

REQUEST FOODS, INC. TERMS OF SALE

1. Terms of Sale; Definition of Affiliates.

(a) All sales of products by Request Foods, Inc. ("**Request**") are subject to the written co-packing agreement, supply agreement, manufacturing agreement, purchase agreement or other similar written agreement (collectively, "**Master Agreement**") between Request and its customer ("**Customer**"). If a Master Agreement is in place, then these Terms of Sale shall not apply. However, if a Master Agreement is not in place, then all sales by Request to Customer are subject to the following (collectively referred to as this "**Agreement**"):

- (i) These terms of sale, as they may be amended from time to time by Request (as amended, these "**Terms of Sale**"); and
- (ii) The quantities, delivery dates and pricing set forth in Customer's purchase order, electronic data interchange (EDI) order or other order (collectively, "**Purchase Order**") accepted by Request but only to the extent such quantities, delivery dates and pricing are consistent with these Terms of Sale.

Request objects to and does not agree to any terms that are additional to or different from this Agreement (which for clarity includes these Terms of Sale). With the exception of those terms included in a Purchase Order referenced in subsection 1(a)(ii) above, any terms (including without limitation preprinted or "boilerplate" terms) that are contained or referenced in a Purchase Order or other Customer document or form which are additional to, in conflict with or inconsistent with those in this Agreement shall be invalid and shall have no force or effect.

(b) In this Agreement, the term "**Affiliate**" or "**Affiliates**" means any and all corporations, limited liability companies, organizations, partnerships or other entities controlling, controlled by or under common control with a party or the shareholder(s) or member(s) of a party, either now in existence or coming into existence in the future.

2. Purchase and Sale of Products.

(a) Customer shall purchase from Request, and Request shall produce, package, and sell to Customer, the products ("**Products**") specified in each Purchase Order issued by Customer that is accepted by Request.

(b) Except to the extent attributable to the fault of Customer-Supplied Raw Materials (as defined in Section 5(d) below), Request shall produce and package the Products in all material respects in accordance with:

- (i) the terms of this Agreement;
- (ii) the formulas and recipes for the Products, including proprietary, non-public formulas and recipes provided by Customer in which Customer has valid intellectual property rights ("**Customer Proprietary Formulas**"), standard formulas or recipes, formulas or recipes developed solely by Request, or formulas or recipes jointly developed by both Customer and Request (the Customer Proprietary Formulas and the other formulas and recipes being referred to collectively as the "**Formulas**"); and
- (iii) the processing and other specifications mutually agreed upon in writing by Customer and Request (collectively, the "**Specifications**"). The Specifications may be amended

from time to time but only upon written agreement of the parties.

(c) Customer shall own the Customer Proprietary Formulas and Request shall own all other Formulas. Request shall own all manufacturing processes and know-how related to the Products or this Agreement, and Request shall also own the Specifications (except for the Customer Proprietary Formulas, if such Customer Proprietary Formulas are included in the Specifications). Customer represents and warrants to Request that (i) all trademarks and other marks used in connection with the Products are the sole and exclusive property of Customer and are valid and existing trademarks and other marks of Customer; (ii) Customer owns or has the right to permit Request to use and otherwise exploit all intellectual property related to or associated with the Products, and that Request's packaging, manufacture, use, sale, offer for sale or other exploitation of the Products in a manner consistent with the Customer Proprietary Formulas (if applicable) and the Specifications will not infringe any patent, trademark, copyright, trade secret or other proprietary right of any third party anywhere in the world; and (iii) the Customer Proprietary Formulas and Specifications provided by Customer shall not cause the Products to violate any applicable federal, state, provincial or local laws, ordinances, rules, regulations or orders.

3. Preparation and Packaging.

(a) Except to the extent attributable to the fault of Customer-Supplied Raw Materials, Request shall produce the Products in accordance with the Specifications in all material respects. Request shall have full responsibility for procurement of and payment for all raw materials (including meat, ingredients, components and packaging materials) (collectively, "**Raw Materials**"); *provided, however*, that Customer may supply certain Customer-Supplied Raw Materials as set forth in Section 5(d) below. Customer

agrees to immediately provide Request a pre-approved Customer purchase order number and pay Request for all Products and unique Raw Materials which Request has on hand or has on order with a supplier under a non-cancelable agreement and which are rendered obsolete as a result of a change in the Specifications. Customer shall make full payment for its obligations stated in the preceding sentence within 30 days after a change in the Specifications. If full payment is not made within 30 days, Request may elect in its sole discretion and at Customer's sole expense (i) charge Customer storage fees; (ii) transfer obsolete Products and unique Raw Materials to a public warehouse; and/or (iii) dispose of such obsolete Products and unique Raw Materials (including Customer-Supplied Raw Materials), all in addition to withholding Product delivery.

(b) Request shall package Products in Customer-designed (or Request-designed if approved in advance by Customer in writing) and Customer-approved packaging so long as such packaging is consistent with Request's normal operations. Customer shall at its sole cost and expense be responsible for (i) all packaging graphics development, including printing plates; (ii) the content of all packaging materials (including labels) for the Products, including without limitation any works of authorship, the ingredients and nutritional legends, any product label claims (including health, nutrient content and structure/function claims) and any trademarks, trade names, service marks, logos or other marks; and (iii) securing any necessary approval of any governmental agency for such packaging and labeling. Request shall be responsible for printing the Product labels and acquiring any packaging materials.

4. Production Scheduling; Pallets; Storage and Handling; Delivery.

(a) Customer may provide Request a written forecast of Customer's production requirements. Request may use

such forecast to order necessary Raw Materials. Request may, with Customer's written approval (including email), order additional Raw Materials to take advantage of supplier volume discounts that will be passed on to Customer or for Raw Materials requiring a longer-term commitment, such as vegetables packed once per year. Request will only proceed with the production of Customer's ordering of Products via receipt of a Purchase Order or a forecast.

(b) The Products shall be delivered Ex Works (EXW, Incoterms) Request's facilities at 3460 John F. Donnelly Drive and/or 12875 Greenly Street, Holland, MI 49424, where Customer or its designated carrier shall take possession of the Products at Customer's expense (unless for additional cost, Request is designated by Customer to deliver the Products to Customer's designated storage facility). Title to and risk of loss of the Products shall pass to Customer upon delivery of the Products to Customer or its designated shipper at Request's facilities, unless Request is delivering the Products to Customer's designated storage facility (in which case title to and risk of loss of the Products shall pass to Customer upon delivery to such designated storage facility).

(c) The Products must be picked up within 2 business days from the time that Request notifies Customer that the Products have been completed. If Customer has not picked up the Products within 2 business days, then Request may, in its sole discretion and at Customer's sole expense, either (i) ship the Products to Customer or its designated storage facility; (ii) charge storage fees in connection with any Products not picked up on a timely basis; and/or (iii) ship the Products to a public warehouse for storage.

5. Product Quality; Limitations; Remedies; Reporting Product Problems.

(a) Except to the extent attributable to the fault of Customer-

Supplied Raw Materials, Request represents and warrants that, at the time of Product pick up from Request's facility or shipment by Request for designated delivery to Customer, all Products produced by Request shall, in all material respects:

(i) not be adulterated or misbranded or otherwise violate applicable federal, state and local laws, ordinances, rules, regulations and orders, including, without limitation, all applicable federal and state pure food laws, the Federal Food, Drug, and Cosmetic Act (FFDC Act), the FDA Food Safety Modernization Act, the Bioterrorism Preparedness and Response Act of 2002, the Federal Insecticide, Fungicide, and Rodenticide Act, the Fair Packaging and Labeling Act, the Federal Hazardous Substances Act, all acts and regulations enforced by the United States Department of Agriculture and the Federal Food and Drug Administration, and all Good Manufacturing Practices promulgated by the Federal Food and Drug Administration, as each of those acts or regulations has been or is amended;

(ii) be free of any chemicals listed by any federal or state government agency as causing cancer or reproductive toxicity or, if any Products contain such chemicals, that the quantity of such chemicals complies with all applicable federal and state standards for those chemicals; and

(iii) meet the Specifications.

(b) Request does not guarantee against any Product(s) becoming adulterated or misbranded within the meaning of the FFDC Act or any of such laws or ordinances after delivery to Customer or Customer's carrier by reason of causes beyond Request's control, and

Request's responsibility for misbranding shall be limited to that resulting from (i) the failure of the Product to materially conform to the Specifications at the time of pick up or delivery; and/or (ii) the application of the incorrect labels or other packaging materials to the Product.

(c) If the Products do not meet the warranty set forth in Section 5(a), then Request shall replace the defective Products at its expense. Customer shall pay for the replacement Products if Customer has not already paid for the non-defective Products. Notice of a breach of Request's warranty must be made in writing, setting forth sufficient detail to permit identification by Request of the claimed defect. If Request fails to replace a defective Product within a reasonable time, then Request shall be liable to Customer for that part of the purchase price of the defective Products that shall have been paid by Customer. This Section 5(c) sets forth Customer's sole and exclusive remedies for any defect in the Products. EXCEPT AS STATED IN SECTION 5(a), REQUEST DOES NOT MAKE ANY WARRANTY AS TO THE PRODUCTS AND, IN PARTICULAR, DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

(d) The parties acknowledge that Customer may supply, either at no charge or at an agreed upon cost, certain Raw Materials (collectively, the "**Customer-Supplied Raw Materials**") for the Products. Such Customer-Supplied Raw Materials may be supplied directly by Customer or indirectly through directed suppliers, subcontractors or agents. For clarity, if Customer directs Request to purchase Raw Materials from a certain supplier selected by Customer, then such supplier shall be considered a directed supplier and the Raw Materials supplied by such directed supplier shall be considered Customer-Supplied Raw Materials. Customer agrees that all purchases by Request of Customer-Supplied Raw Materials shall be subject to

Request's standard terms of purchase that are referenced on Request purchase orders unless they conflict with terms that are contained in this Agreement, in which case the terms contained in this Agreement shall control. A Certificate of Analysis (COA) shall be provided with each shipment of Customer-Supplied Raw Materials in a form acceptable to Request. Notwithstanding anything to the contrary in this Agreement, the parties agree that Request is not responsible for, and Request shall have no liability to Customer or to other third parties to the extent of, any defects, non-conformities, defaults or other issues related to the Customer-Supplied Raw Materials that were present at the time the Customer-Supplied Raw Materials were delivered to Request.

Customer represents and warrants that at the time of delivery:

(i) the Customer-Supplied Raw Materials shall conform to any samples or mutually agreed specifications or requirements;

(ii) the Customer-Supplied Raw Materials, their manufacture, packaging and sale shall comply with all applicable federal, state, provincial and local laws, ordinances, rules, regulations and orders, including, without limitation, all applicable federal, state and provincial pure food laws, the Federal Food, Drug, and Cosmetic Act, the FDA Food Safety Modernization Act, the Bioterrorism Preparedness and Response Act of 2002, the Federal Insecticide, Fungicide, and Rodenticide Act, the Fair Packaging and Labeling Act, the Federal Hazardous Substances Act, all acts and regulations enforced by the United States Department of Agriculture and the U.S. Food and Drug Administration, and all Good Manufacturing Practices promulgated by the U.S. Food and

Drug Administration, as each of those acts or regulations has been or is amended;

(iii) the Customer-Supplied Raw Materials are not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and are not goods which may not, under the provisions of section 404, 505, or 512 of the act, be introduced into interstate commerce; and

(iv) the Customer-Supplied Raw Materials are free of any chemicals listed by any federal or state government agency as causing cancer or reproductive toxicity or, if any Customer-Supplied Raw Materials contain such chemicals, that the quantity of such chemicals complies with all applicable federal and state standards for those chemicals.

Customer and any third parties do not represent or warrant that the Customer-Supplied Raw Materials will not become adulterated or misbranded within the meaning of the FFDC Act or any of such laws or ordinances after delivery to Request.

(e) Request shall follow food safety standards that meet or exceed those benchmarked by the Global Food Safety Initiative (“**GFSI**”).

6. Test Runs. From time to time, Customer may request that Request perform test runs, which Request will run within a reasonable amount of time after receipt of a written request providing detailed instructions (including a required pre-approved Customer purchase order number) for running such test run. Request will purchase all Test Run Materials (as defined below) not provided by Customer (Test Run Materials provided by Customer will be purchased by Request via its purchase order and will be subject to

Request’s standard terms of purchase), and provide a reasonable number of production and support personnel, as determined by Request in its sole discretion, to perform the test run in accordance with the instructions. All left over Customer supplied components, materials, ingredients, raw products, packaging materials, labels and other items or products required for any test run (collectively, “**Test Run Materials**”) and finished product (“**Test Run Product**”) will be shipped to Customer’s designated storage facility or picked up by Customer at Customer’s cost (after reimbursement to Request for any materials bought by Request) within 2 business days after the test run. Alternatively, Request may, at its sole discretion, ship any Test Run Materials and/or Test Run Product to an offsite storage location to be stored for Customer, at Customer’s expense. Pricing of test runs will be at Request’s then-standard test run fee, which in general will include, without limitation, the following charges: (a) a minimum 4 hour production line charge for actual line times; (b) the cost of any Test Run Materials purchased by Request; (c) the cost of transporting Test Run Materials or Test Run Product to and from Request’s facilities; and (d) any extra charges for special packing or other requirements requested by Customer or deemed reasonably necessary by Request (such as dry ice). Test run invoices will be paid within the payment terms stated in Section 10(a). If special equipment is needed, Customer will furnish such special equipment at its expense, including, without limitation, the costs involved in purchasing, leasing, transporting, insuring, installing, removing and all other related activities. Customer or its approved representative may observe test runs at its discretion and sole expense, including travel costs.

7. Indemnification and Insurance.

(a) Indemnification. Each party shall defend, indemnify and hold harmless the other party, its Affiliates and their employees, officers, directors, agents and representatives from all losses, claims,

damages, liabilities, penalties, costs and expenses, including reasonable attorneys' fees (collectively, "**Losses**") they incur to the extent they arise out of or result from breach of any of its obligations under this Agreement. Customer shall defend, indemnify and hold harmless Request, Request Affiliates and their employees, officers, directors, agents and representatives from all Losses they incur to the extent they arise out of or result from (i) any representations or claims (other than as made by Request in this Agreement) made by Customer with respect to the Products, whether contained in Customer's advertising, labels or otherwise; (ii) tampering with the Products not caused by Request; (iii) any negligence or intentional misconduct on the part of Customer or its employees, agents or subcontractors; (iv) the Specifications, Customer Proprietary Formulas, distribution, sale, offer for sale, use, and/or other exploitation of the Products, except to the extent that such Losses are solely caused by Request's breach of its obligations under this Agreement; (v) any claimed unfair competition, misappropriation or patent, trademark, copyright or other proprietary rights infringement or any other claim resulting from Request's packaging, manufacture, use, sale, offer for sale, importation or other exploitation of the Products in a manner consistent with the Specifications; (vi) any claims related in any way to the packaging, including its content, design label and any trademarks, graphics or other printed matter included on the packaging; and/or (vii) the Customer-Supplied Raw Materials.

(b) Insurance. Each party shall, at its own expense, maintain in full force and effect during the term of this Agreement and 3 years thereafter commercial and general business liability insurance coverage together with a following form umbrella/excess liability insurance coverage on an occurrence form (not claims made), with a reputable, duly-qualified (A.M. Best rating of A or better) insurance carrier with

limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate with deductibles no greater than \$200,000 per occurrence. Umbrella/excess liability insurance coverage shall have limits of at least \$5,000,000 per occurrence for bodily injury and property damage in excess of the limits afforded for general liability and employer's liability. If Customer is providing Customer-Supplied Raw Materials, then Request may require that Customer maintain additional insurance coverage (including additional types of insurance and/or higher coverage amounts) upon written notice to Customer, and Customer shall obtain such additional insurance coverage within 10 days after receipt of such notice. Each party shall also maintain worker's compensation and employer's liability insurance in accordance with the statutory requirements of the states where such party conducts its operations. Upon request, each party shall furnish the other party with certificates of insurance properly executed by the applicable insurance company. Request shall be named as an additional insured on all Customer policies except the worker's compensation and employer's liability policies. All insurance coverage shall include waiver of subrogation provisions in favor of the other. Request shall keep Customer promptly informed and be responsible for the investigation, appropriate response and resolution of customer complaints. Request has Customer's sole authority to settle Product complaints through its insurance carrier if settlement will not exceed \$5,000, otherwise Request will consult with Customer on claim settlement.

8. Orders; Quantities. Customer will purchase Products by submitting a Purchase Order to Request from time to time in accordance with this Agreement. Each Purchase Order shall be for a minimum order quantity (MOQ) of the greater of (a) 1 full production shift, or (b) the MOQ specified by Request. A Purchase Order shall require a lead time of not less than 30 days, unless otherwise agreed to in writing by Request. Both Request and

Customer shall use their best efforts to agree to an acceptable and feasible production and delivery time of the Products solicited with each Purchase Order before Request accepts any Purchase Order. Consistent with the terms of Section 1(a) above, the only terms on an accepted Purchase Order that are applicable are the quantities, delivery dates and pricing set forth on the Purchase Order, and none of the preprinted or "boilerplate" terms on a Purchase Order apply. Request may reject any Purchase Order if the quantities, delivery dates or pricing are contrary to the terms of this Agreement or otherwise unacceptable to Request. If Request rejects a Purchase Order under this Section, the parties shall use all reasonable efforts to agree upon a mutually acceptable modification to it and will use reasonable commercial efforts to identify options that meet Customer's delivery requirements.

9. Prices. Unless otherwise mutually agreed upon in writing by Request and Customer, the prices for the Products ("**Prices**") are those specified in a Purchase Order accepted by Request. Should Customer desire Request to make arrangements to ship Products to Customer's designated storage facility, such freight costs will be reflected as a separate invoice line item. The Prices may be adjusted in the following circumstances:

(a) If Customer's Purchase Order has a duration of 6 months or more, then every 6 months Request will review actual Product volumes versus anticipated annual volumes, the current cost of Raw Materials (including Customer-Supplied Raw Materials and other Raw Materials), conversion costs used in the production of any Product and other relevant factors ("**Price Review**"). Results of the Price Review will lead to a recommendation by Request of whether the Prices of Products should be increased, decreased or remain unchanged until the next Product Review. After Customer's review of the Price Review, the parties shall mutually agree upon any Price changes. Upon Customer's

request, Request will substantiate any increase with appropriate documentation to Customer. In the event that Request requests a Price increase after a Price Review and the parties cannot reach a mutual agreement as to the amount of the price increase, then Request may terminate this Agreement as set forth in Section 13(d) below.

(b) The Prices shall be immediately changed to reflect any changes in Request's costs resulting from Customer's change to the Specifications or from any increase in costs in the Customer-Supplied Raw Materials.

(c) Request may increase the Prices if the actual volumes are lower than the volumes that were anticipated by the parties at the time the Purchase Order was issued.

(d) Request may increase the Prices at any time upon 30 days prior written notice to Customer; *provided, however,* that Customer shall have 10 days from the receipt of such notice in which it may reject the Price increase, in which case the parties agree to negotiate the new Prices. If Customer does not object to a notice of Price increase within 10 days, then the Price increase shall be deemed to have been accepted.

10. Payment; Terms; Guarantee of Customer Affiliate; Taxes.

(a) Request shall invoice Customer in U. S. Dollars upon completion of the Products described in Customer's Purchase Order. Invoices must be paid by Customer in U.S. Dollars by electronic transfer of funds (or other payment form acceptable to Request in its sole discretion) to Request (i) no more than 2 business days after Customer is notified that the order is complete, and (ii) before Customer takes delivery of the Products. Request may in its sole discretion extend credit terms to Customer, which may include a requirement that Customer provide an irrevocable letter

of credit to Request in a form and amount acceptable to Request. If Request does extend credit terms, then (i) Request reserves the right to modify such credit terms in its sole discretion, and (ii) payment terms are net 15 days after the date of Request's invoice unless otherwise agreed upon by the parties. Finance charges shall accrue at the rate of 1.5% per month on all past due invoices or other amounts owing, and Request shall be entitled to recover its actual attorney fees, costs and expenses incurred in collecting or attempting to collect any past due invoice or other amount owing to Request. Unless otherwise agreed upon in writing by Request, Customer shall provide the following to Request upon request during the term of this Agreement: (i) Customer's entire audited financial statements within 30 days after Customer receives its audited financial statements, or within 90 days after the end of Customer's fiscal year, provided audited statements are completed and available to Customer within such 90 day period; (ii) Customer's unaudited interim financial statements within 20 days after the end of each fiscal quarter; and (iii) Customer shall make its chief financial officer available for monthly telephone calls to provide information regarding Customer's financial situation and other related matters. All documentation and information provided by Customer to Request above shall be considered Confidential Information (as defined in Section 15).

In the event that Customer is delinquent on any invoice or Request has good faith reason to be insecure about Customer's ability to pay for existing or future invoices based on Customer's financial situation or other relevant factors, then upon notice to Customer, Request may do one or more of the following: (i) suspend shipments; (ii) reduce payment terms or refuse to extend any credit; (iii) require immediate payment in full for existing invoices and cash-in-advance for future shipments; (iv) require an irrevocable letter of credit in a form and amount acceptable to Request; or (v) require a deposit in an

amount specified by Request to secure existing and/or future invoices, and Customer shall provide such deposit in the amount specified by Request within 5 days after Request's notice.

(b) Customer hereby guarantees prompt payment when due of all existing and future indebtedness and obligations owing to Request from any Affiliate of Customer.

(c) Customer shall be responsible for all taxes in connection with its purchase of the Products except for any taxes based on Request's income.

11. Notices. Notice to any party under this Agreement shall be deemed given when personally delivered or when sent by overnight courier to the address listed in the opening paragraph of this Agreement.

12. Term. Unless earlier terminated under Section 13, Request and Customer agree that the term of this Agreement shall be consistent with the term of the related Purchase Orders accepted by Request and this Agreement shall terminate upon termination of all of such Purchase Orders.

13. Termination; Payment for Products and Unique Raw Materials. This Section 13 addresses, among other things, termination of this Agreement. Any termination of this Agreement shall automatically terminate any and all related Purchase Orders, which termination of Purchase Orders shall be effective as of the date of termination of this Agreement.

(a) In General. Either party shall have the right to terminate this Agreement by giving the other party at least 90 days' advance written notice of such termination.

(b) Material Breach. Either party may terminate this Agreement by providing 15 days written notice to the other party, if such other party materially breaches this Agreement or otherwise materially fails to

perform its obligations. The breaching party shall have 15 days from the date of the notice to cure the stated material breach. If the breaching party does not cure the material breach during that time period, then this Agreement shall terminate at the end of the notice period.

(c) Insolvency. Any party may terminate this Agreement upon notice to the other party if the other party becomes insolvent, asks its creditors for a moratorium, files a voluntary petition in bankruptcy, is adjudicated bankrupt pursuant to an involuntary petition, or suffers appointment of a temporary or permanent receiver, trustee or custodian for all or a substantial part of its assets that is not discharged within 60 days.

(d) Pricing Adjustments. Request may terminate this Agreement upon 30 days' written notice to Customer in the event that the parties are unable to reach an agreement upon a Price increase after a Price Review as set forth in Section 9(a) above.

(e) Payment for Products and Unique Raw Materials. This Section 13(e) applies upon the occurrence of any one or more of the following (each, an "**Inventory Purchase Event**"): (i) the expiration or termination of this Agreement for any reason; (ii) a Product or a unique Raw Material being removed or deleted, being discontinued, becoming obsolete, being brought in-house for manufacturing, or otherwise not being produced or used by Request for Customer; or (iii) Request having inventory in stock of a Product or a unique Raw Material that Request does not believe will be delivered to Customer, or used in manufacturing Product for Customer, within the next 6 months. Upon the occurrence of an Inventory Purchase Event and within 10 days after Request's demand, Customer shall pay Request for the following: (1) all Products produced or in process before the Inventory Purchase Event; and (2) an amount equal to Request's cost for any unique Raw

Materials purchased or committed to by Request; *provided, however*, that if the Inventory Purchase Event is not the expiration or termination of this Agreement, then Customer's obligation set forth in this sentence shall not apply to all Products and all unique Raw Materials but only to the Product or unique Raw Material at issue (e.g., if only one Product is discontinued but there are other Products that are not discontinued, then Customer's obligations in this sentence shall only apply to that discontinued Product and its related unique Raw Materials but not to the other Products and their related unique Raw Materials). All Products and unique Raw Materials specified in the preceding sentence shall be picked up by Customer from Request's facility within 30 days of Request's notice of the Inventory Purchase Event. If Customer fails to timely pick up the Products and unique Raw Materials, then Request may elect in its sole discretion and at Customer's sole expense to do one or more of the following: (i) charge Customer storage fees; (ii) transfer the Products and unique Raw Materials to a public warehouse; or (iii) dispose of the Products and unique Raw Materials.

14. No Consequential Damages; Limitation of Liability.

(a) Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other for lost profits or other consequential, incidental, special, indirect, punitive or exemplary damages.

(b) In addition to the provisions of Section 14(a), and notwithstanding any other provision of this Agreement to the contrary, Customer agrees that the total liability of Request and its Affiliates for any and all types of liabilities related to or arising out of this Agreement, any similar agreements, any and all Purchase Orders, the Raw Materials and/or the Products, including but not limited to recall or withdrawal of the Products, shall not exceed \$100,000 in the aggregate.

15. Confidentiality.

(a) Defined. As used in this Section 15, “**Confidential Information**” means and includes any information (whether tangible or intangible, printed, electronic, or otherwise) and items embodying information at any time furnished by either party to the other, or to which either party or one of its Affiliates is exposed, whether before or during the term of this Agreement, including, without limitation: (i) the identities of or information concerning the discloser’s customers, suppliers, or other business partners; (ii) information concerning discloser’s business and business plans; (iii) financial information concerning discloser and its affiliates; (iv) discloser’s business techniques and methodologies, manuals, drawings, designs and specifications, concepts, ideas, inventions, know-how, processes, equipment, ingredients, and formulas; (v) information concerning discloser’s intellectual property, including pending patent applications or other trade secrets; (vi) information from third parties that discloser is obligated to treat as confidential; and (vii) information that is derived from Confidential Information (for example through testing, analysis or processing).

(b) Nondisclosure. Except as otherwise provided in this Agreement, each party agrees that it (i) will use Confidential Information only for the purpose for which it was provided, and (ii) will not disclose or provide access to any third party any Confidential Information of the other party for any reason, except to its employees who require such knowledge in the ordinary course of their employment. Each party shall take all necessary action to ensure that its employees comply with the confidentiality provisions of this Section 15.

(c) Exceptions. The obligations set forth in this Section 15 shall not apply to any information that (i) is or becomes publicly available through no fault of the receiving party; (ii) is obtained by the receiving party from a third party without

any obligations of confidentiality of non-use to the third party; (iii) is, at the time of initial disclosure, already known by the receiving party; or (iv) is independently developed by the receiving party without use of or other reliance upon Confidential Information of the other party.

(d) Earlier Agreements. The provisions of this Section 15 supersede and replace any confidentiality or non-disclosure agreement previously executed by any or both of the parties.

16. Force Majeure. Neither party shall be deemed in default of its obligations under this Agreement (other than the obligation to pay money as required under this Agreement) or be liable for any loss or damage resulting from a failure to perform due to anything that party cannot reasonably control, such as war, acts of terrorism, civil riot or insurrection, natural disaster, actions or decrees of governmental bodies, fire, flood, explosion, strike, labor disputes, labor shortages, shortage or other unavailability of raw materials or packaging components, equipment or tooling failures, picketing, lockout, transportation embargo or failures or delays in transportation, strikes or labor disputes affecting supplies, or Acts of God.

17. Customer-Owned Equipment. If Customer provides equipment that has been paid for and is owned by Customer (“**Customer Equipment**”) to Request in order to produce the Products, then the following provisions shall apply: (a) risk of loss of the Customer Equipment shall remain with Customer; (b) Request shall have free use of Customer Equipment and be responsible for normal and routine maintenance and repairs of the Customer Equipment, but Customer shall be responsible for the entire cost of any maintenance or repair item that exceeds \$2,500; (c) unless otherwise agreed in writing by Request, Customer shall be responsible for the cost of installation of the Customer Equipment; (d) Customer shall be responsible for the cost of any necessary

modifications to the Customer Equipment and any property taxes assessed on the Customer Equipment; (e) Customer shall at its expense remove the Customer Equipment from Request's facility within 30 days after expiration or termination of this Agreement, and if the Customer Equipment is not removed within that period of time then Request may charge Customer reasonable storage charges for the Customer Equipment and/or dispose of the Customer Equipment at the expense of Customer; (f) upon expiration or termination of this Agreement, Customer shall reimburse Request for all spare parts and tool kits related to the Customer Equipment; (g) Customer shall indemnify and hold Request harmless with respect to all damages arising from or related to the installation or removal of the Equipment, including without limitation any property damage (including damages to Request's facility), personal injury or death or economic damage or economic loss; (h) Request may use Customer Equipment while in Request facilities to produce any third party products, provided that such activity does not adversely impact Request's ability to produce Customer Product or meet Customer performance measures, if any; and (i) Request may retain possession of the Customer Equipment until all amounts owed by Customer to Request under this Agreement are paid in full. Customer further agrees under this Section that if Request desires to keep any Customer Equipment as partial payment of Customer's obligations due under this Agreement, that Customer shall (i) not assert any claim of right, title, option, or interest in or to the Customer Equipment or any part of it, and (ii) shall, upon Request's request, consent to sign title transfer documents or security statements or other documents testifying to the rights of Request's claim of ownership of the Customer Equipment.

18. Customer-Supplied Raw Materials. Notwithstanding anything to the contrary in this Agreement, Request shall not be liable or responsible in any manner to Customer

or any third party to the extent attributable to the fault of the Customer-Supplied Raw Materials as delivered to Request or Customer. By way of example, Request shall not be considered to be in default of this Agreement or liable for any defects or non-conformities to the extent attributable to the Customer-Supplied Raw Materials as delivered to Request. Further, Request shall not be considered to be in default of this Agreement or liable for failure to deliver Products on a timely basis to the extent the delay was attributable to Request's failure to receive Customer-Supplied Raw Materials on a timely basis.

19. Modification. This Agreement may be modified or extended only by mutual agreement of the parties. Any such modification or extension shall be stated in writing and shall be attached to and become a part of this Agreement.

20. Governing Law. This Agreement shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law without giving effect to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any dispute arising out of or related to this Agreement, the Products or the Raw Materials shall be brought exclusively in a federal or state court in Ottawa or Kent County, Michigan that has jurisdiction of the subject matter, and each party irrevocably consents that any such court shall have personal jurisdiction and venue over the party and waives any objection that the court is an inconvenient forum.

21. Assignability. Customer shall not assign this Agreement without Request's prior written consent, which consent may be withheld in Request's sole and absolute discretion. Request may assign this Agreement to a Request Affiliate or to a third party in connection with any merger, acquisition, or corporate restructuring. This Agreement will be binding upon and inure to

the benefit of the parties and their successors and/or assigns.

22. Headings. The headings contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement and shall in no way affect the interpretation of this Agreement.

23. Relationship of the Parties. The parties are independent contractors and this Agreement does not create an agency, partnership or joint venture between the parties or their employees.

24. Entire Agreement. Unless a Master Agreement is in place, this Agreement contains the entire agreement of the parties and supersedes and replaces all prior agreements between the parties, whether oral or written, in connection with the subject covered by this Agreement. No changes or modifications of this Agreement shall be effective unless made in writing and signed by both parties.