

## PREMIER CHEF - TERMS AND CONDITIONS OF SALE

### 1. SCOPE

- 1.1 These terms shall constitute the terms and conditions governing Premier Chef' Supply of the Products (both terms as defined in Clause 2 below) or confirmation/acceptance of the Purchaser's (as defined in Clause 2 below), Supply Request (as defined in Clause 2 below) or payment or agreement and shall apply exclusively to any and all transactions relating to or arising out of the Supply of the Products to the Purchaser by Premier Chef.
- 1.2 Premier Chef rejects the Purchaser's additional or conflicting terms and conditions of purchase irrespective of whether Premier Chef has accepted orders or payments for the Products. Supply of the Products or acceptance of payments shall not be deemed an implied acceptance of the Purchaser's terms and conditions even if such terms have been brought to the notice of PF. Any reference to the Supply Request, or purchase order shall not be deemed as acceptance of any terms or conditions contained within such documents. Deviations from Premier Chef – Terms and Conditions of Sale are valid only if a duly authorized representative (at Head of Sales Level) of Premier Chef has in writing explicitly agreed to be bound by such deviations.
- 1.3 These Terms supersede and exclude all discussions, representations, terms and/or conditions of trade, and all written or oral agreements, arrangements and understandings between Premier Chef and the Purchaser.
- 1.4 Premier Chef may amend these Terms at any time by notice to the Purchaser and the amended terms will apply to all Supply Requests and the Supply of the Products following the Purchaser's receipt of the notice expressing Premier Chef intention to amend these Terms.
- 1.5 Where there are more documents than one, the documents listed below may constitute the Supply Agreement for the Supply of the Products to the Purchaser. These documents are to be interpreted as forming integral part of one agreement dealing with the Supply of the Product. However, in the event of any conflict among the documents, the following shall be the order of precedence:
- (i) any formal, written, mutually signed and stamped document executed by Premier Chef and the Purchaser relating to the Supply of the Product by Premier Chef to the Purchaser ("Supply Agreement"); and
  - (ii) these Premier Chef - Terms and Conditions of Sale; and
  - (iii) Order Confirmation and Supply Request;
  - (iv) documents (if any) agreed to by Premier Chef and the Purchaser as forming part of the Supply Agreement.
- 1.6 To the extent that a provision within the document referred to in Sub-clause 1.5(i) above, explicitly identifies and states its intention to supersede or amend a provision within these Terms, such provision in these Terms shall stand superseded or amended (limited to such extent) as the case may be.

### 2. DEFINITIONS

In these Terms, unless the context otherwise requires:

- A. **Premier Chef or PF** means Premier Food Industries LLC, PO Box 384, Riyadh 11383, Kingdom of Saudi Arabia;
- B. **Purchaser** means a person or entity that requests for supply of the Products from PF and places a formal order for such supply or an intending purchaser of the Products from PF and/or a distributor and includes any agent or representative of the Purchaser and where some obligation is placed by these Terms on the Purchaser, in order to be entitled to claim under these Terms, the Purchaser should have

procured that the Purchaser's own customers discharged those obligations;

- C. **Order Confirmation** means the confirmation issued by PF to the Purchaser in response to the Supply Request from the Purchaser whereby PF accepts the Purchaser's Supply Request and agrees to Supply the Products;
- D. **Deliver** means to deliver the Products to the Purchaser that marks the transfer of the risks in the Products from PF to the Purchaser in accordance with the Incoterms and "Delivery" and "Delivered" shall have corresponding meanings;
- E. **Shipment Period** means the period between the first expected date of Shipment and the last expected date of Shipment during which period, certain quantities of the Products are agreed to be shipped/transported/delivered to the Purchaser as specified in the Order Confirmation for the relevant Products;
- F. **Incoterm** means a series of pre-defined commercial terms that are published by the International Chamber of Commerce and the version of which is in effect at the time of the Order Confirmation and which is specified in the Order Confirmation for the Products;
- G. **Product(s)** means any and all poultry and/or beef and/or turkey and/or veal products including Semi-Processed Products that are Supplied or agreed to be Supplied by PF to the Purchaser;
- H. **Semi-Processed Products** means any and all category of the Products that PF Supplies to the Purchaser which undergoes some processing through the addition of any ingredients or cooking and are further processed by the Purchaser or its customers who purchase from the Purchaser before sale to end consumers;
- I. **Finished Products** means the end products made out of the Products or Semi-Processed Products by the Purchaser or anyone to whom the Products are supplied by the Purchaser after the Products or Semi-Processed Products are subjected to further processes and/or ingredients and which are meant to be distributed and sold as finished products to their end customers;
- J. **Supply Request(s)** means the purchase order or other such documentation or written communication that PF receives from the Purchaser requesting for the Supply of a certain quantity of the Product(s) at a specific price;
- K. **Tax** means any tax or levy of a sales, value added or goods (including, but not limited to, any such tax) impost, charge or levy of an export, customs, excise, import or similar nature applicable to the Supply, exportation, importation, transportation, sale, use or ownership of the Products from time to time under any law applicable thereto;
- L. **Shipment** means the transport or logistical arrangements to be made so as to achieve the Supply of the Products pursuant to the specific volume or delivery date that forms part of the Order Confirmation for the Product(s);
- M. **Specification** in respect of a Product, means the specification as set out in the PF's selling specification for the product type described (as available on request from PF) as supplemented by the Order Confirmation;
- N. **Standards** means the relevant standards laid down in Gulf Standards Organization (GSO Standards);
- O. **Supply** means the sale and the Delivery of the Products to the Purchaser at the destination specified in the Order Confirmation;
- P. **Supply Agreement** means and includes any one or more or all of the documents listed in Sub-clause 1.5 above under which PF agrees to Supply the Products to the Purchaser; and
- Q. **Terms** means these Premier Chef - Terms and Conditions of Sale.

### 3. LEGAL STATUS OF QUOTATIONS AND PRICE LISTS

- 3.1 The price lists and quotations that PF issues are subject to prospective amendment or withdrawal unless a specific statement to the effect that the prices therein are valid up to a specific date or definite period is laid down therein. All price lists and quotations issued by PF are valid only if the purchases are made subject to these Terms. If a PF price list or quotation does not specify a time

frame within which the Purchaser is to issue a Supply Request: (i) the price list will be superseded when PF publishes a new price list; and (ii) the quotation lapses within a period of 7 business days from the date that PF sends the quotation to the Purchaser.

3.2 Quotations and price lists do not have the legal status of offers that are capable of acceptance by the Purchaser or agreements by PF to supply the Products that are capable of being enforceable by the Purchaser. Each Supply Request placed by the Purchaser is an offer to purchase the relevant Products subject to these Terms. PF may, at its absolute discretion, accept or reject any Supply Request issued by the Purchaser.

**4. ORDER CONFIRMATION**

4.1 A Supply Agreement under these Terms shall be deemed to have come into existence once PF confirms its agreement to sell the Products to the Purchaser (in response to a Supply Request) by issuing the Order Confirmation in this respect to the Purchaser. In case a written Order Confirmation is not made and the Delivery of the relevant Products to the Purchaser takes place, the delivery of the Products itself shall be deemed as an Order Confirmation.

4.2 Once a Supply Agreement under Sub-clause 4.1 has come in force, PF is entitled to invoice the Purchaser for the relevant Products. Weights, quantities or other measures in relation to the Products shall have a tolerance level of plus or minus 10%.

**5. SHIPMENT AND TIMING OF SUPPLY**

5.1 Subject to the remainder of this Clause 5 and unless otherwise agreed with the Purchaser within the Supply Agreement, PF shall Supply the Products to the Purchaser with a tolerance of +/-3 days to the specified date of Shipment or the Shipment Period.

5.2 The Purchaser shall be solely responsible for all import and other regulatory costs and requirements (including those relating to rules and regulations concerning consumer product safety in relation to the Products and Finished Products) relating to the Products in the relevant territories once the Products are Delivered by PF.

5.3 Where PF is unable to Supply as agreed with the Purchaser as a result of the Purchaser’s acts or omissions, or if the Purchaser is unable to accept a Shipment as advised in the Order Confirmation, PF may cancel the applicable Shipment or any part thereof, or any remaining Shipments under an Order Confirmation without any further liability, and resell or re-supply the Products to a third party, and the Purchaser will be liable for any loss incurred by PF on that resale or re-supply, as well as any storage, transport and other costs that are incurred by PF.

**6. SAFETY AND QUALITY**

6.1 The Purchaser and PF and the Purchaser agree that if the Products in post Delivery phase is exposed to certain environmental conditions and deviant handling practices, may give rise to food safety issues that can result in life critical and health critical situations.

6.2 The Purchaser acknowledges that the Products are sensitive to a variety of environments and handling practices and that PF ceases to have any control over such factors once the Products are delivered to the Purchaser. Therefore, as a prerequisite to exercising any right in relation to the Products or raising any claims in relation thereto, the Purchaser and PF agree that it is mandatory that the claiming party proves that the provisions of this document are strictly adhered to by the said by the said Party.

6.3 A summary of some of such factors that can influence the Products, affect their shelf life, stability and impact the food safety are given below so that the Purchaser can take adequate steps to avoid any

such and similar exposures in the storage and handling of the Products.

Factors and Likely Result	Likely Impact to the Products
Deviant storage conditions with the likely result of temperature abuse of the Products	i. Reduced shelf life ii. Product quality issues such as physical/sensory defects iii. Temperature abuse that can lead to the proliferation of micro-organisms causing spoilage and, in some cases ill health
Deviant handling practices that could result in damage to packing	Entry of pathogens into Products that can create food safety issues
Failure to process and/or cook for suitable time and at right temperature	May render the Product or the Finished Product unsafe for human consumption.

6.4 PF and the Purchaser have seriously considered and factored in the dependencies of the Products’ behaviour on their transport, storage, handling, processing and use in the post-delivery period and the fact that during the relevant times, the Products are totally out of the control and reach of PF. In the light of this, the Parties have chosen to apportion the risks between themselves in such a way that one retains only those risks over which it has control and to that effect have commercially negotiated those risks and settled them as given in the various provisions under these Terms.

**7. WARRANTY**

7.1 Subject to Sub-clauses 7.2 to 7.5 and Clauses 8, 9 and 11 below, PF shall ensure that the Products that it delivers to the Purchaser under the Agreement shall, for the duration of its mutually agreed shelf life, conform to: (i) the Specifications; and (ii) to the Standards provided always that:

- (a) proof is adduced by the Purchaser that the storage, handling and processing requirements in relation to the Products (specifically temperature control within the agreed levels) are strictly complied with during the post-delivery period;
- (b) claims based on non-conformity to the Specification or to the Standards are raised within the timeframes as those specified in Sub-clause 8.1.1 herein;
- (c) claims are raised before the Products are subjected to any form of processing and/or cooking.

7.2 Once the Products are subjected to any form of processing by the Purchaser or anyone to whom the Products are supplied by the Purchaser, it shall be deemed that:

- (a) the Products delivered by PF were fully compliant with the agreed Specification and to the Standards;
- (b) Products that have undergone some form of processing and/or cooking are the Finished Products and PF shall not be responsible in any way for the Finished Products as they are proprietary to the Purchaser and/or its customers.

7.3 The warranty specified in Sub-clauses 7.1 above is subject to the other provisions of these Terms. What is expressly provided for in the Sub-clause 7.1 is the lone warranty that PF provides in respect of the Products and no other guarantees or conditions or implied warranties of merchantability or fitness for purpose or fitness for sale or any those imposed by statute or custom of trade or practice or industry shall be applicable to the Products.

7.4 The Purchaser acknowledges and shall ensure that its customers also acknowledge that their strict compliance with the requirements of incoming inspection, testing of the Products and the investigation

process in Sub-clause 8.3 below in a time bound manner is critical to the warranty related claims so as to diagnose the issues (if any) and fix responsibilities in a timely manner. The Purchaser warrants that it follows and will procure that its customers follow the Standards and other industry standards as it relates to storage, transport and processing methods in the processing and/or cooking of the Products before sale as the Finished Products.

## 8. INSPECTION, REJECTION AND INVESTIGATION PROCESS

### 8.1 Inspection Obligation

8.1.1 The Purchaser and/or its customers shall be duty bound to inspect and test the Products that are delivered by PF to the Purchaser for their compliance with the Specification and to the Standards. The Purchaser's right of inspection shall be exercised strictly within the timeframe and conditions as in the table below:

Product Type	Timeframe for Inspection	Finding Final as it Relates to
Fresh	Same day as that of the delivery of the Products	i. Quantity ii. Packing formats & physical appearance iii. Foreign body contamination
	Within the shelf life of the Products	i. Compliance with Specification ii. Compliance with the Standards
Frozen	Same day as that of the delivery of the Products	i. Quantity ii. Packing formats & physical appearance
	Within shelf life, on the day of thawing of the Products	i. Foreign body contamination ii. Compliance with Specifications

8.1.2 The Purchaser and/or its customers shall conduct the incoming inspection of the Products as part of its incoming inspection and timely notify PF of any issues with the Products within the timeframes specified in the table above. If the Purchaser and/or its customers fail to conduct such incoming inspection or fails to notify PF of any issues within the time frame as given in the second column in the table above, the Purchaser and/or its customers shall be deemed to have inspected and satisfied itself of the factors specified in the third column being final and conclusive in respect of the Products.

### 8.2 Reporting

8.2.1 During the inspection and testing of the Products, if the Purchaser and/or its customers notices non-compliance with the agreed Specifications or to the Standards that the Purchaser has all the reasons to believe that PF to be responsible for, the Purchaser shall notify PF promptly by logging a complaint with the customer care department of PF using the hotline number of PF.

8.2.2 In every such complaint that may be logged, the Purchaser shall identify the batch number and quantity in respect of which non-compliance was noticed. Such notification shall be made strictly within 24 hours of such finding and shall specify the probable cause(s) of the defects complained of.

8.2.3 Should the Purchaser decide that the nature of the complaint is such that the relevant Products are to be rejected, the complaint shall be followed by a formal e-mail to be addressed to the Purchaser's point of contact in PF specifying the grounds upon which the Purchaser

has chosen to reject the Products ("Notice of Rejection"). The Purchaser shall attach to the Notice of Rejection, supporting material in the nature of test reports, photographs, and temperature logs of the Products post-Delivery. The Purchaser shall, further discharge its obligation to show by documentary or other forms of evidence that the alleged non-compliance of the Products with Specifications or to the Standards was caused despite compliance with the transport (if any), handling and storage requirements..

8.2.4 Storage of the Products Involved in the Notice of Rejection: The Purchaser shall retain the physical samples of the Products that it has alleged non-compliance for inspection by PF. The Purchaser shall keep the relevant Products falling under rejection under Sub-clause 8.2.3, stored separately from all other products and refrigerated (if fresh or thawed) or frozen (if not already thawed) until PF will have an opportunity to inspect them. Further, the Purchaser shall hold all the Products in the same production batch as the products falling within the Notice of Rejection (which the Purchaser has rejected).

### 8.3 Investigation by PF

8.3.1 PF shall begin a preliminary investigation into the Products falling under Notice of Rejection within two (2) business days from the date of the Notice of Rejection.

8.3.2 The Purchaser fully understands and acknowledges that if the Purchaser does not transport or store or handle the Products strictly in accordance with the requirements laid down in the Specification, the Products that are supplied by PF to the Purchaser can in turn be non-compliant despite the Products being fully compliant with Specification and the Standards. The Purchaser agrees that if the Purchaser brings any formal claim against PF on the ground of the Products supplied to it by PF being non-compliant with Specification or with the Standards in any dispute resolution forum or court before the investigation process laid down in these Terms fully complied with, it can cause irreparable harm, injury and losses to PF that may include loss of reputation and goodwill.

8.3.3 A preliminary investigation by PF may have anyone of the following findings and based on the findings, the action points shall vary:

Findings by PF	Likely Causes on which Findings may be Based	Action Points
Contents of the Notice of Rejection is justified and that the rejection of the entire quantity pertains to a non-compliance that arose at PF's end	Non-compliance in any one or a combination of the following: (a) the Products; (b) the processing of the Products at PF; (c) transportation to the stores of the Purchaser.	PF may accept the Notice of Rejection. To either replace the quantities of the Products or refund the price paid by the Purchaser (if payment was received by PF).
Non-compliance of the Products that arose at PF's end pertains to only partial quantities of the Products that are specified in the Notice of Rejection	Non-compliance in any one or a combination of the following: (a) the Products; (b) the processing of the Products at PF; (c) transportation to the stores of the Purchaser.	PF may accept the Notice of Rejection in respect of the partial quantity. To either replace the quantities admitted to have been non-compliant or refund the price paid by the Purchaser (if any).

Contents of the Notice of Rejection are not justified	(a) Non-compliance as alleged in the Notice of Rejection did not arise at PF's end; (b) the non-compliance must have arisen post-delivery to the Purchaser	PF may reject the Notice of Rejection issued by the Purchaser
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8.3.4 Pursuant to the reasons given in Sub-clause 8.3.2 above, in case PF's findings pursuant to the investigation conducted under this Sub-clause 8.3 is that the contents of the Notice of Rejection are not justified and that the rejection pertains to a non-compliance that arose at the Purchaser's and/or at its customer's end (either fully or partially), the Purchaser SHALL NOT BE ENTITLED TO LODGE ANY CLAIM AGAINST PF in any forum (irrespective of the forum being the dispute resolution forum in the Supply Agreement)

UNTIL THE CONCLUSION OF THE WHOLE INVESTIGATION PROCESS LAID DOWN IN THIS DOCUMENT IS STRICTLY FOLLOWED. THE PURCHASER HEREBY AGREES TO KEEP IN ABEYANCE ITS RIGHT TO INSTITUTE LEGAL PROCEEDINGS AGAINST PF UNTIL THE INVESTIGATION PROCESS UNDER THIS DOCUMENT IS

CONCLUDED and in return, PF agrees that any limitation period that may apply in respect of a claim to be brought before a forum by the Purchaser against PF shall be extended (where it can be so extended by agreement of the parties) to cover the period of abeyance that the Purchaser has so deferred its exercise of the right of institution of proceedings.

8.3.5 The Purchaser agrees to provide all the assistance and inputs that PF reasonably requests in order to assess and evaluate the Purchaser's claims as contained in the Notice of Rejection. The Parties agree that any failure of the Purchaser to allow and facilitate such reasonable investigation by PF shall raise an adverse presumption against the claim of the Purchaser to the extent the investigation by PF of the Products in question was hampered.

## 9. DISPUTE

Should the Purchaser or PF choose to differ with each other in respect of any findings or action points as given in Sub-clause 8.3 above and raises such differences formally with the other, a dispute (hereinafter "Dispute") shall be considered to have arisen.

### 9.1 Amicable Settlement

Within a period of seven (7) calendar days after the Dispute has arisen, the Purchaser and PF shall jointly review (at Senior Manager level) the various investigation reports and make serious attempts to settle the Dispute amicably.

### 9.2 Testing of the Rejected Products

9.2.1 If the Parties fail to settle the Dispute within the 7 calendar days of the Dispute having come into being under Sub-clause 9.1 above, the Parties shall submit the Dispute to a mutually agreed independent laboratory for independent testing and analysis (hereinafter the "Independent Laboratory") and based on the result of such test and analysis, the Parties shall evaluate as to whether there is a deficiency or non-conformity and if it exists, at what stage did the non-compliance occur and accordingly, settle the Dispute. The costs of the samples being sent to the Independent Laboratory and the fees to be paid to the Independent Laboratory shall be borne by the Party that has raised the Dispute.

9.2.2 Notwithstanding anything contained herein to the contrary, PF hereby disclaims any and all liability or responsibility or obligation to indemnify to the fullest extent allowed by law in respect of or in

- (i) Purchaser does not carry out inspection, sampling, testing of the Products strictly as specified in these Terms; or
- (ii) Purchaser fails to exercise a high degree of care in storing, handling, transporting, processing or managing the Products as compared to the process laid down in the Standards;
- (iii) Purchaser does not advise PF of the issue complained of, strictly within the time periods provided in these Terms; or
- (iv) Purchaser does not include in the Notice of Rejection, the full details of the Products, the alleged defect or damage and all documents associated with the relevant Shipment, or if Purchaser fails to comply with the requirements of Sub-clause 8.3; or
- (v) the defect complained of is the result of or have been contributed to by the Purchaser by its own conduct; or
- (vi) the defect is sustained during transit of the Products after the Delivery or Supply has occurred; or
- (vii) Purchaser does not answer promptly or fails or refuses to assist PF's enquiries concerning the claim; or

connection with the Products if and to the extent:

- (viii) the storage, transportation, handling and use requirements in relation to the Product(s) have not been complied with or there is insufficient documentary evidence to conclude whether they have been complied with or not or there is sufficient material to infer that the Product(s) have been exposed as shown in Clause 6; or
- (ix) the Products are subjected to further processing or are incorporated into or mixed with.

## 10. PRICE AND PAYMENT

10.1 Where credit terms are granted by PF to the Purchaser, such terms are extended to any Purchaser subject to the Purchaser satisfying PF's due diligence that is part of the qualification process for customers and the execution of the required documents which may include promissory notes in favour of PF. In case PF has granted credit terms to a Purchaser, PF retains the right to review such credit terms at any time at its sole discretion by applying policies that are internal to PF and, based upon such review, may, suspend or cancel such credit terms or require the Purchaser to provide such security that PF considers appropriate. PF may suspend any Shipment or Delivery until such security is furnished by the Purchaser. Any delays occasioned in Delivery or Shipment and associated costs incurred owing to PF's exercise of its rights hereunder shall be to the Purchaser's account. Except where PF has in writing granted specific credit terms to the Purchaser, the provisions contained in this clause shall apply to the Purchaser.

10.2 All references to the amounts of money hereunder are references to the currency set out in the relevant Order Confirmation provided to the Purchaser, or as otherwise agreed between PF and the Purchaser, and are payable in the currency so designated. Any foreign exchange risk shall be on the Purchaser. The modes of payment of the price of the Products and the requirements in relation to them areas given below:

Mode Of Payment	Requirements
By Letter of Credit	<ul style="list-style-type: none"> <li>i. Issuing bank should be acceptable to PF and/or its bank</li> <li>ii. L/C conditions to be approved by Treasury Team of PF</li> </ul>
By Documentary Collection	Documents to be tendered against payment (D/P) under the ICC Uniform Rules for Collections as may be amended from time to time
By Bank Guarantee or standby Letter of Credit	<ul style="list-style-type: none"> <li>i. Issuing bank should be acceptable to PF.</li> <li>ii. Bank guarantee wording to be reviewed and approved by the Treasury Team of PF.</li> </ul>

PF may, without prejudice to any other rights, refuse to commence Supply of the Products unless Purchaser has duly complied with the relevant requirements.

10.3 Payment of all invoices raised by PF shall be received in full without any deduction, set-off or recoupment or counterclaim upon the earlier of either: (i) the date specified in the Order Confirmation as the date on which payment has to be made by the Purchaser; or (ii) the number of days of the invoice date as specified in the Supply Agreement. If the Purchaser is required by law to make any increase or deduction or withholding on account of Tax from any sum payable to PF under these Terms, then the sum so payable shall be increased by the Purchaser to the extent necessary to ensure that, after the making of such increase or deduction or withholding, PF receives a net sum equal to the sum that PF would have received had no such increase or deduction or withholding been made.

10.5 If for any reason, PF does not receive the payment for the Products in full from the Purchaser, the Purchaser shall be liable to pay PF the total amount payable for the Products under these Terms and all related charges that may include the costs incurred by PF in recovering the amount due to it. Without limiting the remedies that are made available to PF by the governing law, PF may recover collection charges, legal and administrative expenses, billable time of employees involved in recovery and agents involved and commissions or any other expenses incurred by PF in effecting recovery of amounts that the Purchaser owes PF under these Terms.

10.5 In case the Purchaser in good faith believes that an invoice received by it from PF is incorrect, the procedure given in the table below shall apply.

Dispute & Purchaser Action Required	If Purchaser's Intimation is	
	Received by PF	Not Received by PF
Full invoice value is disputed - Intimate PF with material particulars within 7 days of receipt of invoice	Dispute to be jointly investigated by PF and the Purchaser and settled. If not settled, dispute resolution process applies.	Invoice deemed as correct requiring payment of the invoice by the Purchaser by due date. Non-payment triggers the payment default procedure*.
Part invoice value is disputed - Intimate PF of disputed value and material particulars within 7 days & pay the undisputed portion by the due date.	Disputed portion of the invoice to be jointly investigated by PF and the Purchaser and settled. If not settled, dispute resolution process applies.	

\*If an invoice is not disputed and remains unpaid after the due date for payment, or if part of an invoice is disputed but the undisputed portion of that invoice remains unpaid by the due date, PF can withhold or defer any future Shipment pending payment, or resort to partial Shipment of the Products having regard to the portion of the invoice already paid. Once an invoice dispute is resolved, the Purchaser shall pay PF within 7 days from the date of the resolution of the dispute.

## 11. LIMITATION OF LIABILITY & INDEMNITY

11.1 PF and the Purchaser do not intend the provisions on limitation of liability herein to run contrary to any laws that stipulates that liability excluded or disclaimed or limited herein cannot be excluded or disclaimed or limited. On the contrary, if any provision within these Terms so, run contrary, the Purchaser agrees that such provisions shall be amended or modified to arrive at an enforceable and legally compliant substitute

provision that most nearly achieves the intent and commercial effect.

11.2 Notwithstanding any other provision in these Terms to the contrary, PF shall not be liable in contract, tort (including negligence) or otherwise for or in respect of:

- (a) any claim by the Purchaser under or in connection with these Terms of which notice of the claim is not given in writing to PF within the specific timeframes specified herein and PF thereby is denied the opportunity to examine the claim promptly in detail;
- (b) any indirect or consequential loss or any loss of revenue, profits, goodwill, business or anticipated business, anticipated savings or for any business interruption, loss of reputation, loss of data or other indirect or consequential losses or damages, regardless of whether or not those losses or damages were, or ought to have been, contemplated by PF.

11.3 In case of a rejection of the Product by the Purchaser and acceptance of the rejection by PF, or a Dispute arises and if the investigation process concludes to the satisfaction of PF and the Purchaser that the rejected Products were non-compliant with Specification or with the Standards that arose at PF's end and PF accepts such conclusion, the Purchaser shall be entitled to one of the following limited remedies:

- (i) being refunded the price of the Products that are in non-conformity with Specifications or the Standards; or
- (ii) having the Products under the claim being replaced with fresh stock of compliant Products.

Any replacement of the rejected Products or refund of the price paid by the Purchaser shall be conditional upon the Purchaser complying with PF's request to destroy the Products involved or deliver them up to PF at PF's cost.

11.4 The Purchaser acknowledges that as specified in Clause 6:

- (i) PF, once Supply of the Products have been effected, no longer exercises any control over the Products and ceases to have any visibility on the status of the Products; and
- (ii) the Products are extremely sensitive to a number of external factors as those specified in Clause 6; and
- (iii) if the Products are in some way exposed to any of the factors listed in Clause 6, it can give rise to life and health critical food safety issues that are entirely out of PF's control or knowledge or reach; and
- (iv) the purpose of the multi-stage inspections, samplings and testing is to ensure that any deficiency in the Products should be identified at an earlier stage before the Products reach the consumer and thus, prevent any injury to health or to life.

For the foregoing reasons numbered as (i) to (iv) above, except as given below in Sub-clause 11.5, PF has commercially negotiated the risk of any potential third party claim in relation to the Products with the Purchaser and hereby excludes and disclaims (to the fullest extent allowed by law) all claims, suits, actions, demands, loss (including injury to person or ill health or death, any indirect or consequential loss and any loss of revenue, profits, goodwill, business or anticipated business, anticipated savings and any business interruption, loss of data or other indirect or consequential loss or damage in relation to the Supply of the Products.

- 11.5 Subject to Sub-clauses 11.5 through 11.8 below, PF shall be liable to indemnify the Purchaser in respect of a claim by a third party brought against the Purchaser for damages where it is proven that such damages directly arise from PF's breach of Standards or the Specification.
- 11.6 Despite generality of what is contained in Sub-clause 11.5, PF will not be liable for any damages arising from the Purchaser's failure to transport, store, process, handle or dispose of the Products or Finished Products in accordance with the provisions herein including the agreed Specification or with the Standards, or in accordance with applicable food safety requirements relating to the Products or the Finished Products.
- 11.7 In the case of a third-party claim that satisfies the conditions in 11.5 above and subject to 11.8 to 11.9 below, **the maximum aggregate liability of PF shall be limited to the sum of US\$ 1,000,000/ (One Million United States Dollars) for any one incident or in the aggregate.** The aforesaid limitation of liability shall apply irrespective of the source of claim or whether such claims arise in contract, equity, tort (including negligence), strict liability, custom of trade or otherwise.
- 11.8 The Purchaser shall be entitled to rely on Sub-clause 11.5 and 11.7 above and PF's obligations of indemnification thereunder shall arise once the following conditions are satisfied:
- (i) proof is adduced by the Purchaser that the transport, storage, processing and handling requirements in relation to the Products delivered by PF were complied with during the post-delivery period by the Purchaser; and
  - (ii) all documents have been submitted by the Purchaser that would clearly establish full traceability of the Products as it relates to the conditions of transport, handling, storage and processing after delivery of the Products to the Purchaser by Supplier; and
  - (iii) the documents referred to in (iii) herein conclusively establish that the issue complained of has neither arisen nor contributed to by the Purchaser in its transport, handling, storage and processing of the Products; and
  - (iv) the documents referred to in (iii) herein conclusively prove that the non-compliance that resulted in the final judgement against the Purchaser arose from the Products supplied by PF and such non-compliance is with either the Specification or the Standards; and
  - (v) a final judgement has been pronounced against the Purchaser by a court of competent jurisdiction in relation to such a claim by a third party; and
- 11.9 Notwithstanding what is contained in Sub-clause 11.8 to the contrary, even if the non-compliance referred to in Sub-clause 11.8 (v) is found to have originated in the Products supplied by PF and such non-compliance as having led to the injury to health or life, it will be a sufficient defence for PF to prove that, had the Purchaser been in full compliance with its obligations hereunder in respect of the storage and/or handling and/or processing and/or cooking requirements under the Standards, the Purchaser could have averted such injury to health or life.
- 11.10 In consideration of Sub-clauses 11.5, 11.6 and 11.7 above, Parties have commercially negotiated the risk of any potential third party claims, suits, actions or demands in relation to the Products or the Finished Products raised against PF and the Purchaser has agreed to indemnify and hold harmless PF and its parent and affiliated companies and shareholders in respect of any damages that may be awarded to be paid to any third party by PF. Further, the Purchaser agrees to indemnify PF and keep PF indemnified against all claims,

suits, actions, demands, loss (including any indirect or consequential loss and any loss of revenue, profits, goodwill, business or anticipated business, anticipated savings and any business interruption, loss of data or other indirect or consequential loss or damage), liability, costs, expenses, judgments and awards made against PF or incurred by PF in respect of and to the extent that such is caused (directly or indirectly) by the Purchaser's handling, transportation, storage, use or sale of the Products or the Finished Products, or by any negligent act or omission or breach of any law applicable to the handling, storage, use or sale of the Products or the Finished Products (including processing or incorporating into another product) by the Purchaser.

## 12. PURCHASER'S REPRESENTATIONS

The Purchaser warrants and represents to PF:

- i. that where the Purchaser is a corporation, or company, or partnership or sole proprietorship, it is duly constituted and validly existing under the laws of its jurisdiction of incorporation/registration, and is qualified to carry on business in the jurisdiction where the Products and/or the Finished Products are meant to be used, and has the authority to enter into the Supply Agreement with PF;
- ii. that it has the sufficient skill, knowledge, expertise and resources, including qualified and competent personnel, to ensure that its obligations under these Terms are fully discharged in strict compliance of these Terms and can meet all the requirements in respect of the Products and/or the Finished Products;
- iii. that it maintains adequate product liability insurance to meet its obligations under these Terms; and
- iv. that it is not involved in and is not aware of any actual or potential lawsuit or circumstance which would or could materially affect its ability to perform its obligations hereunder and upon becoming aware of such, it shall immediately notify PF and provide PF with details of the nature of the lawsuit or circumstance.
- v. that it shall be responsible for ensuring that the Finished Products are compliant with the laws, rules and regulations including food safety regulations of the relevant countries in which the Finished Products are sold.

PF shall not be liable for any claims referred to within (v) above that may relate to a non-compliance of the Finished Products to such rules and the requirements relating to the processing of the Products and/or the Finished in accordance with the Standards. The Purchaser shall indemnify and hold harmless PF against any such claims.

## 13. TERMINATION

- 13.1 Termination by PF for Cause: PF shall have the right to terminate the Supply Agreement with immediate effect upon written notice to the Purchaser in the event that:
- i. the Purchaser commits a breach of its obligations hereunder; or
  - ii. the Purchaser ceases to carry on business or threatens to do so; or
  - iii. there is a material change of ownership within the Purchaser's organization; or
  - iv. the Purchaser becomes insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or takes

advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary.

13.2 Termination by the Purchaser: In case PF fails to fulfil its material obligations under the Supply Agreement and fails to rectify such default, the Purchaser has the right to terminate this Agreement for cause. The Purchaser shall serve a notice of thirty (30) days upon PF prior to the effective date of termination.

13.3 Termination by PF: In case the Purchaser fails to fulfil any of its material obligations under the Supply Agreement including its failure to meet the purchase commitments under forecasts, PF has the right to terminate this Agreement for cause.

13.4 Termination of Rights and Obligations: In the event the Supply Agreement expires or is terminated in accordance with this provision, then all rights and obligations of PF and the Purchaser hereunder shall terminate upon the effective date of termination, except:

- i. such rights, obligations and liabilities as shall have accrued on or prior to the effective date of termination and specifically any monies that the Purchaser owes PF for the Products Supplied; and
- ii. Any right which a party may have under applicable laws and regulations in relation to the other party's breach upon or prior to the effective date of termination.

13.5 Termination of Services: Upon termination of this Agreement by notice, the Purchaser shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Supply Agreement to a close in a prompt and orderly manner.

#### 14. GOVERNING LAW & SETTLEMENT OF DISPUTE

14.1 These Terms and the Supply Agreement with the Purchaser shall be construed in accordance with and governed exclusively by the laws of the Kingdom of Saudi Arabia.

14.2 Except where injunctive relief is sought, each Party shall attempt in good faith to resolve any controversy, claim or dispute of whatever nature arising out of or relating to these Terms/Supply Agreement or the breach, termination, enforceability or validity thereof ("Dispute") promptly by negotiation between executives or managers who have authority to settle the Dispute and who are at a higher level of management within each of the Party's organization. This procedure must be resorted to before any other steps are employed to resolve the Dispute. Each Party shall be under obligation to provide the other with all information and documentation relied upon by the Party to substantiate its position with respect to the Dispute.

14.3 Upon failure of the Parties to resolve the Dispute amicably, the same shall be settled by a court of competent jurisdiction in Riyadh, Kingdom of Saudi Arabia.

#### 15. FORCE MAJEURE

15.1 Either party shall not be held liable for non-performance or delay in performance of all or part of the obligations hereunder due to any force majeure event, including without limitation, flood, earthquake, war, civil unrest, riots, power blackouts, shortage of raw materials or any other events which are unpredictable at the time of executing the Supply Agreement, and in general beyond its reasonable control.

15.2 In case of the force majeure events, the time for performance of the obligations hereunder shall be deferred accordingly. The deferral shall coincide with the continuance of the force majeure event; in

case the force majeure continues for more than sixty days, both parties may terminate the Supply Agreement upon consultation.

#### 16. NOTICES

Every notice to be given under the Terms/Supply Agreement shall be in writing and either delivered by hand or sent by facsimile or by registered post. The address of each Party for the service of notices shall be as set out in the Terms/Supply Agreement unless that address is changed by notice given under this clause.

Mode of Delivery of Notice	Deemed Served at
Personal delivery	The time of actual delivery in person*
Sent via e-mail at the correct e-mail address provided	Upon confirmation of receipt
Facsimile	Upon receipt of facsimile
Deposited with a reputable overnight courier, prepaid for overnight delivery	Upon confirmation of delivery by courier

\*If delivery occurs after the normal working hours of the addressee, delivery shall be treated as having occurred on the next working day.

#### 17. ASSIGNMENT

The Purchaser shall not assign or otherwise transfer any of its rights, interests or obligations under the Terms/Supply Agreement to a third party without the prior written consent of PF.

#### 18. RISK OF LOSS

The risk passes on to the Purchaser based upon the Incoterm agreed and specified in the Order Confirmation. The Purchaser shall be fully responsible for the safe storage, warehousing, security, delivery, unloading, protection and insurance of the Products once the Supply is effected by PF. However, title in the Products does not pass to the Purchase until and unless the payment in full in respect of the relevant Product(s) is completed.

#### 19. BINDING EFFECT

These Terms and the Supply Agreement is binding upon and inures to the benefit of the parties herein, their legal representatives, parent companies, heirs and assigns, but this provision shall in no way alter the restriction hereon in connection with assignment by the Purchaser.

#### 20. NO AGENCY OR PARTNERSHIP

Nothing in these Terms nor in the Supply Agreement shall be deemed to constitute either Party the agent of the other nor shall these Terms or the Supply Agreement create a partnership between the Parties.

#### 21. NON-RECOURSE

The obligations of PF under these Terms or the Supply Agreement are PF's obligations without recourse to any other entity or person. In no event shall the Purchaser have or assert any claim against or recourse to the owners, affiliates, directors, officers, employees, agents or representatives of PF, whether by contract, operation of law or otherwise.