

## Food Donation Waiver

This Food Donation Waiver (this “**Waiver**”) is dated \_\_\_\_\_, 2023 between Panda Restaurant Group, Inc. (“**Panda**”) and \_\_\_\_\_ (“**Recipient**”).

**By signing this Waiver, Recipient agrees as follows:**

**Assumption of Risk and Waiver of Liability.** Recipient and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, members, successors, and assigns (collectively, “**Recipient Parties**”) assume all risks associated with any foods as may be donated by Panda from time to time (collectively, “**Food Products**”), including matters of health and safety associated thereof. Recipient Parties do hereby **release, waive, discharge, and covenant not to sue** Panda, Panda Express, Inc., Panda Cares Foundation, and each of their respective present and former, direct and indirect, parents, subsidiaries, affiliates, directors, officers, shareholders, predecessors, successors, assigns, affiliates, board members, agents, insurance carriers, attorneys, servants, and employees (including, without limitation, any company engaged for the preparation and delivery of the Food Products) (collectively, “**Donor Parties**”) from liability for each and every claim, action, suit, cause of action, damage (including consequential damages), demand, loss and expense, including but not limited to attorney’s fees and costs, that it has or might have, in any way arising out of or in connection with this Waiver for the Food Products except to the extent that any such liability cannot be released or waived under applicable federal, state or local law. The foregoing shall, to the fullest extent of applicable law, be in addition to, and not in replacement or substitution of, any legal protections offered by any “**Good Samaritan**” or other similar laws in any jurisdiction.

**Warranty Disclaimer.** THE FOOD ITEMS ARE DONATED "AS IS" WITH ALL FAULTS. DONOR MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE FOOD ITEMS, INCLUDING ANY WARRANTY OF WHOLESOMENESS, CONDITION, QUALITY, OR SUITABILITY, WARRANTY OF MERCHANTABILITY, OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

**Indemnification and Hold Harmless.** Recipient agrees to indemnify and hold the Donor Parties harmless from any and all claims, actions, suits, judgments, settlements, penalties, awards, fines, procedures, costs, expenses, damages, and liabilities, including attorney’s fees incurred by the Donor Parties arising out of or related to: (a) Recipient’s breach of this Waiver; (b) negligence of Recipient in connection with the Food Products; or (c) failure by Recipient to comply with applicable laws, regulations or codes.

**Limitation of Liability.** IN NO EVENT SHALL DONOR PARTIES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, OR IN CONNECTION WITH THE FOOD ITEMS, DONATION OF THE FOOD ITEMS, OR ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT DONOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (D) THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

**Severability; Governing Law.** Recipient further expressly agrees that the foregoing waiver and assumption of risks is intended to be as broad and inclusive as permitted by applicable state and federal law (including without limitation the Bill Emerson Good Samaritan Food Donation Act) and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. This Waiver shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule.

**Public Announcements.** Recipient may not make public announcements and communicate with news media regarding the Food Products without prior written consent of Panda, and the parties shall cooperate as to timing and contents of any such announcement.

**Acknowledgment of Understanding.** Recipient has read this Waiver, fully understand its terms, and **understands that it is giving up substantial rights, including its right to sue.** The undersigned has the authority to sign and execute this Waiver on behalf of Recipient. By signature hereunder, Recipient hereby acknowledges and agrees that this is a **complete and unconditional release of all liability** as relates to this Waiver to the greatest extent allowed by law.

IN WITNESS WHEREOF, the undersigned has read the foregoing Waiver and agrees with it.

RECIPIENT

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_