

PURCHASE TERMS AND CONDITIONS

1. Agreement. The Purchase Order ("PO"), together with these terms and conditions and any attachments, specifications, or other information (collectively, the "Agreement"), constitutes the entire agreement between Dairy Products, Inc. ("DPI") and the vendor identified on the attached PO ("Seller"). DPI has submitted the Agreement conditioned on Seller's agreement that any terms different from or in addition to the Agreement, however communicated, shall not be part of the Agreement. Seller's acceptance, acknowledgment of the PO, or commencement of performance constitutes Seller's acceptance of this Agreement.

2. Purchase Price. The purchase price of the goods, F.O.B. the facility indicated on the PO, is inclusive of all taxes, tariffs, duties and similar costs, packing, freight, insurance and other delivery costs and constitutes the entire cost of the goods, unless otherwise specified on the PO.

3. Delivery. Seller will ship the goods via the carrier indicated on the PO. If DPI has indicated any specific delivery instructions on the PO, Seller will cause the carrier to comply with these instructions. The risk of loss will pass to DPI when tendered to the carrier for shipments designated F.O.B. origin or when delivered to the facility specified on the PO for shipments designated F.O.B. destination. Seller will immediately notify DPI of delays, but such notice will not constitute a waiver of obligations.

4. Proprietary Rights. Seller warrants that the goods or services furnished under the Agreement do not infringe upon the intellectual property or proprietary rights of any other person or entity.

5. Ingredient Disclosure. Seller shall promptly furnish to DPI in such form and detail as DPI may direct: (a) a list of all ingredients in the goods purchased from Seller, (b) the amount of one or more ingredients, and (c) information concerning any changes in or additions to such ingredients.

6. Plant Access. All product and material related in any way to the goods provided by Seller, including without limitation all ingredients, shall be subject to inspection and test upon reasonable notice by DPI or its customer or representative at all times and places, including without limitation sites where the goods are created, whether they be at the premises of Seller or Seller's suppliers or elsewhere.

7. Recall of Goods. If Seller becomes aware that any goods provided by Seller to DPI are, may be, or may become harmful to anyone or anything or that the goods are defective or adulterated in any manner, Seller shall immediately give notice to DPI, which notice shall include, without limitation, all relevant information with respect thereto. If (a) Seller, either voluntarily or involuntarily, initiates a recall of any goods provided by Seller to DPI, (b) DPI, either voluntarily or involuntarily, initiates a recall of any such goods or any products containing or incorporating any such goods, and/or (c) a government agency takes action with respect to any such goods or any products containing or incorporating any such goods, Seller shall assist and cooperate with DPI in all respects of the recall. In the event of any such recall of any goods provided by Seller to DPI or any products containing or incorporating such goods, the Seller shall, in addition to any other rights or remedies available to DPI hereunder or under applicable law, indemnify and hold harmless DPI for all of its costs and expenses associated with such recall.

8. Warranty. Seller warrants that it has good title to the goods supplied and that the goods are free and clear from all liens, encumbrances, and security interests. Seller also expressly warrants that all goods, material, and work covered by this PO will conform to the specifications, drawings, samples, or other description furnished by DPI and that they will be merchantable, free from defect, and fit for the purposes intended. All such warranties will run to DPI, its successors, assigns, and customers. As part of the Agreement, Seller agrees to indemnify and hold DPI harmless from all liability, loss, damages and expenses, including reasonable attorneys' fees, incurred or sustained by DPI by reason of the failure of the goods to conform to such warranties, which indemnity will be in addition to any other remedies provided by law.

9. Inspection. DPI reserves the right to reject goods, and return them for a full refund, not strictly conforming to the terms of the Agreement at any time, irrespective of the date of payment.

10. Cancellation. DPI may cancel the PO for no reason or for any reason upon 15 days written notice to Seller. DPI will pay Seller for all direct and necessary costs and expenses incurred by Seller up to the time

of the cancellation for conforming goods. Acceptance by DPI of a portion of the goods subject to this Agreement will not be deemed to be a waiver of DPI's right either to cancel the Agreement or to return all or any portion of the goods because of failure to conform to order or by reason of latent or patent defects, or other breach of warranty, or to make any claim for damages, including manufacturing costs and loss of profits or other special or consequential damages suffered by DPI.

11. Law; Venue; fees. This Agreement shall be governed in all respects by the laws of the State of Minnesota. Seller agrees to be subject to personal jurisdiction in Minnesota and agrees that the exclusive venue for all disputes arising with respect to this Agreement shall be the federal or state courts located in Minnesota. DPI shall be entitled to recover its reasonable attorneys' fees in any action in which it seeks to enforce the provisions of this Agreement.

12. Insurance: If this PO covers in whole or in part the performance of labor for DPI, Seller agrees to indemnify and protect DPI against all liability, claims, or demands for injuries or damages to any person or property growing out of the performance of this order by Seller, its servants, employees, agents, or representatives. Seller further agrees to furnish insurance certificates showing that the Seller has insurance coverages in amounts not less than the following: Workers' Compensation - Statutory Limits for the state in which work is to be performed, Employer's Liability - \$1,000,000, General Liability - \$1,000,000/\$2,000,000, Automobile Liability - \$1,000,000, and Umbrella - \$10,000,000. Seller shall also maintain product liability insurance in customary amounts and, if requested by DPI, name DPI as additional insured on its liability policies.

13. Force Majeure. DPI reserves the right to defer any shipment under this Agreement, cancel or modify this Agreement or change any performance dates if DPI's production is delayed on account of strikes in DPI's plants or the plants of any of DPI's suppliers, fire, an act of God, governmental order or regulation or other conditions beyond DPI's control. Neither DPI nor Seller shall be liable for failure to perform under this Agreement as the result of flood, cyclone, hurricane, tornado, earthquake or other similar natural catastrophe, or as the result of an act of God, governmental order or regulation, Acts of Terrorism, whether foreseeable or unforeseeable, beyond their reasonable control (each a "Force Majeure Event"). In the event of a Force Majeure Event rendering a party unable to perform, the affected party shall invoke this provision by immediately notifying the other of the nature and estimated duration of the suspension period. The failure to provide notice of a claimed Force Majeure Event, together with the nature and duration thereof, within seven (7) days of the claimed event shall result in a complete waiver of the right to claim Force Majeure. If Seller is the affected party, DPI shall be entitled to purchase the products and services covered by this Agreement from third party(ies) for the duration of such failure (the "Cover Purchases") and (a) DPI may reduce, without any obligation upon DPI, the quantity or amount of products or services to be purchased from Seller under this Agreement, and (b) Seller shall pay to DPI an amount equal to the positive difference (if any) obtained by subtracting the price that would have been paid by DPI to Seller under this Agreement for the Cover Purchases from the Replacement Price. For purposes of this Agreement, the "Replacement Price" means the price at which DPI makes the Cover Purchases plus any incidental expenses (including brokerage fees, commissions and other transactional costs) incurred by DPI relating to its efforts to procure such substitute products and services.

14. Changes DPI reserves the right to make changes within the general scope of this Agreement, except as to price or quantity, by any reasonable means, and if requested, such changes shall be confirmed in writing to Seller. If any such change causes an increase or decrease in the cost of, or time required for, Seller's performance, the price therefore and/or time required for performance shall be equitably adjusted. Any claim for adjustment hereunder must be asserted in writing within thirty (30) days from the date the change is ordered. Failure on the part of either party to assert its claim within the time provided shall operate as a waiver thereof.