



PURCHASE ORDER GENERAL TERMS AND CONDITIONS
SOFTWARE LICENSE SUPPLIERS (NORTH AMERICA)

1. ACCEPTANCE – A supplier (“Supplier”) who licenses software and provides related services (collectively, “software license and services”) to The Hillshire Brands Company or any of its affiliates (“Hillshire Brands”) shall be deemed to have accepted the following terms and conditions (the “Terms”) which shall apply to any Hillshire Brands purchase order or any release or revision related thereto (collectively, “Order”) upon (a) Supplier’s execution of the Order or acceptance of the Order in writing, or (b) Supplier’s beginning to perform under the Order. SUPPLIER’S ACCEPTANCE IS LIMITED TO ACCEPTANCE OF THE EXPRESS TERMS OF THE ORDER, INCLUDING THESE PURCHASE TERMS, AND DOES NOT INCLUDE ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SUPPLIER OR ANY ATTEMPT BY SUPPLIER TO VARY THE TERMS HEREOF.

2. SOFTWARE LICENSE PROVISIONS - Except as otherwise expressly provided in the applicable Order:

2.1 License Grant.

If the applicable Order describes software that is being licensed to Hillshire Brands (“Licensed Software”), Supplier hereby grants to Hillshire Brands and any other individuals and entities designated in the Order (collectively, “Software Licensees”) a perpetual, irrevocable, fully paid-up, worldwide, non-exclusive and royalty-free right and license (“Software License”) to use the Licensed Software. The scope of the Software License is limited only as set forth in this Article and the Order. If the applicable Order states that the Licensed Software includes source code, then the Software License permits Hillshire Brands to modify the Licensed Software. If the Order describes or Supplier provides any documentation related to the Licensed Software (“Licensed Documentation”), then the Software License also permits Hillshire Brands to copy, distribute and modify the Licensed Documentation, provided that all titles, trademarks, and copyrights and restricted rights notices are reproduced on any such copies.

2.2 Internal Use Only of Licensed Software.

The Software Licensees will use the Licensed Software only to process data, or provide products or services, of Hillshire Brands and its affiliates, customers, employees, suppliers, business partners and divested companies.

2.3 Definition of “Use” of Licensed Software.

When interpreting these Software License Provisions, the term “use” means to copy, install, execute, operate, distribute, archive and run Licensed Software for test, production and disaster recovery purposes. The Software License permits use through the Internet and other telecommunications systems. For example, if a Software Licensee runs Licensed Software on a server and allows a user to access functions of the Licensed Software through a Web browser or similar widely available third party software, the “use” of the Licensed Software is occurring on the server, not on the user’s computer. The user will not be required to obtain a separate license for the type of access described above.

2.4 Expansion in Laws or Regulations and Scope of Software License Grant.

If a Software Licensee’s need for the Licensed Software expands as a direct result of the enactment or application of a new or expanded Law (defined below), and the existing Licensed Software can meet those expanded needs, then the Software License will be deemed to encompass any use necessary to comply with the new Law.

2.5 Use of Licensed Software by Divested Business.

If Hillshire Brands divests an affiliate, division, department or other business, then the Software Licensees may, as a part of the Software License, use the Licensed Software and Licensed Documentation to provide transitional, migration or conversion services to the divested business for up to one year after the divestiture. In addition, if the divested business was a Software Licensee, Hillshire Brands may permit the divested business to use the Licensed Software and Licensed Documentation, so long as the divested business’ use does not materially expand the use of the Licensed Software and the divested business complies with the provisions of these Terms and the applicable Order. If Hillshire Brands so requests, Supplier will enter into a new agreement with any divested business which is a Software Licensee that reflects the provisions of these Terms and any Orders that apply to the Licensed Software and Licensed Documentation together with such of Hillshire Brands’ maintenance and

support rights, if any, in the Licensed Software as Hillshire Brands may request, reduce Hillshire Brands' future payment obligations in a manner proportionate to the license and maintenance rights so transferred, and impose upon the divested business future payment obligations equal to such reduction.

2.6 Third Party Use of Licensed Software.

The Software License will permit use by outsourcers, consultants, disaster recovery services providers, hosted services providers, distributors, agents, representatives, and other third parties providing processing or technical services or advice to any of the Software Licensees. However, each third party (other than Hillshire Brands' internal or external auditors and personnel) must agree (i) to use the Licensed Software and Licensed Documentation solely for the benefit of the Software Licensees, and (ii) not to disclose the Licensed Software and Licensed Documentation to any other third party, without Hillshire Brands' prior written approval.

2.7 Non-Productive Use and Copies of Licensed Software.

The Software Licensees may make copies of and use the Licensed Software for testing, development, quality assurance, user support, backup, archival or disaster recovery purposes and store those copies off-site. None of those copies will be included when counting the number of copies or the amount of use under any per-copy, per-transaction, per-location or other similar pricing scheme. The Software Licensees will reproduce any copyright notices or other proprietary notices in the Licensed Software.

2.8 No Reverse Engineering of Licensed Software.

Except as provided otherwise in these Terms, the Software Licensees will not reverse engineer the Licensed Software except as reasonably required to interface, configure, implement, or install the Licensed Software or to interoperate the Licensed Software with other software.

2.9 Use of Licensed Software to Interface with Other Products.

The Software Licensees may interface and use the Licensed Software with other software programs owned or licensed by the Software Licensees, so as to permit that software to interoperate, whether by use of calls, exchange of data, link editing or otherwise. Supplier will not obtain any ownership interest in that other software merely because it was interfaced or used with any Licensed Software.

2.10 New Locations for Licensed Software.

A Software Licensee may, at any time, without prior notice to or consent of Supplier, transfer the Licensed Software to new users or a new machine or location without charge.

2.11 New Platforms for Licensed Software.

Supplier acknowledges that the Software Licensees may need to run the Licensed Software on multiple, different, successor or replacement operating systems, or database systems, devices or other platforms. Consequently, the Software License will be deemed to include all versions of the Licensed Software that have, at the relevant time, been certified by Supplier as capable of supporting various platforms.

2.12 Successor Products of Licensed Software.

If Supplier removes any features or functionality from the Licensed Software and subsequently offers those features or functionality in a new or different product (whether directly or indirectly or through a third party), then the Software License will be deemed to include (i) the portion of those new or different products that contain the original features, or (ii) if those features cannot be separated out, the entire product. If Supplier stops licensing the Licensed Software other than as bundled or otherwise combined with other software, the Software License will be deemed to include that other software. If the Licensed Software is a suite or other combination of software products, and Supplier elects to unbundle or otherwise separately license those products, the Software License will be deemed to include all of the products containing the functionality originally licensed to the Software Licensees. There will be no additional charge for changes to the scope of the Software License under this Section.

2.13 Use of Licensed Software Resulting from Changes in Processing Complex.

The Software License will include the right to use the Licensed Software on a multiprocessor computer, a set of computers connected together to act as one computer, or another type of processing complex. Use on a processing complex will be deemed to be use on a single computer, regardless of the number of CPUs in the processing complex. Supplier will not charge any upgrade fees or other additional fees if any Software Licensee (i) moves the Licensed Software to a processing complex that has a greater capacity or belongs to what is commonly described as a higher tier group, or (ii) adds processors or other additional capacity to any computer in the processing complex.

2.14 Electronic Delivery of Licensed Software.

To the extent requested by Hillshire Brands, Supplier will deliver the Licensed Software and Licensed Documentation through purely electronic communication. If Hillshire Brands does not request electronic delivery, Supplier will deliver the Licensed Software on CD-ROM and the Licensed Documentation on paper and CD-ROM, at a maximum cost equal to Supplier's actual and reasonable media and shipping costs.

2.15 Authorization Codes for Licensed Software.

Supplier will provide any passwords, keys and other authorization codes that the Software Licensees need to install, test and use the Licensed Software on disaster recovery, development and other technical environments and to obtain the full benefit of its Software License and other rights in the Licensed Software. Those authorization codes will be "permanent" if the applicable Software License is perpetual and, if the license is not perpetual, those authorization codes will be for the full term of the Software License plus one year. Further, those authorization codes will be fully functional on all systems and all CPUs.

2.16 Replacement Copies of Licensed Software.

Supplier will deliver to the Software Licensees a replacement copy of the Licensed Software or the Licensed Documentation, without charge, if the Licensed Software or the Licensed Documentation is lost or damaged while in transit to a Software Licensee or at any time thereafter.

2.17 Adequate Documentation.

Supplier will deliver to the Software Licensees the Licensed Documentation for the Licensed Software specified under the Order on the dates and to the places specified in that Order. The Licensed Documentation will describe fully and accurately the features and functions of the versions of the Licensed Software then in use by Hillshire Brands well enough to allow a reasonably skilled user to effectively use all of its features and functions without assistance from Supplier. If Supplier provides source code, the Licensed Documentation will also include all information that a reasonably skilled programmer needs to maintain, modify and implement the applicable Licensed Software without assistance from Supplier.

2.18 Ownership Rights in Licensed Software and Data.

As between Supplier and Hillshire Brands, (i) title to the Licensed Software and Licensed Documentation, and all Intellectual Property Rights in the Licensed Software and Licensed Documentation, will at all times remain with Supplier, subject to the Software License, and (ii) as between Hillshire Brands and Supplier, Hillshire Brands will own all of the data processed by the Licensed Software, any modifications that the Software Licensees make to the Licensed Documentation, and, if the Software Licensees have the right to modify the source code for the Licensed Software, its modifications to the Licensed Software.

3. HOSTED SERVICES PROVISIONS.

3.1 General Hosted Services. Supplier shall provide Hillshire Brands with the hosted services set forth in the Order ("Hosted Services") using software, equipment, network resources, data or materials owned or controlled by Supplier (collectively, "System") at Supplier's facilities. On or before the "go live" date specified in the applicable Order, Supplier will make the Hosted Services accessible to individuals and entities designated by Hillshire Brands, including (i) implementing in the System any required interfaces to any systems specified in the applicable Order, (ii) delivering to Hillshire Brands any proprietary software and related documentation necessary to access the System to receive the Hosted Services, (iii) assigning all security access, passwords and user IDs necessary to access the System to receive the Hosted Services ("Access Codes"), and (iv) preparing data designated by Hillshire Brands for use on or with the System. Supplier will permit access to the Hosted Services only through the network(s) and means specified in the applicable Order using Access Codes assigned by Supplier. Supplier will be responsible for assigning, disabling and otherwise administering Access Codes. Supplier will grant Access Codes to, and only to, the individuals designated in writing by Hillshire Brands ("Authorized Users"). Supplier will immediately disable all Access Codes for, and prevent access to the System by, any individual upon Hillshire Brands' request. Access Codes will be deemed the Confidential Information of both parties. To the extent necessary to receive the Hosted Services, during the term of the applicable Order, Supplier grants, and represents and warrants that it has obtained all consents necessary to grant to Hillshire Brands a perpetual, irrevocable, fully paid-up, worldwide, non-exclusive, and royalty-free right and license to (i) electronically access and use the System, and (ii) use and copy all software, documentation and other materials provided by Supplier to Hillshire Brands in connection with the Hosted Services. Hillshire Brands may permit third party consultants, outsourcers, contractors and other service providers to exercise this right and license.

3.2 Branding/Co-Branding for Hosted Services. If the System contains, or will be marketed or promoted to Hillshire Brands customers with, the name, trademark, trade name, service mark, trade dress, logo or other identifying marks owned or licensed to any Hillshire Brands entity ("Hillshire Brands Branding"), which shall only be done at Hillshire Brands' direction, then Hillshire Brands hereby grants Supplier a fully paid-up, worldwide, non-exclusive and royalty-free right and license to reproduce, distribute and display the Hillshire Brands Branding as necessary to provide the Hosted Services, subject to reasonable usage guidelines provided by Hillshire Brands. Supplier will take no action that might derogate from Hillshire Brands' rights in, or the goodwill associated with the Hillshire Brands Branding or modify, alter or obfuscate the Hillshire Brands Branding. Supplier will properly attribute and designate the Hillshire Brands Branding as being owned by or the property of Hillshire Brands or its licensors. Any goodwill generated by Supplier's use of Hillshire Brands Branding will inure solely to Hillshire Brands.

3.3 Use of Hillshire Brands Materials in Performance of Hosted Services. Any goods or other materials provided by Hillshire Brands to Supplier in connection with the performance of the Hosted Services will remain the sole and exclusive property of Hillshire Brands, other Hillshire Brands entities or their licensors. Supplier will not withhold any goods or other

materials as a means of resolving a dispute. Promptly after the expiration or termination of the applicable Order, Supplier will return all goods and other materials to Hillshire Brands.

3.4 Termination Assistance for Hosted Services.

(a) In connection with any termination or expiration of any Hosted Services, Supplier will provide to Hillshire Brands any information and termination assistance services that Hillshire Brands reasonably requests to allow the Hosted Services to continue without interruption or adverse effect on Hillshire Brands and to facilitate the smooth and orderly transfer of those services to Hillshire Brands or its designee.

(b) Hillshire Brands may request, and Supplier will extend, the provision of the Hosted Services beyond the effective date of termination or expiration of the applicable Order for a reasonable period at the amounts and on the terms and conditions that would have been in effect during such period but for that termination or expiration.

(c) Hillshire Brands will pay Supplier the amounts set forth in the applicable Order. However, if Hillshire Brands terminates these Terms or the Order for cause, Supplier will provide to Hillshire Brands the termination assistance services at Supplier's reasonable out-of-pocket cost.

4. SYSTEM ACCESS PROVISIONS.

4.1 Application of System Access Provisions.

The provisions set forth in this Article apply when Hillshire Brands gives Supplier remote or on-site access to Hillshire Brands' networks or other computer systems ("Hillshire Brands Systems"). Supplier will use this access only to perform its obligations as described in the applicable Order. Hillshire Brands may terminate Supplier's access to the Hillshire Brands Systems at any time without notice to Supplier.

4.2 Consent to Monitoring When Accessing Hillshire Brands Systems.

To the extent permitted by applicable Laws (defined below), Supplier agrees that Hillshire Brands may monitor, record and analyze any access to, or data stored on, the Hillshire Brands Systems at any time without notice. Supplier consents to this monitoring, recording and analysis. Supplier will ensure that all persons obtaining access to the Hillshire Brands Systems through Supplier are advised of and have consented to this monitoring and recording. To the extent permitted by applicable Laws, Supplier, on its own behalf and on behalf of all persons obtaining access to the Hillshire Brands Systems through Supplier, acknowledges that there is no express or implied right of privacy with respect to such access or data.

4.3 Login IDs for System Access.

If Hillshire Brands assigns a login code (a "Login ID"), (i) only the individual who was assigned a Login ID may use that Login ID, (ii) Supplier will not permit any Login ID to be shared or used by any other individual, and (iii) Supplier will be responsible for all access to the Hillshire Brands Systems by any person using a Login ID issued to any person at Supplier's request.

4.4 Supplier Systems Used to Access Hillshire Brands Systems.

Supplier will be responsible for all systems that Supplier uses to access the Hillshire Brands Systems. Supplier will use commercially reasonable efforts to ensure that its systems include up-to-date anti-viral software reasonably acceptable to Hillshire Brands to prevent viruses from reaching the Hillshire Brands Systems through Supplier's systems. Supplier will use commercially reasonable efforts to prevent unauthorized access to the Hillshire Brands Systems through Supplier's systems.

4.5 Compliance with Hillshire Brands Security Procedures When Accessing Hillshire Brands Systems.

Supplier will comply, and cause any person obtaining access to Hillshire Brands Systems through Supplier to comply, with Hillshire Brands' internal information security policies and procedures, as described in Hillshire Brands' Third Party Information Security Policy (available upon request), and which are in effect from time to time, and applicable to Supplier's performance, as well as any procedures set forth in the applicable Order. Supplier will immediately notify Hillshire Brands of any actual or threatened security breach in or unauthorized access to the Hillshire Brands Systems. Supplier will cooperate fully with Hillshire Brands to investigate any security breach or unauthorized access.

4.6 No Transmission of Harmful Material Through System Access.

Supplier will not transmit nor permit the transmission of any unlawful, discriminatory, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic or profane material through the Hillshire Brands Systems. Supplier acknowledges that Hillshire Brands intends to cooperate fully with law enforcement, governmental, regulatory or judicial investigations of any access to the Hillshire Brands Systems. This cooperation may include disclosure of the identity of, and the information transmitted or received by, persons accessing the Hillshire Brands Systems. If Hillshire Brands so requests, Supplier will immediately remove any person who violates this Section, and ensure that such person is not allowed to be directly or indirectly involved in providing goods or services to Hillshire Brands.

4.7 Removal of Data Through System Access.

Supplier will not remove from Hillshire Brands facilities or retain a copy of any data or information obtained from, or as a result of access to, the Hillshire Brands Systems unless (i) these Terms includes Data Handler Provisions, and (ii) that removal or retention is reasonably necessary for Supplier to perform its obligations pursuant to the applicable Order.

4.8 Confidentiality of Information Obtained Through System Access.

Hillshire Brands' Confidential Information will be deemed to include all Login IDs and any information contained on, or obtained as a result of access to, the Hillshire Brands Systems. Supplier will not permit any disclosure of this information without Hillshire Brands' prior written consent.

4.9 Disclaimers.

ACCESS TO THE HILLSHIRE BRANDS SYSTEMS IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. This Section will survive any expiration or termination of any Order for any reason. The limitations of liability and disclaimers in these Terms or any Order will not apply to any breach of this Article by Supplier.

5. TESTING, CORRECTION, AND ACCEPTANCE PROVISIONS.

5.1 Testing.

Before Supplier delivers any goods, equipment or software (each, a "Product"), Supplier will verify that the Product is in full compliance with all applicable specifications, including functional, performance and operational characteristics described in these Terms and the applicable Order. Upon Hillshire Brands' request, Supplier will permit Hillshire Brands (or its designees) to observe that verification and obtain a report of all results. After a Product has been delivered, installed and configured and is ready for use in the intended environment, Hillshire Brands will have 45 days, or such other period as set forth in the applicable Order ("Acceptance Testing Period"), to verify that the Product is in compliance with the requirements of these Terms and the applicable Order. Supplier will provide all reasonable assistance to Hillshire Brands in connection with this testing.

5.2 Correction.

If, during the Acceptance Testing Period, Hillshire Brands finds that a Product is not in compliance with the requirements of these Terms and the applicable Order, Hillshire Brands will describe the noncompliance to Supplier in reasonable detail. Within five Business Days, or such other period as set forth in the applicable Order, after receipt of that description, Supplier will, without charge to Hillshire Brands, render the Product in compliance with the requirements of these Terms and the applicable Order. If Supplier fails to do so within that period, Hillshire Brands may, at its option, (i) extend the correction period, or (ii) terminate the applicable Order, in whole or in part, for material breach immediately by notice and obtain from Supplier a full refund of all amounts paid by Hillshire Brands in connection with the portion of the Order so terminated.

5.3 Acceptance.

(a) If Hillshire Brands determines that a Product is in compliance with the requirements of these Terms and the applicable Order, Hillshire Brands will notify Supplier that Hillshire Brands has accepted the Product. Acceptance will be implied if (i) Supplier gives Hillshire Brands notice after the Acceptance Testing Period asking Hillshire Brands to notify Supplier of whether Sara accepts or rejects the Product, and (ii) Hillshire Brands fails to respond within five Business Days. Acceptance will not be implied from any other event.

(b) If a Product (a "Component Product") is to be integrated with another Product (an "Integrated Product"), Hillshire Brands' acceptance of the Component Product will not be final until Supplier successfully integrates the Component Product with the Integrated Product and Hillshire Brands accepts those Integrated Products. For example, if Supplier is to provide a system consisting of multiple modules, Hillshire Brands' acceptance of any individual module will not be final until Hillshire Brands accepts all of the modules integrated together as a complete system.

(c) Acceptance does not waive any of Hillshire Brands' rights to warranty and maintenance service for the Product, even if Hillshire Brands knows and has informed Supplier of the problems before Hillshire Brands accepts the Product.

6. PRIVACY PROVISIONS.

6.1 Compliance with Privacy Regulations.

If Supplier receives personal information from Hillshire Brands, Supplier will be subject to applicable Laws restricting collection, use, disclosure, processing and free movement of personally identifiable information ("Privacy Regulations"). The Privacy Regulations include the Gramm-Leach Bliley Act, Regulation S-P of the Securities and Exchange Commission (17 C.F.R. Part 248), the Health Insurance Portability and Accountability Act 1996, the Children's Online Privacy Protection Act (15 U.S.C. 6501 et seq., the fair information principles published by the United States Federal Trade Commission, the European Union Directive 95/46/EC on the protection of individuals with regard to the processing and free movement of personal data, European Union Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and other applicable privacy Laws. Without limiting the generality of the foregoing, Supplier will, in good faith, work with Hillshire Brands to address the legal requirements applicable to Supplier and/or Supplier's Personnel related to the Privacy Regulations, which will include entering into subsequent agreements or amendments to these Terms as Hillshire

Brands may reasonably require from time to time. If requested or required by Hillshire Brands, Supplier will also agree to execute a Data Security Agreement in the form provided by Hillshire Brands (available upon request). Hillshire Brands may provide guidelines to help Supplier and Supplier's Personnel comply with the Privacy Regulations, but Supplier (using its own legal advisors) will remain fully responsible for interpreting and complying with the Privacy Regulations with respect to Supplier's business.

6.2 Notification of Security Breach.

Supplier will immediately notify Hillshire Brands of any actual or threatened security breach in Supplier's systems that may result in the unauthorized access to or disclosure of any personally identifiable information received from Hillshire Brands. Supplier will cooperate fully with Hillshire Brands to investigate any such security breach in Supplier's systems and report the results to any applicable governmental or regulatory authority.

6.3 Reimbursement of Costs.

Supplier will reimburse Hillshire Brands for the cost of (i) any notices that are required to be given to affected individuals under the Privacy Regulations, (ii) any credit monitoring services offered by Hillshire Brands to affected individuals, (iii) any call centers or other commercially reasonable actions taken by Hillshire Brands to remediate the breach, and (iv) any payments or penalties imposed on Hillshire Brands by a governmental or regulatory authority as a result of such breach.

7. DATA HANDLER PROVISIONS.

7.1 Definition of Hillshire Brands Data.

The term "Hillshire Brands Data" means all data and information about Hillshire Brands' businesses, customers, employees, operations, facilities, products, markets, assets or finances that Supplier obtains, creates, generates, collects or processes in connection with these Terms, and all Intellectual Property Rights in that data and information.

7.2 Ownership of and License to Hillshire Brands Data.

As between Hillshire Brands and Supplier, Hillshire Brands will own all of the Hillshire Brands Data. If Supplier obtains any rights in any Hillshire Brands Data, Supplier will assign those rights to Hillshire Brands. Supplier will waive, and will not assert, any liens or other encumbrances it obtains on any Hillshire Brands Data. Supplier will not withhold any Hillshire Brands Data as a means of resolving a dispute. Hillshire Brands hereby grants Supplier a license to use the Hillshire Brands Data solely to perform Supplier's obligations to Hillshire Brands during the term of applicable Order. Hillshire Brands reserves all other rights in the Hillshire Brands Data.

7.3 Access to Hillshire Brands Data and Retention.

Supplier will promptly retrieve and deliver to Hillshire Brands a copy of all Hillshire Brands Data (or those portions specified by Hillshire Brands) in the format and on the media reasonably specified by Hillshire Brands (i) at any time upon Hillshire Brands' request, (ii) at the end of the term of the applicable Order, or (iii) with respect to particular Hillshire Brands Data, at the time when that data is no longer required by Supplier to perform its obligations under the applicable Order. Supplier will keep and maintain Hillshire Brands Data in accordance with the applicable Hillshire Brands record retention policy, if any, as directed by Hillshire Brands from time to time. If requested by Hillshire Brands, Supplier will destroy or securely erase, and provide Hillshire Brands with a certificate, signed by an authorized representative of Supplier certifying that Supplier has destroyed or erased, all copies of Hillshire Brands Data in Supplier's possession or under Supplier's control.

7.4 Compliance of Data Handler with Information Security Standards.

Supplier will comply with Hillshire Brands' internal information security policies and procedures, as described in Hillshire Brands' Third Party Information Security Policy (available upon request), and which are in effect from time to time and applicable to Supplier's performance, as well as any procedures set forth in the applicable Order. Supplier will not provide any Hillshire Brands Data to any subcontractor of Supplier unless the subcontract requires the subcontractor to comply with such policies and procedures. Hillshire Brands' internal and external auditors and personnel may conduct on-site security reviews, vulnerability testing and disaster recovery testing of Supplier's systems containing Hillshire Brands Data and otherwise audit Supplier's operations for compliance with such policies and procedures.

7.5 Notification of Security Breach.

Supplier will immediately notify Hillshire Brands of any actual or threatened security breach in Supplier's systems that may result in the unauthorized access to or disclosure of Hillshire Brands Data. Supplier will cooperate fully with Hillshire Brands to investigate any security breach or unauthorized access.

7.6 Protection of Hillshire Brands Data in the Event of Data Handler Bankruptcy.

If Supplier undergoes any of the financial insecurity events described in the Termination section of these Terms, Hillshire Brands will have the immediate right to take possession of and retain for safekeeping all Hillshire Brands Data then in Supplier's possession or under Supplier's control. Hillshire Brands may retain the Hillshire Brands Data until the trustee or receiver in bankruptcy or other appropriate court officer provides Hillshire Brands with adequate assurances and evidence that the Hillshire Brands Data will be protected from sale, release, inspection, publication or inclusion in any publicly accessible

record, document, material or filing. Supplier and Hillshire Brands agree that this Section is a material term of these Terms, and without it, Hillshire Brands would not have entered into these Terms or permitted Supplier to access or use Hillshire Brands Data.

7.7 Regeneration of Hillshire Brands Data by Data Handler.

Supplier will promptly replace or regenerate from Supplier's machine-readable media any data, programs or information handled or stored by Supplier that Supplier has lost or damaged or obtain a new copy of the lost or damaged data, programs or information. Alternatively, Hillshire Brands may replace or regenerate any data, programs or information that Supplier has lost or damaged or obtain a new copy of the lost or damaged data, programs or information, in which case, Supplier will promptly reimburse Hillshire Brands for all reasonable costs associated with its regeneration or replacement efforts.

7.8 Allocation of Risk.

The limitations of liability and disclaimers in these Terms or any Order will not apply to any breach of this Article.

8. DISABLEMENT OF SOFTWARE AND HARDWARE PROVISIONS.

8.1 No Disablement.

In no event will Supplier or its agents, disable or interfere, in whole or in part, with Hillshire Brands' use of any software or any software, hardware, systems or data owned, utilized or held by Hillshire Brands or customers without the written permission of an authorized representative of Hillshire Brands, whether or not the disablement is in connection with any dispute between Hillshire Brands and Supplier or otherwise. Supplier understands that a breach of this Section could cause substantial harm to Hillshire Brands and to numerous third parties having business relationships with Hillshire Brands. The provisions set forth in this Article will survive any expiration or termination of these Terms or any Order for any reason.

8.2 No Viruses.

Except as disclosed by Supplier in the applicable Order, Supplier represents and warrants that the software will not contain any virus, Trojan horse, self-replicating or other computer instructions that may, without Hillshire Brands' consent, (a) alter, destroy, inhibit or discontinue Hillshire Brands' effective use of the software or any Hillshire Brands resource, (b) erase, destroy, corrupt or modify any data, programs, materials or information used by Hillshire Brands, (c) store any data, programs, materials or information on Hillshire Brands' computers, or (d) bypass any internal or external security measure to obtain access to Hillshire Brands' resources.

9. PERFORMANCE METRICS PROVISIONS.

9.1 Obligation.

Supplier will at all times perform its obligations to meet or exceed the required levels of accuracy, quality, speed, consistency, availability, capacity, reliability, customer service, timeliness, conformity, efficiency and/or cost effectiveness, or other required levels as agreed to by the parties or as set forth in the applicable Order (collectively, "Performance Metrics"). If Supplier fails to perform in accordance with the applicable Performance Metrics, in addition to its other obligations under these Terms or the applicable Order, Supplier will (i) promptly investigate the root causes of the failure, (ii) use reasonable skill and care to resolve the root cause of the problem as soon as practicable (regardless of cause or fault), (iii) advise Hillshire Brands of the status at appropriate times, and (iv) certify to Hillshire Brands that all reasonable action has been taken to prevent any recurrence of the failure.

9.2 Measurement and Monitoring.

Supplier will implement automated or other measurement and monitoring tools and procedures acceptable to Hillshire Brands to measure and report Supplier's performance against the Performance Metrics in a manner and at a level of detail reasonably approved by Hillshire Brands. Supplier will provide Hillshire Brands with access to up-to-date problem management data and other data reasonably requested by Hillshire Brands regarding the status of failures and/or user inquiries.

9.3 Continuous Improvement.

Supplier will, without charge to Hillshire Brands, increase the Performance Metrics to reflect the higher performance levels actually attained or attainable by Supplier in accordance with the applicable Order. In addition, subject to the applicable Order, Hillshire Brands and Supplier will, to the extent commercially reasonable and appropriate, (i) increase the Performance Metrics to reflect improved performance capabilities associated with advances in applicable processes, technologies and methods, (ii) add new Performance Metrics to permit further measurement or monitoring of Supplier's performance, (iii) modify or increase the Performance Metrics to reflect changes in the processes, architecture, standards, strategies, needs or objectives defined by Hillshire Brands, and (iv) modify or increase the Performance Metrics to reflect agreed upon changes in the manner in which Supplier is to perform its obligations.

10. PRICE / INVOICES / SET OFF / LIENS - The price set forth in the Order is firm and is the total amount due from Hillshire Brands for the software license and services, including without limitation duties, taxes or any other charges agreed upon by Hillshire Brands, subject to adjustment for any rebates or credits described herein or in the Order. Hillshire Brands shall not be responsible for any amount above the total amount expressly stated in the Order. Without Hillshire Brands' prior written consent, Supplier shall not add any charges. Invoices shall be submitted to Hillshire Brands upon the provision of the software

license or performance of the services in a form reasonably acceptable to Hillshire Brands. Hillshire Brands will have no obligation to pay any amounts that Supplier fails to invoice to Hillshire Brands within 120 days after the amounts were incurred. Payment terms for all undisputed amounts shall be as set forth in the Order and shall commence on the date of Hillshire Brands' receipt of the applicable, accurate invoice. In the event an invoice arrives prior to Supplier making available to Hillshire Brands' the applicable software license and services, Hillshire Brands' payment period shall not begin until Supplier makes available to Hillshire Brands' the applicable software license and services. Except as required by applicable federal, state and local laws, ordinances, orders, rules and regulations promulgated by any governmental or self-regulatory agency having jurisdiction over a party (collectively, "Laws"), Hillshire Brands will not be required to pay any late charge, interest, finance charge or similar charge. If Hillshire Brands has a claim against Supplier resulting from the Order or these Terms or any other transaction, Hillshire Brands may deduct or set off such amounts from Supplier's claims for amounts due. Supplier will not file, and will not permit any subcontractors acting on its behalf to file, any mechanic's or materialman's liens, retention rights, security rights or any security interests to secure payment under the Order. If any such liens, rights or interests arise, Supplier will remove them at its cost. Supplier further warrants and represents that no liens, encumbrances, security interests, or other third party claims shall attach to any property owned or leased by Hillshire Brands in relation to Supplier's performance under the Order.

11. **WARRANTIES / COMPLIANCE WITH LAWS / TITLE** - Supplier expressly warrants and represents to Hillshire Brands, its successors, assigns, customers, and users of Hillshire Brands' products, that the software license and related services furnished under this Agreement shall: (a) conform to the terms of this Agreement, the applicable Order and/or all applicable samples, drawings, standards, specifications, performance criteria and any other description requested, furnished or provided to or by Hillshire Brands for one year after Hillshire Brands accepts the equipment, (b) be free from errors and defects in material and workmanship; (c) together with their packaging, labeling and accompanying materials be properly contained, packaged, marked and labeled; (d) not infringe the rights of any third parties; and (e) with respect to services, be performed diligently, efficiently in a good and workmanlike manner to the highest professional standards. In addition, Supplier shall comply and the equipment and related services shall comply and/or be performed in compliance with all applicable Laws and industry standards. Supplier represents and warrants to Hillshire Brands that title to all equipment delivered to Hillshire Brands under any Order will be good and marketable, free of any lien or encumbrance. Each Party also represents and warrants to the other that it has all requisite legal and corporate power and authority to execute and deliver this Agreement and each Order.

12. **ADDITIONAL REMEDIES** - Notwithstanding anything to the contrary contained herein, Supplier also agrees that it shall be liable to Hillshire Brands for the following acknowledged direct damages: (i) costs of completing the manufacture, processing or development of equipment or the performance of related services which are incomplete due to Supplier's failure to perform, (ii) costs of obtaining a suitable alternative facility or supplier due to Supplier's failure to perform, (iii) cover damages, including costs to procure replacement equipment and related services from an alternate source as a result of Supplier's failure to perform, to the extent in excess of the applicable charges, (iv) for non-conforming equipment accepted by Hillshire Brands, the difference at the time and place of acceptance between the value of equipment accepted and the value it would have had if it had been as promised, (v) costs of overtime, straight time and related expenses and allocated overhead (including travel, lodging, wages) as a result of Supplier's failure to perform, (vi) lost profits on orders for Hillshire Brands products received by Hillshire Brands from its customers as of the date of Supplier's failure to perform that Hillshire Brands is unable to fill and payments, fines or penalties imposed on Hillshire Brands by its customers in connection therewith, (vii) payments or penalties imposed by a governmental or regulatory authority as a result of a failure to comply with applicable Laws, (viii) costs of reconstructing or reloading data as a result of Supplier's failure to perform, (ix) costs of implementing and performing work-arounds to mitigate Supplier's failure to perform, and (x) costs of replacing lost, stolen or damaged software license, materials or other personal property.

13. **DEVELOPMENTS** - Hillshire Brands will own exclusively all materials, software, ideas and other work product developed, in whole or in part, by or on behalf of Supplier pursuant to any Order (collectively, "Developments") together with all related patent, copyright, trade secret, trademark, trade name, database, design and model, or other intellectual property or proprietary rights (collectively, "Intellectual Property Rights") throughout the world. To the fullest extent permitted by applicable Laws, the Developments will be deemed "works made for hire" under the U.S. Copyright Act and Hillshire Brands will be deemed the author. To the extent that Hillshire Brands is not deemed the author of any Developments, Supplier will and hereby does without further consideration perpetually and irrevocably assign to Hillshire Brands any and all worldwide right, title or interest that Supplier may now or hereafter possess in or to the Developments in perpetuity (or to the maximum period permitted by applicable Laws). Supplier will execute and deliver all documents and provide all testimony reasonably requested by Hillshire Brands to register and enforce its Intellectual Property Rights in the Developments solely in the name of Hillshire Brands and Hillshire Brands accepts such assignment. Supplier and its licensors will retain ownership of all materials, software,

ideas and other work product developed or acquired by Supplier prior to the date or independently of any Order, together with all related Intellectual Property Rights (collectively, "Outside Materials"). Partial or incomplete versions of Developments will be deemed Developments. Upon Hillshire Brands' request or upon termination of any Order, Supplier will immediately provide to Hillshire Brands the then-current version of any Developments in the possession of Supplier or any Supplier Personnel. Supplier hereby grants to Hillshire Brands, each other entity named in any Order as a licensed person, and their respective successors and assigns (each, a "Licensed Person"), a perpetual, irrevocable, fully-paid up, worldwide non-exclusive right and royalty-free license to all Intellectual Property Rights in all Outside Materials that Supplier embeds in or otherwise provides with any Developments to the extent required to fully and completely use and enjoy the Developments. The parties acknowledge and agree that the foregoing right and license includes the right for each Licensed Person to (i) use, copy, modify, develop derivative works, sublicense, distribute, display and perform the Outside Materials, (ii) designate third parties to exercise those rights and licenses on behalf of any Licensed Persons, and (iii) sublicense, transfer or assign its right and license in connection with any assignment of the copyright in the associated Developments. Supplier will execute and deliver all documents and provide all testimony reasonably requested by Hillshire Brands to register and enforce Intellectual Property Rights in the Developments solely in the name of Hillshire Brands. Supplier irrevocably designates and appoints Hillshire Brands its agent and attorney-in-fact to act for and on its behalf to execute, register and file any applications, and to do all other lawfully permitted acts, to further the registration, prosecution, issuance and enforcements of the Intellectual Property Rights in the Developments with the same legal force and effect as if executed, registered and filed by Supplier.

14. INDEMNIFICATION - Supplier will indemnify, defend and hold harmless Hillshire Brands and its officers, directors, employees, shareholders, agents, and assigns (collectively, with Hillshire Brands, each an "Indemnified Person") from any and all claims, losses, liabilities, damages, and expenses, including reasonable legal fees and disbursements, incurred by the Indemnified Person as a result of, due to, arising from, or related to (i) any actual or alleged material breach of these Purchase Terms and/or any Order by Supplier, (ii) any actual or alleged infringement, violation or misappropriation of the Intellectual Property Rights of any third person by the Supplier, (iii) the negligence or willful or reckless acts or omissions of or by Supplier, (iv) any contract or commitment entered into by Supplier with any third party, or (v) the death or bodily injury of any person or the damage, loss or destruction of any real or tangible personal property caused by the failure of Supplier to comply with its obligations under these Purchase Terms or the applicable Order (collectively, "Indemnified Claim"); provided, however, that Supplier will have no liability to Hillshire Brands for any such Losses to the extent caused by the negligence or willful or reckless acts or omissions of or by Hillshire Brands. Promptly after receipt by an Indemnified Person of notice of the commencement or threatened commencement of any Indemnified Claim, the Indemnified Person will notify Supplier of the Indemnified Claim. Upon such notice, Supplier shall, at its expense, assume the defense of the Indemnified Claim. No delay or failure to so notify Supplier will relieve it of its indemnification obligations under the Purchase Terms except to the extent that Supplier has suffered actual prejudice by such delay or failure. No settlement or compromise that imposes any liability or obligation on any Indemnified Person will be made without the Indemnified Person's prior written consent. The Indemnified Person will be entitled to employ counsel at its own expense to participate in the handling of the Indemnified Claim.

15. LIMITATION OF LIABILITY - Except as otherwise agreed, neither party will be liable to the other party for indirect, incidental, consequential, punitive, special or exemplary damages, regardless of the form of the action or the theory of recovery, even if that party has been advised of the possibility of those damages. Any action resulting from any breach on the part of Hillshire Brands as to equipment and related services delivered under any Order must be commenced within one (1) year after the cause of action has accrued.

16. INSURANCE - Supplier shall, at its sole cost, procure and maintain in effect, insurance coverage which is primary and non-contributory as to any insurance maintained by Hillshire Brands, with insurance companies maintaining an A.M. Best rating of "A" or better. Supplier shall furnish certificates of insurance to Hillshire Brands to evidence such coverage, and shall send new certificates of insurance to Hillshire Brands upon the expiration of any such certificates. Hillshire Brands shall be named as an additional insured on all such policies, where applicable. All insurance shall also include waiver of subrogation provisions in favor of Hillshire Brands. The minimum insurance coverage to be maintained by Supplier shall be as follows: (i) commercial general liability insurance, including products and completed operations, broad form property damage, blanket contractual and advertising liability coverage endorsed to cover Supplier's contractual liability assumed under these Terms, providing bodily injury and property damage coverage on an occurrence form, affording minimum single limit protection of no less than One Million Dollars (\$1,000,000) per occurrence and with deductibles no greater than One Hundred Thousand Dollars (\$100,000) per occurrence; (ii) commercial automobile liability insurance to cover all owned, non-owned and hired vehicles in the amount of at least One Million Dollars (\$1,000,000) per occurrence; (iii) worker's compensation insurance in accordance with the statutory requirements of the state where Supplier conducts its operations; (iv) employer's liability insurance in the amount of at

least One Million Dollars (\$1,000,000) per occurrence; (v) excess or umbrella liability insurance with limits of at least Five Million Dollars (\$5,000,000) per occurrence in excess of the limits afforded for general liability, automobile liability and employers liability provided above; (vi) professional liability insurance with limits of at least one million dollars (\$1,000,000) per claim for economic damages sustained by Hillshire Brands and due to errors and omissions arising out of performance of professional services to Hillshire Brands. The procurement, maintenance or limits of coverage set forth in this Section will not relieve Supplier of liability for loss or damage in excess of the limits specified in this Section. If there is a material change in or cancellation of the insurance required by these Terms or the Order, then Supplier will notify Hillshire Brands within 30 days. Supplier will require all subcontractors and others performing any services at Hillshire Brands facilities to procure and maintain in effect the insurance required by these Terms or the Order. Supplier waives any and all rights of recovery it may have against Hillshire Brands for damage or destruction of property of Supplier or its employees.

17. TERMINATION - Unless the applicable Order includes other provisions with respect to termination for convenience, Hillshire Brands may terminate these Purchase Terms or any Order for convenience, in whole or in part, at any time by giving Supplier at least 30 days' prior written notice of the termination date, in which case Hillshire Brands will reimburse Supplier for the actual, reasonable and demonstrable unrecoverable out-of-pocket costs that Supplier incurred to perform under the terminated Order (but not more than what Hillshire Brands would have paid had it not terminated). In addition to Hillshire Brands' other rights and without liability, upon notice to Supplier, Hillshire Brands may terminate the Order, or any part thereof, for cause in the event of any default by Supplier of the terms or conditions of the Order or of these Terms, including, without limitation, Supplier's failure to provide Hillshire Brands, upon request, with reasonable assurances of future performance. Hillshire Brands may also terminate the Order for cause if Supplier fails any quality requirements, including, but not limited to, audits and inspections by Hillshire Brands, a third party or the government or any governmental agency. Hillshire Brands may also terminate the Order for cause if Supplier becomes insolvent, is the subject of any proceedings (not dismissed within 30 days) related to its liquidation, insolvency or the appointment of a receiver or similar officer for that party, 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 Hillshire Brands' termination notice, Supplier shall immediately stop and cause all suppliers and subcontractors to stop all performance under the Order. Upon any termination, Hillshire Brands will owe Supplier fees for the software license and services provided prior to the effective date of termination and Supplier shall refund or credit Hillshire Brands for any amounts paid in advance by Hillshire Brands for the software license and services that were not yet provided as of the effective date of termination.

18. CONFIDENTIALITY- The receiving party and its employees, agents and representatives, shall consider as the other party's "Confidential Information," all proprietary or non-public information of the disclosing party, and with respect to Hillshire Brands as the disclosing party (i) all specifications or other documents prepared by Supplier in connection herewith, (ii) personally identifiable information provided by Hillshire Brands or gathered in connection with these Purchase Terms, (iii) the fact that Hillshire Brands has contracted to purchase goods, services, equipment and/or software from Supplier, and (iv) all other non-public information relating to these Purchase Terms. Without the disclosing party's prior written consent, the receiving party shall not disclose or use Confidential Information for any purpose other than performing these Purchase Terms. The foregoing provisions shall be in addition to the terms of any other written agreement executed by the parties relating specifically to confidentiality, non-disclosure, data security and privacy, and/or publicity, except that in the event of a conflict, these provisions shall control. The receiving party's confidentiality obligations will survive perpetually for trade secrets and personally identifiable information and for a period of five years from the date of disclosure for all other Confidential Information. Hillshire Brands' receipt of Confidential Information from Supplier will not impair Hillshire Brands' right to develop, manufacture, market, sell, distribute or use any goods or services that compete with the goods or services provided by Supplier, provided, however, Hillshire Brands does not use Supplier's Confidential Information in connection therewith. The receiving party will return or destroy any Confidential Information promptly upon the disclosing party's request. If the disclosing party so requests, the receiving party will provide a certificate, signed by an authorized representative, certifying that all Confidential Information has been returned or destroyed.

19. COMPLIANCE WITH HILLSHIRE BRANDS CORPORATION'S GLOBAL STANDARDS - Supplier represents and warrants that Supplier is and will continue to be in full compliance with The Hillshire Brands Company's Global Standards for Business Partners, as those standards appear from time to time on the "Business Partners" section of the Hillshire Brands website at www.hillshirebrands.com. Hillshire Brands' internal and external auditors and personnel may conduct inspections or audits of Supplier's records and facilities for compliance with the Standards. Supplier's employees will cooperate fully with any such auditors and personnel in connection with any such audit.

20. UNITED STATES GOVERNMENT CONTRACT FLOW-DOWN CLAUSES - Supplier acknowledges that, as a matter of United States federal procurement law, that (i) Supplier may be deemed a “subcontractor” to a Hillshire Brands entity under one or more of such entity’s contracts with the federal government, (ii) the software license or services provided or to be provided by Supplier in such circumstances may constitute “commercial items” as that term is defined in the Federal Acquisition Regulation, 48 C.F.R. Section 52.202, and (iii) “subcontractors” providing “commercial items” under government contracts are subject to certain mandatory “flow-down” clauses (currently, (A) Equal Opportunity, (B) Affirmative Action for Special Disabled and Vietnam Era Veterans, and (C) Affirmative Action for Handicapped Workers) under the Federal Acquisition Regulation, 48 C.F.R. Section 52.244-6. Insofar as such clauses are required to flow down to Supplier, Supplier will comply with such clauses at no additional cost to Hillshire Brands.

21. MODIFICATION - Any amendment, modification or change of these Terms or the Order will be valid only if it is in writing and manually signed by an authorized representative of the party to be bound. No course of dealing between the parties or any documents issued by Supplier will have any force or effect between the parties, even if Hillshire Brands signs or accepts such documents.

22. FORCE MAJEURE – Neither party will be liable to the other party for any non-performance or delay in performance under these Purchase Terms and/or any Order in the event of causes beyond its reasonable control, such as government action or inaction, strike or other labor dispute, fire, act of God, war, or unusually severe weather, if the affected party (i) promptly notifies the other party of the event, (ii) provides the other party with a detailed description of the non-performance or delay that it will cause, and (iii) uses commercially reasonable efforts to perform despite such event.

23. SUPPLIES AND EQUIPMENT - All materials, supplies, or equipment furnished or paid for by Hillshire Brands in connection with the Order shall remain Hillshire Brands’ property (title shall not transfer to Supplier), shall be maintained by Supplier in good condition, shall be used by Supplier only for Hillshire Brands, and shall be returned to Hillshire Brands or otherwise disposed of as directed by Hillshire Brands upon completion of Order.

24. INDEPENDENT CONTRACTORS / SUPPLIER OBLIGATIONS - The parties will at all times be independent contractors. Neither party will have any right, power or authority to enter into any agreement for or on behalf of, or to assume or incur any obligation or liabilities, express or implied, on behalf of or in the name of, the other party. Supplier agrees that its employees and subcontractors are performing services as independent contractors and not as Hillshire Brands’ employees, regardless of where they perform services. Supplier shall be fully responsible for all of its employees, subcontractors and agents, including without limitation all compensation and taxes related thereto. Supplier shall ensure that none of its employees, subcontractors or agents (“Supplier Personnel”) engages in drug or other substance abuse while at a Hillshire Brands facility, in a Hillshire Brands vehicle or otherwise while performing services. If Hillshire Brands determines that the continued assignment to Hillshire Brands of any Supplier Personnel is not in the best interests of Hillshire Brands, Supplier will remove that individual from providing services and replace that individual with Supplier Personnel of suitable ability and qualifications without charge to Hillshire Brands. Supplier will ensure that the Supplier Personnel, while assigned to provide services at or otherwise visiting or accessing Hillshire Brands’ facilities, will (a) comply with Hillshire Brands’ then-current environmental, health, safety, and security policies and procedures and other rules and regulations applicable to Supplier or Supplier Personnel at those facilities, including, without limitation, Hillshire Brands’ Contractor Health, Safety, Environmental and Quality Assurance Program, which is available upon request by contacting the project manager, (b) comply with all reasonable requests of Hillshire Brands personnel, as applicable, pertaining to personal and professional conduct, and (c) otherwise conduct themselves in a professional and businesslike manner.

25. ILLINOIS LAW / WAIVER OF JURY TRIAL - These Terms and the Order will be governed by and construed in accordance with the applicable laws of Illinois, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding brought by it in any way arising out of these Terms or the Order must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the state or Federal courts located in the Northern District of Illinois, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the state and Federal courts located in the Northern District of Illinois, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. **BOTH PARTIES AGREE TO WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN THE RESOLUTION OF THE DISPUTE OR CLAIM, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN ANY OF THE PARTIES OR ANY OF THEIR**

RESPECTIVE AFFILIATES ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THESE PURCHASE TERMS OR ANY PURCHASE ORDER.

26. PUBLICITY – Supplier will not, without Hillshire Brands' prior written consent, (i) use the name, trademark, service mark, trade dress, logo or other identifying marks of Hillshire Brands in any sales, marketing or publicity activities or materials, or (ii) issue any public statement regarding its relationship with Hillshire Brands.

27. GENERAL CONDITIONS - Supplier may not assign, delegate or sub-contract its rights or obligations under these Terms or the Order without the express written consent of Hillshire Brands. Notwithstanding any such consent, Supplier will remain responsible for its obligations under, and will be liable for any subcontractor's failure to perform or abide by, the Terms or the Order. These Terms shall inure to the benefit of and be binding upon the parties hereto and to their respective successors and legal representatives. No provisions of these Terms will be waived by any party except in writing. A delay or omission by a party to exercise any right or power under the Order or these Terms will not be construed to be a waiver of that right or power. The parties hereto agree that the waiver by any party of a breach of any provision of the Order or these Terms 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 the Order or of these Terms. If any provision or application of the Order or of these Terms shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and applications of the Order or these Terms shall not be affected, but rather shall remain valid and enforceable. Those obligations or responsibilities contained in the Order and in these Terms which are continuing in nature shall survive the expiration or termination of the Order. All rights and remedies provided for in these Terms shall be cumulative and additional to any other or further remedies provided by law, equity or otherwise. Notices will be deemed given when sent by first class mail (return receipt requested), hand-delivered or sent by documented overnight delivery service at the address indicated on the Order or otherwise provided to the other party by written notice. Electronic communications will be (i) considered "written" or "in writing" for purposes of these Terms, and neither party shall deny the legal effect, validity, or enforceability of a signature, contract or other document transmitted electronically, provided the information transmitted is in an agreed upon format under an agreed upon protocol, and (ii) treated as signed writings and original records. The previous sentence shall not apply where these Terms expressly require a manual signature or Hillshire Brands' or Supplier's written consent or agreement, in which case, the written consent or agreement must include a manual signature.

28. ENTIRE AGREEMENT - These Terms, the Order and any document referenced herein or therein collectively constitute the entire agreement between Hillshire Brands and Supplier, superseding all prior oral or written agreements and understandings as to the subject matter of these Terms and the Order.