

TERMS AND CONDITIONS OF SALE

1. **Applicability.** These Terms and Conditions of Sale (these “Terms and Conditions”) will control the sale of all Perdue products (“Goods”). “Perdue” will mean, collectively, Perdue Foods LLC and each of its affiliates and subsidiaries. Perdue’s acceptance of any order is expressly subject to the buyer’s (“Buyer”) assent to these Terms and Conditions, and Buyer’s assent to these Terms and Conditions will be conclusively presumed from Buyer’s failure to submit written objection to any Terms and Conditions, or from Buyer’s acceptance of all or any part of the Goods ordered. Unless alternate or conflicting offers or terms are included in an agreement or other writing signed by an officer of Perdue, these Terms and Conditions will control. Any reference to Buyer’s purchase order by Perdue will not affect or limit the applicability of these Terms and Conditions. Perdue may, at any time, terminate or modify the applicability of these Terms and Conditions.
2. **Price.** Unless otherwise specifically agreed to and confirmed by Perdue in writing: (a) all prices, quotations, shipments and deliveries of Goods by Perdue are F.O.B. Perdue’s plant or Buyer’s facility, plus negotiated freight; (b) all prices are subject to change without notice; (c) all orders are accepted subject to Perdue’s price for the Goods in effect at the time of delivery; and (d) all orders are exclusive of all transportation costs, insurance, customs duties and other fees and charges (“Costs”). All such Costs will be for Buyer’s account and Buyer hereby agrees to pay such Costs, including any increase in such Costs prior to shipment.
3. **Taxes.** All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity which Perdue may be required to pay or collect under any existing or future law upon or with respect to the sale, purchase, delivery, transportation, storage, processing, use or consumption of any Goods subject to these Terms and Conditions (“Taxes”). All Taxes will be for the account of Buyer, will be added to the price of such Goods and Buyer agrees to pay all Taxes promptly to Perdue upon demand. Buyer will not be responsible for any Taxes imposed on, or with respect to, Perdue’s income, revenue, gross receipts, personal or real property or other assets.
4. **Payment.** All orders are subject to approval by Perdue’s credit department. Buyer will pay all invoiced amounts due to Perdue in full in accordance with the payment terms and credit limits set by Perdue’s credit department, which may be changed from time to time (each a “Payment”). Buyer will make each Payment by wire transfer of immediately available funds or in such form as agreed to by the parties. In no event is Buyer authorized to deduct any amounts from the amounts set forth on any invoice unless specifically authorized in writing by Perdue. All Payments not conforming to these Terms and Conditions will be charged the maximum interest allowed by law payable to Buyer’s account.
5. **Payment Dispute.** If Buyer disputes the accuracy of an invoice, whether said invoice is properly payable or the Payment amount itself (a “Payment Dispute”), Buyer must give written notice to Perdue of such Payment Dispute within five (5) days of receipt of the Goods (the “Dispute Period”). If Buyer fails to give such notice to Perdue during the Dispute Period, the Payment Dispute will be deemed waived. If only a portion of the invoice is in dispute, Buyer must pay all amounts not in dispute in the manner required by these Terms and Conditions. Buyer agrees to pay the full purchase price of the Goods and any other amounts due hereunder regardless of any offset or claim that may be asserted by Buyer or on Buyer’s behalf.
6. **Suspension of Performance.** If, in Perdue’s sole judgment, reasonable doubt exists as to Buyer’s ability to make any Payment due to lack of financial responsibility, creditworthiness or otherwise, or if Buyer is past due on a Payment of any amount owing to Perdue, Perdue reserves the right, without liability and without prejudice to any other remedies available to it, to take one or more of the following actions in its sole and absolute discretion: (a) defer all further shipments to Buyer; (b) cancel any unshipped balance of any order to Buyer; or (c) stop any Goods already in transit. If Perdue receives full Payment of all amounts, whether or not due or owing to Perdue, or if Perdue receives adequate assurance (such adequacy to be determined by Perdue in its sole discretion) from Buyer that such Payments will be made, Perdue, at its

sole discretion, may revive full or partial performance under these Terms and Conditions and any applicable purchase order.

7. **Collections.** Buyer agrees to pay any charges that Perdue incurs, including reasonable attorneys' fees, relating to the collection or enforcement of any indebtedness, liabilities or obligations of Buyer to Perdue.
8. **Specifications.** Perdue will have no obligation to ensure that any Goods meet Buyer's unique specifications or other requirements unless such specifications or other requirements are expressly set forth in Buyer's purchase order and expressly accepted by Perdue.
9. **Shipment.** Unless otherwise specified by Perdue in writing, Perdue reserves the right to produce and ship all or any part of the Goods specified in any order and from any of its plants or facilities. The Goods will be shipped within a reasonable time after receipt of Buyer's purchase order subject to Perdue's acceptance. Perdue reserves the exclusive right to determine the best method of shipment, whether or not at a higher cost to Buyer. All shipments by Perdue are F.O.B. Perdue's plant or Buyer's facility and delivery will be deemed made, and title, risk of loss and damage to Goods will be deemed to pass from Perdue to Buyer upon shipment from Perdue's plant, unless otherwise agreed to by Perdue in writing prior to such shipment. Perdue is not responsible for any loss or shortage caused by damage in transit and any such damage or shortage will be for account of Buyer. If Buyer requests that shipment be delayed or otherwise causes or contributes to a delay in shipment of the Goods, each Payment will remain due to Perdue as if Perdue shipped the Goods on the original shipment date. Perdue reserves the right, without liability or penalty, to make partial shipments of Goods to Buyer ("Partial Shipment"). Each Partial Shipment constitutes a separate sale and Buyer will pay for the Goods shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
10. **Cancellation.** Buyer will not cancel or modify any order after shipment, except with the express written consent of Perdue.
11. **Nonconforming Goods.** Buyer may inspect Goods immediately upon delivery (the "Inspection Period") and if Buyer determines that any goods arrived in a damaged or defective condition, that a shortage occurred or that the Goods otherwise failed to conform to the specifications agreed upon by the Buyer and Perdue ("Nonconforming Goods"), Buyer will notify Perdue of such Nonconforming Goods within the Inspection Period. If Buyer notifies Perdue within the Inspection Period and Buyer satisfies all other Terms and Conditions, Perdue may, at its sole discretion, do any one or more of the following at Buyer's expense: (a) replace such Nonconforming Goods with conforming Goods; or (b) credit or refund all or part of the purchase price of such Nonconforming Goods. If Buyer fails to notify Perdue of the Nonconforming Goods within the Inspection Period, Buyer is deemed to have accepted the Goods and thereby waives any and all claims for Nonconforming Goods under these Terms and Conditions. The provisions of this Section 11 represent Buyer's sole and exclusive remedy and claim for delivery of Nonconforming Goods. Buyer is prohibited from returning, reworking or scrapping any Goods received, conforming or otherwise, without the express prior written consent of Perdue.
12. **Buyer Compliance with Laws.** Buyer will comply with all applicable laws, regulations and ordinances. Buyer will maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under these Terms and Conditions.
13. **Packaging.** Perdue will use all reasonable means to comply with any packaging, loading or bracing requirements specified by Buyer (collectively, "Packing Requirements") and will charge for compliance with Buyer's Packaging Requirements. If no Packaging Requirements are specified by Buyer, Perdue will comply with commercially reasonable industry standards for the method of packaging used for such Goods.
14. **Advice.** Unless otherwise expressly agreed in writing by Perdue, Perdue assumes no obligation or liability for any technical advice provided by Perdue regarding the use of Goods furnished to Buyer or for any results occurring due to the application of such advice. Buyer shall have the sole responsibility for the selection and specification of the Goods appropriate for the end use of such Goods.

15. **Termination.** Perdue may terminate any order, in full or in part, at any time (“Termination”). Upon Termination, Buyer agrees to waive all claims for damages, including, without limitation, any loss of anticipated profits.
16. **Force Majeure.** Perdue will not be liable or responsible to Buyer for any delay in shipment or delivery of Goods or for any failure or delay in fulfilling or performing any of these Terms and Conditions to the extent that such failure or delay, in whole or in part, is caused by or results from acts or circumstances beyond the reasonable control of Perdue, including, without limitation, acts of God, fire, flood, famine, earthquake, explosion, pestilence or other catastrophe, government action, embargo, war, invasion or geopolitical hostility, terrorist threat or act, riot or other civil unrest, national emergency, epidemic, lockouts, strikes or other labor disputes (whether or not related to Buyer’s or Perdue’s workforce), restraints or delays affecting carriers or delay in obtaining supplies of adequate or suitable materials, shortage of equipment, materials, product, fuel or labor; or any other circumstance beyond the reasonable control of Perdue.
17. **Limited Warranty.** Subject to all other Terms and Conditions, Perdue warrants to Buyer that, at the time of delivery, the Goods will substantially conform to the specifications set forth in Buyer’s purchase order as accepted by Perdue. EXCEPT FOR THE WARRANTY SET FORTH IN THIS SECTION, PERDUE HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PROFORMANCE, TRADE USAGE OR OTHERWISE.
18. **Limits of Liability.** THE LIMITED EXPRESS WARRANTY IN SECTION 17 AND THE PROVISIONS OF SECTION 5, 11 AND 15 SET FORTH BUYER’S SOLE REMEDIES IN CONNECTION WITH THE SALE OF GOODS AND IN NO EVENT WILL DAMAGES EXCEED THE AMOUNT EQUAL TO THE PRICE OF THE GOODS PAID BY BUYER TO PERDUE. PERDUE WILL NOT BE LIABLE TO BUYER OR ANY DOWNSTREAM USER OR THIRD PARTY OF ANY KIND, TO THE EXTENT PERMITTED BY LAW, FOR ANY LOSS OF BUSINESS, LOST PROFITS, LOST SALES, BUSINESS INTERRUPTION, DAMAGE TO GOODWILL OR REPUTATION, DEGRADATION IN VALUE OF BRANDS OR ANY OTHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF CAUSED BY PERDUE’S ORDINARY OR GROSS NEGLIGENCE.
19. **Perdue’s Remedies.** If Buyer breaches these Terms and Conditions or any other applicable agreement, Perdue may, in its sole discretion, do any one or more of the following: (a) recover from Buyer the full purchase price of Goods and other amounts then due or that may thereafter become due in connection with the purchase of Goods; (b) recover from Buyer all costs and expenses incurred by Perdue because of Buyer’s breach, including reasonable attorneys’ fees; and (c) exercise any other right or remedy that may be available to Perdue by law or in equity or by these Terms and Conditions. No remedy referred to in these Terms and Conditions is intended to be exclusive. Rather, each remedy will be cumulative and in addition to all other remedies available to Perdue.
20. **Waiver.** No waiver by Perdue of any of these Terms and Conditions is effective against Perdue unless explicitly authorized in writing and signed by an officer of Perdue. Express waiver by Perdue of any breach of any of these Terms and Conditions will not be construed as a waiver of any other breach. The failure of Perdue to exercise, or delay in exercising, any right, remedy, power or privilege arising under these Terms and Conditions will not be deemed to be a waiver of such right, remedy, power or privilege.
21. **Notices.** Any and all notices provided for in these Terms and Conditions will be given in writing and by personal delivery, registered or certified U.S. Mail (postage prepaid and return-receipt requested) or by nationally recognized overnight courier service, in each case sent to 31149 Old Ocean City Road, Salisbury, Maryland 21804, Attention: General Counsel. All notices will be deemed given upon delivery if delivered personally, if sent by certified mail, three business days after it is deposited in with the U.S.

Mail (postage prepaid and return-receipt requested) or if by nationally recognized overnight courier service, one business day after deposit with the courier service.

22. **Relationship of the Parties.** The relationship between the Buyer and Perdue is that of independent contractors. Nothing contained in these Terms and Conditions will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between Buyer and Perdue, and neither Buyer nor Perdue will have the authority to contract for or bind the other in any manner whatsoever.
23. **Proprietary Rights; Confidential Information.** All of Perdue's non-public, confidential and proprietary information, including, without limitation, formulas, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, and any other confidential information acquired by Buyer, whether disclosed orally by Perdue or accessed in written, electronic or other form of media, whether or not marked, designated or otherwise identified as "confidential" and whether disclosed intentionally or unintentionally by Perdue to Buyer is deemed "Confidential Information" and is solely for the use of performing these Terms and Conditions and may not be copied, distributed or otherwise disclosed to any other party unless expressly authorized in advance by Perdue in writing. Buyer agrees and acknowledges that it will not acquire any interest in the Confidential Information as a result of its purchase of Goods. Upon Perdue's request, Buyer will promptly return all documents, recordings and any other materials, confidential or otherwise, received from Perdue. Perdue will be entitled to immediate injunctive relief for any violation of this Section.
24. **Assignment.** Buyer will not assign any purchase order, any interest therein or any of its rights or obligations under these Terms and Conditions without the express written consent of Perdue. Any such actual or attempted assignment without Perdue's prior express written consent will entitle Perdue to terminate such purchase order at its sole discretion. Perdue may assign any purchase order, interest or any its rights or obligations under these Terms and Conditions to any of its affiliates without Buyer's consent.
25. **Severability.** If any Terms and Conditions are found to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other Terms and Conditions or invalidate or render unenforceable such Terms and Conditions in any other jurisdiction.
26. **Dispute Resolution and Governing Law.** The parties will strive to resolve any disputes through amicable negotiations. In the event that no settlement can be reached, the case under dispute shall be submitted by either party for arbitration under the rules then in effect to the American Arbitration Association in Baltimore, Maryland. All matters arising out of or relating to these Terms and Conditions will be governed by and interpreted in accordance with the laws of the State of Maryland without giving effect to any choice or conflict of law provision or rule, whether of the State of Maryland or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the State of Maryland.
27. **Waiver of Jury Trial.** BUYER AND PERDUE IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY FOR ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION OR OTHER PROCEEDING BROUGHT BY THE OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, ANY SALE OF GOODS FROM PERDUE, WHETHER BASED UPON CONTRACTUAL, STATUTORY, TORTIOUS OR OTHER THEORIES OF LIABILITY.
28. **Complete Agreement.** These Terms and Conditions and any applicable purchase order, constitute the entire agreement between Buyer and Perdue with respect to any sale of Goods. Subject to these Terms and Conditions, no addition to or variations from such terms and conditions, whether contained in Buyer's purchase order, any shipping release or elsewhere, will be binding upon Perdue unless expressly authorized or accepted in writing by Perdue. Perdue's acceptance of Buyer's purchase order or any partial or full performance by Perdue will not be deemed an acceptance of Buyer's terms and conditions.