

PURCHASE ORDER TERMS AND CONDITIONS (rev. 8/2018)

1. **Definitions:** The term “Company” means Seaboard Triumph Foods, LLC. The term “Seller” means any individual, corporation or other entity who is to perform or provide the Work under this purchase order. The term “Work” means all items, materials, equipment, labor or other services that is the subject of this purchase order.
2. **Warranty:** Seller warrants that all Work will conform to all specifications, if any, and will be free from defects in design, material and workmanship for a period of one year after the final acceptance of the Work, or such longer period as may be otherwise provided. If Seller breaches this warranty, Seller, at Company’s option, will repair the defective Work, replace the defective Work or refund the purchase price. If Company selects repair or replacement, any defects will be remedied without cost to Company, including but not limited to, the costs of removal, repair and replacement of the defective Work, and reinstallation of new Work. All such defective Work that is so remedied will be similarly warranted as stated above. If the Work involves the sale of goods, this transaction will be governed by the Uniform Commercial Code, latest revision, as enacted by the State of Iowa, including all warranty protection (express or implied) and all buyer remedies.
3. **Patents:** Seller warrants and agrees to indemnify and save harmless Company from all claims arising out of any infringement of patents or copyrights arising out of Company’s purchase, use or sale of the Work supplied under this purchase order, and to defend at Seller’s expense, including reasonable attorney’s fees, any and all suits or actions, based on such claims.
4. **Seller’s Liability and Indemnification:** Seller will save and hold Company harmless from and against all liabilities, claims and demands, and damages on account of personal injuries, including death, or property loss or damage to Company or to others (including Seller and employees and invitees of Seller and of Company) arising out of or in any manner connected with the performance of such Work or any defect in the Work, and caused by the negligent or willful act or omission to act of Seller, or a supplier of Seller, or employees or invitees of either of them, and Seller will, at its own expense, defend any and all actions based on such negligent or willful acts or omissions to act, and will pay all charges of attorneys and all costs and other expenses arising out of these obligations of indemnification.
5. **Insurance:** If Seller, either as principal or by agent or employee, enters upon the property of Company in order to do any Work, Seller agrees to maintain the following types of insurance coverage: (a) Worker’s Compensation Insurance or qualification as a self-insurer to satisfy the laws of the State of Iowa; (b) Employers’ Liability Insurance for Bodily Injury per accident with limits of not less than \$500,000 and Bodily Injury by Disease with limits of not less than \$500,000 per policy; (c) Commercial General Liability Insurance for Bodily injury and property damage, including contractual liability insurance, with combined limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and (d) Automobile Liability Insurance for Bodily injury and property damage with combined limits of not less than \$1,000,000 per occurrence. Seller’s Worker’s Compensation insurer or Seller, if self-insured, agrees to waive all rights of subrogation against Company except for claims caused by Company’s sole negligence. Also, Seller will name Company as an additional insured on its Commercial General Liability and Automobile Liability policies. Seller’s insurance will be primary without right of contribution of any other insurance carried by or on behalf of Company. Upon Company’s request, Seller will provide Company with a certificate of insurance demonstrating Seller’s compliance with the requirements listed in this Section 5. The requirements in this Section 5 are separate and distinct from any other obligations of Seller under this purchase order. If Seller will be coming onto Company’s site, a certificate of insurance shall be sent prior to: Seaboard Triumph Foods, LLC, Attn: Purchasing Department, 5555 Seaboard Triumph Parkway, Sioux City, IA 51111
6. **Termination:** Company may terminate this purchase order at any time by giving written notice to Seller. After receiving written notice of termination, Seller will immediately cease the Work indicated in the notice of termination. In the event of such a termination, payment for costs incurred by Seller will be negotiated by Company and Seller based on Seller’s actual costs plus a reasonable profit for the Work completed as of the termination date.
7. **Liens:** Seller guarantees that no lien, encumbrance or security interest will be filed by anyone against Company, Company’s property or the Work for materials or labor or both furnished under this purchase order and will defend and hold Company harmless from any such liens, encumbrances or security interests and will pay all attorney’s fees and all other costs and expenses arising from such liens, encumbrances or security interests.
8. **Independent Contractor:** Seller is an independent contractor and not an employee or agent of Company. Company disclaims any right to control the manner of performance by Seller and Company will not control the manner of performance by Seller. Seller has no authority to direct or control the performance of any employee of Company. Seller’s role will be that of an adviser and not of master to any Company employee. Seller does not have any Company title and Seller is not eligible for Company benefits or employee plans. Seller shall be responsible for the training, direction and safety of any of its agents or employees on Company property.
9. **Assignment:** The Work, as a whole, covered by this purchase order and amounts payable by Company to Seller under this purchase order are not assignable by Seller without the prior written consent of Company.
10. **No Violation of Law:** Seller warrants that it will comply with all foreign, federal, state and local laws and regulations.
11. **Environment, Health, Safety and Security:** If Seller, either as principal or by agent or employee, enters upon the property of Company, Seller agrees to comply with Company’s rules and regulations including its environmental, health, safety and security rules and regulations.
12. **Hazardous and Dangerous Goods and Materials:** For any goods or materials furnished in accordance with this purchase order which are defined as hazardous or dangerous under applicable law, Seller will provide Company with hazardous warning and safe handling information in the form of a material safety data sheet (MSDS) and appropriate labeling for such goods or materials.
13. **Equal Employment Opportunity:** Unless this purchase order is exempted by law, Seller will comply with Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, the Americans with Disabilities Act, as they

have been or will be amended from time to time, and regulations implementing such statutes; and any similar state and local laws and ordinances and the regulations implementing such statutes.

14. **Changes:** Company may, at any time, in writing, make changes to the general scope of this purchase order. If any such change causes an increase or decrease in the cost of or time required for the performance of any Work under this purchase order, an equitable adjustment will be made to the price or delivery schedule, or both, and this purchase order will be modified in writing accordingly.
15. **Electronic Commerce:** At Company's request, Company and Seller will facilitate business transactions by electronically transmitting data. Any data digitally signed pursuant to this section and electronically transmitted will be as legally sufficient as a written, signed, paper document exchanged between the parties, notwithstanding any legal requirement that the data be in writing or signed. Each authorized representative of a party will adopt a unique, verifiable digital identification consisting of symbols or codes to be transmitted with each transmission. Use of the digital identification will be deemed for all purposes to constitute a "signature" and will have the same effect as a signature on a written document.
16. **Title and Risk of Loss:** Title to and risk of loss for all supplies delivered hereunder shall pass to Company upon delivery; provided, however, that Seller shall bear all risk of loss to supplies rejected by Company after notice of rejection, except to the extent of loss resulting from the negligence of Company.
17. **Governing Law/Miscellaneous:** The invalidity or unenforceability of any particular provision of the purchase order shall not affect the remaining provisions thereof, and this purchase order shall be construed in all respects as if such invalid or unenforceable provision had been omitted. This purchase order, including these terms and conditions, supersedes all prior negotiations and understandings of the parties and contains the complete and final agreement between Seller and Company concerning the subject matter hereof. The validity, enforceability, and construction of all portions of this purchase order terms and conditions shall be governed by the substantive law of the State of Iowa and the Parties hereby submit to the exclusive jurisdiction of the state and federal courts located in Sioux City, Iowa.
18. **Arbitration:** Upon ten (10) days prior written notice provided by Company or Seller to the other party, any claim arising out of or related to this purchase order or the default thereof, which has not been mutually resolved, shall be settled by arbitration, which shall take place in Sioux City, Iowa located in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, as modified or supplemented herein. Notwithstanding the rules, the Parties agree that any arbitration shall be presided over by one arbitrator who has been admitted to the practice of law and be in good standing in any of the fifty United States. The decision of the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction. The arbitrator shall have no authority to award punitive or exemplary damages. Unless otherwise stated in the arbitral award, the losing party shall reimburse the prevailing party for the prevailing party's reasonable costs and expenses, of mediation and arbitration. Any claim for relief made pursuant to the purchase order shall be made within one (1) year from the date upon which the party claiming relief knew or should have known of the cause of action constituting such claim.
19. **Entire Agreement:** This purchase order sets forth the entire agreement between Company and Seller. By accepting this purchase order it is understood that Seller agrees to Company's terms and conditions. Company objects to any additional or conflicting terms and conditions in Seller's acceptance of this purchase order. Any changes or amendments to the terms and conditions in this purchase order must be agreed to in writing by Company.