

PURCHASE ORDER TERMS AND CONDITIONS – for the Purchase of Goods

1. Applicability. These Purchase Order Terms and Conditions (“**Terms**”) apply to and are made part of the Purchase Order for Goods which is issued by Kent Corporation or one of its wholly-owned subsidiaries identified as Buyer on the Purchase Order form (“**P.O. Form**”). The P.O. Form and these Terms may collectively be referred to as the “**Order**”. Capitalized terms used but not defined in these Terms shall have the same meaning ascribed to such terms in the P.O. Form. In the event of a conflict or ambiguity between the P.O. Form and these Terms, the provisions of the P.O. Form shall prevail. Except as expressly provided herein, the Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. Only a written agreement, such as a Master Contract, Statement of Work, or Supplier Indemnity Agreement, signed by authorized representatives of Buyer and Vendor shall override and supersede any specific conflicting Terms herein or any other aspect of the Order that is inconsistent with the terms of said written signed agreement.

2. Acceptance. This Order is an offer by Buyer to purchase the Goods from Vendor. The Order is binding unless Vendor rejects the Order in writing within 1 day of the Order Date, not including weekends and U.S. holidays. Buyer may withdraw the Order at any time before it is accepted by Vendor.

3. Shipping Terms. Delivery shall be made in accordance with the terms on the face of the Order. Buyer’s P.O. Number must appear on all shipping containers, shipping papers, packing slips, invoices, bills of lading and all other correspondence or documents pertaining to this order. If unable to comply with the requested shipping date, Vendor must notify Buyer of the delay in which case Buyer may opt to obtain replacement Goods for Vendor’s account. Buyer’s count will be accepted as final and conclusive on all shipments not accompanied by packing ticket. Where applicable, Vendor shall attach to each shipment, whole grains excluded, a statement listing all relative information pertaining to the ingredient in accordance with state and federal regulations at destination. In the event Vendor does not comply and stop-sale order is enforced, Vendor shall bear any costs involved including demurrage charges as a result of the embargo. All shipments must be made in clean transportation equipment, suitable for transportation, and able to protect the integrity of its contents.

4. Title and Risk of Loss. Title passes to Buyer upon delivery of the Goods to the Delivery Location.

5. Packaging. No allowance will be made for packing, cartage or crating charges unless stated herein.

6. Inspection and Rejection of Nonconforming Goods. Buyer has the right to inspect and test the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Vendor, to: (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced Total Price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Vendor shall, at Vendor’s expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Vendor fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Vendor the cost thereof and terminate this Order for cause pursuant to Section 14. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Vendor’s obligations under the Order, and Buyer shall have the right to conduct further inspections after Vendor has carried out its remedial actions.

7. Price. Unless otherwise specified in the Order, the Total Price includes all taxes, duties, assessments, fees, or other charges. No

increase in the Total Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

8. Payment Terms. Vendor shall send an Invoice together with the original bills of lading or express receipts properly signed by Shipper’s representatives to Buyer’s accounts payable department not later than the day after shipments are made. Individual invoices shall be issued for shipments applying against each purchase order. Where applicable, invoices shall be supported by a weight certificate and grade certificate. Payment terms stated on P.O. Form shall commence on the date Buyer has received all the Goods. Delay in receiving statement or invoices, as well as errors and omissions on such documents, will be considered just cause for withholding payment without losing any cash discount privilege.

9. Warranties. Vendor warrants to Buyer that all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party’s patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer’s discovery of the noncompliance of the Goods with the foregoing warranties.

10. General Indemnification. Vendor shall defend, indemnify and hold harmless Buyer, Buyer’s parent company, its subsidiaries, affiliates, successors or assigns and its respective directors, officers, shareholders and employees and Buyer’s customers (collectively, “**Indemnitees**”) against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, “**Losses**”) arising out of or occurring in connection with the products purchased from Vendor or Vendor’s negligence, willful misconduct or breach of the Terms. Vendor shall not enter into any settlement without Buyer’s or Indemnitee’s prior written consent.

11. Intellectual Property Indemnification. Vendor shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer’s or Indemnitee’s use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Vendor enter into any settlement without Buyer’s or Indemnitee’s prior written consent.

12. Insurance. Vendor shall, at its own expense, maintain and carry insurance in full force and effect, which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$5,000,000 per occurrence with financially sound and reputable insurers. Upon Buyer’s request, Vendor shall provide Buyer with a certificate of insurance from Vendor’s insurer evidencing the insurance coverage specified in this Order, and including Buyer as an additional insured. Vendor shall provide Buyer with 30 days’ advance written notice in the event of a cancellation or material change in Vendor’s insurance policy.

13. Compliance with Law. Vendor is in compliance with and shall comply with all applicable laws, regulations and ordinances. Vendor has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order. To the extent applicable, Vendor shall comply with all export and import laws of all countries involved in the sale of Goods under this Order. Vendor assumes all responsibility for shipments of Goods requiring any government import clearance. Buyer may terminate this Order if any government authority imposes



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antidumping duties, countervailing duties or any retaliatory duties on the Goods.

14. Termination. Buyer may terminate the Order, in whole or in part, at any time with or without cause for undelivered Goods on 60 days' prior written notice to Vendor. In addition to any remedies that may be provided under these Terms, Buyer may terminate this Order with immediate effect upon written notice to Vendor, either before or after the acceptance of the Goods, if Vendor has not performed or complied with any of these Terms, in whole or in part. If Vendor becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then Buyer may terminate this Order upon written notice to Vendor. If Buyer terminates the Order for any reason, Vendor's sole and exclusive remedy is payment for the Goods received and accepted by Buyer prior to the termination.

15. Limitation on Liability. Nothing in this Order shall exclude or limit (a) Vendor's liability under Sections 9, 10, 11 and 17 hereof, or (b) Vendor's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

16. Waiver. The remedies herein reserved shall be cumulative, and in addition to any other or further remedies provided in law or equity. No waiver of a breach of any provision of this Order shall constitute a waiver of any other breach, or of such provisions.

17. Confidential Information. All non-public, confidential or proprietary information of Buyer, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, formulas, recipes, processes, customer lists, pricing, discounts or rebates, disclosed by Buyer to Vendor, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized by Buyer in writing. Upon Buyer's request, Vendor shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to Vendor at the time of disclosure; or (c) rightfully obtained by Vendor on a non-confidential basis from a third party.

18. Force Majeure. Buyer reserves the right to cancel all or any part of this order, which has not actually been shipped by Vendor, in the event Buyer's business is interrupted because of strikes, labor disturbances, lockout, riot, fire, act of God, terrorism, or any other causes, whether like or unlike the foregoing, that are beyond the reasonable efforts of Buyer to control.

19. Assignment. Vendor shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer.

20. Relationship of the Parties. The relationship of between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have the authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.

21. Responsible Business Practices. In performing its obligations under the P.O., Vendor shall abide by Buyer's Responsible Business Practices Statement found at: <http://kentww.com/supplychain/responsiblebusinesspractices.pdf>

22. Governing law. The provisions of this Order shall be governed by the laws of the State of Iowa, United States of America,

and shall be construed in accordance with the Uniform Commercial Code as enacted in the State of Iowa, as applicable.

23. Notices. All notices shall be in writing and addressed to the parties at the addresses set forth on the face of this Order or to such other address that may be designated by the receiving party in writing.

24. Severability. If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Survival. Provisions of this Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Warranties, General Indemnification, Intellectual Property Indemnification, Insurance, Compliance with Laws, Confidentiality, Governing Law and Survival.

26. Amendment and Modification. No change to this Order is binding upon Buyer unless it is in writing and specifically states that it amends this Order and is signed by an authorized representative of Buyer.

