

## SMITHFIELD PURCHASE ORDER STANDARD TERMS AND CONDITIONS

1. **Acceptance.** These Standard Terms and Conditions constitute the terms and conditions of the Purchase Order between Smithfield Foods, Inc. or any of its subsidiaries identified on the Purchase Order (“BUYER”) and the selling party identified on the Purchase Order (“SELLER”). Each Purchase Order of BUYER is subject to these Standard Terms and Conditions. Such Purchase Order becomes a contract, subject to the terms and conditions of this Agreement, when acknowledgement has been signed and returned by the SELLER or upon commencement of performance by SELLER; provided, however, that failure of such Purchase Order to become a contract shall not relieve SELLER of any liability, or deprive BUYER of any rights or remedies, pursuant to the this Agreement for SELLER’s failure to sign and return such an acknowledgement or to commence such performance, unless such failure is excused under the terms of this Agreement.

2. **Completion.** Time is of the essence. If the Product and/or Services (“collectively the “Products”) are not delivered by the date, if any, stated in the Purchase Order, BUYER may, without liability and in addition to its other rights: (a) terminate or reschedule such Purchase Order by notice to SELLER effective upon receipt as to goods not yet shipped and/or services not yet rendered; and/or (b) buy substitute PRODUCTS elsewhere and charge SELLER for costs incurred for all or part of the price for substitute PRODUCTS.

3. **Shipment/Risk of Loss/Records.** SELLER shall prepare and pack for shipment all goods in accordance with good commercial practices. BUYER will not pay charges for packing, crating, shipping or delivery, unless otherwise stated herein. If SELLER must ship in a more expensive manner than specified herein to comply with BUYER’s required delivery date, SELLER shall pay all increased costs unless BUYER solely causes the necessity for, and agrees in writing to pay, the increased costs. SELLER shall be responsible and bear the risk of loss or damage for the goods covered by such Purchase Order until they are delivered at the designated delivery point and accepted by BUYER, regardless of the point of inspection or transfer of title. SELLER shall maintain manufacturing and shipment records for at least two (2) years from the date of SELLER’s shipment, and BUYER shall have access to such records upon reasonable prior notice.

4. **Warranties/Compliance with Laws.** SELLER expressly warrants and represents to BUYER, its successors, assigns, customers and users of BUYER’s products, that all PRODUCTS shall: (a) conform to the terms of the Purchase Order and/or all applicable samples, drawings, standards, specifications, performance criteria and any other description requested, furnished or provided to or adopted by BUYER; (b) be free from (i) defects in material and workmanship, (ii) defects in design and (iii) mechanic’s, materialmens’ and other liens; (c) be merchantable, safe and appropriate for the purpose for which PRODUCTS of this kind are normally used; (d) together with their packaging, labeling and accompanying materials be properly contained, packaged, marked and labeled; (e) be suitable for the purposes, if any, stated in the Purchase Order; (f) not infringe the rights of any third parties; and (g) with respect to services, be performed diligently in a good and workmanlike manner to the highest professional standards. In addition, SELLER shall comply and the PRODUCTS shall comply and/or be performed in compliance with all applicable federal, state and local laws, ordinances, orders, rules, actions, regulations and industry standards. SELLER further warrants and represents that no liens, encumbrances, security interests or other third party claims shall attach to any property owned or leased by BUYER in relation to SELLER’s performance hereunder and that SELLER has all right, title and interest in the goods to grant to BUYER the rights and licenses contained herein. SELLER shall provide a Certificate of Analysis (“COA”) for all goods purchased by BUYER, and SELLER shall comply with all requirements of BUYER’s Supplier Quality Expectations Manual, as amended by BUYER from time to time. If SELLER’s employees or agents enter any of Buyer’s facilities, they shall agree to follow all of Buyers policies and procedures related to safety. Seller warrants that it will adhere to the principles set forth in the Smithfield Suppliers Code of Conduct. A current copy of which is set forth hereafter.

5. **BUYER’s Rights.** BUYER’s inspection, testing, payment or use of the PRODUCTS shall not constitute acceptance thereof and shall not affect SELLER’s obligations and warranties set forth herein, which shall survive BUYER’s inspection, testing, acceptance and/or use. Payment for PRODUCTS prior to inspection shall not constitute acceptance and is without prejudice to any claims. BUYER may reject or revoke acceptance of

any PRODUCTS that are, in BUYER's judgment, defective and/or do not conform to the terms of the Purchase Order ("non-conforming PRODUCTS") at any time. In addition to any other rights available to BUYER, upon BUYER's rejection or revocation of acceptance of PRODUCTS or SELLER's failure to meet the terms of the Purchase Order in whole or in part, BUYER shall, in its sole discretion, direct SELLER to, at SELLER's sole cost and expense: (a) refund to BUYER the price of such PRODUCTS as well as any costs incurred by BUYER in relation thereto; or (b) upon a written replacement order from BUYER, replace or correct any such PRODUCTS at no additional cost to BUYER within seven (7) days of BUYER's demand; or (c) credit BUYER's account with an amount equal to the amount paid for such PRODUCTS, as well as any costs incurred by BUYER in relation thereto. BUYER may also choose to replace any non-conforming PRODUCTS from any other source, and SELLER will reimburse BUYER for any incremental costs incurred by BUYER in connection therewith. In addition, BUYER may, at SELLER's risk, reject or return to SELLER non-conforming goods and/or good supplied in excess of the quantities ordered and may charge SELLER for all expenses related thereto. If SELLER fails to take any of the corrective action described herein, BUYER, upon notice to SELLER, may take such action and charge SELLER for all costs incurred by BUYER in relation thereto. BUYER's count as to the quantity of goods delivered shall be accepted as final and conclusive on all shipments that are not accompanied by a packing slip indicating the quantity delivered.

If any Product or any components, parts or materials used in the production of any Product are obtained from sources outside the United States, SELLER shall comply with all laws, regulations and codes and shall bear all costs, taxes, duties, risk and liability with respect to the importation of such items.

6. **Price/Invoices/Set-Off.** The price set forth in a Purchase Order is firm and is the total amount due from BUYER for the PRODUCTS, including without limitation duties, taxes or any other charges agreed upon by BUYER, subject to adjustment for any rebates or credits described herein. BUYER shall not be responsible for any amount above the total amount expressly stated in a Purchase Order. Without BUYER's prior written consent, SELLER shall not add any charges. To the extent no price or prices are set forth herein, SELLER's price shall be the lowest market price prevailing at time of either the quotation or shipment, whichever price is lower, and in no event may a Purchase Order be filled at prices higher than those last previously quoted or charged to BUYER without BUYER's consent. Invoices shall be submitted to BUYER immediately upon shipment of the goods or performance of the services. If BUYER has a claim against SELLER resulting from a Purchase Order or any other transaction, BUYER may deduct or set off disputed amounts from SELLER's claims for amounts due.

7. **Changes.** SELLER shall promptly inform BUYER in advance of any material change, intentional or otherwise, to the PRODUCTS, including without limitation, changes in composition, quality, specifications, manufacturing processes, labeling, functionality, safety, manufacturing locations, and any suppliers or subcontractors. Upon notice of any change, BUYER may cancel any Purchase Order. Any revisions to a Purchase Order, price or otherwise, must be in writing and approved by BUYER.

BUYER reserves the right at any time to make written changes within the general scope of a Purchase Order in any one or more of the following:

- (a) Specifications, drawings, and data incorporated in a Purchase Order where the items to be furnished are to be specially manufactured for the BUYER.
- (b) Methods of shipment or packing
- (c) Place of delivery
- (d) Time of delivery
- (e) Manner of delivery
- (f) Quantities

If any such changes cause an increase or decrease in the cost of or in the time required for the performance of a Purchase Order, an equitable adjustment shall be made in the contract price, or delivery schedule, or both. Any claim by SELLER for such an adjustment must be approved by BUYER in writing before SELLER proceeds with such change. Price increases shall not be binding on BUYER unless evidenced by a Purchase Order, change notice or revisions signed by BUYER.

8. **Indemnification.** SELLER, its parents and affiliates, shall defend, indemnify and hold BUYER and its officers, employees, agents, servants and other vendors harmless from and against any and all claims, demands, actions, causes of action, proceedings, judgments and other liabilities, obligations, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) of any nature (each, a "Claim") to the extent they are due to or arise from: (a) the breach of any representation, warranty or obligation contained in this Agreement by SELLER; or (b) the personal injury or death or property damage caused by goods furnished or services performed by SELLER, its subcontractors, agents or employees pursuant to a Purchase Order; or (c) alleged patent, copyright, trademark, trade dress, trade secret or other intellectual property right infringement or alleged unfair competition with respect to all or any part of the PRODUCTS. The foregoing indemnification obligations shall not apply to the extent any Claim is due to or arises from the negligence or willful misconduct of BUYER or other third party not an employee, agent, or otherwise under the control or direction of SELLER. In addition, SELLER hereby assumes all responsibility and liability for any and all damage, loss or injury of any kind or nature whatsoever to persons or property caused by or resulting from the performance of work provided for hereunder, or in connection therewith.

If any Claim is brought or threatened against BUYER under the terms hereof, at SELLER's expense, SELLER shall, upon notice from BUYER, assume the defense thereof and pay any and all costs, charges, attorney's fees and other expenses, and any and all judgments that may be incurred or obtained against BUYER, BUYER may be represented by and participate through its own counsel with respect to any Claim.

9. **Insurance.** During the term of this Agreement, SELLER shall, at its sole cost, have in effect and keep in force, insurance coverage which is primary and non-contributory as to any insurance maintained by BUYER, with insurance companies maintaining an A.M. Best rating of A- or better. Upon request, SELLER will furnish certificates of insurance to BUYER. BUYER shall be named as an additional insured on all such policies except the worker's compensation and employer's liability policies. All insurance shall also include waiver of subrogation provisions in favor of BUYER. The minimum insurance coverage to be maintained by SELLER shall be as follows: (a) commercial general liability insurance, including contractual liability, products/completed operations coverage and broad form vendor's coverage, with a limit of not less than \$5,000,000 combined single limit; (b) business automobile liability insurance, including coverage for owned, hired and non-owned automobiles, with a limit of not less than \$1,000,000 each accident; and (c) workers' compensation insurance with statutory limits, and employers liability insurance with limits of not less than \$1,000,000 per accident. All such certificates and policies shall include a provision whereby BUYER will be given thirty (30) days' advance written notice of the insurer's intention to cancel or materially alter such policies.

10. **Confidentiality/Publicity.** SELLER, its employees, agents and representatives, shall consider as BUYER's "Confidential Information" all non-public information provided by BUYER, all specifications or other documents prepared by SELLER in connection herewith, the fact that BUYER has contracted to purchase PRODUCTS from SELLER, and all other non-public information relating to a Purchase Order, including trade secrets, operating techniques and processes. Without BUYER's prior written consent, SELLER shall not (a) disclose or use Confidential Information for any purpose other than performing this Order, (b) announce, publicize or discuss with third parties the subject matter of this order, (c) include BUYER's name or trademarks in any marketing materials or (d) disclose that BUYER is SELLER's customer. The foregoing provisions shall be subject to the terms of any other written agreement executed by the parties relating specifically to confidentiality, non-disclosure and/or publicity.

11. **Termination for Convenience.** Upon notice to SELLER, BUYER may terminate this Agreement or any part hereof, at any time prior to any delivery hereunder, solely for its convenience, and in such case BUYER will only pay SELLER an amount equal to a percentage of the Purchase Order price reflecting the amount of work performed or goods delivered prior to SELLER's receipt of BUYER's notice. BUYER shall not pay for work performed after SELLER's receipt of the notice of termination, nor for any costs that SELLER could have reasonably avoided. Upon receipt of BUYER's notice, SELLER shall immediately stop and cause all suppliers and subcontractors to stop all performance hereunder.

12. **Termination for Cause.** In addition to BUYER's other rights and without liability, upon notice to

SELLER, BUYER may terminate this Agreement, or any part hereof, for cause in the event of any default by SELLER of the terms and conditions of this Agreement, including, without limitation, no delivery, late delivery, delivery of nonconforming or defective goods, and/or SELLER's failure to provide BUYER, upon request, with reasonable assurances of future performance. BUYER may also terminate for cause hereunder if SELLER becomes insolvent, is adjudicated bankrupt, files a voluntary petition in bankruptcy, makes an assignment for the benefit of creditors or seeks protection from creditors under any applicable laws. Upon receipt of BUYER's notice, SELLER shall immediately stop and cause all suppliers and subcontractors to stop all performance hereunder.

The rights and remedies of the parties set forth in this Agreement shall be in addition to, and not in limitation of, any other rights and remedies the parties may have under applicable law; provided, however, the parties' claims for damages and SELLER's warranties shall be limited as set forth in this Agreement

**13. LIMITATION ON LIABILITY/STATUE OF LIMITATIONS. BUYER SHALL NOT BE LIABLE FOR ANTICIPATED PROFITS, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR PENALTIES OF ANY KIND. BUYER'S LIABILITY ON ANY CLAIM ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM THIS AGREEMENT OR FROM PERFORMANCE OR BREACH HEREOF SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE PRODUCTS OR UNIT THEREOF GIVING RISE TO THE CLAIM. SELLER MUST COMMENCE ANY ACTION AGAINST BUYER ARISING FROM THIS ORDER WITHIN ONE YEAR FROM THE DATE THE CAUSE OF ACTION ACCRUES.**

14. **Notice.** Any notice or other communication to be delivered to either party hereunder shall be sufficiently delivered if mailed by prepaid airmail or overnight delivery return receipt requested to such party at its address as set forth above or to such other addresses as the party delivering such notice or communication shall have been notified in writing, and unless otherwise required herein, shall be deemed upon proof of mailing to have been delivered to such party

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Virginia without regard to the conflicts of law provisions thereof; the parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods shall not be applicable.

SELLER hereby consents to the jurisdiction of the federal and state courts in the Commonwealth of Virginia (unless another jurisdiction is specified in Schedule A as the jurisdiction to which SELLER consents) for the resolution of all disputes under the Agreement, and hereby waives any objection to venue. SELLER shall pay all reasonable attorney's fees, expenses and court costs incurred by BUYER in enforcing any of BUYER's rights under the Agreement.

15. **General Conditions.** SELLER may not assign its rights or obligations under the Agreement or delegate any performance hereunder without the express written consent of BUYER. Any purported assignment of rights or delegation of performance in violation of this Agreement is void. This Agreement shall inure to the benefit of and be binding on the parties hereto and to their respective successors and legal representatives. No provisions of this Agreement will be waived by any party except in writing. The parties hereto agree that the waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same party, or any other provision or condition of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions and applications of this Agreement shall not be affected, but rather shall remain valid and enforceable. Those obligations or responsibilities contained in this Agreement which are continuing in nature shall survive the expiration or termination of this Agreement.

16. **Entire Agreement.** Except as provided herein or as otherwise agreed upon by the parties in a separate agreement relating to the subject matter hereof, this Agreement and any documents referenced herein constitute the entire agreement between the parties regarding this Agreement and replace any contemporaneous oral or written communications between the parties hereto. This Agreement may not be modified by any document issued by SELLER or by the parties' course of dealing, custom or usage but only by a writing approved by both parties. In the case of a conflict with this Agreement, the terms of such mutually approved writing will prevail.

17. **Force Majeure.** BUYER shall not be considered to be in default in the performance of its obligations under this Agreement to the extent and for the period of time that performance of any such obligation is prevented, interrupted, or delayed by fire, flood, earthquake or other natural disaster, war or other cause which is beyond the reasonable control of BUYER; provided, however, if performance of any obligation is so prevented, interrupted, or delayed BUYER at its option may either approve a revised delivery schedule or terminate the Agreement either in whole or in part without liability.

18. **Supplies and Equipment.** All materials, supplies or equipment furnished or paid for by BUYER in connection with this Agreement shall remain BUYER's property (title shall not transfer to SELLER), shall be maintained by SELLER in good condition, shall be used by SELLER only for BUYER, and shall be returned to BUYER or otherwise disposed of as directed by BUYER upon completion of this Agreement.

19. **SELLER's Risk.** SELLER agrees that it, its employees and subcontractors, are performing services as independent contractors and not as BUYER's employees, regardless of where they perform their services. SELLER shall be fully responsible for its employees, agents, officers, contractors and subcontractors, including without limitation all compensation and taxes related thereto. SELLER shall carry out its work at its own risk until the same is fully completed and accepted, and shall, in case of any accident, destruction or injury to any goods or materials before final completion and acceptance, repair and replace the goods or materials so injured, damaged and destroyed, at SELLER's expense and to BUYER's satisfaction. When materials or equipment are furnished by others for SELLER's use, SELLER shall receive, unload, store, handle and be responsible therefore as though such materials or equipment were being furnished by SELLER hereunder. To the extent SELLER is performing hereunder at BUYER's premises, SELLER and its subcontractors shall take all safety precautions and furnish and install guards necessary for the prevention of accidents. BUYER shall not be responsible nor be held liable for any damage to person or property arising from the use, misuse or failure of any rigging, blocking, scaffolding or other equipment used by SELLER or any of its subcontractors, notwithstanding BUYER's ownership, provision or loan of such equipment to SELLER or to any of its subcontractors.

20. **Compliance.** SELLER represents and warrants that it will fully comply with all Department of Labor, EEOC and OFCCP rules, regulations, guidelines and orders including, but not limited to, Executive Order 13496, 29 C.F.R., part 471, Appendix A to Subpart A.