

S.O.S. FOOD LAB, LLC
TERMS AND CONDITIONS OF SALE

THESE TERMS AND CONDITIONS OF SALE (“*TERMS*”) CONTAIN VERY IMPORTANT INFORMATION REGARDING YOUR PURCHASE, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT APPLY TO YOU AND YOUR PURCHASE. PLEASE READ THEM CAREFULLY. YOUR PURCHASE IS EXPRESSLY LIMITED TO AND MADE CONDITIONAL UPON THE EXCLUSIVITY OF THESE TERMS. ANY PROPOSAL FOR DIFFERENT TERMS OR ANY ATTEMPT TO VARY, IN ANY DEGREE, ANY OF THESE TERMS IS EXPRESSLY REJECTED.

1. **Acceptance.** These Terms govern any purchase made from S.O.S. Food Lab, LLC (“**SOS**”). These Terms, along with the applicable acknowledgement of order which SOS submits to buyer (the “**Acknowledgement**”), and the SOS invoice to buyer for the purchase described in the Acknowledgment, constitute the “**Order**.” The Order is the entire purchase contract between buyer and SOS for products referred to therein. In the event of any conflict between the terms and conditions set forth in the Acknowledgement and these Terms, the terms and conditions set forth in the Acknowledgement shall govern. The acceptance by SOS of any purchase order from buyer is expressly conditioned on buyer’s acceptance of these Terms, as modified by the Acknowledgement, if applicable. In the event of any conflict between the terms and conditions set forth by buyer in any purchase order or other document and these Terms, as modified by the Acknowledgement, if applicable, the provisions of these Terms, as so modified, shall govern, and such conflicting terms in buyer’s purchase order are expressly rejected by SOS. An Order may only be cancelled by buyer upon the written consent of SOS and, if applicable, the payment by buyer of reasonable cancellation charges to reimburse SOS for expenses incurred or commitments made by SOS in connection with the Order being cancelled. Captions in these Terms are for convenience only.

2. **Pricing.** The purchase price for any SOS products (“**Products**”) is set forth on the SOS acceptance of buyer’s order or on the SOS invoice, as applicable. That price is complete, and no deductions, credits, or offsets may be made without SOS’s express written consent. Prices are subject to change and to surcharges in the event of cost increases in materials and transportation.

3. **Sales and Similar Taxes.** SOS’ prices do not include sales, use, excise, or similar taxes. Present or future sales, use, excise, or other similar tax applicable to the sale of Products shall be paid buyer.

4. **Payment.** The purchase price is due, in full and without deduction or offset, within thirty days after shipment. SOS reserves the right to require full or partial payment in advance of any order if, in SOS’ judgment, the financial condition of buyer does not justify continuation of manufacture or shipment in advance of payment. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with SOS, whether relating to SOS’s breach or otherwise. Each shipment or delivery shall constitute a separate sale, and the default of any shipment or delivery shall constitute a separate default, and the default of any shipment or delivery shall not vitiate the contract as to other shipments or deliveries. If buyer is or becomes delinquent in the payment of any sum due SOS, then SOS shall have the right, in addition to any other remedy to which it may be entitled in law or equity, or under these Terms, to (i) cancel any order, refuse to make further deliveries and declare immediately due and payable all unpaid amounts for Products previously delivered to buyer, and (ii) charge interest at the rate of 1.5% per month or the maximum rate allowed under state law, if such amount is less, on any delinquent payments. In addition, buyer shall reimburse SOS for any of SOS’s expenses of collection of delinquent payments, including but not limited to reasonable attorney’s fees. In addition to the foregoing, SOS may suspend or cancel any order if Buyer fails to make payments when due, becomes insolvent or unable to pay its debts as they become due, makes an assignment for the benefit of creditors, files or has filed against it any petition in bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding, or has a receiver, trustee, custodian, or similar official appointed with respect to all or any material portion of its assets.

5. **Delivery.** Shipping and delivery dates are estimates only. No delay in delivery will subject SOS to any costs, damages or fees for late delivery. Delivery of Products is made F.O.B. point of shipment (SOS facility), unless otherwise stated in the Acknowledgment. SOS shall not be liable for delay in performing or fulfilling any obligation pursuant to this Order, or to have been deemed to have breached this Order, if such delay is due to causes beyond its reasonable control (i.e., Force Majeure Events). In the event of such a delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. “**Force Majeure Events**” shall mean, without limitation, acts of God or a public enemy, flood, fire, earthquake, explosion, epidemic, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, lockouts, strikes or other labor disputes (whether or not relating to either party’s workforce), restraints or delays affecting carriers, or inability or delay in obtaining supplies of adequate or suitable materials, telecommunication breakdown or power outage.

6. **Changes.** SOS may make changes, including improvements and additions, in the technical requirements, specifications, designs, materials, packaging, method of transportation, quantities, or delivery schedules of the Products,

and shall use reasonable efforts to notify buyer of the foregoing in advance of delivery.

7. **Title.** Title to and right of possession of Products remains with SOS until full payment have been received to the satisfaction of SOS, and buyer agrees to do all acts necessary to perfect and maintain such title and right in SOS and not to subject any Products to any liens or encumbrances until such payment is made in full. Risk of loss with respect to the Products transfers to buyer upon placement of the Products with the carrier.

8. **Inspection and Return of Nonconforming Products.** Buyer shall inspect the Products within five days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Products unless it notifies SOS in writing of any Nonconforming Products during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by SOS. "**Nonconforming Products**" means only the following: (i) Products shipped are different than identified in the Order; or (ii) the Product's label or packaging incorrectly identifies its contents. If Buyer timely notifies SOS of any Nonconforming Products, SOS shall, in its sole discretion, (A) replace such Nonconforming Products with conforming Products, or (B) provide buyer with a credit in an amount equal to the price of such Nonconforming Products. Buyer acknowledges and agrees that the remedies set forth in this Section are buyer's exclusive remedies for the delivery of Nonconforming Products. Except as provided herein, all sales of Products to buyer are made on a one-way basis and buyer has no right to return Products purchased pursuant to an Order to SOS.

9. **Limited Warranty.** SOS warrants that its Products shall have a shelf life of five years. SOS warrants that Products shall be free from original defects in workmanship and materials for a period of one year from date of shipment, provided the Products have been properly handled, stored and maintained. This warranty shall not apply to Products which have been altered or repaired without SOS' express authorization, or altered or repaired in any way so as, in SOS' judgment, to affect performance or reliability, nor which have been subjected to misuse, negligence or accident, or incorrectly used in combination with other substances. Buyer assumes all risks and liability for results of the use of all Products.

All Product Warranty Claims related to shelf life must be made within fifteen days after discovery and in any event prior to the expiration of the fifteenth day after the end of the applicable shelf life. All Product warranty claims for defects in workmanship and materials must be made within 15 days after discovery of the defect and in any event prior to the expiration of one year from the date of shipment. Claims made beyond the applicable period described in this paragraph are barred. Within 30 days after receipt of a timely claim, SOS shall have the option either to inspect the Product at its location or request its return to SOS at Buyer's expense. SOS shall replace, or at its option provide buyer with a credit in an amount equal to the purchase price of, any Product it determines to be defective, and it shall ship the replacement product (if applicable) to buyer F.O.B. point of shipment (SOS facility).

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND WAIVED. THIS WARRANTY CONSTITUTES SOS' SOLE AND EXCLUSIVE WARRANTY FOR DEFECTIVE GOODS AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR DEFECTIVE PRODUCTS.

No employee, agent, dealer, or other person is authorized to give any warranties on behalf of SOS or to assume for it any other liability in connection with any of its Products except as provided in a writing signed by an officer of SOS.

10. **Limitation of Liability; Indemnification.** SOS' cumulative liability to buyer and any other persons for all claims in any way relating to or arising out of the Products, including, but not limited to, any cause of action sounding in contract, tort, or strict liability, shall not exceed the total amount of the purchase price paid for those Products which are the subject of any such claim. This limitation of liability is intended to apply without regard to whether other provisions of the Order have been breached or have proven ineffective even if SOS has been advised of the possibility of such claims or demands. In no event shall SOS be liable to Buyer or any other person for any loss of profits or any incidental, special, exemplary, or consequential damages for any claims or demands brought by buyer or such other persons. If SOS incurs any claims, lawsuits, settlements, or expenses (including attorney fees) for any loss, injury, death or property damage including, but not limited to, claims arising out of: (i) buyer's or any end user's use of the Products, (ii) any act or omission of buyer, or (iii) any breach of or default under these Terms, buyer hereby agrees to indemnify, defend and hold SOS harmless.

11. **Confidential Information.** All non-public, confidential or proprietary information of SOS, including but not limited to specifications, samples, recipes, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by SOS to buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential", in connection with this Order is confidential, solely for the use of buyer in connection with this Order or other possible purchases of Products from SOS, and may not be disclosed or copied unless authorized in advance by SOS in writing. Upon SOS's request, buyer shall promptly return all documents and other materials received from SOS. SOS shall be entitled to injunctive

relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to buyer at the time of disclosure; or (c) rightfully obtained by buyer on a non-confidential basis from a third party.

12. **Intellectual Property.** SOS shall retain sole ownership of all right, title, and interest in and to all of its intellectual property, including, without limitation, designs, inventions and improvements pertaining to the Products, content and materials on its website, ideas, methods, trademarks, service marks, trade names, symbols, logos, copyrights, patents, trade secrets, and know-how (collectively, the “**Intellectual Property**”), and no licenses to any Intellectual Property are created hereunder. Without limiting the foregoing, SOS shall exclusively own all right, title, and interest in and to any Intellectual Property SOS creates, develops, prepares, or uses in connection with any custom or made-to-order Products (collectively, “**Custom Order Materials**”), whether or not developed in accordance with Buyer’s specifications or at Buyer’s request. Buyer acquires no ownership interest in any Custom Order Materials except as expressly agreed by SOS in a separate written agreement signed by an authorized representative of SOS. Notwithstanding the foregoing, Buyer retains all right, title, and interest in and to Buyer’s pre-existing intellectual property, including Buyer’s trademarks, trade names, logos, artwork, designs, and other materials supplied by Buyer to SOS (“**Buyer Materials**”). Buyer hereby grants SOS a non-exclusive, royalty-free, worldwide license to use, reproduce, modify, adapt, display, and incorporate the Buyer Materials solely as reasonably necessary to manufacture, package, market, sell, and deliver the Products and otherwise perform SOS’s obligations under these Terms. Buyer represents and warrants that it has all rights necessary to grant this license and that SOS’s authorized use of the Buyer Materials will not infringe, misappropriate, or otherwise violate any third-party right.

13. **Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the SOS acknowledgment or invoice to buyer, or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Order, a Notice is effective (a) upon receipt of the receiving party, if the notice was personally delivered, sent by courier or by facsimile, and (b) on the third business day after mailing if sent by certified or registered mail, and (c) in each case, if the party giving the Notice has complied with the requirements of this Section.

14. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

15. **Governing Law.** This Order shall be governed by and construed according to the laws of the State of Florida (excluding the conflict of law provisions thereof). Any action relating directly or indirectly to the Order shall be brought exclusively in the courts of Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida in Miami, Florida, and each of SOS and buyer hereby irrevocably waives any objection to the jurisdiction of, or venue in, either of these courts and agrees that the acceptance of the Order by SOS constitutes the parties doing business in the State of Florida.

16. **Amendment and Modification.** These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

17. **Survival.** Provisions of these Terms which by their nature should apply beyond the term of this Order will remain in force after any termination or expiration of the Order. The sections of the Order which are intended to survive its termination, and shall survive after a termination or expiration hereof for any reason whatsoever, include but are not limited to, the following provisions: Pricing, Payment, Limited Warranty, Limitation of Liability, Confidential Information, Intellectual Property, Governing Law and Survival.

18. **Compliance with Law.** Buyer shall comply with all applicable laws, regulations and ordinances, now in effect or which may come into effect in the future, including all laws applicable to the sale of the Products in each jurisdiction in which buyer operates. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under these Terms.