

PEPSICO GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF SERVICES

1. DEFINITIONS

In these Terms and Conditions the following definitions apply:

“Buyer” means the company placing an Order.

“Services” means the services, which are the subject of an Order.

“Order” means an order for Services placed by the Buyer.

“Supplier” means the person, firm or company to whom an Order is addressed.

2. ACCEPTANCE OF TERMS

These General Terms and Conditions of Purchase shall be incorporated into an Order. The Supplier’s commencement of provision of Services under an Order shall be deemed to be the Supplier’s acceptance of the Order. THE SUPPLIER’S ACCEPTANCE IS LIMITED TO ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS OF PURCHASE AND DOES NOT INCLUDE ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY THE SUPPLIER TO VARY THESE GENERAL TERMS AND CONDITIONS OF PURCHASE.

3. COMPLETION

Time is of the essence in relation to any performance dates communicated by Buyer to Supplier and Supplier shall meet such performance dates. Where Supplier fails to meet such performance dates, the Buyer may, without liability and without prejudice to any other rights or remedies it may have pursuant to these General Terms and Conditions of Purchase:

- (a) terminate the Order by notice to the Supplier effective upon receipt in respect of Services not yet rendered;
- (b) refuse to accept any subsequent performance of the Services which Supplier attempts to make; and
- (c) procure substitute Services elsewhere and recover from the Supplier any additional expenditure reasonably incurred;

4. QUALITY/PERFORMANCE

The Supplier warrants that the Services shall:

- (a) be performed by appropriately experienced, qualified and trained personnel with all reasonable skill, care and diligence and in accordance with generally recognised commercial practices and standards in the industry for similar services;
- (b) conform in all respects with (i) the terms of the Order, (ii) any performance criteria or specifications requested by the Buyer, and (iii) any descriptions and specifications provided to the Buyer by the Supplier, including any and all proposals, project specifications and project plans;
- (c) not infringe any intellectual property rights of any third party; and
- (d) be performed in accordance with all European Community legislation (including but not limited to health and safety rules and regulations) and legislation of any country which is connected with the Order and the Supplier will inform the Buyer as soon as it becomes aware of any changes in that legislation.

The Buyer's rights under these General Terms and Conditions of Purchase are in addition to the statutory terms implied in favour of the Buyer by the Supply of Goods and Services Act 1982 and any other statute.

The warranties herein shall survive any performance, acceptance or payment pursuant to these General Terms and Conditions of Purchase and shall extend to any substituted or remedial services provided by the Supplier.

5. VENDOR ASSURANCE, FOOD SAFETY, ENVIRONMENTAL AND OTHER POLICIES

The Seller will (where deemed appropriate by the Buyer):

- (a) maintain a commitment to best practise food safety and PepsiCo Vendor Assurance procedures at Suppliers cost
- (b) comply with the requirements of the PepsiCo Supplier Approval and Compliance Programmes;
- (c) ensure all materials comply with all EU and National legal requirements including, without limitation, requirements relating to traceability
- (d) ensure compliance with any agreed, signed specifications;
- (e) ensure that all Goods will comply with the PepsiCo Raw Materials Food Safety Policy (available on request) including, without limitation PepsiCo requirements relating to traceability
- (f) commit to engage with Buyer to develop sustainability programmes and participate with such sustainability initiatives as may be communicated to it from time to time by the Buyer.

6. SUPPLIER CODE OF CONDUCT

This Agreement shall be subject to and the Seller shall adhere to the PepsiCo Worldwide Supplier Code of Conduct, as amended from time to time and available at: www.pepsico.com/SupplierCodeofConduct

7. BUYER'S RIGHTS

The Buyer's payment for the Services furnished under an Order shall not affect the Supplier's obligations under the warranties contained in these terms and conditions which shall survive the Buyer's payment.

The Buyer may monitor, record and assess the performance of the Services and may accept or reject at any time any and all of the Services, which are, in the Buyer's judgement, unsatisfactory or which do not conform to any warranty.

Without prejudice to any of its other rights or remedies (including but not limited to the right of termination of the Order and/or the withholding from payment to the Supplier any sums that are allocable to the non-conforming and/or non-continuing Services) the Buyer may require the Supplier to promptly re-perform or remedy any unsatisfactory or non-conforming Services or remove the cause of non-performance of any Services, at the Supplier's sole cost and expense, provided the Buyer notifies the Supplier within a reasonable time of discovering that the Services are unsatisfactory or non-conforming.

The Buyer shall also be entitled to terminate the Order and obtain such other remedies as may be available to it either under this agreement or otherwise at equity or law, including but not limited to the withholding from payment to Supplier and/ or recovering as a sum of money due from Supplier all or any portion of the charges paid in relation to the non-conforming or non-continuing Services.

The Supplier will reimburse the Buyer for any costs resulting from any breach of these terms and conditions on the part of Supplier, including without limitation any additional costs incurred as a result of sourcing the Services from another supplier.

8. PRICE WARRANTY/FREIGHT CHARGES/ SET OFF

The Supplier warrants that the prices for the Services are complete and no less favourable than those currently extended to the Supplier's other customers of similar account size for performance of the same or similar Services. Without the Buyer's prior written consent the Supplier shall not add any charges,

including without limitation, charges for insurance or taxes. If the Supplier offers better prices for the Services to other customers of similar account size during the term of this Order the Supplier will reduce the Buyer's prices correspondingly. If the Buyer has a claim against the Supplier resulting from the Order or the performance of any Services the Buyer may deduct or set off disputed amounts from the Supplier's claims for amounts due under this Order.

9. CHANGES

The Buyer may, at any time, request a change to the scope or execution of the Services under an Order. If the Buyer requests a change to the scope or execution of the Services,

- (a) the Supplier shall, within a reasonable time, provide a written estimate to the Buyer of:
 - (i) the likely time required to implement the change;
 - (ii) any necessary variations to the Supplier's charges arising from the change; and
 - (iii) any other impact of the change on the terms of the Order.
- (b) if the Buyer does not wish to proceed, there shall be no change to the Order; and
- (c) if the Buyer wishes the Supplier to proceed with the change, the Supplier shall do so after agreement on the necessary variations to its charges, the Services and any other relevant terms of the Order to take account of the change and the Order shall be amended accordingly.

10. INDEPENDENT CONTRACTOR

The parties agree that the Supplier, its employees, agents and sub-contractors are performing services as independent contractors and not as the Buyer's employees, regardless of where they perform services.

11. INDEMNIFICATION

In addition to the Supplier's other obligations hereunder, the Supplier shall defend, indemnify and hold the Buyer harmless against any and all demands, damages, claims, liabilities, losses, costs and expenses (including legal expenses) arising out of or resulting from any failure or delay in the performances of the Services or the negligence of, default of or breach of these terms and conditions by the Supplier, its agents, employees or sub-contractors. The Supplier will maintain insurance coverage sufficient to satisfy its indemnification obligations hereunder.

12. CONFIDENTIALITY

The Supplier shall consider as "Confidential Information" all non-public information provided by the Buyer; all specifications or other documents prepared by either party in connection with an Order; the fact that the Buyer has contracted to purchase Services from the Supplier, and all other non-public information relating to an Order. Without the Buyer's prior written consent, the Supplier shall not disclose or use any Confidential Information for any purpose other than performing an Order.

13. ASSIGNMENT/ SUBCONTRACTING

The Supplier may not assign nor subcontract any part of an Order without the Buyer's prior written consent. If the Supplier subcontracts any part of an Order, the Supplier shall bind each of its sub-contractors by the Order's terms; provided however that nothing contained in any sub-contract shall create, nor be represented to create, a contractual relationship between any sub-contractor and the Buyer.

14. TERMINATION FOR CONVENIENCE

Upon notice to the Supplier, the Buyer may terminate an Order or any part thereof solely for its convenience. Upon its receipt of the Buyer's notice of termination, the Supplier will immediately stop and cause all of its suppliers and sub-contractors to stop all work under the Order or the part which has

been terminated. The Buyer will pay the Supplier's actual direct costs resulting from the termination but the Buyer will not pay the Supplier for any work performed after receipt by the Supplier of the notice of termination, nor for any costs that the Supplier could reasonably have avoided.

15. TERMINATION FOR CAUSE

Without prejudice to any of its other rights or remedies and without incurring any liability, the Buyer may terminate an Order or any part thereof in the event that the Supplier commits a material breach of its obligations contained in the Order. Upon receipt of a notice of termination from the Buyer, the Supplier shall immediately stop and cause all of its suppliers and sub-contractors to stop all work under the Order or the part which has been terminated.

16. INTELLECTUAL PROPERTY

The Supplier agrees, upon receipt of notification, to promptly assume the defence of, indemnify and hold harmless the Buyer, its agents, customers and other vendors from any suits, proceedings, claims, liabilities, expenses (including legal expenses), losses, royalties, profits, damages and settlement amounts, arising out of or resulting from any actual or alleged infringement of a third party's intellectual property rights by reason of similarity in design, trademark or appearance of the Services supplied under an Order.

17. LIMITATION OF BUYER'S LIABILITY

THE BUYER SHALL NOT BE LIABLE TO THE SUPPLIER FOR ANY INDIRECT, OR CONSEQUENTIAL LOSSES, INCLUDING LOSS OF PROFITS, OF ANY KIND. THE BUYER'S LIABILITY IN RELATION TO ANY CLAIM FOR LOSS OR DAMAGE ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM AN ORDER SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE SERVICES GIVING RISE TO THE CLAIM.

18. WAIVER AND REMEDIES

Neither the Buyer's failure to insist on the performance of any of these terms and conditions, nor its failure to exercise any right or privilege, nor its waiver of any breach hereunder, shall be deemed to be a waiver of any of these terms or conditions or breaches by the Supplier of an Order whether of the same or a similar type.

The rights and remedies provided by these terms and conditions are cumulative and are not exclusive of any rights or remedies provided by law.

19. TAX

In the event any Tax becomes due by reason of this Agreement such Tax shall be borne by the party upon whom such Tax is imposed by applicable law.

Tax means: all foreign, federal, state, provincial, national, local and other taxes, fees, levies, duties and other assessments or charges whatever kind (including without limitations, income, excise, customs duties, tariffs, stamp, transfer, property, occupancy, value added, use, real estate, sales, payroll, gains, gross receipts, withholding and franchise taxes) together with any interest, penalties or additions payable in connection with such taxes, fees, levies, duties or other assessments or charges.

20. ENTIRE AGREEMENT

An Order shall incorporate these terms and conditions and shall constitute the entire agreement of the Supplier and the Buyer regarding the supply of Services and shall override and supersede any previous agreement or arrangement whether oral or in writing between the Supplier and the Buyer unless expressly

accepted in writing and signed by an authorised representative of the Supplier and the Buyer. An Order may not be modified except in writing signed by an authorised representative of the Supplier and the Buyer.

21. GOVERNING LAW AND JURISDICTION

An Order shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts over any claim or matter arising under or in connection with an Order and the legal relationships established by the Order.