter.
- B. This Agreement reflects the intent and understanding of the Parties. Any amendment or modification to this Agreement must be in writing, with approval by both Parties. Minor changes to this Agreement, including the attachments, may be revised in writing or email, without having to revise the full Agreement, upon agreement by both Parties.
- C. Definitions applicable to this Agreement are attached hereto as Attachment E.
- D. Guidance: Provide a contact for the “day to day” administration of the Agreement. If a legal department or similar entity is designated as the contact for the Agreement, also include a contact for administering the Food Recovery activity.

Both FRO/FRS and Commercial Edible Food Generator agree to appoint at least one individual to act as a contact person for notices and other communications, as well as reporting and receipting of activities conducted under this Agreement. The initial contact person(s) are identified in the Assignments in Attachment A. A Party to this Agreement may change its contact person(s) at any time by written notice transmitted electronically or via U.S. Mail to other Party.

- E. This Agreement shall become effective as of the Effective Date when it has been executed by all of the Parties to this Agreement.

Option 1: Effective until terminated

This Agreement shall continue in full force and effect until terminated by either Party. Either Party may terminate this Agreement, with or without cause, upon written notice to the other Party with 30-day notice to the other Party.

Option 2: Extended with fulfillment of terms and conditions

This Agreement shall continue upon fulfillment of certain terms or conditions <specify terms and conditions>. Upon fulfillment, the Agreement term can be extended for/to <term or date specified>.

Option 3: Automatic renewal with notice of termination

This Agreement will automatically renew each <term> for an additional <term> unless either party notifies the other in writing, no later than <notice period> before the end of the current term, of its decision not to renew.

Option 4: Defined term

This Agreement is effective for a term of <term> and will expire on <date>. Any renewal or extension will require a new Agreement between the Parties.

- F. **Guidance:** This subsection provides provisions for immediate termination by either party in the event that terms of the Agreement are violated. The contracting Parties may elect to also include language providing an opportunity to remedy or cure the violation or limit the language in this section to termination.

In instances where any of the terms of this Agreement are violated by either Party, this Agreement may be terminated. The Parties have the right to terminate this Agreement at any time for non-performance, as defined by the Parties and listed below.

<Specify non-performance under the Agreement>

In the event of non-performance or substandard performance under the terms of this Agreement, the violating Party will cooperate with non-violating Party in addressing the problem. The non-violating Party may take such actions as it considers appropriate to cure or remedy the issue, including, without limitation, increasing site visits/ride-along, monitoring, additional training, or other support to the violating Party, establishing a formal corrective action plan, or terminating the Agreement immediately.

FRO/FRS may charge a fee to Commercial Edible Food Generator to cover expenses of missed or delayed pick-ups, including finding alternative solutions for unsuitable or unusable donations in the event that Commercial Edible Food Generator delivers such material. This fee will consist of the actual expenses incurred in the disposal of the unsuitable or unusable items, plus an additional fee of \$__.

- G. If, as a result of a case of force majeure, either Party was unable to fulfill its obligations under this Agreement, the execution of it would be suspended during the duration of this force majeure. Each Party shall immediately notify the other Party of any such event of force majeure. In the event that the event of force majeure lasts for a duration greater than one month, the other Party may terminate this Agreement as of right and with immediate effect.
- H. Information gained under this Agreement shall not be sold or shared in any manner by either Party without express approval. Neither Party shall use the name, nor any trademark or reference related to such in connection with the recovered food, use or disposal of the foods, without express approval.
- I. This Agreement shall be governed by and construed in accordance with the laws of the State of California and applicable federal law, including, without limitation, the Bill Emerson Good Samaritan Food Donation Act and the California Good Samaritan Food Donation Act). Both Commercial Edible Food Generator and FRO/FRS are familiar with the Good Samaritan laws referenced in this subsection that limit liability to gross negligence and intentional misconduct.
- J. Each of the Parties shall, at the signing of this Agreement, provide third party liability insurance covering all of its activities and the harmful consequences of its activity.

The undersigned hereby agree to the terms of this Agreement:

Signed: _____ Date: _____

Name of Signatory
Title of Signatory
FRO/FRS

Signed: _____ Date: _____

Name of Signatory
Title of Signatory
Commercial Edible Food Generator

**ATTACHMENT A:
CONTACTS FOR AGREEMENT**

Guidance: The best person to list as "primary contact" is the person who will interact most regularly with donations and collections. A contact for the contract/legal can also be listed on this page, but a day-to-day, on the ground contact should be named as well.

Primary Contact for FRO/FRS:

<Name>

<Title>

<Address>

<Phone>

<Email address>

Primary Contact for Commercial Edible Food Generator:

<Generator Type: Tier One, Tier Two>

<Name>

<Title>

<Address>

<Phone>

<Email address>

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ATTACHMENT B:
ACCEPTABLE AND/OR PREFERRED FOODS, UNACCEPTABLE FOODS, AND PACKAGING/LABELING
REQUIREMENTS

Guidance: Attachment B can be used in multiple formats, such as the list and/or table formats presented in Option 1 and Option 2, respectively. Use of the Attachment can also incorporate other items such as examples, labeling requirements, and/or packaging requirements.

Option 1: List

Acceptable Foods/Goods:

1. **Non-Perishable Foods**
 - a. **Shelf Stable Packaged Foods (e.g., canned, boxed or packaged foods)**
2. **Perishable Foods**
 - a. **Dry Foods (e.g., bread, produce)**
 - b. **Refrigerated Foods (e.g., produce, dairy, juice, meat)**
 - c. **Frozen Foods (e.g., meat, bread)**
3. **Prepared Foods**
 - a. **Hot Prepared Foods**
 - b. **Cold Prepared Foods**
 - c. **Frozen Prepared Foods**
 - d. **Baked Goods**
 - e. **Edible Trimmings from Preparation Process (e.g., edible vegetable trimmings)**

Preferred Foods/Goods

1. **<Add list of Preferred Foods for FRO/FRS >**

Unacceptable Foods/Goods:

1. **Foods (e.g., sodas, alcohol, candy, energy drinks, vitamins, diet supplements)**
2. **Food Conditions (e.g., unsafe foods, previously opened Shelf Stable foods, items previously thawed)**
3. **Conditional Acceptance (e.g., check first if donating large sized or bulky items)**

ATTACHMENT B:
ACCEPTABLE AND/OR PREFERRED FOODS, UNACCEPTABLE FOODS, AND PACKAGING/LABELING
REQUIREMENTS

Packaging and Labeling Requirements

It is agreed between the Parties that food donations, according to their type, must meet specific packaging and labeling criteria, as listed below. All labels must be legible and intact.

1. **Non-Perishable Foods:**

- a. Non-Perishable foods must be in unopened packaging that maintains the container integrity with no leaks, cracks, missing or incomplete labels, or other indicators that the contents have been compromised.
- b. Labels must be labeled with the following: Common name of the product; and place of business of the manufacturer, packer, or distributor; net quantity of the contents; ingredients listed in order of prominence; allergen disclaimer; and, code date. Shelf stable and packaged foods should have all original and legible labels from the manufacturer.

2. **Perishable Foods:**

- a. Perishable foods, excluding whole/unpackaged produce, must be in their original, sealed packaging to maintain the integrity of the contents; and shall be stored in temperature-controlled packaging, including a time/temperature log if applicable.
- b. Labels must be labeled with the following: Common name of the product; and place of business of the manufacturer, packer, or distributor; net quantity of the contents; ingredients listed in order of prominence; allergen disclaimer; code date

3. **Prepared Foods:**

- a. Prepared Foods must be contained in clean, sealable, and food safe containers; packaged separately to avoid cross contamination; and shall be stored in temperature-controlled packaging and include a time/temperature log, if applicable.
- b. Labels must be labeled with the following: The name and location of donor; production and/or recommended discard date; allergen disclaimer.

**ATTACHMENT B:
ACCEPTABLE AND/OR PREFERRED FOODS, UNACCEPTABLE FOODS, AND PACKAGING/LABELING
REQUIREMENTS**

Option 2: Table

Acceptable Food Types

Acceptable Food Types	Non-Perishable	Perishable	Prepared
Food Type	Shelf Stable packaged foods	Dry foods, refrigerated foods, frozen foods	Hot Prepared Foods, cold Prepared Foods, frozen Prepared Foods, baked goods, edible trimmings from preparation process
Original Sources of Food Donations	National and local donors, national and local vendors, retail store donations, reclaim and food drives	National and local donors, national and local vendors, retail store donations, reclaim and food drives	Hotels, Restaurants, institutes, food service facilities, bakeries
Examples of Food Items	Canned, boxed or packaged foods	Bread, produce, meat, bread, dairy, juice,	Prepared meat, poultry entrees, pasta, pizza, vegetables, chilled foods, etc.
Packaging Requirements	Non-Perishable foods must be in unopened packaging that maintains the container integrity with no leaks, cracks, missing or incomplete labels, or other indicators that the contents have been compromised.	Perishable foods, excluding whole/unpackaged produce, must be in their original, sealed packaging to maintain the integrity of the contents; and shall be stored in temperature-controlled packaging, including a time/temperature log if applicable.	Prepared Foods must be contained in clean, sealable, and food safe containers; packaged separately to avoid cross contamination; and shall be stored in temperature-controlled packaging and include a time/temperature log, if applicable.

**ATTACHMENT B:
ACCEPTABLE AND/OR PREFERRED FOODS, UNACCEPTABLE FOODS, AND PACKAGING/LABELING
REQUIREMENTS**

Acceptable Food Types	Non-Perishable	Perishable	Prepared
Label Requirements	Common name of the product; and place of business of the manufacturer, packer, or distributor; net quantity of the contents; ingredients listed in order of prominence; allergen disclaimer; and, code date. Shelf stable and packaged foods should have all original and legible labels from the manufacturer.	Common name of the product; and place of business of the manufacturer, packer, or distributor; net quantity of the contents; ingredients listed in order of prominence; allergen disclaimer; code date	The name and location of donor; production and/or recommended discard date; allergen disclaimer.
Unacceptable Foods/Goods	Foods	Food Conditions	Conditional Acceptance
Fill in descriptions of specific food types/ conditions for refusal.			

Unacceptable Foods/Goods

Preferred Foods/Goods

1. <Add list of Preferred Foods for FRO/FRS >

**ATTACHMENT C:
TRANSPORTATION AND STORAGE**

<Commercial Edible Food Generator/FRO/FRS/Third Party> will provide suitable transportation to pick and up and deliver food from <Commercial Edible Food Generator(s)>.

Pick Up Address: <office, address, main contact name, email, phone number>	Delivery Address: <office, address, main contact name, email, phone number>
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Collection or Self-haul Delivery Frequency:

Collection or Self-haul Delivery Day(s)	Time of Collection or Self-haul Delivery	Location of Collection or Drop off Location of Self-hauled Deliveries
Collection will occur <frequency> on <day(s)> Self-hauled deliveries will occur <frequency> on <day(s)>	Collection will occur between <time window> Self-hauled deliveries will occur between <time window>.	Driver will collect <food types> at <designated location(s)>. Driver will deliver <food types> to <designated location(s)>.

Special Instructions:

- Driver will check in at <office, address> with <name of main contact>.
- Driver agrees to wear easily identifiable clothing and/or identification during the pickup.
- FRO/FRS and Commercial Edible Food Generator agree to maintain proper food safety, temperature, and storage conditions to maintain integrity of the food before and during the collection/delivery.
- Commercial Edible Food Generator agrees to compile donation(s) at <designated collection location(s)>
- The driver shall collect food from <designated collection location(s)>.
- Driver shall park at <insert location> and shall enter the premises through <insert entry instructions, if applicable>. If Driver must wait longer than <time frame> for assistance or does not receive assistance, Driver may depart and reschedule the collection.
- Upon arrival, the Commercial Edible Food Generator or FRO/FRS may inspect the food, including taking temperature. Any product that does not meet the

**ATTACHMENT C:
TRANSPORTATION AND STORAGE**

acceptable temperatures or other food safety standards may be rejected in accordance with Section 1.

- Prior to pick up/delivery, Commercial Edible Food Generator shall inspect the donation and confirm the integrity of packaging and labeling; confirm it is an acceptable food item pursuant to this Agreement; and, ensure that the donation meets all food quality and safety standards set forth in this Agreement and applicable law.

Prior to distribution to the community, FRO/FRS will inspect all donated product to ensure it meets packaging, labeling, quality, and safety standards set forth in this Agreement and applicable law.

**ATTACHMENT D:
EQUIPMENT USE AND STORAGE**

Equipment List:

<FRO/FRS/Commercial Edible Food Generator> agrees to provide the <FRO/FRS/Commercial Edible Food Generator> with the following equipment:

- <Insert list of specific equipment>

Guidelines for using and storing equipment are described as follows:

1. Store all equipment in an indoor, clean location, away from pests, trash, or any other potential source of contamination.
2. Immediately store any food storage containers and equipment used for Food Recovery when not in use to avoid contamination. Do not place containers on the ground, take them into toilet facilities, or store them in a manner that may lead to contamination.
3. Document the cleaning of equipment with the appropriate documentation.

Cleaning and maintenance procedures for Food Recovery equipment:

1. Trained workers must inspect all equipment prior to each use to ensure that it is still functioning properly and has been cleaned and sanitized to prevent contamination.
2. Containers, coolers, and other equipment used for Food Recovery must be washed, rinsed, and sanitized as needed before and after each use.
3. For sanitization, use approved chemical sanitizers and concentrations according to label instructions for "sanitizing," for example:
 - a. Chlorine (bleach): 100 parts per million with contact time of 30 seconds.
 - b. Quaternary ammonium: 200 parts per million with contact time of 1 minute.
4. Use sanitizer test strips to ensure proper concentration levels.
5. After equipment use and cleaning, immediately store containers in a way that avoids contamination and maintains cleanliness as described in subsection A above.

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ATTACHMENT E: DEFINITIONS

Guidance: The below definitions include some definitions from the SB 1383 regulations, as well as additional definitions that are not in the regulations, but are relevant for the execution of the Agreement. Note that not all the following definitions are currently used in the Model Agreement; however, additional definitions have been provided as a reference for other definitions that may be included in a Food Recovery Agreement. Users of the Model Agreement should add or delete definitions as applicable based on the terms selected for their Agreement.

California Code of Regulations (CCR)

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR, Division 7, Chapter 12” refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations).

Commercial Edible Food Generator

“Commercial Edible Food Generator” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

Edible Food

“Edible Food” means food intended for human consumption, or as otherwise defined by 14 CCR Section 189982(a)(18). For the purposes of this Agreement, Edible Food is not solid waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

Excess Food

“Excess Food” means any extra wholesome, Edible Food, including food that was prepared for service, but not served or sold. Guidance: This definition is not used herein; and, is provided in the event the user of the Model has a need for this definition. Delete if not used.

Food Bank

“Food Bank” has the same meaning as defined in Section 113783 of the California Health and Safety Code and means a surplus food collection and distribution system operated and established to assist in bringing donated food to Nonprofit Charitable Organizations and individuals for the purposes of reducing hunger and supplying nutritional needs; or as otherwise specified in 14 CCR Section 18982(a)(25).

Food Distribution Organization (FDO)

“Food Distribution Organization” or “FDO” is an organization that accepts donated food and directly distributes it to Recipients or, in some cases, distributes donated food to

another Receiving Facility which will then directly distribute it to Recipients. This FDO and the receiving facility may be one and the same. An FDO may be a Food Recovery Organization, or may be an entity through which a Food Recovery Organization distributes food to the public. **Guidance: This definition is not used herein; and, is provided in the event the user of the Model has a need for this definition. Delete if not used.**

Food Distributor

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

Food Facility

“Food Facility” has the same meaning as defined in Section 113789 of the California Health and Safety Code, or as otherwise specified in 14 CCR Section 18982(a)(23).

Food Recovery

“Food Recovery” means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24). Food Recovery may include the collection of Edible Food for distribution to food insecure individuals and may take forms such as, but not limited to: Gleaning, Perishable food rescue/salvage, Non-Perishable food collection, and rescue of Prepared Food.

Food Recovery Organization (FRO)

“Food Recovery Organization” or “FRO” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

(A) A Food Bank as defined in Section 113783 of the California Health and Safety Code,

(B) A Nonprofit Charitable Organization as defined in Section 113841 of the California Health and Safety code; and,

(C) A Nonprofit Charitable Temporary Food Facility as defined in Section 113842 of the California Health and Safety Code.

If the definition in 14 CCR Section 18982(a)(25) differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

Food Recovery Service (FRS)

“Food Recovery Service” or “FRS” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26).

Food Service Provider

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

Glean

“Glean” or any variation thereof, means the action of a person who legally gathers remnants of an agricultural crop or harvests part of, or all of, an agricultural crop made available by the owner of the agricultural crop.

Grocery Store

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments. If the definition in 14 CCR Section 18982(a)(30) differs from this definition, the definition in 14 CCR Section 18982(a)(30) shall apply to this Agreement.

Health Facility

“Health Facility” has the same meaning as in Section 1250 of the California Health and Safety Code, or as otherwise specified in 14 CCR Section 18982(a)(32).

Hotel

“Hotel” has the same meaning as in Section 17210 of the Business and Professions code, or as otherwise specified in 14 CCR Section 18982(a)(34).

Large Event

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

Large Venue

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For the purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For the purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue. If the definition in 14 CCR Section

18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

Local Education Agency

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

Non-Perishable/Shelf Stable

“Non-Perishable” or “Shelf Stable” means foods that have a long shelf life and do not require refrigeration.

Nonprofit Charitable Organization

“Nonprofit Charitable Organization” has the same meaning as defined in Section 113841 of the California Health and Safety Code, or as otherwise specified in 14 CCR Section 18982(a)(25).

Nonprofit Charitable Temporary Food Facility

“Nonprofit Charitable Temporary Food Facility” has the same meaning as defined in Section 113842 of the California Health and Safety Code, or as otherwise specified in 14 CCR Section 18982(a)(25).

Perishable

“Perishable” means foods that are temperature sensitive, such as, but not limited to, meats, dairy products, produce, and some bakery items.

Potentially Hazardous Food

“Potentially Hazardous Food” means a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation. Guidance: This definition is not used herein; and, is provided in the event the user of the Model has a need for this definition. Delete if not used.

Prepared Foods

“Prepared Foods” means foods of all descriptions that have been prepared but were never served. This may include cooked or otherwise processed items, such as, but not limited to, meats, entrees, vegetables, starches, deli trays, and vegetable trays.

Recipient

“Recipient” means a person in need who receives wholesome food from a Food Recovery Organization, Food Recovery Service, or other distributing entity.

Receiving Facility

“Receiving Facility” means the organization that accepts donated food and directly distributes it to the consumer.

Restaurant

“Restaurant” means an establishment primarily engaged in the retail sale of food and

drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

State

“State” means the State of California.

Supermarket

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some Perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

Tier One Commercial Edible Food Generator

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (A) Supermarket.
- (B) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (C) Food Service Provider.
- (D) Food Distributor.
- (E) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

Tier Two Commercial Edible Food Generator

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (A) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (B) Hotel with an on-site Food Facility and 200 or more rooms.
- (C) Health Facility with an on-site Food Facility and 100 or more beds.
- (D) Large Venue.
- (E) Large Event.
- (F) A State agency with a cafeteria with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet.
- (G) A Local Education Agency with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

Wholesale Food Vendor

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 18982(a)(76).