



Standard Terms and Conditions

1. Purchase Agreements. Supplier agrees to sell, and Dr. Oetker Canada Ltd ("Dr. Oetker") agrees to purchase, the ingredients and/or products, in the estimated quantities set out in the supply agreements and/or contracts ("Agreements") and purchase orders issued by Dr. Oetker to Supplier ("Purchase orders"), and in accordance with these Standard Terms and Conditions, the Dr. Oetker Food Safety Policy and the other requirements set forth by the Dr. Oetker Quality Assurance and Purchasing departments.

2. Purchase orders. Purchase Orders are sent by Dr. Oetker to the email address provided by the Supplier. Supplier confirms via email receipt of the Purchase Order immediately but no later than 1 business day after receipt. Supplier advises Dr. Oetker immediately in the event of price difference, product delays or other related matters.

3. Shipment Schedule. Supplier shall use its best efforts to deliver Ingredients in accordance with and at the times and/or date specified on the applicable Purchase Order ("Delivery Date"). Supplier understands, acknowledges and agrees that time is of the essence with respect to the delivery of Ingredients purchased under each such Purchase Order. Supplier shall notify Dr. Oetker immediately in the event it becomes aware that it is unlikely to be able to meet the scheduled Delivery Date. Where such circumstances, are deemed to have a significant impact on the operation of Dr. Oetker, Dr. Oetker has the right to initiate a claim for any loss associated with the late delivery. Any such claim shall be deductible by Dr. Oetker with respect to any payments for any outstanding Purchase Orders. If there are no outstanding Purchase Orders, the Supplier shall pay Dr. Oetker such claims no later than five (5) business days after receiving written notice from Dr. Oetker that such Late Payments are owed and outstanding.

4. Invoicing. Provided all the terms of the Agreements are met with respect to a Purchase Order, all undisputed invoices will be paid by Dr. Oetker within standard payment terms of 30 days from delivery unless other payment terms are stated in the Agreements.

5. Warranty. Supplier represents, warrants and guarantees that the Ingredients covered by the Purchase Order will conform to the specifications, drawings, samples, or descriptions furnished to or by Dr. Oetker, and will be of merchantable quality and free from defect. In addition, Supplier acknowledges that Supplier knows of Dr. Oetker's intended use for the Ingredients and Supplier represents, warrants and guarantees that the Ingredients covered by the Purchase Order have been selected, designed, manufactured or produced by Supplier based upon Dr. Oetker's stated use and will be fit and sufficient for the particular purposes intended by Dr. Oetker. Seller further warrants that it will comply with all applicable laws and regulations relating to the production and, if applicable, to the development of the Ingredients and to the performance of Supplier's obligations under the Purchase Order and these standard terms and conditions. The warranty period shall be the longest of (a) five years after the date the Ingredients are delivered and (b) such longer period as is provided by applicable law.

6. Nonconforming Ingredients. Notwithstanding any prior payment or acceptance, and in addition to the other remedies it may have, Dr. Oetker may at its option reject an Ingredient not in conformity with the foregoing warranties ("Nonconforming Ingredients"), or correct the defect, or require correction by Supplier, all at Supplier's expense. In the event that Supplier delivers Ingredients to Dr. Oetker that do not meet the Dr. Oetker material specifications or which violate the Continuing Product Guarantee or any other warranty hereunder Dr. Oetker shall have the right to reject such Nonconforming Ingredients. In such event, Supplier shall, at its own cost and expense, remove the Nonconforming Ingredients from Dr. Oetker's premises, and shall immediately contact Dr. Oetker's receiving department to arrange for delivery to Dr. Oetker of Ingredients meeting Specifications in the amount ordered by Dr. Oetker under terms satisfactory to Dr. Oetker, as determined in Dr. Oetker's sole discretion ("Conforming Ingredients"). If Supplier cannot deliver the Conforming Ingredients to Dr. Oetker under terms satisfactory to Dr. Oetker, Dr. Oetker may purchase the Conforming Ingredients from an alternate source, and Supplier shall indemnify Dr. Oetker for any loss or damage suffered by Dr. Oetker as a result of Supplier's delivery of Nonconforming Ingredients, including any differences between the price of the Nonconforming Ingredients and the price of the Conforming Ingredients, costs associated with delays in production, loss of profit and write-offs incurred by Dr. Oetker. Notwithstanding the foregoing, in such an event Dr. Oetker shall retain all other rights for damages otherwise available under the Agreements, or at law or equity. No substitutions of Ingredients or partial shipments may be made by the Supplier without Dr. Oetker's prior written consent. Violation of this Section shall be *prima facie* evidence of non-conformity.

7. Quality Control. Supplier shall comply with all applicable local, county, state, provincial, federal, and foreign import, laws, codes and ordinances of any description including, without limitation, all laws regarding occupational health and safety issues, labor laws, ingredient safety laws, fire codes, hazardous waste and/or toxic substances management, and handling or disposing laws, and Supplier shall forthwith remedy any breach of such laws.

8. Termination of purchase agreements. Dr. Oetker shall have the right to immediately cancel or terminate any Agreements and any Purchase Order or any part of Dr. Oetker's obligations under such Purchase Order if: (a) Supplier advises Dr. Oetker that it does not have Ingredients which conform to the terms of the Agreements or the Purchase Order; (b) Ingredients were sold to Dr. Oetker in violation of any applicable law; (c) Supplier fails to maintain the insurance required or fails to produce evidence thereof; (d) Supplier files for bankruptcy or reorganization, becomes insolvent, or makes a general assignment for the benefit of its creditors under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any similar laws; (e) Supplier commits a material breach of the terms of the Agreements or any Purchase Order or these Standard Terms and Conditions; (f) cancellation or termination is otherwise permitted by any



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applicable law; or (g) there has been a change of control of the Supplier, whether by merger, amalgamation, arrangement, recapitalization, share exchange or any other transaction or event.

9. Purchase order cancellation. Notwithstanding anything in the Agreements to the contrary, Dr. Oetker may at any time, by providing sufficient notice to Supplier, cancel a Purchase Order entirely or cancel any portion of a Purchase Order. In such an event, Dr. Oetker's sole liability shall be the reimbursement to Supplier of costs actually incurred by Supplier in connection with such Purchase Order. If Dr. Oetker should so cancel, Dr. Oetker shall have the right to request a comprehensive breakdown of costs from the Supplier, with sufficient supporting data to permit Dr. Oetker's audit of such claim and shall thereafter promptly furnish such supplemental and supporting information as Dr. Oetker may request. If the cancelled Ingredients are standard stock merchandise, Dr. Oetker may return such Ingredients to Supplier for full credit.

10. Confidentiality. All Proprietary Information (as hereinafter defined) of a party is the sole and exclusive property of that party. The other party shall not in any manner use, reproduce or disclose, directly or indirectly, to any third party at any time any Proprietary Information, except in connection with its performance under the Agreements or a Purchase Order. Each party shall restrict access to the other party's Proprietary Information to its employees who have a legitimate business need for such data for the purposes permitted by the Agreements, and who have agreed to handle such data in accordance with the terms of the Agreements. Each party shall comply with the *Personal Information Protection and Electronic Documents Act* (Canada) ("PIPEDA"), or any similar privacy legislation, with respect to "personal information" (as defined in PIPEDA) that may form part of or be included in the Proprietary Information. If a party is required to disclose any Proprietary Information in connection with any judicial proceeding or government investigation, then that party shall, to the extent permitted by applicable law, promptly notify the other party and allow it a reasonable time before such disclosure is required to seek a protective order from the appropriate governmental authority. Upon demand by either party, the other party shall deliver to it immediately all materials containing the other party's Proprietary Information in its possession. "Proprietary Information" of a party means: (a) all information relating to its sales, pricing, cost, inventory, operations, plans and programs; (b) all of its trade secrets, including any customer information and/or lists, customer survey responses and any other information concerning any of its customers; (c) all terms, pricing, specifications and other information supplied by the other party or obtained as a result of performance under the Agreements (including documents or information obtained by or accessible to Supplier during any on-site visits to Dr. Oetker or participating affiliate locations); (d) patent applications, and other embodiments of a party's intangible property; and (e) any other information that is not publicly available and is designated by that party as Proprietary Information. Proprietary Information does not include any information that (i) is or becomes generally available to the public other than as a result of disclosure directly or indirectly by the party receiving the Proprietary Information (the "Receiving Party") from the disclosing party (the "Disclosing Party"), (ii) can be shown by the Receiving Party to have become available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party unless the Receiving Party knows after reasonable inquiry that such source is prohibited from disclosing the information to the Receiving Party by a contractual, fiduciary or other legal obligation to the Disclosing Party, or (iii) can be shown to have been independently acquired or developed by the Receiving Party without use of any Proprietary Information. The Receiving Party acknowledges that because of the unique and proprietary nature of the Proprietary Information, in the event of any breach of this paragraph by the Receiving Party, the Disclosing Party shall be entitled to injunctive relief to protect its rights and to specifically enforce the terms and provisions thereof (without proof of actual damages and without the requirement of posting a bond or other security) and the Receiving Party shall be responsible for all legal and other costs incurred by the Disclosing Party in pursuing that or any other remedy at law or in equity.

11. Indemnification. Supplier agrees to indemnify and hold harmless Dr. Oetker and its subsidiaries, affiliates operating companies and their respective directors, officers and employees, from and against any and all damages, claims, losses, liabilities (including reasonable legal fees, disbursements and costs of investigation), demands, expenses or actions of whatever nature, including but not limited to personal injury, property damage, and intellectual property infringement, resulting from or related directly or indirectly to Supplier's obligations and warranties hereunder.

12. Assignment. Neither the Agreements nor any of the rights, duties, responsibilities or obligations hereunder may be assigned or transferred in any way by Supplier without the prior written consent of Dr. Oetker.

13. Governing Law; Jurisdiction. These Standard Terms and Conditions will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, excluding their conflict of laws principles.

14. Disputes. If any dispute, claim, question or difference arises out of or in connection with the Agreements or Purchase Orders, or in respect of any legal relationship associated with or derived from the Agreements or Purchase Orders (a "Dispute"), the parties shall attempt to settle the Dispute by negotiation. If the Dispute has not been resolved, for any reason, within 30 business days following delivery of a notice of Dispute, the Dispute will be resolved by arbitration in accordance with the arbitration procedures set out in the Agreements. The Purchaser reserves the right to stop all payments for any Purchase Orders subject to a Dispute pending final resolution of such Dispute.