

THE FOOD SOURCE INTERNATIONAL PURCHASE ORDER TERMS AND CONDITIONS

ACCEPTANCE - (i) This Order is Buyer's offer to Seller. Any reference to any offer to sell, quotation or proposal is solely for the purpose of incorporating the description and specifications of the goods and services contained therein to the extent they do not conflict with those contained in this Order. (ii) By acknowledging receipt of this Order (or by shipping the goods or performing the services called for by this Order) Seller agrees to the terms and conditions contained herein. It is agreed that any additional or different terms or conditions contained in any acknowledgment of this Order or other document furnished by Seller are waived by Seller and shall be deemed objected to by Buyer without need of further notice of objection and shall be of no effect nor in any circumstance binding upon Buyer unless accepted by Buyer in writing. (iii) The face and reverse of this Purchase Order, and any documents attached hereto, referred to on the face hereof or incorporated by reference herein, including any specifications, drawings and data submitted to Seller by or on behalf of Buyer, constitute the entire agreement between the parties (collectively, the "Order").

ASSIGNMENT & SUBCONTRACTING - Seller shall not assign this Order or any of its rights hereunder or subcontract any portion of the work hereunder without the prior written consent of Buyer, and any purported assignment or subcontracting without Buyer's prior written consent shall be void.

TIME OF ESSENCE - Time(s) of shipment, rendering of services and quantities and qualities specified are of the essence. Seller shall promptly notify Buyer whenever it appears to Seller that it will not be able to deliver as specified. Buyer, at its option, may take steps to assist Seller in expediting delivery to the Seller of anything necessary for Seller's timely performance of its obligations hereunder; in which case any excess costs incurred by reason of the expedited delivery shall be paid by Seller.

TERMINATION - Without prejudice to any other rights or remedies, Buyer may cancel this Order in whole or in part if the goods or services are defective or nonconforming or are not delivered or performed as scheduled or if Seller fails to comply with any of the terms and conditions hereof, which termination will be without any liability of Buyer except for payment due for goods and services delivered to and accepted by Buyer. Buyer may also cancel this Order in whole or in part at its convenience, upon written or oral notice to Seller, in which event Seller's sole remedy shall be limited to recovery of reasonable charges reflecting the portion of the work prior to termination plus actual direct documented costs resulting from termination. Upon cancellation of this Order for any reason, Seller will stop work on the date and to the extent specified in any notice of cancellation and terminate all orders that relate to the terminated order.

WARRANTY - Seller warrants that the goods furnished hereunder will (i) be free and clear of all liens, encumbrances and interests of any other person or entity, (ii) be free from defects in workmanship and material, (iii) be free from defects in design, (iv) be suitable for the purposes intended, (v) be in compliance with all requirements of this Order and all applicable drawings, specifications, samples, representations or other descriptions and (vi) not infringe any rights of any third parties relating to patents, trademarks, design, appearance or other intellectual property rights (except for infringement arising due to Buyer's specifications or material provided by Buyer for use or inclusion with goods). All warranties, both expressed and implied, shall inure to Buyer, its customers and end users. Seller further warrants that all services performed for or on behalf of Buyer will be performed in a competent, workmanlike manner, shall be free from faults and defects, and shall conform to all of Buyer's instructions, specifications and directions. THE WARRANTIES CONTAINED IN THIS PARAGRAPH ARE IN ADDITION TO WARRANTIES AND REMEDIES PROVIDED BY THE UNIFORM COMMERCIAL CODE.

INDEMNITY - Seller agrees to indemnify, defend and forever hold Buyer and Buyer's affiliates, parents, subsidiaries, vendees, officers, directors, employees, agents, successors and assigns harmless from and against any and all losses, liabilities, claims, costs, damages, fees and expenses (including, but not limited to, penalties, fines, forfeitures, reasonable attorney's fees, disbursements and administrative or hereunder (including actual or court costs) ("Losses") relating to this Order (including any breach of Seller's representations hereunder) or goods or services purchased) hereunder (including actual or alleged product or manufacturing defects or nonconformities, defects or nonconformities in services or failure to timely perform Seller's obligations hereunder), infringement or violation of third-party rights related to the foregoing, and any other acts or omissions by Seller, its agents, employees, or subcontractors related to the foregoing (including acts or omissions resulting in any claim for injuries or damage to any person or property)

CHANGES - Buyer may at any time, by written order, make changes within the general scope of this Order in anyone or more of the following: (i) drawings, designs or specifications, where the materials to be furnished are to be specifically manufactured in accordance therewith, (ii) method of shipment or packaging, (iii) places of delivery, (iv) delivery dates and (v) quantities. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work to be performed hereunder, an equitable adjustment shall be made in the Order price or delivery schedule, or both, and this Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted in writing within twenty (20) days from the date of receipt by Seller of the notification of change. Where the cost of property made obsolete or excess as a result of a change is included in Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Any change order issued hereunder will not be binding on Buyer unless issued by an authorized purchasing agent of Buyer. Nothing in this paragraph shall excuse Seller from proceeding with this Order as changed.

PRICE - If an exact price is not stated in this Order, it is agreed that the goods or services shall be billed at the price last quoted, or billed at the prevailing market price, whichever is lower. This Order must not be filled at a higher price than last quoted or charged without Buyer's specific authorization. Seller agrees that any price reduction made in the goods or services described in this Order prior to delivery or performance thereof will be applicable to this Order. Seller represents that the price charged for the goods or services covered by this Order is not more than the lowest price charged by Seller to buyers of a class similar to Buyer under conditions similar to those specified in this Order.

TAXES - Seller shall pay all taxes that may arise out of its sale of the goods and services to Buyer. Buyer agrees to pay applicable state sales or use taxes or to provide Seller an exemption certificate.

INSPECTION & TESTING - Payment for goods delivered or services rendered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods or services rendered and to reject any or all of said goods or services which are in Buyer's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its risk and expense for full refund, credit or prompt replacement (at Buyer's option), in addition to Buyer's other rights. Buyer may charge Seller all expenses of unpacking, examining, repacking, transportation charges both ways, and similar expenses with respect to such goods. In the event Buyer receives goods or services rendered whose defects or nonconformity is not apparent on examination, Buyer reserves the right to require prompt replacement or correction (in the case of services) as well as payment of damages. Nothing contained in this Order shall relieve in any way Seller from the obligation of testing, inspection and quality control. Acceptance of any part of the goods or services shall not bind Buyer to accept future shipments or services, nor deprive it of the right to return goods already accepted if they are defective or nonconforming, or to terminate this Order.

DELIVERY & RISK OF LOSS - (i) Seller agrees to pay all excess charges and expenses resulting from failure to ship and route by cheapest way or as instructed by Buyer, and to reimburse Buyer for any such charges paid or expenses incurred by Buyer for its failure to do so. No charge will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging, or similar charges unless provided for in this Order or consented to in writing signed by Buyer. Buyer's count and weight are to be accepted as final on any shipments. (ii) Risk of loss on any goods furnished pursuant to this Order shall remain on Seller until such goods are received and accepted by Buyer. (iii) The items on this Order may be used for product manufacturing by Buyer. Therefore, Buyer's production schedule is based upon quoted delivery or performance dates. By acceptance of this Order, Seller agrees to be liable for costs that may occur because of delivery or performance time beyond that quoted.

INSURANCE - In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers. Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees or agents of Buyer. Seller shall maintain all necessary insurance coverages, including public liability and Workmen's Compensation insurance. Seller shall indemnify and save harmless and defend Buyer from any and all claims or liabilities arising out of work, services, products, ingredients, but not limited to, covered by this Order.

PACKAGING - All invoices and packing slips must bear the Purchase Order number. It must be clearly marked and visible.



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GRATUITY - Seller warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to Buyer's employees, agents or representatives.

PROPRIETARY INFORMATION/CONFIDENTIALITY/ADVERTISING - Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this Order, unless Seller obtains written permission from Buyer to do so. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller for Buyer in connection with this Order. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods or services from Seller nor shall any information relating to this Order be disclosed without Buyer's prior written permission. Unless otherwise agreed in writing no information disclosed in any manner or at any time by Seller to Buyer in connection with any purchases hereunder shall be deemed secret, confidential or proprietary and Seller shall have no rights against Buyer with respect thereto except such rights as may exist under patent law. Seller acknowledges that trademarks, trade names and trade dress ("Marks") of Buyer incorporated on or associated with goods supplied by Seller to Buyer are exclusively owned by Buyer and Seller will not acquire any rights to or make any use of such Marks except as expressly permitted herein.

RIGHT OF SETOFF - Buyer specifically reserves the right, in its sole discretion, to set off against amounts to be paid by Buyer to Seller under its contracts with Seller, any amounts which Seller may owe to Buyer, whether by way of credit, indemnification or otherwise, and whether pursuant to such contract or any other agreement between Buyer and Seller.

MISCELLANEOUS - The rights and remedies provided to Buyer shall be cumulative and in addition to any other rights and remedies provided by law or equity. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach. This Order is to be governed and construed according to the internal laws of the State of Pennsylvania.