

GENERAL TERMS AND CONDITIONS OF SALE FOR SALES OF MEAT AND MEAT PRODUCTS BY CARGILL MEAT SOLUTIONS DIVISION OF CARGILL LIMITED FOR DELIVERY IN CANADA (February 2018)

Sales of all products ("Products") by the Cargill Meat Solutions Division of Cargill Limited ("Seller") to buyer of the Products ("Buyer") for delivery in Canada are governed by the following general terms and conditions of sale.

1. **TITLE/RISK OF LOSS.** All Products shall be shipped FCA Seller's facility (Incoterms® 2010¹ rules), and unless otherwise specified by Seller in writing, title and risk of loss shall pass to Buyer at the time the Products supplied by Seller are placed in the possession of Buyer or Buyer's agent or carrier. All shipping costs shall be borne by Buyer.
2. **WARRANTY.** Seller warrants that it has the right to convey good title to the Products. Seller further warrants that, as of the time and place of shipment hereafter made by Seller, the Products shall be in compliance in all material respects with the Health Protection Branch, Health and Welfare Canada (Food and Drug) Regulations, and all promulgated rules amending or supplementing the same, and is not adulterated or misbranded within the meaning of said Regulations; and in compliance, to the extent applicable, with the Consumer Packaging and Labelling Act (Canada).
3. **NO OTHER WARRANTIES. EXCEPT FOR THE WARRANTIES SPECIFICALLY SET FORTH IN SECTION 2, SELLER DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.** The parties acknowledge that many of the Products are subject to extensive and exclusive Canadian federal regulation and that such federal regulation often preempts, and thus makes inapplicable, provincial and local laws.
4. **LIMITATION ON DAMAGES. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER, OR TO ANY OTHER PERSON OR ENTITY, FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF WHATSOEVER NATURE (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOST PROFITS, DAMAGE TO GOODWILL OR REPUTATION AND/OR DEGRADATION IN VALUE OF BRANDS, TRADEMARKS, TRADENAMES, SERVICE NAMES OR SERVICE MARKS), WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY), CONTRIBUTION, INDEMNITY, SUBROGATION, OR OTHERWISE. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER, OR TO BUYER'S OFFICERS, EMPLOYEES, REPRESENTATIVES OR INSURERS, OR TO ANY THIRD PARTY, FOR DAMAGES CAUSED BY THE ACTS OR OMISSIONS OF BUYER OR BUYER'S OFFICERS, EMPLOYEES OR REPRESENTATIVES, OR ANY THIRD PARTY. BUYER ASSUMES ALL RISKS AND LIABILITIES FOR ANY LOSS, DAMAGE OR INJURY TO PERSONS OR PROPERTY RESULTING FROM THE USE OR SUBSEQUENT SALE OF THE PRODUCTS, EITHER ALONE OR IN COMBINATION WITH OTHER PRODUCTS.**
5. **EXCLUSIVE REMEDIES.** Buyer's exclusive remedy and Seller's exclusive liability for shipment of nonconforming Product, including for breach of warranty, is expressly limited, at Seller's option, to (i) replacement, within a reasonable period of time, of the nonconforming Product at no additional charge to Buyer or (ii) refund of the purchase price. All nonconforming Product must be returned to Seller, at Seller's expense, or, at Seller's direction, disposed of by Buyer in a manner mutually acceptable to Buyer and Seller with all reasonable costs of such disposition to be paid by Seller. **BUYER EXPRESSLY AGREES THAT THE REMEDIES GRANTED TO IT HEREUNDER ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO ANY CLAIM OF BUYER ARISING IN CONNECTION WITH THE PRODUCTS.**
6. **FORCE MAJEURE.** Seller shall not be liable to Buyer for failure of or delay in performance when such failure or delay is caused by conditions beyond Seller's control including, but not limited to, disease, war, strike, labor dispute, fire, flood, tornado, hurricane, government intervention, embargo, terrorism, shortage of raw materials (including, without limitation, shortage resulting from inadequate livestock or poultry supply or from grade changes resulting from variations in livestock or poultry supply), breakdown, shortage or non-availability of transportation facilities or equipment or any Act of God. If Seller declares force majeure hereunder, the contract shall remain in full force and effect for a period of sixty (60) days from said declaration. After the expiration of said sixty (60) days, Seller may cancel any unperformed portion of the contract by written notice to Buyer.
7. **CLAIMS.** Before or upon tender of delivery of Products, Buyer will provide immediate telephone notification to Seller of any alleged Product nonconformity, including any off-condition Product, shortage, or any other discrepancy or situation which may impair the value of the Products or justify payment of less than the amount billed. This notification will be made to Seller's affiliate Claims Department at the following telephone number: (800) 835-2837 or you may contact the sales office where your order was placed. You may also use the following email address: CMS_CustService@cargill.com. If notice is not so made within twenty-four (24) hours of tender of delivery of Products to Buyer or by Buyer's distributor(s) to Buyer's location(s), then Buyer accepts the Products as conforming in all ways and will submit to Seller full payment therefore on or before the agreed upon date. Within seven (7) days after telephone notification described above, if any, Buyer will send a detailed written confirmation thereof and will attach all documents relevant thereto. All correspondence and documents must be addressed to: Claims Department, Cargill Meat Solutions Corporation, PO Box 2519, Wichita, Kansas 67201-2519. Any payment for less than the billed amount must be authorized by Seller's Claims Department in advance by assignment of a claim number. The assignment of a claim number to Buyer by Seller's Claims Department or acceptance by Seller of a partial payment from Buyer shall not constitute final approval of Buyer's claim or be a waiver of any of Buyer's obligations or Seller's rights.

¹ "Incoterms" is a trademark of the International Chamber of Commerce

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8. **DELIVERY.** If the contract provides for deliveries over a period exceeding one (1) month, Seller shall not be obligated to deliver in any thirty (30) day period more than approximately equal monthly quantities, in relation to the total amount of the contract, and Seller may make shipments of the total amount in such equal monthly quantities.
9. **SHIPPING INSTRUCTIONS.** Buyer shall furnish complete shipping instructions and provide adequate credit as determined by Seller's Credit Department at the time of order and delivery to enable Seller to perform its obligations. Seller shall not be obligated to make shipment in absence thereof. If more than one delivery is called for, each delivery is to be considered a separate contract for the purposes of Buyer furnishing complete shipping instructions and adequate credit.
10. **ROUTING.** The destination routing of shipments and carrier selection will be at Seller's option. Delivery dates provided by Seller are estimates only.
11. **INSTALLMENT CONTRACT.** In the event the contract is deemed or interpreted to be an installment contract, the failure of Seller to ship or deliver any installment when due will not substantially impair the value of the contract as a whole and will not constitute a breach of the contract as a whole. In the event of any non-delivery of an installment by Seller, Buyer's exclusive and sole remedy shall be limited to delivery of the Products as soon as Seller can reasonably do so.
12. **PRICE AND PAYMENT.** The price is always in Canadian Dollars and must be paid in Canadian Dollars regardless of any fluctuations in the currency of other countries. All remittances must be submitted according to invoice terms. All sales are subject to approval of Seller's Credit Department. Buyer shall be responsible for the payment of any federal, provincial or local sales, use or other taxes upon or with respect to the sale, purchase, use, receipt or shipment of the Products.
13. **QUANTITY.** Ordered weight/box count is shipped at plus or minus 5% at Seller's option unless otherwise specified by Seller in writing.
14. **DEFAULT.** If Buyer (1) fails to furnish shipping instructions within the time specified, (2) fails to order any shipment within the time specified therefor, (3) fails to supply adequate credit within the time specified, (4) refuses to accept any shipment properly tendered, (5) fails to tender any payment when due, or (6) fails to perform in any other respect according to its obligations set out in the terms herein (each of which shall be a material breach of the contract), Seller may treat such default as (a) a total breach of the entire contract, or (b) a breach only as to the individual shipment or installment, and, in addition to any other rights or remedies which Seller may have at law or in equity, Seller may (x) cancel the contract, (y) terminate the contract as to the portion thereof in default or as to any unshipped balance, or both, and/or (z) resell, after ten (10) days notice to Buyer, any of the Products which have been shipped and which Buyer has wrongfully failed or refused to accept, and receive from the Buyer the difference between the contract price thereof and the price obtained on resale if the latter be less than the former, as well as any incidental loss and expense. All rights and remedies of Seller shall be cumulative and not exclusive of any other rights or remedies which Seller would otherwise have at law or in equity.
15. **ASSIGNMENT.** The rights and obligations under the contract, including these terms and conditions, are not assignable by Buyer unless in writing and signed by both parties.
16. **TERMS TO GOVERN.** These terms and conditions shall govern in any instance where they conflict with provisions of forms used by Buyer. No prior or contemporaneous negotiations, correspondence, conversations, prior course of dealing or usage of trade shall be deemed in any way to affect the specific terms hereof. These terms and conditions shall be binding on Buyer even if not signed by Buyer.
17. **LIFE OF CONTRACT RIGHTS.** The contract, including these terms and conditions, shall be binding upon and inure to the benefit of Buyer and Seller and their respective heirs, administrators, executors, successors, and permitted assigns.
18. **GOVERNING LAW.** The contract, including these terms and conditions, shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Any action brought pursuant to the contract, including these terms and conditions, shall properly (but not exclusively) lie in any court located in the Province of Ontario.
19. **ALTERATION OF TERMS/WAIVER.** Subject to the right of Seller to add to, modify, supersede, alter or revoke these terms and conditions upon written notice to Buyer, none of the terms and conditions contained herein may be added to, modified or superseded, or otherwise altered, unless in writing and signed by both parties, and specifically referring to these terms and conditions. Waiver of any default must be in writing signed by both Buyer and Seller and shall not constitute waiver of any subsequent default.
20. **SEVERABILITY.** The provisions of the contract, including these terms and conditions, shall be deemed to be severable and the invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of the remaining provisions.
21. **LIMITATION ON ACTIONS.** No action arising out of the contract, including these terms and conditions, may be brought by Buyer more than one (1) year after the cause of action has accrued.
22. **NO RIGHTS OF THIRD PARTIES.** The contract, including these terms and conditions, is solely for the benefit of Buyer and Seller, and no provision of the contract shall confer upon third parties any right or remedy.