

WTI, Inc. Purchase Order Terms and Conditions

1/ **General Provision-Acceptance:** By accepting this purchase order and/or commencing work on the goods and/or shipping the goods, Seller agrees to comply fully with the terms and conditions as set forth herein and of the purchase order. Acceptance of this purchase order is expressly limited to these terms and conditions, and acceptance by WTI, Inc. ("WTI") of the goods or services delivered under this purchase order shall not constitute agreement to any proposed modification by Seller, counter-offer by Seller, or Seller's alternative terms or conditions. Any attachments referenced on the purchase order shall be deemed for all purposes to be an integral part of the purchase order, and any contradiction between such referenced attachments and the terms stated herein will be considered controlled by the attachment.

2/ **Modifications:** Changes, modifications, waivers, additions, or amendments to the terms and conditions of this order shall be binding on WTI only if such changes, modifications, waivers, additions, or amendments are in writing and signed by a duly authorized representative of WTI. WTI may change from time to time any of the drawings, specifications, or instructions for goods and services covered under this purchase order and Seller shall comply with such change notices. If such changes result in a decrease or increase in cost or in the time for performance, any adjustment in the price and time for performance may be made by the parties in writing, provided that Seller notifies WTI of the request for such adjustment within 10 days after receipt by Seller of the change notice.

3/ **Applicable Law:** The validity, interpretation, and performance of these terms and conditions, and any purchase made hereunder, shall be governed by the laws of the State of Georgia in force as of the date of this purchase order for contracts made and to be performed. Where not modified by the terms set forth herein, the provisions of Georgia's enactment of Article 2 of the Uniform Commercial Code shall apply to this transaction. WTI expressly reserves all rights and remedies that are available to it at law or equity, including but not limited to rights and remedies set forth in the Uniform Commercial Code.

4/ **Compliance With Law:** Seller agrees that it will at all times comply with all applicable Federal, state, municipal, and local laws, orders, and regulations, including but not limited to those affecting or limiting prices, production, purchase, sale, and use of material. If requested by WTI, Seller agrees to timely certify compliance with such laws in such form as WTI may request.

5/ **Indemnification:** Seller shall defend, indemnify, and hold harmless WTI against all damages, claims, losses, liabilities, and expenses (including attorney's fees) arising out of or resulting in any way from (1) any defect in the goods or services purchased hereunder, or (2) from any act of omission of Seller, its agents, employees, or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller. If the performance of the Seller's obligations under this purchase order require or contemplate the performance of services by Seller's employees, or persons under contract with Seller, to be performed on WTI properties or premises, or the properties or premises of WTI's customers, Seller agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of WTI.

6/ **Insurance:** Seller will maintain appropriate general liability, property damage, and related insurance coverages in reasonable amounts to guarantee the performance of the obligations set forth in this purchase order and, upon request, will provide WTI with a Certificate of Insurance indicating the range and dollar amounts of such insurances.

7/ **Acceptance/Inspection/Testing:** Final acceptance of goods and services will not occur until after arrival at the designated WTI facility unless otherwise specified in this purchase order, and then only under the conditions set forth in this Paragraph. Payment for the goods and services delivered under this purchase order shall not constitute acceptance thereof. WTI reserves the right to inspect such goods and to reject any portion or all of such goods which are judged defective or nonconforming in WTI's sole judgment. Goods rejected and goods supplied in excess of quantities called for in the purchase order may be returned to the Seller at its expense and, in addition to WTI's other rights, WTI may charge Seller all expenses of unpacking, examining, inspecting, repacking, and reshipping such goods, as well as any other damages suffered by WTI. Returns to Seller will be at WTI's option for replacement, credit, or refund. The initial inspection performed by WTI following receipt of the goods described in the purchase order constitutes a conditional acceptance, and shall not waive the rights of WTI to return goods to Seller which later exhibit or develop any defect due to latent causes or any defect or adulteration that manifests at a later date. Nothing contained in this purchase order shall relieve in any way Seller from the obligation of testing, inspection, and quality control.

8/ **Warranty:** Seller expressly warrants that all goods and services furnished under this purchase order shall conform to all specifications of WTI and Seller, drawings, and appropriate industry standards, will be new, be of good material and workmanship, be free from any defect in material, manufacture, or design, and be unadulterated. Seller warrants that all goods will conform to any statements made on the container or labels or advertisements, and that any goods will be adequately contained, packaged, marked, and labeled. Seller warrants that all goods or services furnished under this purchase order will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. WTI is in the business of providing ingredients for food and food safety. If Seller knows or has reason to know the particular purpose for which WTI intends to use the goods or services, Seller warrants that such goods and services will conform in all respects to specifications, samples, inspection, test, and acceptance criteria. Seller's warranty shall run to the benefit of WTI, its employees, and its customers. WTI approval of designs furnished by Seller shall not relieve Seller of its obligations under its warranty. Seller's warranty shall be effective for a period of time as set forth in this purchase order, or for a period of one year from acceptance of goods or services, or for a longer period of time if specified by Seller, whichever of the preceding is longer. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to WTI, when notified of any such nonconformity by WTI; provided WTI elects to provide Seller with the opportunity to do so. In event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, WTI, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred. Any returns of defective goods shall be freight collect to Seller and replacement materials shall be sent freight prepaid from Seller, who will bear the burden of premium transportation when defect or replacement goods places critical time or delivery schedule constraints on WTI.



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9/ Price Warranty: Seller warrants that the prices for the goods and services sold to WTI are not less favorable than those currently extended to any other customer for similar goods or services in similar quantities. In the event Seller reduces its price for these goods or services during the term of this purchase order, Seller agrees to reduce the prices herein correspondingly. Seller warrants that prices shown on this purchase order shall be complete, and no additional charges of any type shall be added without WTI's express written consent. Any breach of the preceding will make the contract subject to termination by WTI at WTI's option.

10/ Proprietary Information/Confidentiality: Seller shall consider all information furnished by WTI to be confidential and shall not disclose any such information to any other person or organization, or use such information itself for any purpose other than performance of this purchase order, unless Seller obtains written permission from WTI to do so. Seller shall not advertise or publish the fact that WTI has contracted to purchase goods or services from Seller, nor shall any information relating to the order be disclosed without WTI's written permission. Seller agrees to execute a separate confidentiality agreement if deemed appropriate by WTI.

11/ Force Majeure: WTI may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold goods or services at the direction of WTI and shall deliver them when the cause affecting the delay has been removed. WTI shall be responsible only for Seller's direct additional costs in holding the goods or services, or delaying performance of this agreement at WTI's request. Causes beyond WTI's control shall include, but not be limited to, government action or failure of the government to act where such action is required, strike or other labor disputes, fire, or unusually severe weather.

12/ Patents/Copyrights/Trademarks: Seller agrees to indemnify and hold harmless WTI, its officers, agents, employees, suppliers, and customers from any and all loss, expense, damage, liability, claims, or demands either at law or in equity for actual or alleged infringement of patent invention, design, trademark, or copyright arising from the purchase or use of the goods and services provided under this purchase order.

13/ Assignment/Subcontracting: Performance obligations of Seller shall not be assigned or transferred by Seller without prior written approval by WTI and any attempted assignment or transfer without such consent shall be void. Seller shall not subcontract any substantial portion of the work to be performed by Seller under this purchase order without the prior written consent of WTI. Seller shall not change its manufacture site without the prior written consent of WTI if a specific site has been qualified and approved by WTI.

14/ Termination:

A/ For Convenience: WTI reserves the right to terminate this purchase order or any part thereof for its sole convenience. In such event Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, or an amount as may be negotiated. Seller shall not be paid for any of the work performed after receipt of the notice of termination, nor for any cost incurred by Seller's supplier(s) or subcontractor(s) which Seller could reasonably have avoided. Termination under this provision shall not be deemed a breach of contract.

B/ For Cause: WTI may terminate this purchase order or any part thereof for cause in the event of any default by Seller or if Seller fails to comply with any of the terms and conditions set forth herein. Late deliveries, deliveries of products which are defective or which do not conform to this purchase order, and failure to provide reasonable assurances of future performance to WTI upon request shall all be causes allowing WTI to terminate this purchase order for cause. In such event WTI shall not be liable to Seller for any amount, and Seller shall be liable to WTI for any and all damages sustained by reason of the default which gave rise to the termination for cause.

15/ Time of Delivery: The delivery dates indicated by WTI for the goods or services in this purchase order are of the essence. Failure to meet agreed upon delivery dates shall be considered a breach of the contract. Seller agrees to pay to WTI any penalty and damage imposed upon or incurred by WTI for failure of Seller to deliver goods and services on such delivery dates. WTI may reschedule the delivery of any unshipped product for later delivery within 90 days of the originally scheduled delivery date.

16/ Setoff: WTI shall be entitled at all times to set off any amount owing, for any reason, at any time, from Seller to WTI against any amount payable at any time by WTI to Seller in connection with this purchase order.

17/ Packing and Shipping Instructions: Seller agrees to insure that shipments are properly packaged and described in accordance with WTI's specifications and/or applicable carrier regulations and accepted industry standards. Shipments will be made at the lowest freight charges possible. WTI may assist Seller by providing freight classifications, classifying goods, specifying carrier/mode, or providing WTI account numbers to ship against. Seller shall not insure or declare value on shipments unless WTI specifies otherwise. Seller shall consolidate air and surface shipments daily on one bill of lading, unless instructed otherwise by WTI. Each box, crate, or carton will show WTI's full street address, and purchase order number, and shall describe the contents of that container. Seller will provide a detailed packing list and bill of lading documenting the shipment. Seller is responsible for packing any shipment correctly, based on the carrier/mode utilized. Charges for packing and crating shall be deemed part of the purchase order, and no additional charges will be made hereunder unless specifically requested by WTI on the purchase order. Seller agrees to ship via specific carrier/mode if specified by WTI. All premium freight cost incurred by WTI or Seller beyond that specified by WTI shall be borne by Seller. Seller is responsible for all shipments that are damaged in transit due to improper packaging, improper judgment, or any other act or omission of the Seller, shipper, or carrier.

18/ Limitations on WTI's Liability: In no event shall WTI be liable for anticipated profits or for incidental or consequential damages. WTI's liability for any claim, of any kind, for any loss or damage arising out of, or in connection with or resulting from this agreement, or from the performance or breach thereof, shall in no case exceed the price allocable to the goods or services thereof which give rise to the claim. WTI shall not be liable for penalties of any description. Any action resulting from any breach on the part of WTI as to the goods and services delivered hereunder must be commenced within one year after the cause of action has accrued.