

TERMS AND CONDITIONS OF PURCHASE

1. **Acceptance; Terms and Conditions of Contract.** These terms and conditions of purchase govern the purchase of goods (the “Goods”) and services (the “Services”) ordered by Marathon Cheese Corporation (“Buyer”) from the seller named in this purchase order (“Seller”). Whether construed as an offer, acceptance or confirmation, these terms include all other terms incorporated by reference herein and all addendums or other documents submitted by Buyer with this purchase order (collectively, this “order”). All specifications provided by Buyer to Seller or, if Buyer does not so provide specifications, then the specifications of Seller, as applicable, for the Goods or Services (the “Specifications”), are hereby incorporated into and made a part of this order. This order shall constitute the final, complete and exclusive statement of this contract and may not be modified or rescinded except by a written change order issued and signed by Buyer. If this order constitutes an offer by Buyer to purchase the Goods or Services, then Seller shall indicate its acceptance of this order by verbal acceptance communicated to Buyer, by written acceptance or confirmation of this order received by Buyer, by commencing work on this order, expressly conditioned on notice of such commencement of work received by Buyer, or by the delivery of the Goods or Services within the time for delivery stated in this order. Regardless of the manner or medium of acceptance time is of the essence. **As an offer, this order expressly limits acceptance to this order’s terms and conditions, and notification of objection to any different or additional terms in any response from Seller to this order is hereby given. If this order is construed as an acceptance of Seller’s offer, this acceptance is expressly conditioned on the Seller’s assent to any additional or different terms contained in this order. If this order is construed as a confirmation of an existing contract, the parties agree that this order constitutes the final, complete and exclusive source of the terms and conditions of the contract.** If the parties have otherwise completed a signed, written contract, the parties agree that the use of this order to place orders for Goods or Services pursuant to such a contract shall be construed to supplement the terms of such contract only to the extent that the terms and conditions of this order are not inconsistent with such contract.

2. **Purchase Price; Invoice.** The price of the Goods and Services is the price stated in this order (the “Price”). If no Price is stated in this order, then the Price shall be the mutually agreed price. Unless otherwise stated in this order, the Price includes all packaging, transportation to the Delivery Point (as hereinafter defined), insurance, customs duties, fees and taxes, and other amounts payable by Buyer for the Goods and Services. Unless otherwise set forth in this order, Seller shall invoice Buyer for the Price on or after the completion of delivery of the Goods or Services, as applicable. Buyer shall pay the undisputed portion of the invoice by any method within the time period stated in this order or, if no time period is so stated, within 30 days after invoice date, and may withhold the disputed amount until the dispute has been resolved. Unless otherwise set forth in this order, all payments shall be made in U.S. Dollars. All claims for money due Seller from Buyer shall be subject to setoff or deduction for any claim of Buyer against Seller.

3. **Delivery of Goods; Performance of Services.** Seller shall deliver the Goods in the quantities, on the date(s) specified in this order or, if not so specified, as directed by Buyer in writing (the “Delivery Date”), and to the place specified in this order (the “Delivery Point”). Unless otherwise set forth in on the face page of this order, delivery shall be Uniform Commercial Code F.O.B. (Delivery Point), and title and risk of loss or damage to Goods shall be on Seller until the Goods have been delivered to Delivery Point. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may cancel this order in full, or in part, in either case without liability or obligation to Seller. Seller shall promptly refund any portion of the Price paid for the Goods subject to such cancellation, and Buyer shall return to Seller, or hold for pick up by Seller, the Goods subject to such cancellation that were delivered to Buyer prior to such cancellation, at the risk and expense of Seller. Seller shall provide the Services to Buyer as described and in accordance with the dates or schedule set forth in this order.

4. **Packaging; Shipping.** Seller shall package and label Goods in accordance with the applicable Specifications or as otherwise set forth in this order. If not so specified, Seller shall package the Goods so as to protect them in transit. Seller shall ensure that the packaging includes the purchase order number, the product name and number, quantity, and any other information required by the Specifications or this order. All shipments shall be accompanied by a bill of lading, and any other documents required by the Specifications or this order. In case of Goods consisting of food or food additives (defined below), the packaging will also include lot code and manufacturing date, and shall be accompanied by a certificate of analysis confirming the Goods conform to Specifications. All Goods shall be shipped in the manner and by the carrier set forth in the Specifications or this order. If not so specified, Seller will ship the Goods in the manner and by the carrier that will minimize the transportation rates, and any additional cost incurred as a result of Seller’s failure to follow these requirements will be for Seller’s account.

5. **Quantity.** Seller must timely furnish the entire quantity of Goods ordered. Buyer may reject any unauthorized quantities of Goods and return same to Seller at Seller’s risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis. Any purchase estimates provided by Buyer to Seller for the Goods are projections only and shall not be binding upon Buyer. Any provisions herein for delivery of Goods by installments shall not make the obligations of Seller under this order severable.

6. **Inspection and Testing.** Buyer shall have the right to inspect and test all Goods during the period of manufacture or following the manufacture of the Goods at any place where the Goods may be located, and also after, as applicable, physical receipt, installation, assembly, or processing of the Goods at Buyer’s place of business. With respect to Goods consisting of equipment, if this order provides for a factory acceptance test (“FAT”) and/or a site acceptance test (“SAT”), then the Goods will be tested at the Seller’s place of business in the case of a FAT, and at Buyer’s place of business in the case of a SAT, using the performance criteria set forth in this order. Payment of the Price or any portion thereof for the Goods delivered under this order shall not constitute acceptance thereof. Buyer may reject any Goods which do not conform to this order including any failure to satisfy the FAT or SAT, as applicable. If Buyer’s so rejects any of the Goods, Seller shall promptly refund to Buyer any Price paid for such Goods, and the Goods so rejected may be returned to Seller, or held for Seller’s pick up at Buyer’s facility, at Seller’s risk and expense.

7. **Buyer’s Changes; Buyer Cancellation; Buyer Delays.** Buyer may at any time make changes to the: (a) Specifications and any other documents or other data incorporated in this order; (b) methods of shipment or packaging; and/or (c) time or place of delivery. If any such change causes an increase or decrease in the cost of or the time required for performance of this order, an equitable adjustment shall be made in the purchase price or delivery schedule, or both. Any claim by Seller for adjustment under this paragraph shall be deemed waived unless Buyer is notified in writing within 30 days after receipt by Seller of the change. Price increases or extensions of time for delivery shall not be binding on Buyer unless approved in writing by Buyer. Buyer may at any time for its convenience cancel all or any part of this order. If so cancelled prior to the manufacture of the applicable Goods or commencement of the Services, such cancellation shall be without cost or liability to Buyer. If so cancelled after the commencement of the manufacture of the applicable Goods or commencement of the Services, any claim of Seller shall be settled on the basis of, and Seller’s exclusive remedy shall be for, the reasonable costs Seller has incurred in the performance of this order prior to the notice of such cancellation, but in no event for an amount in excess of the Price for the affected Goods or Services. Buyer may delay delivery and acceptance of and payment for any Goods occasioned by reason of force majeure including government action or inaction, strike, lock out or other labor trouble, shortage of labor, materials, fuel or power, fires, explosions, unusually severe weather, pandemics, epidemics, war, embargo, terrorist acts or threats, and other causes beyond Buyer’s reasonable control. Seller shall hold such Goods at the direction of Buyer and shall deliver them when the cause affecting the delay has been removed.

8. **Compliance with Laws.** In fulfilling this order, Seller shall fully comply with all applicable federal, state, local and foreign laws, rules, regulations and orders (collectively, “Law”) including the Fair Labor Standards Act, as amended, and the regulations and orders issued thereunder.

9. **Seller’s Obligations Regarding Services.** Seller shall ensure that all persons rendering the Services, whether employees, agents, subcontractors, otherwise, shall be properly licensed, certified or accredited as required by applicable Law, be suitably skilled, experienced and qualified, be bound by the confidentiality restrictions set forth in this order or other equally restrictive duties or obligations of confidentiality, and comply with all applicable rules, regulations and policies of Buyer. Seller shall maintain complete and accurate records relating to the provision of the Services and, upon request shall provide Buyer a copy of such records.

10. **Seller’s Warranties.** Seller warrants to Buyer that all Goods: (a) will be new, undamaged, and free from any defects in workmanship, material and design; (b) will conform to applicable Specifications, drawings, designs, samples and other written description furnished by Buyer; (c) will be merchantable and fit for their intended purpose; (d) be free and clear of any third party claims of title and from any liens, security interests, or other encumbrances created by or through Seller; (e) will not infringe, misappropriate or otherwise violate any third party’s trademarks, service marks, copyright protected works, patents, trade secrets, or other intellectual property rights (“Intellectual Property Rights”); and (f) will comply with all applicable Law, and shall not cause exposure to any chemical determined under the California Safe Drinking Water and Toxic Enforcement Act of 1986 and its regulations and amendments (commonly known as Prop 65), to cause cancer or reproductive toxicity. In the case of Goods consisting of food or food additives, Seller additionally warrants to Buyer that (i) unless Buyer otherwise agrees in writing, the Goods shall be manufactured, packaged, stored and handled only at the facility identified on the first page of this order (the “Facility”), (ii) Seller shall comply with all applicable Good Manufacturing Practices, applicable Law, and the Specifications, in the manufacturing, testing, packaging, labeling, storage, certification, handling, shipment, and sale of the Goods and in the operation, maintenance, and use of the Facility, (iii) the Goods shall not be adulterated or misbranded within the meaning of any applicable Law including under the Federal Food, Drug & Cosmetic Act, as amended, and the regulations issued thereunder (collectively, the “FD&CA”), or be an article which may not, under the provisions of Sections 404 and 505 of the FD&CA, or under other applicable Law, be introduced into interstate commerce, (iv) the Goods shall comply with the Specifications for at least the shelf life of the Goods, (v) the Goods shall be food products suitable for human consumption for at least the shelf life of such Goods, and (vi) the written information, including ingredient and nutritional information and certificates of analysis, accompanying the Goods is accurate and complete, and the Goods conform thereto. With respect to Services, Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications, and in a professional and workmanlike manner in accordance with industry standards for similar services and shall devote adequate resources to meet its obligations under this order. The warranties provided in this paragraph shall survive inspection, testing, acceptance, and use of the Goods and Services, and shall inure to the benefit of Buyer, its successors, assigns, and customers. If Buyer gives Seller notice of nonconformity with the above warranties, Seller shall, at its own cost and expense, promptly (i) with respect to Goods, at the option of Buyer, either (x) replace or repair the defective or nonconforming Goods or (y) refund to Buyer any

Price paid for the defective or nonconforming Goods, and pay for all related expenses, including transportation charges for the return of the defective or nonconforming Goods to Seller and the delivery of repaired or replacement Goods to Buyer, and (ii) with respect to Services, re-perform the applicable Services. A new warranty period shall apply to any such repaired or replacement Goods or re-performed Services. Any Goods so rejected may be returned to Seller, or held for Seller's pick up, at Seller's risk and expense.

11. **Indemnification.** Seller shall indemnify, defend and hold harmless Buyer, its affiliates (as defined below), and its and their respective successors, assigns, officers, directors, managers, employees, agents, customers and consumers of the Goods ordered hereunder (collectively, the "**Indemnified Parties**"), from and against all first party and third party claims, actions, proceedings, losses, penalties, damages (including consequential and incidental damages), costs and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") arising out of or related to (a) any breach by Seller of its obligations under this order including any of the warranties contained herein, (b) any bodily injury or death of any person, or damage to property, by whomsoever suffered, resulting, or claimed to result, in whole or in part from any actual or alleged defect, whether patent or latent, in any of the Goods or Services, or from any negligent or more culpable acts or omissions of Seller, its affiliates, or its or their respective officers, directors, managers, employees, agents, representatives, or contractors (other than Buyer) (collectively, the "**Seller Parties**"), (c) any actual or alleged violation of applicable Law by any of the Seller Parties, or (d) any recall, market withdrawal, or other corrective action of Goods (a "**Recall**"). Seller shall also indemnify, defend and hold harmless the Indemnified Parties from and against all Losses arising out of or in connection with any claim, action, or proceeding alleging that any of the Indemnified Parties use or possession of the Goods or use of the Services infringes, misappropriates, or otherwise violates the Intellectual Property Rights of any third party.

12. **Recall of Food or Food Additives.** Seller agrees to immediately notify Buyer by telephone and in writing after becoming aware of circumstances that may necessitate the implementation of a Recall of Goods consisting of food or food additives or of the products into which the food or food additives have been incorporated (in either case, "**Recalled Products**"), including if a governmental authority requires or recommends a Recall be implemented, and shall fully cooperate with Buyer in implementing a Recall of Recalled Products. In the event Buyer decides to implement a Recall of Recalled Products, Buyer shall make the first entry into the Reportable Food Registry with respect to "reportable foods" (as defined in the FD&CA), and, at Buyer's option, Buyer shall be primarily responsible for executing the Recall program including contact with any governmental authorities, handling inquiries from the media, and press or similar releases. If the Recall is implemented due to circumstances attributable to any of the Seller Parties, Seller shall be responsible, and shall reimburse Buyer, for all costs and expenses associated with the Recall including those associated with withdrawing, recalling, reprocessing, repackaging, or destroying the Recalled Products, publishing Recall notices, issuing refunds to customers, and destroying or recycling any Recalled Products.

13. **Insurance.** Seller agrees to maintain, at its own expense, insurance of the types/amounts set forth in the addendum or agreement accompanying this order that sets forth Buyer's insurance requirements. If there is no such addendum or agreement, then Seller shall maintain the following insurance in at least the following amounts: (a) commercial general liability insurance ("**CGL**"), written on an occurrence basis, including premises, products, completed operations, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), for bodily injury, personal injury, and property damage in the amount of (i) for a Tier 1 Supplier (defined below), \$10,000,000, (ii) for a Tier 2 Supplier (defined below), \$5,000,000, and (iii) for a Tier 3 Supplier (defined below), \$1,000,000 per occurrence/\$2,000,000 aggregate; (b) if Seller is a trucking company, an outside warehouse, or uses a vehicle on Buyer's premises, commercial automobile liability insurance ("**AL**") covering owned, non-owned, rented and hired vehicles in the amount of \$1,000,000; (c) umbrella/excess coverage as needed to satisfy the CGL and AL minimums set forth above; (d) workers' compensation in the amount of the statutory minimum, and employer's liability insurance in the amount of \$500,000 per accident/\$500,000 disease policy limit/\$500,000 disease each employee, or the statutory limit, as applicable; (e) with respect to purchases of Goods for which Buyer has advanced a portion of the purchase price, property insurance in an amount equal to the full replacement cost of the Goods; (f) if Seller is a trucking company, motor truck cargo insurance in the amount of \$100,000; (g) if Seller is an outside warehouse, warehouse legal liability insurance in an amount equal to the value of the inventory located therein; (h) if Seller is an auditor, engineer, consultant, recruiter, software developer or other professional providing Services, professional liability/errors and omissions insurance and cyber insurance in the amount of \$5,000,000; and (i) with respect to purchases Goods consisting of food or food additives, product contamination insurance for liabilities assumed under an insured contract in the amount of \$25,000,000. As used herein: "**Tier 1 Supplier**" means a supplier of goods (other than equipment) in direct contact with Buyer's product, including cheese, ingredients, packaging, and modified atmosphere gases; "**Tier 2 Supplier**" means a supplier of non-contact goods used in the production or transportation of Buyer's goods or services including non-contact packaging and supplies, sanitation chemicals, and personal protective equipment; and "**Tier 3 Supplier**" means a supplier of goods not used in the production or transportation of Buyer's goods or services, and suppliers of services. The insurance shall be issued by insurance companies rated at least A- by A. M. Best's key rating guide. The above required insurance: (1) shall provide that it may not be cancelled without at least 10 days' prior written notice to Buyer; (2) shall be primary and noncontributory; (3) shall apply separately to each insured, and shall contain no provision which excludes coverage under a claim or suit by one insured against another insured; (4) with respect to clauses (a)-(c) and (f) above, shall name Buyer, its directors, officers, agents, and employees, as additional insureds; (5) with respect clauses (a)-(d) and (g) above, shall waive subrogation against Buyer and Buyer's insurers; and (6) with respect to clause (e) above, shall name Buyer as a loss payee. Upon request by Buyer, Seller shall furnish to Buyer evidence of compliance with the above requirements.

14. **Confidentiality.** All non-public, confidential or proprietary information of Buyer ("**Confidential Information**"), whether disclosed orally or disclosed or accessed in writing, electronic or other form or media, and whether or not identified as "confidential," is confidential and may not be disclosed by Seller unless Buyer authorizes such disclosure in writing, and shall be used by Seller solely for the purpose of performing this order. Upon Buyer's request, Seller shall promptly return, or delete or destroy, all Confidential Information and, in the case of deletion or destruction, shall promptly confirm such deletion or destruction to Buyer in writing. Seller shall not advertise or publish that Buyer has contracted to purchase Goods or Services from Seller, nor shall any information relating to this order be disclosed. Unless otherwise agreed in writing, no commercial or technical information disclosed by Seller to Buyer shall be deemed secret or confidential. Buyer shall be entitled to injunctive relief for any violation of this paragraph.

15. **Assignment; Subcontracting.** This order may not be assigned or subcontracted by Seller, in whole or in part, without the prior written approval of Buyer. If Buyer permits any portion of this order to be subcontracted, Seller shall be fully responsible to Buyer for the performance of this order by its subcontractor, and for the fees and expenses of the subcontractor. No terms of this order shall be construed or interpreted to create any other relationship between parties, including any fiduciary, employment, agency or partnership relationship, and neither party shall have any authority, express, implied, or apparent, to bind the other party to any obligations.

16. **Waiver; Severability.** Buyer may waive performance of any term or condition hereunder only in a writing signed by Buyer, but waiver by Buyer of any term or condition with reference to any occurrence shall not be construed as a waiver of that term or condition for subsequent occurrence whether of the same or different type. If any term or condition in this order shall be held invalid or unenforceable by any court, the remaining terms and conditions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

17. **Signature; Writing; Definitions; Construction.** Any signature, including any electronic symbol or process attached to, or associated with, this order, or any other agreement or document related to this order, and adopted by a person with the intent to sign, authenticate or accept this order, or such other agreement or document related to this order, and any contract formation or record-keeping through electronic means, shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law. As used in this order, the term "writing" and variations thereof include an e-mail, a facsimile, or other electronic record. The term "Goods" shall include all packaging and any written information supplied by Seller with respect to the Goods. The term "including" is not limiting and means "including, without limitation." The words "hereto," "hereof," "hereunder," and similar expressions refer to this order and not any particular paragraph or portion of this order. The term "food" and "food additives" shall have the meanings assigned to such terms under the FD&CA; provided that "food additives" shall also include any substance excluded from such definition because it is (i) generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown to be safe under the conditions of its intended use; (ii) a color additive (as defined in the FD&CA); or (iii) a substance used in accordance with a sanction or approval granted prior to September 6, 1958. The term "affiliate" means, with respect to a party, any entity that controls or is controlled by such party, or is under common control with such party, where "control" means the possession, directly or indirectly, of the power to direct, or cause the direction of the management of an entity, whether through the ownership of voting securities, by contract or otherwise.

18. **Remedies; Damage Exclusion.** All rights and remedies of Buyer herein stated are nonexclusive and in addition to those provided by Law or in equity. IN NO EVENT SHALL BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOSSES, OR EXPENSES, OR FOR LOST PROFITS, LOST REVENUES, COST OF CAPITAL, OR SIMILAR ECONOMIC DAMAGES, LOSSES OR EXPENSES.

19. **Controlling Law; Forum.** This order shall be governed by the internal Laws of the State of Wisconsin, U.S.A., without giving effect to that jurisdiction's conflicts of Laws principles. Buyer and Seller agree that the provisions of the U.N. Convention on the International Sale of Goods shall not apply to this order. Buyer and Seller consent to the exclusive jurisdiction and venue of the state courts of Marathon County, Wisconsin, or the federal courts for the Western District of Wisconsin, for the resolution of any disputes arising out of or relating to this order.

20. **WAIVER OF JURY TRIAL.** EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ORDER, OR THE TRANSACTIONS CONTEMPLATED HEREBY.