



# Purchase Order

Hill's Pet Nutrition, Inc. and Subsidiaries ("Buyer")

## BUYER'S PURCHASE ORDER TERMS AND CONDITIONS

- 1. DEFINITIONS.** Capitalized terms used but not defined in these purchase order terms and conditions (these "Terms") have the meanings indicated below.
  - A. "Buyer" means Hill's Pet Nutrition, Inc. or any of its affiliates. For purposes of these Terms, "affiliates" of Buyer or Seller means any other entity that controls, is controlled by, or is under common control with, Buyer or Seller.
  - B. "Confidential Information" means all information, whether in written, verbal, graphic, electronic, or any other form, provided by or on behalf of Buyer that is disclosed to or observed by or on behalf of Seller, such information being either (i) disclosed in written or other tangible form and plainly marked as "confidential," "proprietary," or the like, or (ii) due to the nature of such information and the circumstances under which it was disclosed, should reasonably be assumed to be Confidential Information. Confidential Information includes the terms and the existence of this Purchase Order, information belonging to others who have entrusted such information to Buyer, information that would not have been known to competitors of Buyer or the public generally, if Seller had not breached its obligations of confidentiality under this Section and all copies of any of the foregoing.
  - C. "Goods" means the types of goods described on the face of this Purchase Order and as such may be further specified in any other related written agreement entered into by the parties.
  - D. "Purchase Order" means Buyer's purchase order, these Terms, the Specifications and any other written agreement executed by both Buyer and Seller concerning the subject matter, if any.
  - E. "Seller" means the supplier or vendor named on the face of this Purchase Order from whom Buyer is purchasing the Goods and/or Services.
  - F. "Services" means all of the services, obligations, duties, requirements and responsibilities described on the face of this Purchase Order and as such may be further specified in any other related written agreement entered into by the parties and expressly referenced on the face of this Purchase Order. The term "Services" includes any services required for the Seller's successful completion of the Services (including delivery of any Work), whether or not expressly identified herein, including the furnishing of all supervision, labor, materials, equipment and other resources necessary to perform the Services.
  - G. "Specifications" means Buyer's specifications applicable to each type of Good and/or Service specified on the face of this Purchase Order, and Buyer's required manufacturing practices, sampling, testing and other quality control practices and procedures, packaging and storage specifications and procedures.
  - H. "Work" means any tangible or intangible original work of authorship, deliverable, material, design, model, drawing, photograph, report, formula, pattern, device, compilation, database, computer program or other item to be provided or delivered by Seller to Buyer as part of the Services.
- 2. OFFER AND ACCEPTANCE.** Seller accepts the offer set forth in this Purchase Order, including these Terms, by signing the acknowledgment copy and returning it to Buyer or by commencing performance under this Purchase Order, even if Seller does not sign this Purchase Order. Acceptance of Buyer's offer is expressly limited to this Purchase Order, including these Terms, which may not be modified, superseded or amended except in a writing that has been signed by Buyer's authorized representative. BUYER IS NOT BOUND BY, AND HEREBY OBJECTS TO, ANY TERMS THAT ARE IN ADDITION TO, THAT CONFLICT WITH OR THAT VARY THESE TERMS, WHETHER APPEARING IN SELLER'S QUOTATION, ACKNOWLEDGMENT, CONFIRMATION, INVOICE OR ANY OTHER PRIOR OR LATER COMMUNICATION FROM SELLER TO BUYER, UNLESS SUCH TERMS ARE EXPRESSLY AGREED TO IN A WRITING THAT HAS BEEN SIGNED BY BUYER'S AUTHORIZED REPRESENTATIVE.
- 3. CHANGE ORDERS.** By written change order, Buyer may at any time unilaterally modify or suspend the provision of Goods and/or Services in whole or in part for a stated period; modify the Specifications; and modify destination and delivery schedules; however, Seller must consent to any acceleration in delivery schedules. However, if any such modification, suspension or other change causes an increase or decrease in the cost of, or the time required for providing the Goods and/or Services, then Seller shall immediately notify Buyer of such impacts and the parties will negotiate a mutually acceptable equitable adjustment to the price, delivery schedule, or other terms of this Purchase Order, and document such equitable adjustment in a writing signed by the authorized representatives of both parties.
- 4. PRICE.** The prices for the Goods and/or Services set forth in this Purchase Order are firm, and are not subject to increase. If no price is set forth, the price for the Goods and/or Services will be the price last quoted or billed by Seller to Buyer or the prevailing market price, whichever is lower. The prices stated include boxing, packaging, and crating, and include transportation and insurance for delivery of the Goods F.O.B. Buyer's designated facility, unless otherwise noted on the face of this Purchase Order, and initiated by the parties' respective authorized representatives. If Seller reduces Seller's quoted price for the Goods and/or Services (whether in the form of price reduction, closeout, rebate, allowances, or additional discounts offered to anyone) at any time, Seller shall also reduce the price charged to Buyer for such Goods and/or Services. If at any time during the term of this Purchase Order, an individual or entity offers Buyer a lower price for Goods and/or Services of like quality on the then undelivered portion of this Purchase Order, and Buyer fully informs Seller of such lower price, then Seller shall meet such lower price or Buyer may purchase such Goods and/or Services from such individual or entity while such lower price continues in effect without liability to Seller under this Purchase Order, and the quantities and delivery schedules under this Purchase Order will be adjusted accordingly. Buyer is not responsible for any charge other than taxes, not shown on the face of this Purchase Order, including charges for boxing, packaging or crating or for insurance and transportation of the Goods F.O.B. Buyer's designated facility, without Buyer's prior written consent to such charges. The prices stated do not include sales, use, excise, or similar taxes applicable to the sale of Goods and/or Services. All such taxes must be shown separately on Seller's invoice.
- 5. PACKING AND SHIPMENT.** Seller shall properly pack, load and ship the Goods in accordance with the Specifications, using shipping method and other related requirements set forth in this Purchase Order or otherwise communicated by Buyer, and unless otherwise instructed by Buyer, only by a licensed carrier over the least expensive route. If no Specifications, methods or requirements are so specified, Seller is responsible for packaging, loading and shipping Goods in a manner sufficient to prevent the contamination or degradation of, or damage and loss to, Goods during shipment. All shipments of Goods under this Purchase Order will be delivered and sold F.O.B. Buyer's designated facility. Each such shipment shall be released to the licensed carrier at a declared valuation of the true replacement value, and in no event shall such declared valuation exceed the maximum permitted under the carrier's least expensive rate schedule applicable to the Goods constituting such shipment. If freight regulations covering Goods transported by common carrier FOB Buyer's designated facility establish a maximum limit on the carrier's liability for loss or damage suffered in transit, Seller shall be liable to Buyer for any loss or damage in excess of such maximum limit up to the full price of the Goods. Seller shall notify Buyer at the time of shipping of the Goods, and provide Buyer with a copy of the bill of lading or shipping document and the packing list applicable to this Purchase Order. All such documents must refer to the number on this Purchase Order. Packing lists must bear a complete description of the Goods shipped. Shipments must equal quantity ordered, unless otherwise agreed by Buyer in writing. Buyer's count shall be final and conclusive on all shipments not accompanied by a packing list. Title to the Goods and the risk of loss of the Goods remains with the Seller until the Buyer actually receives the Goods.
- 6. DELIVERY.** Buyer's production schedules are based upon Seller's assurance of delivery to Buyer of Goods and/or Services by the date specified on the face of this Purchase Order. Time is of the essence in the performance of Seller's obligations under this Purchase Order. If Seller determines that it is unable to meet Buyer's requested delivery dates, Seller shall immediately inform Buyer in writing of Seller's best possible delivery time for Buyer's approval. If Buyer does not approve the alternate delivery dates, Buyer may terminate this Purchase Order without further liability to Seller, or seek expedited delivery or



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performance under this Purchase Order from Seller. If Buyer elects to seek expected delivery or performance, then Seller shall use expedited shipping methods or perform additional Services to avoid or minimize delay to the maximum extent possible, at no additional charge to Buyer. If late deliveries are made without Buyer's approval, Buyer may terminate this Purchase Order, purchase the Goods and/or Services elsewhere and hold Seller accountable for all damages (both direct and indirect), resulting from Seller's failure to deliver on schedule. Unless otherwise specifically agreed to by Buyer, delivery of the Goods and/or Services in installments is not to be construed as making the obligations of Seller severable. Buyer is not responsible for any of Seller's commitments for materials or fabrication in advance of the time necessary to meet delivery dates specified in this Purchase Order unless agreed to by Buyer in writing in advance.

**7. QUALITY INSPECTION.** Seller shall inspect Goods and/or Services as to their conformance to the Specifications and shall conduct such tests as are required by Specifications. Seller shall ensure that Goods and/or Services meet or exceed all applicable government, industry and trade association standards and Seller's own internal quality standards (collectively, "Quality Standards"). No changes to any Specifications or Quality Standards are valid unless set forth in a binding change order. Seller shall not substitute raw materials, ingredients, processes or accessories affecting the quality of the Goods and/or Services except under a binding change order. Unless Buyer directs otherwise, Seller shall only incorporate new materials into the Goods and/or Services. All Goods and/or Services are subject to Buyer's inspection, testing, and approval, both at Seller's plant and at Buyer's point of destination. Buyer may reject any Goods and/or Services which do not strictly comply with this Purchase Order. Acceptance, payment, use, or resale of the Goods and/or Services by Buyer will not release Seller from any of Seller's obligations, representations, or warranties under this Purchase Order. Buyer's payment for any Goods and/or Services will not be deemed an acceptance of such Goods and/or Services.

**8. WARRANTY.** In addition to all warranties implied under the Kansas Uniform Commercial Code, Seller represents and warrants to Buyer that: (A) it shall render the Services with promptness and diligence; shall execute them in a skillful, professional and workmanlike manner, in accordance with generally accepted industry standards of best practices used in the provision of services similar to the Services; and shall perform them without unnecessarily interfering with Buyer's activities; (B) all Goods and/or Services shall: (i) for a period of one (1) year from the later of the date of acceptance, or the date of completion as evidenced by Buyer's certificate of completion and use by Buyer, be free from defects in design, workmanship and materials; (ii) be of the kind and quality described in, and shall conform with, the Specifications and Quality Standards specified in this Purchase Order; (iii) be fit for the purpose intended; (iv) perform in the manner specified; (v) be free and clear of all liens, claims and encumbrances by the delivery date; and (vi) comply with all other requirements of this Purchase Order and with all Applicable Laws (as defined in Section 17); (C) the Goods and/or Services, including any Work, do not infringe upon or constitute an unauthorized use of any Intellectual Property Right (as defined in Section 13); (D) it shall correct any non-conformance with the foregoing representations or warranties at its sole expense, as directed by Buyer, in accordance with Section 9, and that the representations and warranties applicable to any corrected Goods and/or Services shall be the same as the representations and warranties provided for in this Section; and (E) it is currently under no obligation to any third party, and it will not enter into any obligation to a third party, that could interfere with the performance of its obligations under this Purchase Order. Seller shall take appropriate action by instruction, agreement or otherwise with its employees, permitted subcontractors and agents to notify them of and bind them to comply with Seller's obligations hereunder, including in particular under Sections 12 and 13. All warranties survive delivery, acceptance and payment, and extend to any individual or entity who may reasonably be expected to use, consume or be affected by the Goods and/or Services.

### **9. NON-CONFORMITIES.**

A. If any of the Goods and/or Services fail to comply with any term of this Purchase Order, including: (i) the Goods and/or Services fail to meet any Specifications or Quality Standards; (ii) Goods are shipped contrary to instructions; (iii) Goods are shipped in excess of the quantities herein provided (except for quantities of Goods in excess of those ordered constituting customary quantity variations common to the trade or industry); (iv) goods and/or services are substituted for the Goods and/or Services herein described; (v) Goods are not shipped in containers conforming to Specifications (or, in the absence of such Specifications, in recognized standard containers); or (vi) the Goods and/or Services allegedly violate any Applicable Laws, then Buyer may, at its option, provide Seller with notice that Buyer elects to: (a) reject and return such items, or hold such items, at Seller's expense and risk; or (b) direct Seller to promptly correct such non-conformity or replace such items at Seller's expense following notice of such non-conformity from Buyer. Buyer may charge to Seller all expenses of inspecting, unpacking, examining, repacking, storing, and reshipping any rejected items and any payment made by Buyer for such rejected Goods and/or Services shall be refunded by Seller.

B. If Buyer directs Seller to promptly correct such non-conformity or replace such items, and Seller fails to so correct or replace within five (5) days of Buyer's notice, then Buyer may, in addition to its rights and remedies hereunder and those available at law and equity: (i) cancel or terminate this Purchase Order as to all such Goods and/or Services by giving Seller notice; or (ii) purchase substitutes for such items elsewhere and charge Seller with any loss incurred; or (iii) reject and return such corrected or replacement items, or hold such items, at Seller's expense and risk. In addition, Buyer may charge to Seller all expenses of inspecting, unpacking, examining, repacking, storing and reshipping any corrected or replacement items so rejected and any payment made by Buyer for such Goods and/or Services shall be refunded by Seller. Goods and/or Services which use or carry Buyer's name, trade name, trademark, service mark, symbol, insignia or other indicia of source, any decorative design or evidence of inspection and which are rejected or not purchased by Buyer under any provision of this Purchase Order shall have the same removed prior to any sale, use or other disposition.

**10. INVOICING AND PAYMENT.** Seller's invoice, together with any applicable original bills of lading or express receipts, properly signed by the carrier, shall be delivered to Buyer on the day the Goods are shipped to Buyer under this Purchase Order. Seller shall issue separate invoices for each shipment made under this Purchase Order. Buyer will make no payment prior to receipt of the applicable Goods and/or Services and a current invoice therefor. Unless otherwise expressly agreed to in writing by the parties, Buyer will not be required to make payment to Seller earlier than 90 days after Buyer's receipt of Seller's invoice. Buyer may withhold payment of any amounts that Buyer disputes in good faith. Buyer may set off any amount owing from Seller to Buyer against any amount payable by Buyer. If a cash discount is applicable, the discount period will begin on the date of Buyer's receipt of the ordered Goods and/or Services or from the date of the invoice, whichever is later. Any discount taken by Buyer will be taken on the full amount of the invoice.

### **11. TERMINATION.**

A. Buyer may terminate this Purchase Order, in whole or in part, at any time and for any reason whatsoever, by providing Seller with written notice of termination. Upon Seller's receipt of Buyer's notice of termination of this Purchase Order, Seller shall, as to the extent directed by Buyer, stop work under this Purchase Order and take any necessary action relating to property in Seller's possession in which Buyer has or may acquire an interest. If Buyer terminates this Purchase Order for convenience, Seller's exclusive remedy, and Buyer's only liability to Seller for such termination is, upon the election of Buyer to (i) purchase the Goods and/or Services remaining under this Purchase Order, or (ii) reimburse Seller for all direct costs incurred by Seller as to the balance remaining under this Purchase Order prior to receiving Buyer's notice of termination, less the amount received by Seller on resale of the Goods and/or Services or work in process. Buyer's payment, if any, will be in full satisfaction of all claims that Seller may have against Buyer under this Purchase Order or for such termination. In no event will Buyer be liable to Seller for cancellation charges, if any, in excess of the contract price, or unabsorbed shop overhead or anticipatory profit.

B. Buyer may terminate this Purchase Order, in whole or in part, at any time by written notice if: (i) Seller breaches this Purchase Order; (ii) reasonable grounds for insecurity arise with respect to Seller's performance and Seller fails to furnish adequate assurances within 10 days after written demand by Buyer



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for such assurance; or (iii) Seller becomes insolvent or makes an assignment for the benefit of creditors, commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization proceedings. If Buyer cancels this Purchase Order due to Seller's breach, insecurity or insolvency, then Buyer may procure from any other individual or entity, upon such terms as Buyer may deem appropriate, goods and/or services similar to the Goods and/or Services and Seller will be liable to Buyer for any excess costs for such similar goods and/or services, and shall reimburse Buyer upon demand. The expiration or termination of this Purchase Order will not relieve the parties of any obligation accruing with respect to this Purchase Order prior to such expiration or termination. The following Sections will survive the termination or fulfillment of this Purchase Order: Sections 1, 8, 9, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28.

**12. CONFIDENTIALITY; NO PUBLICITY.** As a condition of receiving Confidential Information from Buyer, Seller shall keep in confidence, shall not disclose to any other individual or entity, or use for any purpose, other than to perform its obligations under this Purchase Order, the Confidential Information. Notwithstanding the foregoing, Seller may disclose Confidential Information to Seller's employees and any subcontractors approved by Buyer that have a need to know such information to perform Seller's obligations under this Purchase Order or, to the extent necessary to comply with all Applicable Laws. Buyer's disclosure of Confidential Information to Seller does not confer upon Seller any license, interest or rights of any kind in or to the Confidential Information, other than the right to use such Confidential Information for the sole purpose of performing its obligations under this Purchase Order. Seller shall not disclose any confidential information or trade secrets to Buyer under this Purchase Order. Seller shall not use Buyer's name, trademarks, service marks or other indicia of source without Buyer's prior written consent, and shall not refer to Buyer directly or indirectly in any advertising or marketing materials, or in any media release, public announcement or other public disclosure.

**13. OWNERSHIP.**

A. All material, including tooling, raw materials or components, furnished to Seller or specifically paid for by Buyer (collectively, "Buyer Material") shall be the property of Buyer and subject to removal at Buyer's discretion in the same condition as originally received by Seller, subject to reasonable wear and tear, at no additional cost to Buyer. Buyer Material shall be used by Seller only in fulfilling Purchase Orders. Seller shall keep Buyer Material separate from Seller's materials and clearly identify it as Buyer property, unless waived in writing by Buyer. Buyer Material while in Seller's custody or control shall be held at Seller's risk and shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost, with loss payable to Buyer.

B. Seller shall promptly make full written disclosure to Buyer, shall hold in trust for the sole right and benefit of Buyer, and hereby assigns, transfers and conveys to Buyer or its designee, all of Seller's world-wide right, title and interest in and to any and all Works, inventions, works of authorship and information, including software, data, drawings, Specifications, photographs and sketches, relating to Goods and/or Services, whether or not patentable or registrable under patent, copyright or similar laws, which Seller (through its employees) may solely or jointly conceive, develop or reduce to practice, or cause to be conceived, developed or reduced to practice, with respect to the Goods or performance of the Services or which result, to any extent, from use of Buyer's property, including any Buyer Materials, or Confidential Information (collectively, the "Inventions"), and all moral rights and intellectual property rights inherent therein and appurtenant thereto, including all patent rights, copyrights, trademark rights and trade secret rights (collectively, "Intellectual Property Rights"). Seller further acknowledges and agrees that all original works of authorship that are made by Seller in its performance hereunder and which are protectable by copyright are "works made for hire", as that term is defined in the United States Copyright Act. Upon the request and at the expense of Buyer, Seller shall execute and deliver to Buyer any and all documents and instruments, and do such other acts, that may be necessary or desirable to evidence the foregoing assignment and transfer and otherwise to vest in Buyer possession and control of all Inventions and Intellectual Property Rights.

**14. INDEMNITY.** Seller shall defend, indemnify and hold harmless Buyer, its affiliates and its and their respective officers, directors, employees and agents (each an "indemnified person") from and against any and all losses, costs, damages and expenses (including reasonable attorneys' fees) ("Losses"), incurred by an indemnified person, whether direct or indirect, due to the claims, actions and causes of actions of any third party (each a "Claim") and arising from, or as a result of (i) any breach by Seller of this Purchase Order; (ii) an allegation that the manufacture, delivery, sale or use of the Goods or the furnishing of Services hereunder by Buyer violates, infringes upon or misappropriates the Intellectual Property Rights of the third party; or (iii) any injury to persons, including death, or damage to property to the extent caused by the Seller or anyone acting under its direction or control or on its behalf in the course of its performance hereunder. Buyer shall promptly notify Seller of any Claim or Losses. Buyer reserves the right to participate in the defense or settlement of any Claim, at Buyer's expense; however, no Claim may be settled without Buyer's prior written consent.

**15. INSURANCE.** Seller shall obtain insurance coverage for workers' compensation, employers' liability, comprehensive general liability (including completed operations and product liability) and umbrella liability in commercially reasonable amounts and shall maintain such insurance coverage until Seller's obligations have been completed under this Purchase Order, and for a period of two years thereafter. Upon request, Seller shall provide Buyer with copies of certificates evidencing such coverage. Seller shall provide Buyer with written notice of cancellation or material adverse change of such policies at least 30 days prior to such cancellation or change. Seller shall name Buyer, its affiliates and assigns as additional insureds by broad term endorsement to Seller's general commercial and umbrella insurance policies. The purchase of such insurance does not satisfy, modify or limit Seller's obligations or liability under this Purchase Order.

**16. LIMITS ON BUYER'S LIABILITY.**

A. IN NO EVENT WILL BUYER BE LIABLE TO SELLER FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR LOST BUSINESS OPPORTUNITY) INCURRED BY REASON OF SELLER HAVING ENTERED INTO OR RELIED UPON THIS PURCHASE ORDER, OR ARISING OUT OF THE PERFORMANCE OF THIS PURCHASE ORDER. THE FOREGOING LIMITATION WILL APPLY REGARDLESS OF THE FORM OF CLAIM IN WHICH SUCH LIABILITY MAY BE ASSERTED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

B. IN NO EVENT WILL BUYER BE LIABLE TO SELLER FOR ANY ACT OR OMISSION OF ANY OTHER INDIVIDUAL OR ENTITY.

C. IN NO EVENT WILL BUYER'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OR THEORIES OF RECOVERY OF ANY KIND, WHETHER FOR CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, EXCEED THE GREATER OF (A) THE TOTAL AMOUNT PAID BY BUYER TO SELLER UNDER THIS PURCHASE ORDER AND (B) \$1,000.00.

**17. COMPLIANCE WITH APPLICABLE LAWS; PERMITS.**

A. Seller agrees that the performance of any Services pursuant to this Purchase Order and/or the manufacture, sale or delivery of Goods hereunder are and shall be subject to and in compliance with all applicable Federal, state and local laws, rules, regulations, and executive orders, including the Fair Labor Standards Act, the Occupational Safety and Health Act, the Federal Food, Drug and Cosmetic Act (including Title III Subtitle A of The Public Health Security and Bioterrorism Preparedness and Response Act of 2002) and the Environmental Protection Act (collectively, the "Applicable Laws").

B. Seller guarantees that no Good which is the subject of this Purchase Order is or will be at the time of delivery of shipment: (i) adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act to the extent that act is then effective and applicable thereto; or (ii) adulterated or misbranded within the meaning of any identical or substantially similar state or municipal law on the subject to the extent such law is then effective and applicable thereto.



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C. This Purchase Order is subject to, and incorporates by reference, **as applicable**, the requirements of 41 CFR 60-1.4 and 29 CFR part 471, Appendix A to Subpart A, which are incorporated into this order/contract by reference. In addition, this Purchase Order is subject to the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which are incorporated herein by reference, **as applicable. The latter two regulations prohibit discrimination against qualified individuals on the basis of protected veteran status and disability and require affirmative action to employ and advance in employment protected veterans and qualified individuals with disabilities.**

D. Seller has reviewed, understands and will comply with the guidelines set forth by the US Department of Homeland Security, US Customs and Border Protection for acceptance to the joint government-business security initiative Customs-Trade Partnership Against Terrorism ("CTPAT"). C-TPAT guidelines may be found at [http://www.customs.gov/xp/cgov/import/commercial\\_enforcement/ctpat/criteria\\_importers/ctpat\\_importer\\_criteria.xml](http://www.customs.gov/xp/cgov/import/commercial_enforcement/ctpat/criteria_importers/ctpat_importer_criteria.xml). Seller will provide Buyer with information and documentation reasonably required by Buyer for Buyer to comply with C-TPAT acceptance guidelines. This information and documentation shall be provided by Seller on behalf of Seller, its subcontractors, partners, affiliates and third party suppliers, and shall include but not be limited to C-TPAT applications and certificates, security profiles, procedures, controls, operations, education and training. Seller shall obtain any necessary federal, state and local licenses and permits required to provide the Goods and/or perform the Services.

**18. BUYER'S POLICIES.** Seller shall comply with all policies and procedures of Buyer as they relate to the Goods and/or Services to be provided under this Purchase Order and as communicated in writing to Seller by Buyer. Without limiting the foregoing, seller represents and warrants that it has reviewed the contents of and shall comply with Buyer's (i) Supplier Code of Conduct, and (ii) FCPA and Anti-Bribery Policy; each as may be amended from time to time and provided in writing to Seller; or as available on Buyer's parent company's (Colgate-Palmolive Company) website at [www.colgatepalmolive.com](http://www.colgatepalmolive.com).

**19. NOTICE.** Any notice or other communication required or permitted under this Purchase Order must be in writing, and properly addressed to the recipient using the addresses shown on the face of this Purchase Order. Notices may be served personally, or by delivering the same by certified mail, first class postage prepaid, return receipt requested, by nationally recognized overnight courier service, or via confirmed facsimile transmission.

**20. RELATIONSHIP OF PARTIES.** Buyer and Seller are independent contractors. Neither party is an agent, partner, joint venturer or employee of the other. Neither party has the authority to bind or otherwise obligate the other party in any manner nor may a party represent to any other person that it has the right to do so.

**21. ENTIRE AGREEMENT.** This Purchase Order constitutes the entire agreement between the parties and supersedes all previous or contemporaneous negotiations, commitments, statements and writings relating to the subject matter. In the event of any conflict between this Purchase Order and any written agreement between the parties that expressly references this Purchase Order, such agreement will control.

**22. AMENDMENT.** Except as permitted under Section 3, the parties may only amend this Purchase Order in a writing that specifically refers to this Purchase Order and that is signed by the authorized representatives of both parties. Except as otherwise provided in this Purchase Order, no course of dealing, course of performance or usage of trade will be valid and binding upon the parties as a modification to this Purchase Order unless the parties set out such course of dealing, course of performance or usage of trade in a writing that references this Purchase Order and is signed by the authorized representatives of each of them.

**23. SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Purchase Order to be invalid, illegal or unenforceable, then the parties will negotiate in good faith a mutually acceptable modification of this Purchase Order that permits the transactions contemplated by this Purchase Order to be consummated as originally contemplated to the fullest extent possible, and all other terms and provisions of this Purchase Order will remain in full force and effect.

**24. ASSIGNMENT.** Seller shall not delegate or subcontract its duties or assign its rights under this Purchase Order without Buyer's prior written consent. This Purchase Order inures to the benefit of, and is binding upon, Buyer and Seller and their respective successors and permitted assigns.

**25. INTERPRETATION.** Headings in this Purchase Order are for convenience only and do not affect the meaning or interpretation of this Purchase Order. A reference to an agreement means that agreement, as amended and supplemented from time to time, subject to restrictions on amendment or supplementation contained in that agreement. The words "include," "includes" and "including" are to be read as if they were followed by the phrase "without limitation".

**26. GOVERNING LAW; JURISDICTION AND VENUE.** This Purchase Order will be governed by, and any dispute arising under this Purchase Order will be determined in accordance with, the laws of the State of Kansas, without giving effect to conflict of laws principles. Buyer and Seller agree to submit to the exclusive jurisdiction of, and agree that venue is proper in, state or federal courts in Topeka, Shawnee County, Kansas for any legal action or proceeding brought to resolve a dispute or otherwise relating to, arising out of or brought in connection with this Purchase Order. No remedy provided in this Purchase Order is to be deemed exclusive of any other remedy available at law or equity.

**27. WAIVER.** No failure by a party to insist on strict performance of any term, condition or instruction, or to exercise any right or privilege included in this Purchase Order, and no waiver of any breach will constitute a waiver of any other or subsequent term, condition, instruction, breach, right or privilege.

**28. AUDIT RIGHTS.** Buyer reserves the right to confirm and validate Seller's compliance with the terms of this Purchase Order and any related written agreement expressly referenced herein through periodic audits of Seller, including facilities, personnel, documents, systems, policies and procedures Seller or its permitted subcontractor(s) uses in connection with this Purchase Order.

