
PURCHASE ORDER TERMS AND CONDITIONS

Updated July 2018

These Purchase Order Terms and Conditions (“Terms and Conditions”) are part of each purchase order, including any Order, that the purchasing company (the “Company”) or any of its affiliates, whether currently an affiliate or subsequently becoming an affiliate (collectively, “Purchaser”), issues or any Purchasing Agreement between the parties that references these Terms and Conditions. In these Terms and Conditions, “Supplier” means the supplier named in the Order, “Products” mean the perishable and non-perishable food and foodservice products that Purchaser is to purchase from Supplier as described in the Order, “Agreement” means the Order and these Terms and Conditions, together with any written purchasing agreement entered into between Purchaser and Supplier (“Purchasing Agreement”) including any amendments or addendums to the Purchasing Agreement, “Order” means the purchase order or any other order issued by Purchaser for the purchase of Products from Supplier, and “affiliate” of the Company means any corporation, company, partnership, trust, sole proprietorship, or other entity or individual that (1) is owned or controlled by the Company in whole or in part; (2) owns or controls the Company in whole or in part; (3) is under common ownership or control with the Company in whole or in part; or (4) the Company represents or may otherwise contract on behalf of through an intercompany operating services agreement or other contractual relationship.

1. **Agreement.** The Order is subject to the terms of the Agreement, including, but not limited to, these Terms and Conditions, and shall exclude any additional or different terms contained in Supplier’s quotation, proposal or acknowledgment, or otherwise proposed by Supplier. The Agreement contains all of the terms of the agreement between Supplier and Purchaser with regard to its subject matter and supersedes all prior oral or written representations, agreements and other communications between Supplier and Purchaser, and may be only amended by a writing signed by duly authorized officers of Purchaser and Supplier. If there is ever a conflict between a provision of a Purchasing Agreement and a provision of these Terms and Conditions, the provision of the Purchasing Agreement shall prevail. Supplier’s acceptance of these Terms and Conditions shall be conclusively presumed by Supplier’s shipment of the Products or providing Products requested under the Agreement, or by Supplier’s return to Purchaser of an acknowledgement of the Order. In the event there is no Purchasing Agreement between Purchaser and Supplier, then (a) the Order is Purchaser’s revocable offer

to buy, and Purchaser rejects any earlier offers that Supplier has made to sell to Purchaser; (b) if the Order nevertheless is in legal effect an acceptance of an earlier offer by Supplier, then Purchaser's acceptance is conditional upon Supplier's assent to all terms of the Order and these Terms and Conditions that are additional to or different from the terms of Supplier's offer; and (c) by signing and returning a copy of the Order or by accepting the Order electronically or by shipping the Products or providing the Products, Supplier (i) accepts Purchaser's offer and, if Purchaser's Order is in legal effect an acceptance of an earlier offer by Supplier, and (ii) assents to all terms of the Order that are additional to or different from the terms contained in Supplier's offer.

2. **Contracting Entities.** The issuance of an Order by an affiliate shall constitute only that entity's agreement to be bound by the terms of that Order, and the affiliate will be considered the beneficiary of, and obligor under, all provisions of that Order and any Agreement with respect to the Products contemplated under such Order. Further, neither the Company nor any other affiliate other than the affiliate issuing the Order shall have any obligation or responsibility to Supplier with respect to the Products contemplated by such Order, including, but not limited to, the payment for any Products. The Company may enter into an Agreement solely to facilitate one of its affiliate's issuance of an Order. In such a case, any such Agreement shall be enforceable only against the applicable affiliate and shall not be enforceable against the Company or any other affiliate of the Company in any respect. The default, termination, and/or breach of any Agreement by any affiliate will be limited in effect to that affiliate and that Order and shall in no way affect the rights or obligations of the Company or any other affiliate pursuant to their respective agreements with Supplier under any Agreement, Order or otherwise.
3. **Price.** All pricing is based on Purchaser's purchase order issuance date. The price to be paid by Purchaser stated on any Order shall not be increased unless specifically authorized in writing by issuance of a revised Order by Purchaser or as otherwise expressly permitted in a Purchasing Agreement. Supplier shall ensure accuracy of all invoices submitted in order to achieve an invoice to Order matching of at least 97.5%. Any marketing, purchasing volume or related programs offered by Supplier to Purchaser on one or more Products will be applied at the same respective rates to any other Products that Purchaser purchases from Supplier that are the same or similar to the original Product.

4. **Taxes, Invoicing, and Payment Terms.** Unless Purchaser agrees otherwise in writing, Purchaser shall not be required to pay any sales, use or other taxes (whether federal, provincial, state, or local), assessments, fees or duties arising because of Purchaser's purchase from Supplier or Supplier's manufacture, performance or sale of the Products (including, without limitation, any tax, assessment, fee or duty measured or imposed upon Supplier's income, payroll or property and any franchise tax) ("Taxes"), and Supplier shall be responsible and liable for paying, and shall pay, all Taxes, provided, however, if such Taxes were not in effect at the time that Purchaser and Supplier entered into their agreement for Supplier's production of Products for Purchaser, any such Taxes shall be paid by the party upon which the legal incidence of the Tax is imposed. If Purchaser agrees in writing to pay any Tax, then the correct dollar amount of the Tax shall be separately stated on Supplier's invoice. Purchaser shall not be required to pay any late charge, interest, finance charge or similar charge. After receipt of a duly issued and undisputed invoice and acceptance of Products by Purchaser, payment shall be made within forty-five (45) days. Purchaser may elect, but shall not be obligated, to pay according to discount terms offered by Supplier. Purchaser's payment of the purchase price does not constitute acceptance of Products. Discount periods will be calculated from the date the Products arrive at Purchaser's distribution center specified in the Order. If an invoice is due on a non-business day or banking holiday observed in the applicable jurisdiction, the due date shall be extended until the next applicable business day. Supplier shall give Purchaser written notice of any claimed discrepancy in any amount paid or deducted by Purchaser within 180 days of such payment or deduction. If Supplier fails to give notice within such period, Supplier agrees that it will not thereafter assert any claim for such payment or deduction and waives any such claim.

5. **Packaging, Labeling, and Cartage.** The following specific delivery terms shall be applicable to each delivery made by Supplier to Purchaser under any Order:
 - a. Purchaser shall not be charged for packing or cartage expenses. Such expenses shall be paid by Supplier.
 - b. Supplier shall include with each shipment a document listing each item and quantity separately, as indicated on the Order.
 - c. Supplier shall not back order without prior written approval of Purchaser.

- d. Purchaser reserves the right to reject shipment and return Products at Supplier's expense if each container, and each package therein, are not adequate for reshipment and not marked to meet requirements of existing labeling laws, and existing weight and measure laws. Each container shall bear the name of Supplier, unless the Products bear any of Purchaser's proprietary brands.
 - e. If any governmental registration or approval is required for the Products, such registration or approval shall be obtained by Supplier at Supplier's expense.
 - f. Palletized loads shall be delivered on Purchaser's approved pallets only.
6. **Delivery.** Unless Purchaser agrees otherwise in writing, Supplier shall deliver the Products DDP ("delivered duty paid") (Incoterms 2010) at Purchaser's facility identified in the Order. Any necessary fuel, pallet, and lumber fees are the responsibility of the Supplier. If Purchaser manages the freight, mutually agreed upon pick-up allowances will be deducted from the delivered invoice price or Supplier shall offer EXWorks Supplier's facility pricing removing any freight costs. If Purchaser takes delivery of all or any part of the Products at Supplier's facility, in which case risk of loss for such Products shall shift to Purchaser when Purchaser or its shipping agent departs Supplier's facility after taking delivery of the Products. Supplier shall use any mode of shipment, carrier and routing that Purchaser specifies. Delivery shall be made in the quantities and at the times specified by Purchaser to Supplier in writing. Unless Purchaser agrees otherwise in writing, Supplier shall deliver all of the Products in a single delivery and not in installments. If Supplier delivers the Products before the scheduled delivery date, Purchaser may, at Supplier's expense and risk, either store them or return them to Supplier. Purchaser's acceptance of an early delivery shall not change the payment terms. Purchaser shall not be liable for payment for Products delivered in excess of the quantities or after the times specified in Purchaser's delivery instructions to Supplier. Purchaser will hold excess Products at Supplier's expense and risk for ten (10) days and await Supplier's instructions for disposition of the Products. If Supplier does not provide Purchaser instructions for disposition of such excess Products within ten (10) days, Purchaser may use or dispose of such excess Products as it pleases and charge the cost of such disposition, if any, to Supplier. In no event must Purchaser pay for excess Products used or disposed.

Supplier will provide Purchaser in writing with the Order Lead Time applicable to the Products offered by Supplier and represents and warrants that the Order Lead Time will meet or exceed industry standards for the same or similar Products. No changes to Order Lead Time will be accepted without prior written approval from Purchaser. “Order Lead Time” means the number of days from Order issuance date to the date the Products will be delivered to Purchaser’s facility identified in the Order. Time is of the essence, and Purchaser’s stated delivery date(s), Order Lead Time, or performance schedule and the date for performance of any other obligation of Supplier shall not be extended or excused for any reason, including anything that Supplier cannot control. Supplier shall achieve an on-time delivery rate of 100%. Deliveries that are made late or rescheduled by Supplier will be subject to the following fees: (a) \$150 for deliveries arriving over 30 minutes late, (b) \$50 for rescheduling a delivery; (c) \$150 for rescheduling a delivery less than one hour before the scheduled delivery time; and (d) \$150 for each instance that a delivery is rescheduled more than once, plus \$50 or \$150 based on the timing of the reschedule as set forth in this paragraph.

7. **Changes; Cancellations.** Purchaser may cancel, modify or suspend any Order if such cancellation, modification or suspension is made prior to shipment. Purchaser may at any time, by reasonable advance written notice to Supplier, change the Agreement as to (a) designs or drawings of, or specifications, standards, performance criteria, or other requirements for, the Products, (b) time, place, frequency or schedule of delivery or performance, (c) method of packing or shipment, or (d) quantity of the Products or extent of the services. With the exception of a change or suspension to delivery schedules, if any of the above changes causes a change in Supplier’s cost or time of performance, then an equitable adjustment shall be made in the price or time for delivery or performance, or both, if, but only if, Supplier gives Purchaser a written request for an adjustment within thirty (30) days after Purchaser notifies Supplier of the change and Purchaser consents in writing to the change. The Supplier shall give reasonable advance written notice to Purchaser of any proposed change to (a) designs or drawings of, or specifications, standards, performance criteria, or other requirements for, the Products, (b) time or place of delivery or performance, (c) method of packing or shipment, or (d) quantity of the Products or extent of the services. The Supplier shall not deliver Products with any of the aforementioned changes without prior written authorization from an authorized officer of Purchaser.

8. **Inspection; Testing.** Regardless of where Purchaser takes delivery of the Products, Purchaser reserves the right to inspect, test and approve Products described in any Order, as well as the right to reject any Products not conforming to the terms of any Order. To the extent Purchaser rejects Products as nonconforming, the quantities under that Order will automatically be reduced unless Purchaser otherwise notifies Supplier. Supplier will not replace quantities so reduced without a new Order from Purchaser. Non-conforming Products will be held by Purchaser for disposition in accordance with the Receiving Requirements at Supplier's risk. Payment for non-conforming Products shall not constitute an acceptance thereof, limit or impair Purchaser's right to any legal or equitable remedy, or relieve Supplier's responsibility for latent defects.

Supplier shall perform reasonable amounts of testing and inspection with respect to each shipment of the Products to ensure the Products comply with the requirements of the Agreement. The testing methods and procedures shall conform to the standards, specifications and other requirements (a) that Purchaser provides to Supplier, (b) that are prescribed by any applicable law or regulation or requirement of any governmental agency, or (c) that are otherwise specified or agreed to in writing. Upon Purchaser's request, Supplier shall furnish to Purchaser, before or upon delivery of the Products, a copy of the results of, and a certificate of analysis with respect to, each test. Supplier shall make a record of the date, time and results of each test and the testing procedure used and shall retain all inspection and test records for two years after the Products are delivered to Purchaser or for any reasonable additional period that Purchaser specifies. Upon Purchaser's reasonable request from time to time, Supplier shall furnish copies of the records to Purchaser at no charge. Additionally, Supplier shall cause to be performed, at its sole expense, all third-party testing Purchaser may reasonably request to determine whether Products provided to Purchaser under the Agreement conform to the standards, specifications and other requirements of the Agreement.

9. **Representations, Warranties and Agreements about Supplier.** Supplier represents and warrants to Purchaser, their customers and assigns, and agrees, that as of the date of the Agreement (or such other date or dates specified in a particular representation or warranty) that the following statements are true and correct: (a) the Agreement is the valid and binding obligation of Supplier, enforceable against Supplier in accordance with its terms; (b) Supplier has all necessary experience, qualifications, expertise, authority, licenses and permits to enable it to perform its obligations under

the Agreement; (c) Supplier is and, at the time of each delivery of the Products will be, solvent; (d) neither Supplier nor Supplier's agents have offered or given, and shall not offer or give, any gratuity or thing of value to any employee of Purchaser; (e) Supplier and each of Supplier's agents is and shall continue to be in compliance with all laws, orders and regulations that prohibit discrimination against (1) any employee or applicant because of race, color, religion, sex, sexual orientation, gender identity, national origin, or age (2) qualified protected veterans, and (3) qualified individuals on the basis of disability; (f) Supplier does not, and shall continue to refrain from, selling or otherwise providing similar Products to, or through, any third party intending to sell the Products to Purchaser's customers at an average price less than the price provided by Supplier to Purchaser for similar Products under the Agreement, (g) the prices charged to Purchaser and stated on the Order are no higher than prices charged on orders placed by others for similar quantities under similar conditions; and (h) Supplier is entering into this Agreement on its own behalf and not as an agent for any third party. These warranties shall be in addition to any other warranties stated in this Agreement or available to Purchaser under applicable law. Supplier is responsible to provide Purchaser any information requested by Purchaser that is necessary or helpful to Purchaser in complying with any and all federal, state, provincial, local and foreign laws, regulations, standards and orders that may apply to the Products provided by Supplier under the Agreement.

10. **Country of Origin Requirements.** Supplier represents and warrants to Purchaser that it complies with all federal, state, provincial, and local Country of Origin labeling and related requirements ("Country of Origin Requirements"), and will provide Purchaser all reasonable assistance requested by Purchaser and information necessary to enable Purchaser to comply with the Country of Origin Requirements as they apply to Supplier's Products. In particular, Supplier will (a) label or include with all Products subject to the Country of Origin Requirements ("Covered Commodities") that are shipped to Purchaser all country of origin information that Purchaser is required to display or maintain with respect to the Covered Commodities; (b) comply with all record keeping and productions segregation standards required by the Country of Origin Requirements and by Purchaser; and (c) provide to Purchaser at least once each year the results of an audit of the program used by Supplier to comply with the Country of Origin Requirements performed by a third party acceptable to Purchaser.

11. Representations, Warranties and Agreements about Purchaser.

Purchaser represents and warrants to Supplier that the Agreement is the valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

12. Representations, Warranties and Agreements about the Products.

Supplier represents and warrants to Purchaser, and agrees, that (a) the Products and all materials that Supplier furnishes in connection with the services shall be new; (b) the Products and all materials that Supplier furnishes in connection with the services shall be merchantable, of good material, workmanship and quality, fit for the purposes for which Purchaser intends them and free from faults and defects; (c) the Products and all materials that Supplier furnishes in connection with the Products shall conform to any samples, designs, drawings, specifications, standards, performance criteria, labeling or other requirements (collectively called “Specifications”) that are referred to in the Order or that Purchaser has provided to Supplier or otherwise specified or agreed to in writing, or, to the extent that any required Specifications are not referred to in the Order or provided by Purchaser to Supplier or otherwise specified or agreed to in writing, the Specifications provided by Supplier to Purchaser; (d) the Products, their manufacture, packaging, labeling, branding and sale and any services provided in connection therewith shall comply with all applicable federal, state, provincial, local and foreign laws, regulations, standards and orders; (e) the Products shall be produced, labeled, packaged, tested, delivered and sold in full compliance with Purchaser’s policies contained on this web page; (f) Supplier shall promptly furnish to Purchaser all information and copies of documents (including, but not limited to, complaints, inquiries, test or inspection results and warnings) that Supplier receives from an end-user of the Products, a government agency, an employee or agent of Supplier or any other person or source and that suggests or indicates that the Products may not conform to the requirements of this Section; (g) Supplier has and follows, and will continue to have and follow, adequate quality, safety, and security procedures that will assure that the Products will comply with the foregoing warranties, representations and agreements and that are reasonably calculated to prevent acts of terrorism with respect to the Products; (h) Supplier will comply with Purchaser’s Supplier Code of Conduct (the “Code”), which sets forth the principles and ethical standards with which Purchaser expects all its suppliers to comply; and (i) all manufacturing and outside storage facilities that supply Products (both food and non-food goods) to Purchaser have undergone and, during the

course of the Agreement will continue to undergo, at Supplier's cost, annual independent third party facility GMP audits and/or Purchaser certifications, each as required by Purchaser. Purchaser actively supports item data synchronization with the Global Data Synchronization Network (GDSN). Supplier will hold a valid company prefix provided by GS1 and have all Products loaded to a GDSN-certified data pool with complete and accurate product information including core, marketing, nutrition, allergens (commonly referred to as Phase 1 and Phase 2 attributes) and images. If Supplier chooses not to participate, Supplier will be subject to a product setup administration fee of \$200 per item for any new non-proprietary item not loaded and published to Purchaser or Purchaser may choose not to list Supplier's new items. Upon Purchaser's request, Supplier shall give Purchaser certificates of compliance with applicable laws, regulations, standards, and orders. Purchaser's approval of a sample, design, drawing, specification, standard, performance criteria, or other requirement shall not relieve Supplier of any of its warranties under this paragraph, including, without limitation, its warranties of merchantability, fitness and compliance with laws. Supplier's warranties extend to future performance of the Products and survive inspection, tests, acceptance and payment and shall be considered to have been given not only to Purchaser but also to Purchaser's customers and to end-users of the Products. Supplier's warranties apply to any replacement Products that Supplier furnishes under these Terms and Conditions or otherwise. Supplier shall, at its sole expense, provide to Purchaser photographic representations of the Products in full compliance with Purchaser's policies.

13. **Indemnity.** Supplier agrees to indemnify and hold harmless Purchaser and each affiliate of Purchaser and Purchaser's and each such affiliate's directors, officers, employees, agents, shareholders, customers and other end-users of the Products (collectively, "Indemnitees") and defend any Indemnitees, if Purchaser requests, as to any claims, liabilities, losses, damages (including incidental, consequential, lost profits and all other damages) and expenses (including, without limitation, attorneys' fees and other legal expenses) brought against or incurred by any Indemnitee because of (a) any breach by Supplier (or Supplier's agents) of any of Supplier's warranties to, or agreements with, Purchaser in the Agreement, (b) any death, injury or damage to any person or property (including any Indemnitee's property and employees) caused by the Products or by Supplier's manufacture of the Products or performance of the services attributable to Supplier's failure to produce the Products or render the services in compliance with the specifications provided by Purchaser, or

(c) any contract or commitment entered into or made by Supplier with or to any third party that provides Products, materials or services to Supplier in connection with the Agreement. Any provisions of these Terms and Conditions requiring Supplier to maintain insurance for property damage, personal injury, death and economic damage shall not be construed to affect or impair the generality of the foregoing. Each Indemnitee shall have the right to participate with Supplier in the defense of any claim, which participation shall be at the Indemnitee's expense, except that if Supplier shall have failed, upon the Indemnitee's request, to assume the defense or to employ counsel reasonably satisfactory to the Indemnitee, then Supplier shall reimburse the Indemnitee, on a monthly basis, for all costs and expenses, including reasonable attorneys' fees, that the Indemnitee incurs in connection with the defense. Notwithstanding the foregoing, Supplier shall not be required to indemnify Indemnitees against or hold Indemnitees harmless from Purchaser's own willful misconduct or gross negligence or from claims, liabilities, losses, damages, and expenses resulting solely from Purchaser's breach of any of its representations, warranties, or covenants made in the Agreement.

Purchaser agrees to indemnify and hold Supplier and Supplier's agents and employees harmless from and against any and all claims and causes of action brought against Supplier and from any and all damages, losses, expenses, attorneys' fees, cost and liabilities sustained by Supplier arising out of Purchaser's willful misconduct or gross negligence in the performance of its obligations under this Agreement.

14. **Purchaser's Rights.** Without limiting other rights and remedies available to it, Purchaser may, at its option, (a) return nonconforming Products to Supplier, at Supplier's risk and expense, as long as Purchaser would then have the right under applicable law to reject or to revoke acceptance of those Products, and require Supplier either to refund the price or promptly to repair or replace the Products, or re-perform the services, at Supplier's risk and expense, (b) retain nonconforming Products and set off losses against any amount after consultation and agreement of Supplier that Purchaser or any affiliate of Purchaser owes Supplier, or (c) repair or replace nonconforming Products or obtain conforming services from a third party, and charge Supplier with the expense. All Products sold to Purchaser are purchased as a guaranteed sale. Purchaser may, at its option, return reasonable amounts of salable inventory of such Products for full credit upon notice to Supplier. Supplier must respond to Purchaser within ten (10) business days of its receipt of such notice. If Supplier has not responded within ten (10) days following Purchaser's notice, Purchaser

may dispose of the Products at Supplier's expense, and Supplier will promptly reimburse Purchaser for the cost of the Products and the disposal. If at any time (i) Supplier defaults in the performance of any of Supplier's obligations to Purchaser under the Agreement or under any other agreement between Supplier and Purchaser and Supplier fails to cure the default within a reasonable time after Purchaser provides notice of the default to Supplier; (ii) Supplier repudiates the Agreement; or (iii) any warranty or representation that Supplier shall have made to Purchaser in or in connection with the Agreement is false or misleading in any material respect, Purchaser may terminate the Agreement, in whole or part, without liability to Purchaser, and Supplier shall promptly pay to Purchaser all damages that Purchaser incurred as a result of the termination and as a result of the event or circumstance on the basis of which Purchaser terminated. If Purchaser does terminate the Agreement, then Supplier (i) shall, unless Purchaser directs otherwise, stop work and acquisition of materials under the Agreement and protect property in Supplier's possession in which Purchaser has or may acquire an interest for a reasonable period of time sufficient to allow Purchaser to provide for the disposition of the property; and (ii) if and to the extent that Purchaser demands, shall immediately deliver to Purchaser all finished and unfinished Products and all work-in-process and raw materials that Supplier acquired for use in the manufacture or processing of the Products and all designs, drawings, specifications, formulas and recipes related to any Products that Purchaser is purchasing from Supplier under the Agreement, and all intellectual property rights in the foregoing. Termination under this Section shall terminate only Supplier's obligation and right to deliver the Products under any provision of the Agreement other than this Section and shall not terminate or impair Supplier's other obligations, or any of Purchaser's rights, under the Agreement. In addition to Purchaser's rights described in these Terms and Conditions, Purchaser has all of the other rights and remedies that the law gives to Purchaser. Purchaser shall not lose any right just because it does not exercise it.

15. **Insolvency.** Purchaser may immediately terminate the Agreement without liability to Purchaser in the event of the happening of any of the following or any other comparable event: (a) insolvency of the Supplier; (b) filing of a voluntary petition in bankruptcy by Supplier; (c) filing of an involuntary petition in bankruptcy against Supplier; (d) appointment of a receiver or trustee for Supplier; or (e) execution of an assignment for the benefit of creditors by Supplier, provided that such petition, appointment or

assignment is not withdrawn, vacated or nullified within fifteen (15) days of such event.

16. **Purchaser's Property.** Any designs, drawings, recipes, specifications, intellectual property, documents and other information Purchaser furnishes to Supplier in connection with Supplier's manufacture of the Products ("Purchaser Property") are and shall at all times be Purchaser's sole and exclusive property. While in Supplier's possession, Supplier shall (a) preserve and protect all Purchaser Property, (b) bear the risk of loss with respect to any Purchaser Property, (c) refrain from using any Purchaser Property for any purpose other than fulfilling its obligations to Purchaser, and (d) turnover all or any portion of Purchaser Property to Purchaser upon demand. If Supplier breaches or threatens to breach this Section of these Terms and Conditions, Purchaser's remedies at law will be inadequate. Therefore, Purchaser shall have the right of specific performance or injunctive relief, or both, in addition to any and all other remedies and rights at law or in equity, and Purchaser's rights and remedies shall be cumulative.

17. **Intellectual Property and Other Proprietary Rights.** Subject to Supplier's retention of its Background IP, all inventions (whether or not patentable), devices, technologies, recipes, ideas, improvements, processes, systems, trademarks, trade names, trade dress, service marks, names, and other works and matters that Supplier creates or develops in the course of Supplier's performance of the services or Supplier's design or development of the Products for Purchaser, including all proprietary rights in the foregoing ("Intellectual Property") shall be Purchaser's sole property, and Supplier hereby assigns, and agrees to assign, to Purchaser all right, title and interest that Supplier now has or in the future acquires in the Intellectual Property and agrees to cause any individuals involved in the creation of such Intellectual Property to waive any non-assignable rights therein, including moral rights. Supplier hereby assigns, and agrees to assign to Purchaser, all right, title and interest that Supplier now has or in the future acquires in all copyrightable works that Supplier creates or develops in the course of Supplier's performance of the services or Supplier's design or development of the Products for Purchaser whether considered a "work made for hire" within the meaning of the federal Copyright Act of 1976 (United States Public Law 94-553), as amended, or otherwise. If the Products or their design are subject to any pre-existing patent rights or other proprietary rights that Supplier holds (collectively, "Background IP"), then Supplier grants to Purchaser an irrevocable, perpetual, non-exclusive, royalty-free license to use the Background IP to

the extent necessary to enable Purchaser to modify, repair or rebuild any or all of the Products. This license is in addition to all licenses impliedly granted to Purchaser as a buyer of the Products. Supplier shall not use Purchaser's name or any trademark, trade name, service mark or trade dress that Purchaser owns or that is licensed to Purchaser or to any affiliate, without Purchaser's express, written consent, and Supplier shall not sell to anyone other than Purchaser any Products bearing any such trademark, trade name, service mark or trade dress. Supplier shall indemnify and hold each Indemnitee harmless from any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right or claim of unfair trade or of unfair competition, arising out of the manufacture, sale or use of the Products sold pursuant to any Order. Upon termination of the Agreement for any reason, Supplier shall immediately cease all use of the Intellectual Property and shall immediately turnover to Purchaser all Intellectual Property upon demand. If Purchaser and Supplier have signed a separate agreement that addresses some or all of the subject matter of this Section, then both the other agreement and this Section shall be effective, but if there is a direct conflict between them, then the conflicting provision of the other agreement shall control.

18. **Confidentiality and Furnished Information.** Supplier agrees that any technical information disclosed to Purchaser in connection with the Products covered by any Order is not confidential and Supplier will not assert any claim (other than one for patent infringement) against Purchaser with respect to that information. Any technical information disclosed by Purchaser to Supplier is confidential and Supplier agrees not to use or disclose any such information without prior written consent of Purchaser. Supplier shall not sell or offer to sell or otherwise provide to anyone other than Purchaser any Products made in accordance with any designs, drawings, specifications, standards, performance criteria or other requirements that Purchaser furnishes to Supplier or that incorporate, embody or are made in accordance with any of Purchaser's intellectual property. Supplier shall maintain the confidentiality of, and shall not disclose or use or permit to be disclosed or used or to be viewed by any third party (including any of Supplier's suppliers), the Products, any designs or drawings of or specifications, technical information, standards, performance criteria or other requirements for the Products, any Purchaser Property or any information concerning Purchaser's business, operations or activities, including, without limitation, information concerning Purchaser's present or proposed products, product developments, plans,

strategies, finances, know-how, sales, Purchaser's marketing or sales techniques, or the existence of the Agreement or that Supplier will sell, or has sold, or has agreed to sell, Products to Purchaser ("Confidential Information"), provided, however, that Supplier may disclose Confidential Information (a) to a third party (other than a competitor of Purchaser or a subsidiary or affiliate of a competitor) to the extent disclosure is necessary in order for Supplier to perform its obligations under the Agreement if, prior to any such disclosure, Supplier obtains from the third party a written statement, in a form pre-approved by Purchaser, that the third party agrees to be bound by the confidentiality obligations of this Section of these Terms and Conditions to the same extent as Supplier; (b) to the extent necessary to enforce its rights under the Agreement or to defend a claim arising under the Agreement; and (c) as required by applicable law and, provided further, that Confidential Information shall not include (i) information that is or becomes generally known in the industries in which Purchaser or Supplier operate other than as a result of disclosure by Supplier; (ii) information that is disclosed to Supplier by a party that, to Supplier's actual knowledge, is not under a legal or fiduciary duty to Purchaser not to disclose the information; and (iii) any information that Purchaser acknowledges in writing is not confidential. If Supplier breaches or threatens to breach this Section of these Terms and Conditions, Purchaser's remedies at law will be inadequate. Therefore, Purchaser shall have the right of specific performance or injunctive relief, or both, in addition to any and all other remedies and rights at law or in equity, and Purchaser's rights and remedies shall be cumulative. If Purchaser and Supplier have signed a separate agreement that addresses some or all of the subject matter of this Section, then both the other agreement and this Section shall be effective, but if there is a conflict between them, then the conflicting provision of the other agreement shall control.

19. **Government Contracts.** If Purchaser will use the Products in connection with a contract with the United States or other government, then all terms and conditions that the government contract or any law or regulation requires to be included in any contract formed pursuant to the Order ("Government Terms") are incorporated in the Order by reference, if applicable. If any provision of the Agreement is inconsistent with any Government Terms, then the Government Terms shall control.
20. **Corrupt Practices.** Supplier shall not perform any acts or make any payments in violation of graft and corruption laws of the United States of America, e.g., the U.S. Foreign Corrupt Practices Act of 1977, as amended

(“FCPA”), Canada, or any other jurisdiction in which actions contemplated hereunder or under any Order may be taken (collectively, “Corruption Laws”). Supplier will not, to obtain or retain business or business opportunities, directly or indirectly facilitate the offer or payment of any money or other thing of value to any person (e.g., Prohibited Persons) in violation of applicable Corruption Laws. Supplier will not accept any improper payment or any promise to be paid any money or other thing of value in connection with any of the business activities contemplated by this Agreement, the Products, or any Order. Supplier will maintain policies and procedures ensuring compliance with all applicable Corruption Laws, including the FCPA. Any acts of Supplier that do not comply with, or that violate, any such Corruption Laws shall be (i) acts of Supplier and Supplier’s alone, and cannot be imputed to nor deemed to be acts of any customer; and (ii) grounds for immediate termination of the Agreement and all Orders. For purposes of this Section, “Prohibited Person” shall mean the following persons or entities: (a) any foreign (i.e., non-U.S. or Canadian, as applicable) official, or (b) any foreign political party, officer thereof, or candidate for office.

21. **Insurance.** Supplier shall maintain in effect, at Supplier's expense, the following minimum insurance coverages:
- a. Commercial general liability insurance coverage that will protect Supplier and Purchaser from any and all claims and liabilities for property damage, personal injury, death or economic damage, to any person, that arises from the Supplier’s Products, their use or consumption or the performance of the services or any activities connected with the Products. Limits of \$5,000,000 per occurrence and aggregate for Suppliers who provide food items for consumption or powered food equipment; and \$2,000,000 per occurrence and aggregate for Suppliers who provide non-food items or provide services must be maintained at all times.
 - b. Workers’ compensation and employers’ liability insurance coverage.
 - c. Auto liability coverage with a limit of \$1,000,000.

The above limits may be achieved by a combination of primary coverage and umbrella coverage. All insurance that this Section requires shall be of the types and in amounts, and shall contain endorsements, and shall be issued by insurers having an A.M. Best financial rating of “A” or better. Carriers with a rating less than “A” must be approved by Purchaser in

writing. Supplier shall cause Purchaser and each of its affiliates and related companies, and their respective directors, officers, employees and agents to be named as additional insureds under any or all of the policies evidencing the insurance. Supplier shall furnish to Purchaser certificates of insurance evidencing any required insurance (i) as part of any initial quote or bid to sell Products to Purchaser, (ii) prior to commencement of any work by Supplier for Purchaser or at Purchaser's premises, and (iii) annually thereafter upon renewal of the insurance coverage.

22. **Work on Premises.** If Supplier's performance of services or delivery or installation of Products involves operations by its employees or subcontractors on Purchaser's premises or the premises of a customer of Purchaser, then (a) Supplier shall at all times enforce strict discipline and maintain good order among all persons engaged in the activity on the premises and shall cause them to comply with all fire prevention, health, environmental and safety rules and regulations in force at the premises, (b) Supplier shall comply with any special work conditions that are attached to the Order, and (c) Supplier's performance of the services shall not interfere with Purchaser's use of the premises or pose any danger to Purchaser's employees or invitees.
23. **Services.** With respect to any services, (a) Supplier is an independent contractor, and neither Supplier nor any of Supplier's employees or agents shall be considered agents or employees of Purchaser, and (b) Supplier shall furnish or obtain, at Supplier's expense, all labor, materials, equipment, transportation, facilities, permits, licenses, bonds and other items that are necessary to perform the services.
24. **Unsafe or Unfit Products.** If a governmental agency declares that any of the Products or any ingredient of, or any material included in, any of the Products or any packaging or supplies used in connection with the Products, or if Purchaser at any time believes in good faith that any of the Products or any such ingredient, material, packaging or supplies, (a) is or may be adulterated or misbranded (including, without limitation, situations in which the governmental agency determines there is "reason to believe" that there may be adulteration or misbranding) within the meaning of any other applicable federal, state, provincial, local or foreign law, rule or regulation, (b) fails or may fail to conform to an applicable standard or regulation issued, (c) is or may be a misbranded hazardous substance or a banned hazardous substance, (d) does not or may not conform with an applicable consumer product safety standard, or has been declared a banned hazardous product, (e) has a reasonable probability of causing

serious adverse health consequences or death to humans or animals, or (f) is or may be otherwise unsafe or unfit for the intended use of the Products, or, if Supplier receives any correspondence or other information that would reasonably lead Supplier to conclude that any of the declarations set forth as items (a) to (f) above are substantially likely to be forthcoming, then, without limiting other rights and remedies that are available to Purchaser under these Terms and Conditions or applicable law, (i) Purchaser or Supplier, as the case may be, shall give the other party written notice of any such declaration or potential declaration, as applicable, and shall furnish to such party copies of the declaration and of all relevant notices, documents and correspondence, (ii) if a declaration has been issued, Supplier shall stop including the ingredient or material in the Products, (iii) if Supplier has failed to produce the Products in accordance with Purchaser's specifications and such failure is the reason for the declaration or potential declaration, as applicable, Purchaser may terminate the Agreement, without liability to Purchaser, by giving written notice to Supplier, which shall be effective immediately or on any later date that the notice specifies, (iv) if Purchaser does terminate, then (A) Purchaser's obligations under the Agreement shall terminate immediately and Purchaser shall not be obligated to pay Supplier damages or other compensation by reason of the termination; and (B) Supplier shall, unless Purchaser directs otherwise, stop work and acquisition of materials under the Agreement and protect property in Supplier's possession in which Purchaser has or may acquire an interest for a reasonable period of time, (v) Purchaser shall have the right (A) with the consent of Supplier (which shall not be unreasonably withheld, conditioned, or delayed), to recall (i.e. purchase or repurchase) any or all of the Products, and any products made with or produced by the Products, from its customers and end-users and any others having possession of the Products, and Supplier shall reimburse Purchaser for all reasonable costs that Purchaser incurs in doing so and shall assist Purchaser and any applicable governmental agency in all reasonable respects in the recall, to the extent that Purchaser requires Supplier to do so; and (B) to return to Supplier, at Supplier's expense, all such Products, packaging or supplies that Supplier shall have previously delivered to Purchaser and to require Supplier to refund the price to Purchaser, whether or not Purchaser would then have the right under applicable law to reject or to revoke acceptance of those Products, packaging or supplies, (vi) to the extent that Purchaser requests, Supplier shall reasonably assist Purchaser in any or all aspects of a recall, including, without limitation, developing a recall strategy and preparing and furnishing reports, records and other information; and (vii) Supplier

shall pay to Purchaser an amount equal to all damages that Purchaser incurs by reason of the declaration by the governmental agency and/or such good faith belief by Purchaser and any resulting recall or delay in performance or return of Products to Supplier and/or any termination of the Agreement by Purchaser. Purchaser shall have the right to cancel Orders for Products that are (1) subject to a recall, (2) produced at a facility that has received an unacceptable plant audit report, or (3) produced at a facility whose FDA registration has been, or is reasonably expected to be, suspended. Purchaser's right to cancel set forth in the immediately preceding sentence extends to all Products affected by the applicable event and to unrelated Products that come from the same facility.

25. Export and Import Requirements; Drawback and Refund Rights.

Supplier shall prepare, maintain and, to the extent that applicable law, regulation or customs authority requires it to do so, submit to the applicable customs authorities, all information and documentation that is necessary to comply with the applicable customs and export and import requirements of each country from which the Products will be exported and each country into which they will be imported, and Supplier shall comply with all other applicable customs requirements. Whenever Purchaser requests it to do so, Supplier shall promptly furnish to Purchaser copies of that information and documentation. Supplier is solely responsible for complying with all technical compliance and country of origin requirements of each country into which the Products are to be imported. Supplier assigns and transfers to Purchaser all transferable customs duty and tax drawback or refund rights relating to the Products, including rights developed by substitution and rights that Supplier acquires from its suppliers. Supplier shall promptly inform Purchaser of each such right and, upon Purchaser's request, shall promptly provide to Purchaser all documents and information that are required for Purchaser to obtain each such drawback and refund.

If Purchaser determines that, in connection with Purchaser's purchase of any Products from Supplier under the Agreement, Purchaser is required under any federal, state, provincial, local or foreign laws, regulations, standards, and/or orders, to (a) implement a foreign supplier verification, or similar, program or (b) take any action in furtherance of obtaining verification or certification that Supplier is in compliance with federal, state, provincial, local and/or foreign laws, regulations, standards and/or orders, including, then Purchaser shall have the right to terminate the Order giving rise to such requirement, without any liability to Purchaser.

If Purchaser does not terminate the Order, then Supplier shall (1) use commercially reasonable efforts to assist Purchaser in implementing the program and obtaining all applicable verifications and certifications (including, without limitation, providing Purchaser, at Supplier's expense, with all the information in Supplier's possession, or that Supplier can obtain with commercially reasonable efforts, that Purchaser needs to implement the program and obtain the verifications and certifications) and (2) reimburse Purchaser for all expenses reasonably incurred by Purchaser in implementing the program and obtaining the verifications and certifications.

If Purchaser determines that any of the Products Purchaser orders from Supplier are eligible for any voluntary importation program that would allow for the expedited importation of the Products into the United States under any federal, state, local or foreign laws, regulations, standards, and/or orders, then Supplier shall (1) use commercially reasonable efforts to assist Purchaser in qualifying for the program (including, without limitation, providing Purchaser, at Supplier's expense, with all the information in Supplier's possession, or that Supplier can obtain with commercially reasonable efforts, that Purchaser needs to qualify for the program) and (2) reimburse Purchaser for all expenses reasonably incurred by Purchaser in qualifying for the program.

26. **Records.** Supplier shall maintain complete and accurate records of all transactions and activities of Supplier that relate to Supplier's sales of Products under the Agreement and shall permit Purchaser and its agents, upon reasonable prior notice, to enter Supplier's premises during Supplier's normal business hours to inspect the facility and those records that are reasonably asked for and are reasonably available, to the extent that Purchaser believes in good faith that an inspection and/or audit of the facility and/or records is necessary to determine whether Supplier is complying or has complied with its obligations under the Agreement.
27. **Security Interests.** Supplier shall not have and waives, and shall not file or record any document claiming, any security interest in or lien (including any statutory or common law lien) upon any Purchaser Property or the Products.
28. **Relationship of Parties; Brokers.** The relationship between Supplier and Purchaser is and will be that of seller and buyer and not a joint venture, partnership, principal-agent, broker, sales representative or franchise relationship, unless expressly provided in another agreement between the

parties. The parties expressly acknowledge that any broker engaged as part of the business relationship between Purchaser and Supplier is and shall always be an agent of Supplier and Purchaser shall have no responsibility to, or control over, such third party broker.

29. **Severability.** If any provision of the Agreement is invalid or unenforceable, all other provisions of the Agreement shall remain in full force and effect.
30. **Notices.** Any notice or other communication that is required or permitted under the Agreement shall be in writing and shall be effective (a) when personally delivered or sent via telecopy or electronically to a facsimile number or an email address specified in the Order, (b) the next business day after delivery to a nationally-recognized overnight delivery service designated for next business day delivery with all charges prepaid, or (c) three (3) days after mailing if sent by certified mail, return receipt requested, postage prepaid, addressed to Purchaser or Supplier, as applicable, at its address specified in the Order or to another address that a party shall specify to the other by written notice, except that a notice or other communication may be given orally, including by telephone, if it is confirmed by written notice given the same day.
31. **Remedies; No Implied Waiver.** The remedies in the Agreement shall be cumulative and in addition to any other remedies allowed to Purchaser under applicable law. The failure of either party at any time to require performance by the other party of any provision of the Agreement shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of the Agreement constitute a waiver of any succeeding breach of the same or any other provision.
32. **Limitation of Damages; Time Period to Commence Action.** Purchaser SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR ANY OTHER SPECIAL DAMAGES OF SUPPLIER, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR SUPPLIER'S ATTORNEY FEES. ANY ACTION RELATED TO DISCREPANCIES IN AMOUNTS PAID OR DEDUCTED MUST BE BROUGHT WITHIN 180 DAYS OF THE DATE OF SUCH PAYMENT OR DEDUCTION.
33. **Set Off.** Purchaser or its affiliates have the right to setoff any sums due to Supplier under the Agreement against any sums due from Supplier to

Purchaser or its affiliates for damages, refunds or otherwise, whether or not those sums are due to Purchaser or its affiliate under that Agreement.

34. **Assignment.** Supplier shall not assign its rights or delegate, subcontract or assign its duties under the Agreement without Purchaser's prior written consent, which may be withheld for any reason. Purchaser's consent to Supplier's delegation, subcontracting or assignment of any obligation of Supplier under the Agreement shall not relieve Supplier of responsibility or liability for performance of the obligation.
35. **Successors.** The terms of the Agreement shall inure to the benefit of and be binding on the successors and assigns of the parties.
36. **Subsequently Acquired Entities, Divisions, or Product Lines.** Purchaser shall have the option, in its sole discretion, to include within the scope of the Agreement any entities, divisions or product lines acquired by Supplier during the time period that the Agreement remains in effect. Further, should Purchaser or any of its affiliates acquire the business or assets of a third party who has an existing agreement with Supplier, or be acquired by such a third party, Purchaser and its affiliates shall have the option of purchasing Products pursuant to either agreement at Purchaser's and its affiliates' exclusive discretion.
37. **Construction.** The section headings contained in these Terms and Conditions are for reference purposes only and shall not affect in any way the meaning or interpretation of these Terms and Conditions. Unless the context otherwise requires, as used in these Terms and Conditions, all terms used in the singular shall be deemed to refer to the plural as well, and vice versa. Whenever the words "include," "includes" or "including" are used in these Terms and Conditions, they shall be deemed to be followed by the words "without limitation."
38. **Additional U.S. Provisions.** THE TERMS OF THIS SECTION ONLY APPLY TO ORDERS SUBMITTED BY THE COMPANY AS A U.S. ENTITY, AS APPLICABLE, AND ITS U.S. AFFILIATES, AND DO NOT APPLY TO ORDERS SUBMITTED BY ITS CANADIAN AFFILIATES.
 - a. **Delivery.** Notwithstanding the language in Section 6 of these Terms and Conditions, if Purchaser's facility and Supplier's facility from which the Products will be shipped are both located in the United States, then Supplier shall deliver the Products F.O.B. (as that term is

defined in the Michigan Uniform Commercial Code) Purchaser's facility identified in the Order and shall be made at Supplier's expense and risk of loss.

- b. **Representation, Warranties and Agreements about Supplier.** In addition to the provisions listed in Section 9 of these Terms and Conditions, Supplier also provides the following representations and warranties: (i) the equal employment and affirmative action provisions of Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act ("VEVRAA"), Section 503 of the Rehabilitation Act of 1973, as amended, Executive Order 12138, Section 8 of the Small Business Act, as amended (15 USC § 637), all implementing regulations under those Orders, VEVRAA and those sections, and 41 CFR 60-1.4(A), 41 C.F.R. §60-300.5(A) and 41 C.F.R. §60-741.5(A), as applicable; (j) any oral or written merchandise plan, advertising or promotion plan, payment, discount, or allowance and/or any service or facility Supplier (either directly or through its agents) offers, gives, or pays to Purchaser, complies with the applicable provisions of the Clayton Act, as amended by the Robinson-Patman Act, and the Federal Trade Commission Act; and (k) Supplier is and shall continue to be in compliance with all applicable federal, state, local and foreign laws, regulations, standards and orders, including, without limitation, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, as amended ("Bioterrorism Act") and the FDA Food Safety Modernization Act (the "FSMA") and all regulations issued under either such Acts.
- c. **Country of Origin.** In addition to the provisions in Section 10 of these Terms and Conditions, Supplier represents and warrants to Purchaser that it complies with the labeling and related requirements of the Tariff Act (19 U.S.C. §4), as amended by the Customs Modernization Act, those contained in the Agricultural Marketing Act, as amended by the 2002 Farm Bill, and the implementing regulations.
- d. **Representation, Warranties and Agreements about the Products.** In addition to the authorities listed in section 12(d) of these Terms and Conditions, Supplier represents and warrants to Purchaser, and agrees, that the Products comply with all applicable laws, including, without limitation, the Fair Labor Standards Act of 1938, the Federal Child Labor Act, the Agricultural Marketing Act of 1946, the Occupational Safety and Health Act of 1970, the Federal Food, Drug, and Cosmetic Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Fair

Packaging and Labeling Act and the Poison Prevention Packaging Act of 1970, the Poultry Products Inspection Act, the Federal Meat Inspection Act, Food Allergen Labeling and Consumer Protection Act of 2004, the Flammable Fabrics Act, the Federal Hazardous Substances Act, the Textile Fiber Products Identification Act, the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Consumer Product Safety Act, the Occupational Safety and Health Act of 1970, 29 U.S.C. §651et q. and all standards, rules, regulations and orders issued pursuant thereto, the Copyright Act of 1976 and state and federal trademark laws and patent laws, the Bioterrorism Act, and the FSMA, as each may be amended from time to time.

- e. **Government Clauses.** “Government Terms” defined in Section 19 of these Terms and Conditions includes, but is not limited to the requirements of 41 C.F.R. 60-1.4(a), 41 C.F.R. §60-300.5(a) and 41 C.F.R. §60-741.5(a). These regulations prohibit discrimination against (1) any employee or applicant because of race, color, religion, sex, sexual orientation, gender identity, national origin, or age; (2) qualified protected veterans; and (3) qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

- f. **Unsafe or Unfit Products.** The following language will be substituted for the provisions in Section 24(a)-(e): (a) is or may be adulterated or misbranded (including, without limitation, situations in which the governmental agency determines there is “reason to believe” that there may be adulteration or misbranding) within the meaning of the Federal Food, Drug, and Cosmetic Act, as amended, or any other applicable federal, state, local or foreign law, rule or regulation, (b) fails or may fail to conform to an applicable standard or regulation issued under the Flammable Fabrics Act, as amended, (c) is or may be a misbranded hazardous substance or a banned hazardous substance within the meaning of the Federal Hazardous Substances Act, as amended, (d) does not or may not conform with an applicable consumer product safety standard, or has been declared a banned hazardous product, under the Consumer Product Safety Act, as amended, (e) has a reasonable probability of causing serious adverse health consequences or death to humans or animals, within the meaning of the FSMA and/or Bioterrorism Act, or

g. **Governing Law.** The sale of Products in accordance with the Agreement shall be governed in all respects by the laws of the State of Michigan without giving effect to its conflict of law principles.

h. **Jurisdiction and Venue.** Supplier and Purchaser agree that any action arising out of the sale of Products in accordance with the Agreement will be brought, heard and decided exclusively in the state or federal courts in Kent County, Michigan. Supplier submits to personal jurisdiction in Michigan and acknowledges that venue for such action in Kent County, Michigan is proper and appropriate.

39. **Additional Canadian Provisions.** THE TERMS OF THIS SECTION ONLY APPLY TO ORDERS SUBMITTED BY THE COMPANY AS A CANADIAN ENTITY, AS APPLICABLE, AND ITS CANADIAN AFFILIATES, AND DO NOT APPLY TO ORDERS SUBMITTED BY ITS U.S. AFFILIATES.

a. **Representations, Warranties and Agreements about Supplier.** In addition to the provisions listed in section 9 of these Terms and Conditions, Supplier represents and warrants to Purchaser, and agrees, that Supplier is and shall continue to be in compliance with all applicable laws, including, but not limited to, the CFIA Safe Foods for Canadians Act and the Corruption of Foreign Public Officials Act, and other similar laws and regulations issued under such acts.

b. **Payment.** All transactions between Purchaser and Supplier shall be conducted in Canadian dollars. In addition to invoicing terms, Purchaser shall only be invoiced by Supplier for any provincial or federal tax (except franchise taxes and taxes on Supplier's income) that result from the sale of Products in Canada and is legally borne by the purchaser under applicable law.

c. **Governing Law.** These Terms and Conditions shall be construed and interpreted according to the laws of the Province of Ontario and the federal laws of Canada applicable therein, excluding reference to conflicts of law principles. Neither the Uniform Commercial Code, nor the United Nations Convention for the International Sale of Goods shall apply to these Terms and Conditions.

d. **Jurisdiction and Venue.** The parties agree that any action arising out of the sale of Products in accordance with these Terms and Conditions will be brought, heard and decided exclusively in the courts in the

Province of Ontario. Supplier submits to personal jurisdiction in the Province of Ontario, and acknowledges that such venue is proper and appropriate.

- e. **Language.** The Parties have requested that this document be drafted in English. Les parties ont demandés que ce document soit rédigé en anglais.