

Dreyer's Grand Ice Cream, Inc. - Purchase Order Terms & Conditions

1. **Scope.** The terms of this purchase order ("PO") apply to the purchase of services ("Services") or goods (including commodities, non-commodities, and equipment) ("Goods") described on the face of this PO, made by the entity identified in this PO as "Purchaser" to the entity identified in this PO as "Supplier". If a written agreement applicable to the purchase referenced above has been signed between Purchaser and Supplier (or an affiliate of the respective party with the understanding that it would be applicable to the subject matter of this PO) (the "Master Agreement"), then the purchase of Goods or Services under this PO will be governed by the Master Agreement, then the Master Agreement shall take precedence over any inconsistent terms of the PO. This PO will be deemed accepted by Supplier upon the first of the following to occur: (i) if Supplier does not reject this PO within 3 days from its issuance by Purchaser; (ii) if Supplier expressly accepts this PO verbally or in writing; (iii) if Supplier starts performing this PO in any manner; or (iv) when Supplier accepts any payment from Purchaser under this PO. Any terms and conditions in Supplier's quotation, acknowledgement, invoices, or any other form of writing related to the transaction established by this PO, to the extent inconsistent with the PO are hereby rejected. This PO will prevail over and replace any clickwrap or browsewrap end user agreement included in the Goods or Services or in any deliverable under this PO. Acceptance of Goods or Services delivered pursuant to this PO will not constitute acceptance of Supplier's terms and conditions, nor will they in any way operate to modify or change the full effect of the terms and conditions herein. Any reference to a Supplier's quotation or proposal on the face hereof will not be deemed to incorporate any provisions of Supplier's quotation or proposal which are inconsistent or in conflict with any provision set forth in this PO or any pre-printed provisions contained therein, which provisions are hereby expressly excluded. No previous communications (excluding the terms of any Master Agreement) or stipulation or agreements by Supplier or any of its officers, agents, or employees will be binding on Purchaser unless explicitly referenced in the Master Agreement or this PO. No local, general, or trade custom or previous course of dealing or performance will alter or vary the terms hereof.

2. **Definitions.** For the purposes of this PO: (i) "Affiliate" means any company controlling, controlled by or under common control with Purchaser or Supplier where "control" means: (a) ownership, directly or indirectly, in an entity of 50% or more of the voting rights, or (b) the power to determine directly or indirectly the composition of the majority of the board of directors, similar management body or direct the management of such entity; (ii) "Force Majeure Event" means an event caused by a circumstance beyond a party's reasonable control and that could not have been prevented or avoided by the exercise of all due diligence, e.g.: natural catastrophes, war, public power outages, civil unrests and conflicts, acts of terrorism, labor strikes (strikes and other labor unrest that affect only one party and are not caused by a general or mass strike will not constitute an excusable delay), riots, fires, flood, storm, acts of God, governmental action, and earthquakes; (iii) "Intellectual Property Rights" or "IPR" are defined as trade names, trademarks, logos, brands, service marks, trade dress, copyrights, designs, patents, know-how, trade secrets, plant certificates, and any other intellectual property rights, whether registered or not; (iv) "Laws" mean any law, regulation, executive order, rule, statute, ordinance or act established or enacted by the applicable authorities, whether national, federal, state, provincial, or local, as well as international treaties and conventions; and (v) both the terms Goods and Services include all labor, workmanship, activities, materials, equipment, supplies, transportation, and supervision necessary to the proper and complete fulfillment of the referred Goods and Services.

3. **Quantities.** The quantity of Goods or Services delivered by Supplier to Purchaser will not differ from those specified on the face of this PO, nor will any other modifications of this PO be effective unless such change or modification is first authorized by Purchaser in writing. If quantities delivered are not the same as agreed, Purchaser may exercise one or more of the following remedies: (i) reject the Goods or Services; (ii) cancel the PO in whole or in part; (iii) refuse any subsequent delivery of Goods or performance of Services; or (v) claim damages for any costs, losses or expenses incurred by Purchaser which relate to Supplier's failure to deliver the agreed quantities of Goods or Services (including costs of returning surplus quantity).

Volume estimations. Unless a volume commitment is established on the face of this PO or in a Master Agreement, any quantity or volume listed on the face of this Contract is not intended to be a firm commitment of the amount of Goods or Services to be purchased by Purchaser but is only an estimated or forecasted amount of Goods or Services which may be purchased by Purchaser. Purchaser is not subject to penalty and quantities will not carry over if all or any part of estimated or forecasted Goods or Services is not finally ordered or used. Purchaser will have the ability to increase this estimated or forecasted volume of Goods if its requirements necessitate the increase. Production should only be made against POs. Any production without POs from Purchaser is fully at Supplier's risk.

4. Delivery Schedule. Time is of the essence. Supplier will deliver the Services and the Goods by the date(s) specified on the face of this PO. If delivery date(s) cannot be met, Supplier must immediately inform Purchaser in writing of Supplier's best possible delivery date(s) subject to Purchaser's acceptance. If deliveries are not made at the time agreed upon, Purchaser may exercise one or more of the following remedies: (i) request that Supplier ships the Goods by other than designated routing to expedite delivery (cost of alternative means of shipment will be borne by Supplier); (ii) cancel the PO in whole or in part, without penalty; (iii) refuse to accept any subsequent delivery of Goods or performance of Services; (iv) recover from Supplier any expenditure reasonably incurred by Purchaser in obtaining substitution Goods or Services from another supplier; (v) apply a delay fee for late delivery of 0.5% of the price of the PO per day, until Supplier delivers the Goods or the Services; or (vi) claim damages for any costs, losses or expenses incurred by Purchaser which relate to Supplier's failure to deliver the Goods or the Services on the due date.

5. Price and Payment Terms. The price of the Goods or the Services is the price stated on the face of this PO and it includes all charges for production, packing and loading, and any other related charges. Unless stated otherwise on the face of this PO, the price is FOB Purchaser's delivery address identified on the PO. No price changes will be accepted unless authorized in writing by Purchaser prior to shipment of Goods or performance of Services. Purchaser shall pay Supplier within the term established in this PO after receipt of Supplier's undisputed invoice for duly delivered and conforming Goods or Services. Supplier will comply with all Purchaser's instructions in connection to invoicing and payment process (including the implementation of e-invoicing). Advanced payments, if any, are made in consideration of the future full and satisfactory performance of the Services or delivery of the Goods and will constitute a recoverable advance in case of non-satisfactory, incomplete or non-performance of the Services or delivery of the Goods. Delay in payments will be notified to Purchaser by Supplier and solved amicably between them, without entitling Supplier to suspend performance of this PO. Supplier will assume the risk of unfavorable currency fluctuations between the time of invoicing and the time of payment. Without prejudice to any other right or remedy, Purchaser reserves the right to set off any amount owing at any time from Supplier to Purchaser against any amount payable by Purchaser to Supplier.

6. Quality. Supplier will carry out quality assurance testing of the Goods in accordance with the quality standards and issue certificates of conformity or analysis as required by Purchaser, or as otherwise agreed in writing with Purchaser. Supplier will submit to Purchaser free of charge such samples of the Goods, ingredients, and packaging materials to be used in the manufacturing and packaging of the Goods as Purchaser may reasonably require from time to time in order to allow Purchaser to monitor the compliance by Supplier with its obligations. In the event that Supplier becomes aware of the existence of any quality or technical problem relating to any Goods within the control or possession of Supplier, Supplier will ensure that the Goods affected or believed to be affected by the problem are kept separate from all other Goods and are not allowed to leave Supplier's premises without the prior consent of Purchaser. Supplier will establish (with Purchaser's previous approval) reporting procedures with a view to identifying the nature and extent of, and resolving the problem in question, and keeping the appropriate Purchaser representatives informed of all progress being made in these areas.

7. Packaging; Handling; Storage. Supplier will properly and lawfully package all Goods for safe and wholesome shipment to Purchaser, or as established in this PO or otherwise instructed by Purchaser. No charge will be allowed for packing, boxing, or cartage unless accepted in writing by Purchaser. Supplier will be responsible for breakages, shortages, and damage caused by inadequate packaging or storage. Storage must be appropriate for the type of Goods and must be made in a dry, clean place, and bird, insect and rodent proof. Goods must be maintained at temperatures specified in the PO, or if not specified in the PO, that are consistent with industry standards and Good Manufacturing Procedures.

8. Transport. Transport will be handled in accordance with what is established on the face of the PO or as instructed by Purchaser. Supplier will be accountable for and pay any excess transportation costs arising from Supplier's failure to follow Purchaser's instructions. In any case, transport must be in clean and safe vehicles. Supplier warrants that any transportation costs included in the price of the PO will not exceed actual transportation costs paid by Supplier. In the case of food Goods requiring refrigeration, or which can be damaged by excessive temperatures, temperature monitoring devices shall be used to ensure that the proper temperature for transport is at all times maintained. Purchaser may reject, in whole or in part, any shipment that does not conform to the requirements of the provision.

9. Documentation Requirements. The PO number must appear on all containers, papers, packing slips, invoices and all other correspondence or documents related to this PO. Supplier will comply with all Purchaser's instructions regarding tagging of the Goods and related documentation. Unless otherwise agreed in writing by the Purchase, Supplier will be responsible for any and all duties, filings, documentation and record keeping, or redeliveries as may be required by the applicable custom services in connection with Supplier's sale and delivery of Goods to Purchaser and Purchaser's use thereof. Supplier will be accountable for and pay any costs arising from any errors or omissions in performance thereof.

10. Risk of Loss; Title. Supplier hereby assumes all risk of loss or damage to the Goods from any cause whatsoever until Purchaser takes delivery of the Goods, inspects and accepts the same at the point of ultimate destination, at which time Supplier will pass to Purchaser title to the Goods.

11. Warranties. In addition to any other warranties included in this PO or in the applicable Laws, Supplier warrants that the Goods or the Services to be supplied pursuant to this PO are: (i) fit and sufficient for the purpose intended; and (ii) in conformity with industry standards and the specifications, drawings, samples, electronic files, documents, instructions, design descriptions, performance standards of applicable industry or other descriptions, if any, specified in this PO or which have otherwise been provided to Supplier by Purchaser ("Specifications"). Supplier will not modify or change any Specifications without Purchaser's prior written approval. Any change that may affect product performance, especially any change of place of origin, ingredients or processing, will be implemented only upon prior written approval from Purchaser. Any attached or referenced Specifications are hereby made a part of this PO. Supplier will furnish Purchaser prior to commencing the performance of the PO with copies of, as applicable, the manufacturer's handbook, patterns, designs, drawings, documents, installation instructions, servicing and maintenance brochures for approval. Supplier will be obligated to inform Purchaser of and be responsible for all errors or omissions in any drawings, calculations, or particulars supplied by it whether or not Purchaser approved such information. The Goods and the Services will be supplied on the basis that Supplier holds itself out to be expert in every aspect of the performance of the PO and has full notice of the purpose for which Purchaser requires them. Supplier warrants to Purchaser that any Goods supplied to Purchaser hereunder: (i) are merchantable, of good quality, free from defects (patent or latent) and, in case of edibles, are wholesome and fit for human or animal consumption (as applicable); (ii) were grown or manufactured in a facility or under conditions which are free of any contamination, microbiological or otherwise, and with due care and using the necessary hygiene and quality control measures; and (iii) have been processed or produced in accordance with the applicable Laws (including the Laws of the place of final destination of the Goods) and are not adulterated, misbranded or mislabeled, nor do such Goods contain any ingredient, color additive, chemical or element which has not been disclosed as an ingredient of such Goods to Purchaser and which has not been duly approved or certified for inclusion within such Goods by all appropriate authorities having jurisdiction or authority over such Goods. Supplier agrees to use reasonable efforts to seek independent certification that Supplier's food safety and quality management system complies with food safety Laws. Supplier will provide Purchaser with a copy of such certification, or any denial of such certification, issued by the independent certification entity or body promptly upon receipt by Supplier. Supplier also warrants that: (i) Supplier will be fit, qualified and competent to perform its obligations under this PO; (ii) Supplier has absolute and good title to the Goods supplied, and at the time of delivery will be free of all liens, security interests or encumbrances of any kind against the Goods; (iii) Supplier will comply with all applicable Laws of any jurisdiction from or in which the Goods or Services are provided or received, including Laws about export control, import, customs and economic sanctions, anti-corruption, anti-bribery, patents, trademarks, copyrights, tax, food safety, labor and labor safety, environment, consumer rights, labelling, electrical standards; (iv) Supplier, the Goods, and the Services will comply with all voluntary industry standards, codes or other obligations, e.g.: applicable health and safety standards for manufacturing operations; (v) Supplier's supply of the Goods and performance of the Services will not give rise to any breach by any person of any Laws or third party rights including but not limited to, Intellectual Property Rights; and (vi) Supplier has the power and authority to execute and deliver the PO and to perform the obligations under this PO. Without prejudice to any other right or remedy which Purchaser may have, under this PO, the Master Agreement (if existing) or the applicable Laws, if any Good or Service fails to meet any warranty contained in this PO (even after acceptance, payment or use of the Goods or Services by Purchaser), or Supplier fails to comply with any of the terms or warranties under this PO, Purchaser may, at its option, exercise one or more of the following remedies: (i) cancel this PO, in whole or in part; (ii) require Supplier to replace the non-conforming Goods or Services or repair the non-conformity, faults or defects, at Supplier's expense; (iii) seek a reduction of the purchase price; (iv) reject the Goods or Services as provided in Article 12; (v) refuse to accept any further deliveries of the Goods or performance of the Services; (vi) carry out at Supplier's sole expense any work necessary to make the Goods

or the Services compliant with the PO; and (vii) claim any and all related damages. Other than in the case of with a Master Agreement, any attempt to disclaim any warranties, express or implied, is hereby rejected; and any limitation on damages is hereby rejected.

12. Inspection, Rejection, and Installation. Notwithstanding any prior payment, all Goods and Services are subject to inspection and testing after arrival at the ultimate destination, delivery or performance, as the case may be, and in the case of certain Goods (including without limitation Goods deemed capital equipment), if they are to be incorporated into an operating facility, the inspection and testing of the Goods may be made both at Supplier's production facility prior to shipment and under operating conditions after the Goods have been installed. If specific acceptance testing procedures or acceptance criteria are specified or referenced on the face of this PO, or the specifications referenced by the PO, then Supplier and Purchaser (or either of them, as applicable), will carry out the activities related to the acceptance procedures, as further set forth in the following Article. If during such testing period, the Goods are not performing in accordance with the acceptance criteria, Supplier will, at no expense to Purchaser, and with prior agreement of Purchaser make necessary and appropriate corrections, adjustments or modifications to the Goods in order to bring them into compliance. If upon inspection or testing, the Goods or Services or any portions thereof are found to be non-conforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any guarantees or warranties or the applicable Specifications or fail to meet any other requirements of Purchaser or of this PO, then without prejudice to any other rights or remedies, Purchaser may reject the Goods or the Services (in whole or in part) and return them to Supplier at the risk and cost of Supplier on the basis that a full refund for the Goods or Services so returned will be paid forthwith by Supplier. Also, Purchaser may exercise one or more of the following remedies: (i) cancel this PO, in whole or in part; (ii) seek a reduction of the purchase price if the rejection is partial; (iii) refuse to accept any further deliveries of the Goods or performance of the Services; (iv) carry out at Supplier's expense any work necessary to make the Goods or the Services compliant with the PO; or (v) claim any and all related damages. Neither the inspection, nor failure to make inspection, nor acceptance or payment for Goods or Services will release Supplier from any of the warranties or other provisions of this PO nor impair Purchaser's right to reject non-conforming Goods or Services or make claims in connection with the non-conforming Goods or Services. Any Goods (which, for purposes of this provision, will include any work in process), rejected by Purchaser, in Supplier's possession or control, and determined by Purchaser not to be re-conditionable or salvageable will be disposed of by Supplier at Supplier's cost and expense in a manner which will absolutely preclude re-use for human or, unless Purchaser otherwise consents, animal consumption. If Purchaser determines that any such Goods (or work in progress) are re-conditionable or salvageable, Supplier will remove all Purchaser identification and dispose of the same determined by Purchaser. Supplier will immediately withdraw rejected Goods from Purchaser's premises, unless Supplier specifically requests for temporary storage, which will be at the sole expense and risk of Supplier. Purchaser reserves the right to charge storage fees for rejected Goods not collected within 7 consecutive days from notification of rejection. Any of the activities related to reception, inspection, testing, acceptance or rejection mentioned above may be performed by an Affiliate of Purchaser, or by any third party designated by Purchaser, and will be considered and have the same effect as if performed by Purchaser. If Supplier is responsible for installing the Goods at Purchaser's facility, Supplier must comply with Purchaser's "Supplemental Terms and Conditions for Installation of Equipment", unless the parties enter into a separate written agreement covering Supplier's installation of the Goods; and all Supplier personnel entering Purchaser's facilities shall comply with Purchaser's facility access, safety, and security requirements, including executing a non-disclosure agreement if required by Purchaser.

13. Acceptance Testing (as applicable to Equipment). To the extent specific acceptance testing procedures are not specified or referenced on the face of this PO for Goods deemed capital equipment or to be incorporated into an operating facility of Purchaser ("Equipment"), the following shall apply: During the first 18 months after successful completion of Final Acceptance Testing (as defined below), or for such longer period as may be specified on the face of this PO, Supplier must promptly correct, at Supplier's sole cost and expense, any defects or non-conformity in the Equipment. If Supplier fails to remedy such defects or nonconformity within a reasonable period of time under all the circumstances (but in no event longer than 30 days after notice of such defects or non-conformity), Purchaser will have the right (but not the obligation) to itself attempt to remedy such defect or non-conformity, or engage a third party to remedy such defect or non-conformity, in which case Supplier must promptly reimburse Purchaser for all costs and expenses incurred by Purchaser in attempting to correct such defects or nonconformity. If the defect or non-conformity cannot be fully corrected for any reason, Purchaser may, in addition to any other remedies available to Purchaser, keep the Equipment and receive an equitable adjustment to the purchase price from Supplier, or return the Equipment for a full refund, and at Supplier's expense. The warranty period referenced in this Article will be

extended, on a day-for-day basis, by the period of time during which the Equipment is defective, non-conforming, or is otherwise not performing in accordance with this warranty, notwithstanding that either Supplier or Purchaser is attempting to remedy such defect or non-conformity during such period. Acceptance of or payment for the Equipment will not be deemed to waive any representations or warranties contained in this Article. For purposes of this PO, Purchaser will be deemed to have accepted the Equipment only after the Equipment has successfully completed Final Acceptance Testing. Any pre-shipment factory acceptance test ("Pre-Shipment SAT") that Supplier is required to conduct pursuant to this PO must be conducted at Supplier's production facility (or alternate location specified) on or before the date specified in Specifications. Supplier must conduct the Pre-Shipment SAT in accordance with the protocol specified in Specifications. If the Equipment is unable to successfully pass the Pre-Shipment SAT as specified in Specifications, Supplier must promptly make any modifications and corrections to the Equipment necessary to enable the Equipment to successfully pass the Pre-Shipment SAT prior to shipment of the Equipment, all at Supplier's sole cost and expense. If for any reason the Equipment is unable to successfully pass the Pre-Shipment SAT by the shipment date specified in this PO, Purchaser may, at its sole option and in addition to any other rights and remedies available to Purchaser under applicable law, terminate this PO without penalty and receive a refund of all amounts paid to Supplier as of the date of termination. Purchaser will not be deemed to have accepted the Equipment, and the final payment will not be due and owing to Supplier, unless and until the Equipment successfully completes final acceptance testing, as specified in this PO, at Purchaser's facility ("Final Acceptance Testing"). Final Acceptance Testing will begin after delivery of the Equipment to Purchaser's facility, on a date determined by Purchaser. However, if Purchaser fails to commence or delays the commencement of Final Acceptance Testing for a period in excess of ninety (90) days after delivery of the Equipment to Purchaser's facility (for any reason unrelated to any delays caused by Supplier or a Force Majeure Event), Purchaser will release to Supplier 50% of the milestone payment otherwise due to Supplier upon successful completion of Final Acceptance Testing. If Final Acceptance Testing is unable to be commenced by the scheduled commencement date due to any Equipment defect or non-conformity, Supplier must make all corrections or modifications to the Equipment necessary to allow the process of Final Acceptance Testing to commence, all at Supplier's sole cost and expense. Notwithstanding anything to the contrary, if Final Acceptance Testing cannot begin within 30 days of the scheduled commencement date, or if the Equipment is unable to successfully complete Final Acceptance Testing within 30 days after the date Final Acceptance Testing begins, in each case due to any uncorrected Equipment defect or non-conformity, then Purchaser may, in its sole discretion and in addition to any other rights and remedies available to Purchaser under applicable law, exercise any of the remedies set forth in the Article above.

14. Traceability of Ingredients and Goods. Supplier will at all times be able to provide details and data regarding the exact origin of each and every ingredient used to produce the Goods and the movement of the Goods, in order to, in the event of quality issues, respectively, ensure traceability of each and every ingredient used and guarantee an efficient recall action of Goods.

15. Product Recall. In the event that Supplier becomes aware of the existence of any non-conformity or defect relating to any Goods which have left the possession, custody, or control of Supplier and Supplier reasonably believes that such defect or non-conformity either creates or is likely to give rise to a risk to the health or safety of consumers, possibility of action by enforcement authorities, or a risk of adverse publicity or public dispute for Purchaser or its Affiliates, the following provisions will apply: (i) Supplier will immediately, upon becoming aware of the problem, notify Purchaser. Any such notification will include, at a minimum: (a) the identity and quantity of the Goods involved, (b) any relevant coding information (if existing), and (c) any other relevant information, which may be of assistance in tracing the Goods (or the products containing the Goods); (ii) representatives of Supplier and Purchaser will meet as soon as practicable for the purpose of agreeing the measures to be taken by Supplier in order to remedy issues arising from such defects or non-conformity; and (iii) Purchaser will be entitled to demand the cessation of the production of the Goods forthwith, to require the withdrawal of the Goods from the market and to require the destruction of the Goods, as determined by Purchaser. Not only for the reasons described above, in the event that Purchaser at its own discretion initiates a recall, withdrawal or destruction of Goods (or products containing the Goods), or a recall is ordered or recommended by governmental authorities having jurisdiction, Supplier will fully cooperate and share all information with Purchaser. All recall related expenses (e.g. cost of transporting, storing, managing and destroying the recalled Goods or the products containing the Goods), as well as all the damages incurred by Purchaser, its Affiliates or affected third parties, will be borne and compensated by Supplier to the extent the cause of the measure, problem or recall is due to any breach by Supplier of its obligations or warranties hereunder or any negligent or unlawful act of Supplier, its employees, agents, contractors or representatives.

16. Purchaser's Materials. Any material owned by Purchaser or any of its Affiliates which Purchaser may deliver to Supplier, or which may come to Supplier's possession in relation to this PO will remain at all times the exclusive property of Purchaser. These materials may include any kind of print tools or matrix, graphics, drawings, models, photographs, software, equipment, packaging, products, prototypes, samples, raw materials, ingredients, or promotional materials. In connection with such materials, Supplier will: (i) exclusively use the materials to perform its obligations under this PO; (ii) return them to Purchaser upon request or upon completion or termination of this PO; (iii) hold them in safe custody and identified as Purchaser's property, at Supplier's own risk and not transfer or otherwise disclose them to any third party; (iv) maintain the materials in good condition until returned to Purchaser; (v) not dispose of them or use them other than in accordance with Purchaser's written instructions; and (vi) not reverse engineer, decompile, fractionate, replicate, reprocess or partition them or cause them to be reverse engineered, decompiled, fractionated, replicated, reprocessed or partitioned.

17. Intellectual Property. Supplier understands that any IPR owned by, or licensed to Purchaser or its Affiliates ("Purchaser IPR") are valuable assets. Any Purchaser IPR shared with Supplier in connection with this PO will be used by Supplier only on Goods or Services provided under this PO. In order to ensure preservation of Purchaser's IPR, Supplier undertakes not to sell or otherwise distribute Goods or Services (including but not limited to, deliverables) bought under this PO that use any Purchaser's IPR to anyone other than Purchaser or its Affiliates without Purchaser's prior written approval. No provision of this PO will be interpreted as granting any explicit or implicit license, title or other right over Purchaser IPR to the benefit of Supplier, unless established in this PO or, subject to Article 1 of this PO, otherwise expressly mutually agreed in writing. Supplier hereby waives for the benefit of the Purchaser and its Affiliates and their respective successors and assigns and agrees not to exercise or enforce any and all moral rights in respect of all Goods, Services and Supplier's IPR. Supplier agrees that all IPR developed in the performance of this PO or at the request of Purchaser, related to Purchaser's products, formulation, packaging, technology, processes, Specifications or other Purchaser's IPR or Confidential Information, including any improvements or modifications thereof ("Developed IPR") will be the exclusive property of Purchaser or its respective Affiliates (such rights to include, without limitation, the right to register protection for that Developed IPR). To the extent the Developed IPR does not vest automatically in Purchaser, Supplier hereby irrevocably assigns to Purchaser (or its respective Affiliates) all right, title and interest in and to all such Developed IPR, and will execute, and will cause its employees to execute, all documents which may be necessary to give effect to this provision. Supplier agrees to provide to Purchaser in writing full and complete information and documents related to the Developed IPR, in the format and language specified by Purchaser. Supplier undertakes: (i) not to use directly or indirectly the Developed IPR for any purpose other than the performance of this PO, unless it has obtained the prior written consent of Purchaser; and (ii) to keep the Developed IPR confidential and not to register any protection for the Developed IPR. Supplier warrants that any Goods or Services (including but not limited to, deliverables generated, made, conceived, developed or written by or on behalf of Supplier (either individually or in collaboration with others) under this PO, including any tangible and intangible work product, sketches, drawings, designs, pictures, films, photos, images, recordings, videos, music, plans, technical drawings, inventions, discoveries, improvements, know-how, computer programs, including any source and object codes, and any other creation or documentation), will be original work, and that all works generated and the provision of the Goods or the Services under this PO and the use or exploitation of the Goods or Services, including but not limited to, the deliverables by Purchaser or its Affiliates will not infringe or violate any rights of third parties including any IPR belonging to third parties. Any IPR owned by, or licensed to, Supplier or its Affiliates prior to this PO or developed independently from this PO ("Supplier's IPR") is and will remain the exclusive property of Supplier. If any Supplier's IPR, including any software, source code or object code, are necessary for the utilization of the Goods or the Services by Purchaser or its Affiliates, Supplier hereby grants Purchaser and its Affiliates a worldwide, non-exclusive, fully paid up, irrevocable, transferrable, and sublicensable perpetual license to use such rights to the extent necessary to fully exploit or use the Goods or the Services. Supplier represents that it has fully investigated all Specifications and, based upon such investigation and its past experience and superior knowledge with respect to the Goods or the Services, Supplier has determined that the production thereof in accordance with such Specifications or the use or exploitation thereof will not infringe or violate any IPR of any third party. Supplier will indemnify, defend, and hold Purchaser and its stockholders, Affiliates, officers, directors, agents and employees (the "Purchaser Indemnitees") harmless from any and all claims, demands, costs and liabilities, including attorneys' fees and legal expenses, arising out of any actual or alleged infringement or claim of infringement, or violation, of third party IPR. If Purchaser at its own discretion so requires, Supplier will assume, at Supplier's cost, the defense of Purchaser and

Purchaser Indemnitees. In no event will Purchaser or its Affiliates be liable to Supplier for any IPR infringement or claim thereof; and, in the event Purchaser or its Affiliates is or are enjoined from the operation, use or sale of the Goods or the Services pertaining thereto or to any part thereof covered by this PO, Supplier will, at its sole expense, take all responsible steps possible to procure for Purchaser and its Affiliates the right to operate, use and sell the Goods or the Services referred above. If Supplier cannot so procure the aforesaid rights within a reasonable time, Supplier will then promptly, at Supplier's sole expense: (i) modify said Goods or Services, or any part thereof, so as to avoid infringement of any IPR; (ii) replace said Goods or Services or any part thereof with Goods or Services which do not infringe or violate any such IPR; or (iii) remove said Goods or Services or any part thereof, and refund any payment made by Purchaser to Supplier and any transportation costs and other expenses that may have been paid or incurred by Purchaser in connection with the Goods or the Services, or any part thereof, so removed. In the case where it would not be possible, Purchaser may terminate the PO, without prejudice to the rights previously acquired and to the damages and interests to which Purchaser and Purchaser Indemnitees could be entitled to. Supplier will ensure that rejected, waste and scrap materials that bear any Purchaser IPR (including packaging) will be destroyed and disposed of according to Purchaser's instructions, in a manner which will absolutely preclude re-use. Supplier will not sell packaging materials bearing Purchaser IPR to third parties or use them for any purpose other than the performance of its obligations under this PO. Unauthorized sales or use of said packaging material is expressly forbidden.

18. Termination. This PO will be valid and effective during the term set forth in the face of this PO, unless sooner terminated as provided herein. In addition to other causes mentioned in this PO, Purchaser will have the right to terminate this PO and any or all other POs between Purchaser and Supplier in whole or in part, without penalty, for any of the following specific reasons: (i) insolvency or bankruptcy of, or assignment for the benefit of creditors, or dissolution or cessation of business, by Supplier; (ii) failure of Supplier to perform or comply with any provision of this PO including a breach of any of the warranties set forth in this PO which is incapable of remedy or which, if capable of remedy, has not been remedied within 15 working days of service of a written notice from Purchaser specifying the breach and requiring it to be remedied; (iii) if, in Purchaser's sole opinion, Supplier damages or may damage Purchaser's (or its affiliates' or licensors') brands, goodwill or reputation, or any other Purchaser IPR, or should Purchaser be dissatisfied on reasonable grounds with the way Supplier is handling its business and if Supplier does not take, in Purchaser's sole opinion, steps necessary to remedy such situation within the designated period of time after notice thereof is given by Purchaser in writing; (iv) if Purchaser decides to modify its sourcing strategy, business model or requirements; or (v) if Supplier disposes in whole or in part of its business (other than to its Affiliate) or if there is a publicly announced proposed or already consummated direct or indirect change of control of the legal or beneficial ownership of Supplier. Purchaser may also terminate this PO without cause, in whole or in part, without penalty, upon giving Supplier at least 30 days' prior written notice. Purchaser will have no liability or obligation whatsoever to Supplier by reason of or resulting from such termination; but, at Purchaser's sole discretion, Purchaser may pay Supplier its actual direct out-of-pocket costs of performance hereunder to the date of such termination, as approved by Purchaser, in which event, the finished Goods, completed Services or any work-in-progress as of the date of termination will become the property of Purchaser and Supplier will safely hold the same for a reasonable period of time subject to receipt of Purchaser's written shipping or other disposition instructions. The rights of termination mentioned above will be in addition to Purchaser's other legal rights and recourses whether set forth in this PO or not, including those established in the Master Agreement (if existing). In the event of termination of the PO, regardless of its cause, Supplier will provide such assistance as Purchaser reasonably requires allowing any successor appointed by Purchaser to take over Supplier's obligations under this PO. The termination of this PO, regardless of its cause, will be without prejudice to the rights and duties of Purchaser accrued prior to termination. Any provisions of this PO which expressly or implicitly have effect after termination, or that by their nature extend beyond termination of this PO, including, without limitation, those provisions relating to warranty, confidentiality, and indemnity, will survive such termination.

19. Indemnity. Supplier will indemnify, defend, and hold Purchaser and Purchaser Indemnitees harmless from any and all actual or alleged claims, demands, causes of action, losses, damages, liabilities, expenses, reasonable attorney fees or obligations of any kind whatsoever (including of federal, national, state provincial or local governments or any agencies or subdivisions thereof) including, but not limited to, damage or destruction of property, personal injury or death, for loss of profits, loss of production, production interruptions and contract penalties, resulting from or connected with, directly or indirectly, in whole or in part, Supplier's performance under this PO or resulting from any default or other breach by Supplier (by

action or omission) of its obligations or warranties under this PO. If Purchaser so requires at its own discretion, Supplier will assume, at Supplier's cost, the defense of Purchaser and Purchaser Indemnitees.

20. Insurance. Supplier will maintain, throughout the term of Supplier's performance under this PO, insurance coverage as follows: (a) Workers' Compensation insurance with statutory limits; Employers Liability insurance including occupational disease with limits of not less than \$2,000,000 per accident, \$1,000,000 per employee for disease; (b) Commercial General Liability insurance including Contractual Liability covering Supplier's indemnity obligations in this PO, with minimum primary limits of not less than \$5,000,000 per occurrence (CGL insurance will be written on a standard ISO occurrence form or a substitute form providing equivalent coverage); (c) Commercial Automobile Liability Insurance, with minimum primary limits of not less than \$2,000,000 combined single limit per accident; such insurance will cover liability arising out of use of an auto (including owned, hired, and non-owned autos); business auto coverage will be written on a standard ISO form or a substitute form providing equivalent liability coverage; (d) Errors & Omissions (E&O) insurance including intellectual property infringements covering Supplier's indemnity obligations in this PO with minimum primary limits of not less than \$5,000,000 per claim; (e) Excess/Umbrella Liability Insurance in the amount of \$5,000,000 covering the risks and in excess of the following limits as described above; and (f) any insurance required by the applicable Laws. All insurance must be obtained by Supplier from reputable and solvent insurance companies. Upon request by Purchaser, Supplier will promptly provide Purchaser with the applicable certificates of insurance, as well as with proof of payment of the premiums. No insurance coverage will release Supplier from its liabilities, nor be considered or construed as limitations of such liabilities. Supplier shall cause Purchaser to be named as an additional insured under the above policies (other than those specified by subclause (a)), and shall upon request provide Supplier with a certificate of insurance evidencing such coverage, which shall be (i) primary and not contributory; and (ii) not cancellable without 30 days' prior notice to Purchaser.

21. Force Majeure; Contingency Planning. Neither Purchaser nor Supplier will be liable for the failure to perform or delay in the performance of its obligations under this PO, to the extent such failure or delay is caused by or results from a Force Majeure Event. The party affected by the Force Majeure Event will immediately notify the other party, describing the circumstances of the Force Majeure Event, and will promptly notify the other party when the Force Majeure Event (or its impact on such party) has been abated. The affected party will not be held liable by the other party for such non-performance or delay as long as the fact of the occurrence of such Force Majeure Event(s) is duly proven or is reasonably provable. If Supplier's performance is delayed or hindered due to a Force Majeure Event, Purchaser will not be obligated to pay any price to Supplier in respect of any Goods or Services not actually supplied or rendered. In case of a Force Majeure Event, Purchaser will have the right to defer the date of delivery of the Goods or the Services or to cancel this PO or reduce the volume of Goods or amount of Services. Purchaser will not be liable to Supplier for any costs or expenses incurred by Supplier as a result of any Force Majeure Event. However, if the delay in performance exceeds 30 days, the party awaiting performance will be permitted to terminate this PO upon 5 days' prior written notice to the other party, with no further obligation to the party claiming excusable delay other than reimbursement of any prepayments made for Goods or Services not actually supplied or rendered, as applicable. The failure, default or delay will not be excused if: (i) the prevention of the same is an obligation under this PO; (ii) the non-performing party or its personnel are at fault in causing the delay or failure to perform; (iii) the default or delay could have been anticipated, prepared for, or prevented by the use of reasonable precautions commonly employed by persons and entities in the business of the affected party; or (iv) the delay or failure to perform can be reasonably circumvented by the non-performing party through the use of alternate sources, workaround plans or other means.

22. Personnel. Where specific Supplier personnel has been designated in the PO to perform the Services, such individuals may not be substituted by Supplier without the prior written approval of Purchaser.

23. Confidentiality. Supplier acknowledges that in the course of providing the Goods or the Services hereunder, it may be exposed to or receive certain information deemed to be confidential or proprietary by Purchaser or its Affiliates (or their suppliers or consultants), including but not limited to the Specifications, information relating to Purchaser's manufacturing processes, equipment and know-how, technologies, ingredients, recipes, procedures and standards, information concerning the production and packaging of Purchaser's products or other information (hereinafter collectively referred to as "Confidential Information"). Supplier agrees that all such Confidential Information will be retained by Supplier and its personnel, agents and representatives as strictly confidential, not disclosed to any third party and will only be used in connection with the performance of this PO. In such event, Supplier will ensure that such personnel, agents, representatives or subcontractors are subject to the same obligations of confidentiality. Supplier will not

disclose to any third party any Confidential Information obtained by it while serving as a supplier to Purchaser, unless and only to the extent compelled by order of a court or regulatory body of competent jurisdiction. Supplier will promptly notify Purchaser of any such order to allow Purchaser an opportunity to interpose any objections it may have to such disclosure. Supplier will restrict the disclosure of the Confidential Information within its own organization to those persons who are directly concerned therewith and who have been informed of Supplier's obligations hereunder. Supplier agrees that upon ceasing to serve as a supplier to Purchaser, or when requested by Purchaser, Supplier will return to Purchaser and not retain any copies of Confidential Information, or any drawings, blueprints, or other such reproductions. In the absence of written authorization from Purchaser, Supplier must not mention its business relations with Purchaser or use Purchaser IPR or Purchaser's name in any advertising, promotion video, website, leaflet or publication, or in any other form. Supplier and its personnel, agents and representatives will maintain the confidentiality of passwords, if any, for information system access provided to them by Purchaser. The sharing of passwords is strictly prohibited. Supplier will not allow any photographs, negatives, cine films, video recordings, copies, sketches or notes to be made of Purchaser's plant, equipment, products or processes or any part thereof. The provisions of this Article will survive the expiration or termination of this PO.

24. **Data Protection.** Supplier will comply at all times with all applicable data protection Laws, and in particular will implement appropriate technical and organizational measures and adequate security programs and procedures to protect any personal data provided by Purchaser against accidental, unauthorized or unlawful loss, alteration, disclosure, access or processing.

25. **Audit Rights.** Purchaser will be entitled on reasonable notice to Supplier to access by itself or its representatives (including authorized third party) relevant Supplier sites where Goods are being processed, produced or packaged, or Services are being performed, for the purpose of ensuring Supplier's compliance with this PO, the applicable Laws. Supplier will make available on such occasions its applicable written records, grant Purchaser access to relevant raw materials, packaging materials, supplies and associated production and warehousing facilities. Purchaser and its representatives will be entitled to monitor production procedures during working hours and to take samples. The audits will in no way release Supplier from its obligations or liabilities. Prior notice will not be necessary when public health or food safety are at risk. If an audit reveals that Supplier has not met its obligations, duties, warranties or undertakings, under this PO, or has otherwise breached this PO, Purchaser may, at its sole discretion: (i) immediately terminate this PO, in whole or in part, without penalty; or (ii) grant Supplier a reasonable grace period to rectify the findings. In the latter case, if Supplier fails to rectify the findings within the provided period, Purchaser will be entitled to immediately terminate this PO for cause, in whole or in part, without penalty, in addition to any other available remedies. For purposes of protecting Purchaser IPR, Purchaser will have the right to monitor the status of packaging materials bearing such intellectual property, designs and printing tools in the possession of Supplier or its subcontractors. Supplier acknowledges Purchaser's right to enter and audit Supplier's and its subcontractors' facilities and premises without prior notice, for the purpose mentioned above.

26. **Froneri Policies.** Supplier warrants that it has carefully reviewed and understood and will fully comply at all times with the latest version of the Froneri Supplier Code. A copy of the Froneri Supplier Code can be obtained from your Froneri/Dreyer's, as well as any other policy informed by Purchaser to Supplier from time to time. Supplier will ensure that all of its suppliers comply with the policies mentioned above.

27. **Changes.** Purchaser will have the right to make changes in this PO in any one or more of the following: (i) Specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance or point of delivery; and (iv) delivery schedule. Supplier will notify Purchaser in writing within 7 days of receipt of such change notice if Supplier desires any adjustment in the price or time of performance of this PO on account of said change notice, and such adjustment in price or time of performance will be binding only upon the written agreement by Purchaser. Failure of Supplier to give such notice will constitute acceptance by Supplier of the terms of the change notice and Supplier's agreement to complete this PO as changed without adjustment in price or delivery dates and to be bound by all other obligations of this PO.

28. **Taxes.** Supplier shall not charge sales tax or VAT with regard to any Goods being purchased for incorporation in Purchaser's finished goods; and Purchaser will provide Supplier with a resale tax identification number upon request. Supplier shall not charge or include sales tax, VAT or any other withholding taxes on the Goods or Services, unless set forth on the face of the PO (including by reference, e.g. "plus applicable taxes"). For the purposes of this paragraph, withholding taxes are defined as any withholding tax or other deductions and obligations imposed by whatever legal, governmental or other authority to payments made by Purchaser to Supplier.

29. Notices. Any notice or other communication required or permitted to be given pursuant to this PO will be deemed to have been sufficiently given if in writing and addressed to the domiciles indicated on the face of this PO. Purchaser and Supplier may, by notice as aforesaid, designate a different address for notices or other communications intended for it. Any notice contending the other party is in breach of this PO, or purporting to terminate this PO, must be sent by reputable private delivery service requiring a signature; and if originating and being delivered in the United States must be via overnight delivery, and otherwise must be sent so as to be received within 5 business days.

30. Applicable Law and Jurisdiction. This PO and any instruments executed pursuant to the terms of this PO, will be governed by and construed in accordance with the laws of Delaware, excluding its conflict of laws principles. The prevailing party in any dispute will be entitled to reasonable attorneys' fees and court costs. Any litigation initiated by either party against the other for matters related to or arising in under or connection with this PO must be brought in a state or federal court of competent jurisdiction in Oakland, California, where Purchaser is headquartered. Purchaser hereby waives any objections to jurisdiction in Oakland, California, including on account of the non-convenience of the forum. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to Goods purchased under this PO.

31. Foreign Corrupt Practices Act. Supplier, for itself and its employees, agents and intermediaries, agrees that they will: (i) at all times comply with the U.S. Foreign Corrupt Practices Act, and other applicable anti-bribery laws; (ii) not pay or offer to pay, and will not permit or suffer any agent, intermediary or employee to pay or offer to pay, directly or indirectly, any money or thing of value, to any official of the government of any nation or political subdivision thereof, or any of their agencies, instrumentalities, corporations or ventures, or to any political party, official thereof, or any candidate, for the purposes of influencing the acts, omissions or decisions, in an official capacity, of such official, party or candidate in violation of his/her or its lawful duty or inducing him/her or it to exercise his/her or its influence to affect or influence any act or decision of such government or instrumentality or to obtain or retain business for the other party in violation of the U.S. Foreign Corrupt Practices Act or Corruption of Foreign Public Officials Act (Canada), as applicable, or other applicable anti-bribery laws; and (iii) immediately notify Purchaser should they become aware of information that suggests a possible violation of the U.S. Foreign Corrupt Practices Act or Corruption of Foreign Public Officials Act (Canada), as applicable, has occurred.

32. Nondiscrimination. As applicable, Supplier will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, creed, national origin, disability, sexual orientation, gender, gender identity or veteran status. Supplier will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, creed, national origin, disability, sexual orientation, gender, gender identity or veteran status. Such action will include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Supplier will comply with the Equal Opportunity Clause contained in Section 202 of Executive Order 11246, as amended, relating to equal opportunity for all persons without regard to race, color, religion, sex or national origin, the Affirmative Action Clause contained in 41 C.F.R. Chapter 60 250 4 relating to affirmative action obligations to disabled veterans and to veterans of the Vietnam Era and the Affirmative Action Clause contained in 41 C.F.R. Chapter 60 741 4 relating to affirmative action obligations to handicapped workers, and the implementing rules and regulations of the Secretary of Labor (41 C.F.R. Chapter 50), whose terms are incorporated herein by reference. Further, Supplier will take appropriate action to support the principles in Purchaser's equal opportunity employment/affirmative action policies. Supplier will abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. Supplier will abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

33. No Child Labor. Additionally, Supplier will comply with all voluntary industry standards, codes or other obligations, including but not limited to, applicable health and safety standards for manufacturing operations. In this regard, Supplier specifically agrees: (a) not to use child labor in the manufacturing or packaging of any goods (it being understood that the term "child" herein refers to a person younger than the age of completing compulsory education, but in no case will any child younger than fourteen years of age be employed in the manufacturing of goods); (b) to provide its employees with a safe and healthy workplace in compliance with all applicable laws and standards, and to provide Purchaser with all

information Purchaser may request about manufacturing or packaging facilities for the goods; and (c) to only employ persons whose presence is voluntary, and not to use prison labor, corporal punishment or other forms of mental or physical coercion as a form of discipline of its employees.

34. Trade Control Laws. Supplier will comply with all applicable export control, import, customs and economic sanctions laws and regulations of the United States and other governments (collectively, "Trade Control Laws") in the performance of this order and in the import, export, re-export, shipment, transfer and use of the goods which are the subject of this order, any materials used in such goods, or any related technical data. Trade Control Laws include, but are not limited to, the U.S. Export Administration Regulations, the Customs Modernization Act of 1993, Foreign Trade Regulations and the economic sanctions rules and regulations implemented under statutory authority and/or President's Executive Orders and administered by the U.S. Treasury Department's Office of Foreign Assets Control and any export or import requirements imposed by the U.S. Food and Drug Administration. Supplier specifically agrees that it will not export, re-export, import or otherwise transfer, directly or indirectly through any third parties or otherwise, the goods which are the subject of this order, any inputs or materials used in such goods or any related technical data to or from, or originating in, or for use within, Cuba, Iran, Myanmar (Burma), North Korea, Sudan or Syria or any other country that is designated as a sanctioned country by the U.S. Government or to, from or for use by any party included on, or owned or controlled by and party included on, any of the restricted party lists maintained by the U.S. Government, including, but not limited to, the Specially Designated Nationals List administered by the U.S. Treasury Department's Office of Foreign Assets Control and the Denied Persons List, Unverified List or Entity List maintained by the U.S. Commerce Department's Bureau of Industry and Security. In the case of Goods originating outside of the United States, Supplier shall be the importer of record and responsible for all duties, tariffs, import taxes, customs fees, and similar costs and fees, and responsible for taking all actions necessary to clear customs.

35. Additional Compliance. If the Goods or any part thereof shipped pursuant to this PO are or include any "food", "drug", "cosmetic", "device", "meat" or "poultry" containing item as either or any of said terms may be mentioned and defined in the applicable Federal Food, Drug and Cosmetic Act, the Federal Meat Inspection Act or the Federal Poultry Inspection Act or their Canadian counterparts and as any of the same may be amended, from time to time, (the aforementioned applicable U.S. and Canadian laws together with any amendments, rules or regulations pertaining to the same are collectively and severally hereinafter referred to as the "Act"), Supplier specifically undertakes, certifies, guarantees and warrants to Purchaser with respect to any and all such food, drug, cosmetic, device and meat or poultry containing items (jointly or severally hereinafter the "Items") shipped or delivered to Purchaser in performance of this PO that Supplier is in compliance with the applicable U.S. or Canadian Act and all other applicable national, federal, state, provincial, and local laws, executive orders, rules and regulations pertaining to any such Items, including without limitation the U. S. Food and Drug Administration ("FDA") Food Safety Modernization Act (and any and all regulations which may be promulgated thereunder). Supplier will give Purchaser written notice as far in advance as reasonably practicable, and (a) in no event less than thirty (30) days in advance, of any change in any raw material or ingredient, or any process or method, used in the manufacturing or processing of any of the Items that could reasonably affect compliance with the Act or other applicable laws; and (b) in any event promptly upon its receipt of notice in any form or medium from the FDA, of any inspection that the FDA proposes to conduct or conducts of any facility in which Supplier manufactures or processes any such Items. Further, Supplier certifies, guarantees and warrants to Purchaser that any Items sold to Purchaser hereunder have been processed or produced in accordance with the applicable U.S. or Canadian Act and are not adulterated, misbranded or mislabeled within the meaning of the applicable U.S. or Canadian Act nor do such Items contain any ingredient, color additive, chemical or element which has not been disclosed as an ingredient of such Items to Purchaser and which has not been duly approved or certified for inclusion within such Items by all appropriate national, federal, state, provincial, and local government authorities having jurisdiction or authority over such Items. Supplier agrees to use reasonable efforts to seek independent certification that Supplier's food safety and quality management system complies with international and domestic food safety regulations. Supplier will provide Purchaser with a copy of such certification, or any denial of such certification, issued by the independent certification entity or body promptly upon receipt by Supplier.

36. Debarred Person. Supplier represents and warrants to Purchaser that neither Supplier nor any person directly or indirectly employed or retained by Supplier in connection with this PO or any Services performed or Goods provided hereunder has been debarred under Section 306 (a) or 306 (b) of the Federal Food, Drug and Cosmetic Act, or has been debarred, suspended, or declared ineligible to participate by any federal agency (in each case a "Debarred"); and no Debarred person will in the future be directly or indirectly

employed or retained by Supplier in connection with any work to be performed for or on behalf of Purchaser. If, at any time after issuance of this PO, Supplier becomes aware that Supplier or any person employed by Supplier in connection with this PO or any Services performed or Goods provided hereunder has become or is in the process of being Debarred, Supplier must immediately notify Purchaser in writing.

37. Financials. Supplier will, upon request by Purchaser, furnish to Purchaser copies of the latest available audited financial statements for Supplier. If audited financial statements are not available, Supplier will furnish to Purchaser its tax returns for the prior 2 years. Unless available to the public, Purchaser will not disclose to any third party such financial statements or tax returns unless their disclosure is required by law.

38. Relationship. Supplier will at all times be an independent contractor and not an agent, partner, joint venturer or employee of Purchaser, and nothing contained herein will be deemed as creating any employee/employer, partnership or joint venture relationship between Purchaser and Supplier or between Purchaser and any Supplier personnel. Neither Supplier nor its personnel will have any authority to bind or commit Purchaser to any obligation or agreement, or act as the agent of Purchaser in any respect. Supplier acknowledges and understands that it and its personnel are each an independent contractor for all purposes, including liabilities imposed under the Patient Protection and Affordable Care Act, any national, federal, state, provincial, and local income taxes, Social Security and Medicare contributions, any Federal and State unemployment insurance and similar taxes, and all other assessments, taxes, contributions or sums payable with respect to Supplier and any Supplier personnel as a result of or in connection with the Services performed and Goods provided under this PO. Additionally, Supplier acknowledges specifically that Purchaser and Purchaser Indemnitees will not be liable for any accidents of any kind, nor for damages, professional diseases or death of the personnel of Supplier or its subcontractors appointed to carry out the activities related to the performance of this PO.

39. Supplier Management Database. At Supplier's sole cost and expense, Supplier must enroll, and maintain such enrollment at all times during the term of Supplier's performance under this PO, in an online contractor and supplier management database ("Supplier Management Database") designated by Purchaser which automates the evaluation and management of certain Supplier information. Supplier hereby consents to disclosing to Purchaser (and its outside third-party consultants) all such Supplier information stored or made available in the Supplier Management Database. Supplier must maintain at all times a satisfactory minimum score in the Supplier Management Database equivalent to grade "C" or higher. To the extent Supplier fails to maintain the minimum score outlined herein, Purchaser shall have the option, but not obligation, to terminate this PO, in whole or in part, without penalty, upon providing Supplier prior written notice.

40. Miscellaneous. (i) Except to the extent otherwise set forth in this PO, this PO may be modified only if agreed to in writing by both Purchaser and Supplier. In the event there is a conflict between the terms and conditions on the face of this PO and those in this PO, the terms on the face will control; (ii) the invalidity, in whole or in part, of any provision of this PO will not affect the validity or enforceability of any other of its provisions; (iii) the waiver by Purchaser of any term, condition or provision herein stated will not be construed to be a waiver of any other term, condition or provision hereof, nor will such waiver be deemed a waiver of subsequent breach of the same term, condition or provision, nor will it be deemed a waiver of any provision in any subsequent order; (iv) Supplier will not delegate any duties, or assign or transfer any rights or claims under this PO without the prior written consent of Purchaser, and any such delegation, assignment or transfer without such prior written consent will be null and void. Any consent from Purchaser to such transfer will in no way relieve Supplier of its responsibilities. Purchaser may assign, transfer or delegate its rights and obligations under this PO, including its proprietary rights, in whole or in part, as well as its position as a party, to any party, including, without limitation, any Affiliate now or hereinafter existing, which assignment will be deemed effective upon notice to Supplier of such assignment; (v) Supplier will at all times be solely responsible for the acts or omissions of its agents, subcontractors and sub-tier suppliers and will assume sole responsibility for their performance. Supplier will manage its agents, subcontractors and sub-tier suppliers, enforce their compliance with Purchaser's standards and purchase materials, pay, and resolve all disputes with them; (vi) for work on Purchaser's premises, Supplier will abide by Purchaser's safety and security rules and regulations then in effect for said premises. Any failure by Supplier's personnel to do so may result in Purchaser instructing Supplier immediately to stop the work, remove such personnel from Purchaser's premises, in which case, Supplier will provide a suitable replacement at no extra cost to Purchaser, or, in addition to all other rights and remedies, immediately terminate this PO, in whole or in part, without penalty. Supplier will not make the time lost due to this situation the subject of a claim for extension of time or for additional costs or damages by Supplier. Supplier will keep the premises and work free and clear of all liens, and the work will remain at Supplier's sole risk prior to written acceptance by Purchaser;

(vii) Purchaser hereby reserves all its other legal or equitable rights and remedies; (viii) if Supplier is part of a partnership or comprise more than one entity, Supplier' s liabilities hereunder will be joint and several among those entities, and any notice served on one will be binding on them all; (ix) Supplier warrants that there are no commitments or other circumstances that will inhibit it from providing Services or delivering the Goods to Purchaser (including any conflicts of interest) as set out herein. Supplier will notify Purchaser, in writing, immediately upon becoming aware of the existence or possibility, of a conflict of interest. Purchaser will decide, at its sole discretion, the course of action after said notice; (x) Supplier will immediately inform Purchaser in writing of: (a) any breach or incident related to environmental Laws or environmental protection, occurred during the performance of this PO, and (b) any inspection or administrative procedure related to Supplier' s activity or its impact to the environment, which may have any effect or consequence on the execution of this PO; (xii) nothing herein will be construed as granting exclusivity to Supplier in the supply of Goods or Services; and (xiii) this PO and the attachments and documents incorporated herein or referred to on the face of this PO constitute the entire contract and understanding between the parties hereto and supersede all prior representations, understandings and agreements relating to the subject matter hereof.