

## TERMS AND CONDITIONS OF PURCHASE

**1. GOVERNING PROVISIONS.** This document is an offer by Priz Foods Inc. ("Purchaser") to purchase the goods and/or services herein described, not a confirmation or acceptance of any offer to sell; and acceptance of this offer is expressly made conditional on assent to these terms and conditions and the other provisions contained in this document. Purchaser hereby objects to any additional or different terms contained in any of the seller's quotation, acknowledgment, invoice or other forms, or in any other correspondence from the seller. These terms and conditions and any terms on the face of, or in any attachments to this document, collectively constitute the entire agreement between the parties on the subject of any purchase(s) by Purchaser from seller, superseding all prior written and oral communications and negotiations (hereinafter, the "Agreement"). This offer expires 30 calendar days after its date or upon prior written notification thereof to the seller.

**EACH SALE BY THE SELLER TO THE PURCHASER SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE PROVISIONS OF THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.**

**2. CHANGES IN ORDERS.** Purchaser reserves the right at any time to make changes in any one or more of the following: (a) specifications, drawings and data incorporated in the Agreement, where the items to be furnished are to be specially produced for the Purchaser, (b) methods of shipment or packing, (c) place of delivery, and (d) time of delivery. If any such change causes an increase or decrease in the cost of or the time required for performance of an order, an equitable adjustment will be made in the price or delivery schedule, or both, or Purchaser may, at its option, cancel the order pursuant to paragraph 11 hereof if agreement on an equitable adjustment cannot be reached. Price increases or extensions of time for delivery will not be binding on Purchaser unless evidenced by a purchase order change notice issued and signed by Purchaser.

**3. DELIVERY AND DELAY.** The seller will deliver the goods in the quantities and will deliver the goods and/or provide the services, within the time (which is of the essence), in accordance with the specifications, drawings or approved samples, and at the prices in the Agreement. Failure of the seller to comply with such requirements will entitle Purchaser, in addition to any other legal rights or remedies, to cancel any order and be relieved of all liability for any undelivered portion. In the event that, for reasons which are unforeseeable and beyond Purchaser's reasonable control, shipment is delayed beyond the last date on which shipment by the method contemplated herein would result in delivery guaranteed on or before the required delivery date herein, the seller will make shipment by the most expeditious available method of transportation, and any additional cost of such shipment will be borne by the seller. If shipment is delayed for any cause, the seller must report the same to Purchaser promptly. Items received in advance of Purchaser's delivery schedule may, at Purchaser's option, be returned at the seller's expense or be accepted and payment withheld until after the scheduled delivery date.

**4. SHIPPING, PACKING AND RISK OF LOSS.** The domestic shipping terms for all goods purchased hereunder are F.O.B. destination; for international shipments, delivery will be DDP destination, as that term is defined in Incoterms 2010. Purchaser will have the right to route all shipments. All goods will be suitably packed, marked with Purchaser's purchase order number and shipped in accordance with shipping instructions specified herein and otherwise in accordance with the requirements of common carriers. Packing slips must be included with all shipments showing order number, part number and quantity; and the last copy must state "Order Completed". The order number must be shown on each item, packing slip and invoice. No charge shall be made to Purchaser for boxing, packing, crating or carting unless separately itemized on the face hereof. Regardless of shipping terms, all risk that the ordered goods may be lost, damaged or delayed in transit will be upon the seller until conforming goods have been actually received, inspected and accepted by Purchaser. The seller will be liable to Purchaser for any loss or damage resulting from the seller's failure to act so as to provide adequate protection during shipment. Additional expenses, charges or claims incurred as a result of deviation from the specified route, noncompliance with other shipping instructions, or improper description of the shipment in shipping documents will be the responsibility of the seller.

**5. INSPECTION, ACCEPTANCE AND REJECTION.** All goods purchased hereunder (and workinprogress relating thereto) will be subject to inspection and testing by Purchaser at any reasonable time and from time to time before, during or after production and delivery. If any inspection or test is to be made on the premises of the seller, the seller without additional charge will provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. Notwithstanding prior inspections, all goods are subject to final inspection and approval at Purchaser's plant or other place designated by Purchaser and, notwithstanding any payment that may be made, no goods are deemed accepted until such final inspection and approval. Purchaser's inspection before, during or after manufacture and delivery will not constitute a waiver of the right of subsequent rejection by reason of any undiscovered or latent defect. Purchaser may return rejected goods at the seller's expense.

**6. WARRANTIES.** The seller warrants that the goods to be furnished hereunder (a) will not infringe the proprietary rights of any third party, (b) will be free and clear of all liens and encumbrances, good and merchantable title thereto being in the seller; (c) will be free from any defects in design, material or workmanship (latent or otherwise) and of good and merchantable quality; (d) will be new, not used, refurbished or reconstituted; (e) will conform to Purchaser's specifications or the sample approved by Purchaser, and with representations with respect thereto previously made by the seller, to the extent any of the foregoing are applicable, as the case may be, and be fit for the use intended by Purchaser; and (f) will comply and have been produced, processed, packaged, labeled, delivered and sold in conformity with all applicable federal, state or other laws, administrative regulations and orders, including the Occupational Safety and Health Act of 1971 as amended from time to time. The foregoing warranties shall survive inspection, delivery and payment, and shall run in favor of Purchaser, its successors and assigns and its customers, whether direct or indirect. The seller will determine the particular purposes for which all goods/services purchased by Purchaser are required, and will utilize its skill and judgment to select and furnish suitable goods/services; the seller acknowledges that Purchaser is relying on the seller to do so.

With respect to any goods ordered hereunder by Purchaser that are food or food ingredients, the seller further warrants that such goods (a) will not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act or within the meaning of any state statutes which have adulteration and misbranding provisions analogous to those found in that Act, nor articles which may not be introduced into interstate or intrastate commerce under such Act or any of such state statutes, (b) are free of and, if processed, have been processed since the harvesting of all raw agricultural commodities used therein, solely in facilities that do not process or handle

(c) are 100% natural, (d) contain no added sodium and nothing artificial, including but not limited to any "artificial flavor," as defined in 21 CFR 101.22(a)(1), any "artificial color," as defined in 21 CFR 101.22(a)(4).

If any such goods are found to be unsatisfactory, defective or inferior in quality, or not to conform to Purchaser's specifications or any other requirements hereof (including the seller's warranties), Purchaser may, at its option and in addition to its other remedies, retain such goods at an adjusted price, hold such goods at the seller's risk and expense pending the seller's specific instructions, or return them to the seller for replacement, credit or refund, as Purchaser directs. In that event, Purchaser will also have the right to cancel any unshipped portions of the affected and any related order. Purchaser will be reimbursed by the seller for all of its costs and expenses in connection with the storage, handling, packing and/or transporting of any such defective or otherwise nonconforming goods, and the seller assumes all risk of loss or damage in transit to goods returned by Purchaser pursuant hereto.

The seller further warrants that (a) all services furnished by the seller will be performed in a good and workmanlike manner, in accordance with any established professional standards for similar services, and with the best practices in the seller's industry, (b) any reports, drawings, advice, formula, protocol and other products of such services will comply with all applicable laws, regulations, codes and ordinances, and will be good and sufficient to enable Purchaser to achieve the results therefor specified in the Agreement, and (c) none of such services, reports, drawings, advice, formula, protocol or other products of such services, nor the use thereof by Purchaser will infringe the proprietary rights of any third party.

**7. INDEMNIFICATION BY THE SELLER.** The seller will indemnify Purchaser, its successors, assigns, and customers (whether direct or indirect) against any and all losses, damages and expenses (including attorneys' fees and other costs of defending any action) which they, or any of them, may sustain or incur as a result of any claim of negligence, breach of warranty, personal injury or death, infringement, strict liability in tort or based on any other theory of law in connection with the goods/services furnished by the seller hereunder, or as a result of any claim that the goods furnished by the seller fail to conform to or comply with any federal, state or local laws, regulations or standards, or based upon or arising out of any construction or installation, services or facilities furnished by the seller under or in connection with any order.

**8. PURCHASER'S DAMAGES.** The seller will be responsible for any and all losses, liabilities, damages and expenses, including incidental and consequential damages, and including attorneys' fees and other costs of prosecuting an action for breach, which Purchaser may sustain or incur as a result of any breach of the Agreement.

**9. FAIR LABOR STANDARDS CERTIFICATE.** The seller hereby certifies that all goods furnished hereunder shall have been produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof, and in accordance with all applicable state and federal laws and regulations governing general conditions for labor employed in the production of such goods.

**10. NONASSIGNABILITY.** The seller shall not assign or sublet the work to be done hereunder without the prior written consent of Purchaser, but this provision shall not restrict the seller in the procurement of component parts or materials.

**11. CANCELLATION BY PURCHASER.** Purchaser will have the right to cancel any order without cause, and Purchaser's liability for such cancellation will be limited to the seller's outpocket cost for work and materials applicable solely to the cancelled order which have been expended when notice of cancellation was received by the seller, reduced by the fair market resale value of such workinprocess. Purchaser may, at its option, cancel any order without liability to the seller (except for conforming shipments previously accepted by Purchaser) in the event the seller ceases to exist or becomes insolvent or the subject of bankruptcy, receivership or insolvency proceedings or shall commit a material breach in the performance of any part of its obligation hereunder.

**12. INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS.** If requested by Purchaser, the seller will promptly furnish the seller in such form and detail as Purchaser may direct: (a) a list of all ingredients in the goods purchased hereunder; (b) the amount of one or more ingredients; and (c) information concerning any changes in or additions to such ingredients. Prior to and with the shipment of goods purchased hereunder, the seller will furnish to Purchaser sufficient warning and notice in writing, including appropriate labels on goods, containers and packaging of any hazardous material that is an ingredient or a part of any of the goods, together with such special handling instructions as may be necessary to advise carriers, Purchaser and their respective employees of how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packaging shipped to Purchaser.

**13. PURCHASER'S PROPERTY; TOOLS, DESIGN WORK, DRAWINGS, SPECIFICATIONS AND TECHNICAL INFORMATION.** Purchaser will have no obligation to furnish or pay for any design work, drawings, tools or other equipment required for the performance of any order; provided, however, that Purchaser may, at its option, purchase any such items especially required by the seller for any order at the current value thereof on the seller's books for income tax purposes and any item so purchased will be deemed furnished to Purchaser hereunder. Any design, drawing, specification, photograph, tool or other equipment or material or part or engineering and manufacturing information heretofore or hereafter furnished to the seller by Purchaser, or the cost of which has been paid by Purchaser or included in the price of any order, whether or not separately itemized hereon, will be and remain Purchaser's property, will be conspicuously identified as such in the seller's records and by physical marking thereon, shall be promptly delivered to Purchaser upon request, will be treated as confidential information, will not be used in processing or manufacturing goods for anyone other than Purchaser and, while in the possession of the seller, will be the seller's responsibility and will be adequately insured at the seller's expense, for the benefit of Purchaser, against loss or damage by fire or other hazard. Any information that the seller may disclose to Purchaser with respect to the design, production or sale or use of the items covered by any order will be deemed to have been disclosed as part of the consideration for that order, and the seller shall not assert any claim against Purchaser by reason of Purchaser's use thereof.

**14. FORCE MAJEURE; ALLOCATION OF LIMITED SUPPLY.** Purchaser shall not be liable for any damage as a result of any delay or failure to accept delivery due to any act of God, act of the Seller, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown or other labor difficulties, war, riot, delay in transportation, defaults of common carriers, inability to obtain necessary labor,

materials, or manufacturing facilities or, without limiting the foregoing, any other delays beyond the Purchaser's control which shall affect the Purchaser's ability to receive and use the goods or services. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost because of the delay. Seller will allocate any limited supply of the goods covered by the Agreement to the fulfillment of its obligations under the Agreement before allocating any of such supply to its other customers or to Seller's use in its own operations.

15. **TAXES.** Purchaser will not be liable for any federal, state or local taxes, duties, customs or assessments in connection with the sale, purchase, transportation, use, or possession of the goods or services ordered hereunder.

16. **REMEDIES CUMULATIVE.** The rights and remedies of the Purchaser set forth herein will be in addition to any rights or remedies that Purchaser may otherwise have.

17. **COMPENSATION TO PURCHASER'S AGENTS.** No employee or other agent of Purchaser is permitted to solicit or accept any compensation or payment from any supplier, however characterized, in connection with the placement of any order; and any rebate, discount, incentive or other amount offered in that connection will be separately itemized in sell