

## **CARGILL'S PURCHASE ORDER TERMS AND CONDITIONS**

1. **TERMS OF ORDER.** These terms and conditions (which include the terms and conditions on the face of the applicable Purchaser's Purchase Order ("Order")) set forth the entire understanding between the Vendor and Purchaser and supersede (i) all other prior agreements, written or oral, between the Vendor and Purchaser with respect to the subject matter of this Order (except where the parties have expressly agreed in a separate written agreement, in which case the terms and conditions of that written agreement apply and supersede these standard Purchase Order Terms and Conditions) and (ii) any additional or conflicting terms contained on Vendor's acknowledgment, confirmation, invoice or similar documents.
2. **REPRESENTATIONS AND WARRANTIES.** Vendor represents, warrants and covenants that:
  - (i) the goods (and the manufacture, packaging, storage, handling, transportation and delivery thereof) supplied:
    - a. will comply with all applicable laws, rules, regulations, codes and ordinances of the country(ies)/state(s) of manufacture, country(ies)/state(s) of intended use and country(ies)/state(s) of delivery;
    - b. will conform to the specifications, drawings, samples or other descriptions contained in the Order or provided or approved by Purchaser;
    - c. will be merchantable, of good material and workmanship and free from defects;
    - d. if ordered for a specific purpose, will be fit for their intended purpose; and
    - e. in the absence of contrary specifications, will be of the highest grade and quality;
  - (ii) the services provided will be performed (a) in a professional and workmanlike manner and (b) in compliance with all applicable laws, rules, regulations, codes and ordinances, and all of Purchaser's safety and other requirements communicated to Vendor;
  - (iii) Vendor will:
    - a. follow Cargill's Supplier Code of Conduct, found at [www.cargill.com/supplier-code](http://www.cargill.com/supplier-code);
    - b. deliver the goods and perform the services that are the subject of the Order by the delivery and performance dates set forth on the face of the Order;
    - c. at its own cost, provide all labor, materials, machinery, equipment, tools, transportation, and other facilities and services needed for the proper execution and completion of the Order, unless otherwise provided on the face of the Order;
    - d. at its own cost, initiate, maintain and supervise all environmental and safety precautions and programs in connection with the services and if Vendor is performing services on Purchaser's premises, comply with all of Purchaser's environmental, health and safety rules, including all safety precautions and programs in connection with the performance of this Order, over persons and property within that portion of Purchaser's premises where the services are being performed ("Service Location");
    - e. notify Purchaser if any drawings and specifications are at variance with any applicable laws, rules, regulations, codes and ordinances bearing on the performance of the services; in addition at its own cost, obtain and maintain all necessary permits, licenses or other approvals and give all notices legally required to provide the services;
    - f. be solely responsible for all methods and procedures of delivering and coordinating all portions of the services, unless otherwise provided on the face of the Order;
    - g. be solely responsible for the handling, transportation and disposal of and maintain title and ownership to all materials, substances and chemicals not incorporated into the final goods or finished services that Vendor or any subcontractor brings onto Purchaser's premises and any waste generated or resulting from the use thereof. Vendor agrees not to dispose or permit the release of any materials, substances or chemicals (or any waste generated or resulting from

the use thereof) on Purchaser's premises. Additionally Vendor agrees to keep the Service Location and other parts of Purchaser's premises free from accumulations of materials and refuse and, upon completion of the services promptly remove same and all of Vendor's machinery, tools, and equipment and any unused materials, substances or chemicals and return Purchaser's premises to their original state;

- h. inspect any Purchaser-supplied equipment, tools, scaffolding and/or other materials ("Purchaser Materials") and not use any Purchaser Materials unless they are suitable for the intended use and comply with all applicable laws, rules, regulations, codes, ordinances and orders. Vendor will return all Purchaser Materials to Purchaser in a like condition in which they were borrowed;
  - i. to the extent possible, physically separate the Service Location from the remainder of the Purchaser's premises and warn its subcontractors and its and their respective employees, agents, representatives, guests and visitors of any risks, hazards, or dangers, whether latent or patent ("Dangers"), associated with the Service Location and the rest of the Purchaser's premises. At least once daily, Vendor will inspect the Service Location for any Dangers and eliminate any Dangers or, to the extent any Dangers cannot be eliminated, advise the Purchaser and warn its employees and visitors of these Dangers; and
  - j. remove Vendor employees, representatives and other personnel providing services from Purchaser's premises upon request of Purchaser;
- (iv) no liens or claims will be filed, maintained or enforced by Vendor or its suppliers or subcontractors for any service performed or materials provided;
  - (v) where applicable under this Section 2(v): Vendor shall comply with the requirements of the Fair Labor Standards Act of 1938, as amended, in performing the services hereunder. To the extent applicable to the Vendor's work for, or on behalf of Purchaser, Vendor also agrees to comply fully with all applicable federal, state, and local laws and regulations concerning nondiscrimination and affirmative action, including those enforced by the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) and/or the U.S. Equal Employment Opportunity Commission (EEOC). As applicable, Vendor agrees to comply with Executive Order 11246, as amended. Purchaser is an equal opportunity employer, and the Order is subject to the rules and regulations imposed upon contractors and subcontractors pursuant to 41 CFR Chapters 60 and 61. Unless this Order is exempt, there is incorporated herein by reference 41 CFR 60-1.4 and 61-250.10. Also, 29 C.F.R. Part 471, Appendix A to Subpart A is incorporated herein by reference. **This contractor (Purchaser) and subcontractor (Vendor) shall abide by the requirements of 41 CFR 60-300.5 and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**
  - (vi) These warranties are in addition to those implied by or available at law to Purchaser and shall exist notwithstanding the acceptance and/or inspection by Purchaser of all or part of the goods or services.
3. ACCEPTANCE. Purchaser will have a reasonable period of time after delivery or performance within which to inspect and accept the goods or services. The receipt of goods or services, the inspection or non-inspection of or payment for the goods or services, will not constitute acceptance of the goods or services and will not impair Purchaser's right to (i) reject nonconforming goods or services, (ii) recover damages and/or (iii) exercise any other remedies to which Purchaser may be entitled at law or in equity. Further, acceptance of goods or services will not waive any rights or remedies at law or in equity accruing to Purchaser as a result of any breach of the Order. Rejected goods may be returned to Vendor or otherwise disposed of at Vendor's cost and expense.
4. PRICE AND TAXES. Price and delivery terms are as stated on the face of the Order. Unless otherwise provided on the face of the Order, the price includes (i) all costs to comply with the terms and conditions of the Order, (ii)

any and all taxes, including sales, use, excise, value added and other taxes, and (iii) fees, duties, or other governmental impositions on the sale of the goods or services covered by the Order. If Purchaser or Purchaser's customer is required to pay any taxes or other impositions, Vendor will promptly reimburse Purchaser. Notwithstanding the foregoing, Purchaser shall pay G.S.T./H.S.T. and provincial sales tax, if applicable.

5. **INVOICING AND PAYMENT.** Vendor will invoice Purchaser for the amounts due under the Order. Except as otherwise set forth on the face of the Order, Purchaser will pay Vendor all undisputed amounts within 90 calendar days after receipt of the applicable invoice or receipt of the goods (or performance of the services), whichever is later or within such lesser period of time as is required by Law. Payments may be withheld by Purchaser on account of (i) defective goods or services not remedied, (ii) claims made or filed, (iii) unsatisfactory performance, (iv) failure of Vendor to pay any subcontractors, (v) holdbacks resulting from compliance with applicable construction lien and builders' liens legislation, or (vi) any amounts owed by Vendor to Purchaser or its affiliates. The act of depositing or cashing any payment made by Purchaser shall constitute Vendor's release of any lien rights and any and all claims arising prior thereto which Vendor may have against Purchaser or Purchaser's inventory, Equipment, or property for the goods or services for which payment was made. Vendor agrees to reconcile all amounts due from Purchaser in writing within 120 days of the initial invoice or 120 days after the receipt of the goods (or performance of the services), whichever is earlier. Vendor agrees that if it does not bring amounts due to Purchaser's attention in writing within such time frame, it waives any rights to such claims, regardless the validity of the claims.
6. **PROPRIETARY INFORMATION AND MATERIALS.** All drawings, specifications and other copyrightable documents and any molds, dies, tools, equipment, recipes, trade secrets, patents, trademarks or the like furnished by or on behalf of Purchaser are for use solely with respect to the Order. Vendor (i) will not have any rights to, property or interest in the same except to the extent necessary to execute the Order, (ii) will be responsible for maintaining the same in proper working order subject only to normal wear and tear, and (iii) upon completion (or earlier cancellation or termination) of the Order, will promptly destroy or return these items, as requested by Purchaser.
7. **OWNERSHIP OF INVENTIONS.** With respect to new or modified goods/services, all rights, titles, and interest in any and all inventions (including discoveries, ideas, or improvements, whether patentable or not), (i) based upon or arising from Purchaser's information, or (ii) developed specifically for Purchaser, will belong to Purchaser regardless when they are created. In the event that Vendor produces works of authorship for Purchaser under the Order ("Works"), the Works will be deemed "works made for hire" and Purchaser will receive all rights, title, and interest thereto. However, if any Works are not determined to be "works made for hire", Vendor agrees to assign, and hereby assigns to Purchaser and its successors the entire right, title, and interest, in and to the Works. Nothing in the Order will affect the pre-existing intellectual property rights of the parties.
8. **CONFIDENTIALITY.** Vendor agrees to keep confidential the terms and conditions of the Order and all proprietary information disclosed by or on behalf of Purchaser or otherwise learned or obtained by Vendor in connection with the Order or the performance hereof. Vendor will not use any of this information other than in connection with the performance of the Order and will not disclose any of this information except to the extent required by law and then only after prior notice to Purchaser.
9. **AUDIT.** Subject to reasonable confidentiality obligations, Purchaser will have the right to audit and inspect the records and facilities of Vendor and Vendor's agents, representatives and subcontractors used in performance of the Order or relating to the goods or services to the extent reasonably necessary to determine Vendor's compliance with the Order. Vendor will provide Purchaser or its third party designee conducting the audit or inspection with reasonable assistance, including without limitation access to buildings, appropriate personnel and work space. Purchaser's audit/inspection, or failure to conduct any audit or inspection, will not release Vendor from any of Vendor's obligations.
10. **RISK OF LOSS.** Except as otherwise set forth in the delivery terms on the face of the Order, Vendor will retain the risk of loss and/or damage to the goods until the goods are physically delivered to Purchaser at the delivery point requested by Purchaser.
11. **INDEMNIFICATION.** To the fullest extent permitted by law, Vendor agrees to indemnify and hold harmless Purchaser, its affiliates and their directors, officers, employees, agents, and representatives from and against any and all liability, loss, damage, fine, cost or expense (including reasonable attorneys' fees) to the extent arising out

of or resulting from (i) any non-conforming good or services; (ii) any alleged or actual, direct or contributory infringement or misappropriation of any patent, copyright, trade secret or other proprietary right arising from the purchase, use or sale of the goods or services provided by Vendor; (iii) any leak or spill of any materials, substances or chemicals while being transported or delivered to Purchaser or while on Purchaser's premises; (iv) any breach by Vendor of any term or condition contained in the Order; (v) the use of any Purchaser Materials or person in the employ of Purchaser to perform any services under the Order and/or (vi) the negligent acts or omissions, or willful misconduct of Vendor, Vendor's subcontractor's, employees, agents, representatives and any person performing services under the Order. In the event the goods or services, in Purchaser's reasonable opinion, are likely to infringe a patent or copyright, or misappropriate a trade secret (and in any event, if a court of law finds that the goods or services, in fact, do infringe or misappropriate), then Vendor shall further provide Purchaser one of the following forms of relief to be chosen by Vendor: (a) obtain a license on Purchaser's behalf to continue to use or sell the goods or services; (b) redesign the goods or services so that they do not infringe or misappropriate; or (c) refund Purchaser the price paid for the goods or services in question. Without limiting the foregoing, Purchaser may require Vendor to re-deliver against non-conforming goods or re-execute non-conforming services at Vendor's cost and expense.

12. **FAILURE TO PERFORM.** In the event of Vendor's failure to perform any of its obligations hereunder, Purchaser may, at its option, recover from Vendor any losses including reasonable attorneys' fees, and any other actual, incidental, indirect, special or consequential damages, and may exercise all rights and remedies as may be available to Purchaser. Notwithstanding anything herein to the contrary, nothing in the Order shall be deemed to limit any rights Purchaser may have against Vendor in law or equity.
13. **BUILDERS' LIEN ISSUES.** If applicable, Vendor agrees to comply with applicable construction lien and builders' liens legislation. Such construction lien and builders' liens legislation shall govern the payment of monies by Purchaser to Vendor. Prior to final payment under this Agreement, Vendor shall provide to Purchaser a statutory declaration that all subcontractors, all suppliers, and all assessments under applicable workers' compensation and workplace safety and insurance legislation have been paid in full.
14. **CANCELLATION/TERMINATION.** Except to the extent prohibited by applicable law, Purchaser (i) may cancel an Order for any reason or no reason prior to shipment of the applicable goods or performance of services by providing written notice to Vendor and (ii) may immediately terminate the Order, even after shipment, by providing written notice to Vendor if Vendor breaches any term or condition of the Order or becomes insolvent or subject to any proceeding under any bankruptcy or insolvency law.
15. **TIME IS OF THE ESSENCE UNDER THE ORDER.** Vendor will advise Purchaser immediately upon receipt of the Order if the specified delivery date cannot be met. Upon the failure of Vendor to comply with the delivery date, as specified, Purchaser has the option to cancel the Order without liability. Purchaser may designate any reasonable alternative delivery points, if necessary, to expedite Vendor's performance under the Order.
16. **FORCE MAJEURE.** Each party may be excused from a failure to perform or a delay in performance, in whole or in part, in the event of, and to the extent that, acts of God, disease, war, riot, fire, explosion, accident, flood, sabotage, compliance with governmental laws or regulations, change of governmental law or regulation, orders or action, national defense requirements, or any other event beyond the reasonable control of such party which prevents the manufacture, shipment, acceptance or use of any goods or services hereunder (each a "Force Majeure" event). However, this section is not intended to buffer a party against the normal risks inherent in commercial contracts, including strikes or personnel disputes within the party claiming Force Majeure. Furthermore, any default or non-performance of sub-contractors or suppliers of the Vendor or Purchaser (other than as caused by a Force Majeure event suffered by such sub-contractors or suppliers) shall not constitute an event beyond the reasonable control of the Vendor. If possible under the circumstances, the Party claiming excuse from performance must take reasonable efforts to remove the cause of its inability to perform or its delay in performance. The Party claiming excuse from performance must give prompt written notice to the other Party of such event, specifying its nature and anticipated duration. Notwithstanding, if as a direct result of a Force Majeure Event, either Party fails to carry out or observe any of the terms and conditions of the Order, such failure or omissions shall not be deemed a breach of the Order, and the affected party's obligations may be suspended insofar as the parties agree that performance of such obligation is impracticable. Further, the party claiming excuse from performance shall be responsible for insuring against any damage or loss incurred due to delay. Nothing in this section shall alleviate the party claiming excuse from performance for loss or damage to any

goods in its possession. If Vendor's or Purchaser's performance is excused or delayed for more than 30 calendar days, Purchaser may, at Purchaser's option, terminate the Agreement by giving written notice, which termination will become effective upon receipt of such notice. If Purchaser terminates the Order, Purchaser's sole liability will be to pay any balance due for conforming goods and services delivered by Vendor before receipt of Purchaser's termination notice.

17. **ORIGIN CONTROL CLAUSE.** Vendor represents and warrants that neither it nor any person or entity that owns or controls it is a designated target of economic trade sanctions promulgated by the US, EU, UN, or the country of origin of the goods (Sanction Laws). Vendor undertakes (i) that Vendor and its agents and representatives will fully comply with all applicable Sanction Laws in their performance hereunder; and (ii) that the goods will not directly or indirectly originate from, be provided by or be transported on a vessel, or with any carrier, owned, controlled, flagged or chartered by any country, person or entity that would cause Purchaser, or any US parent company of Purchaser, to be in contravention of applicable Sanction Laws. Vendor agrees to cooperate with Purchaser's reasonable requests for information or documentation to verify compliance with this clause.
18. **GOVERNING LAW.** The laws of the jurisdiction of the address of the Purchaser on the face of the Order, disregarding any conflict of law rules in that jurisdiction, will govern the Order. Any dispute arising from the Order will be resolved in the courts in the jurisdiction of the Purchaser.
19. **INSURANCE.** Vendor shall purchase and maintain insurance protecting from claims under workers' compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from services performed under the Order, whether such services be performed by Vendor, Vendor's subcontractors, or anyone directly or indirectly employed by any of the foregoing. Such insurance shall include, without limitation, workers' compensation, employer's liability, commercial general liability (including personal injury, property damage and contractual liability) and automobile liability. Such liability insurance shall be written for not less than \$1,000,000 per occurrence, or as required by law, and include Purchaser as an additional insured. All such insurance shall include a waiver of subrogation and right of recovery in favor of Purchaser and its insurers. Coverages shall provide the policies will not be cancelled or materially altered without at least 30 days' prior written notice to Purchaser. Vendor shall promptly provide copies of such certificates at Purchaser's request.
20. **EXCLUSION OF CONVENTIONS** The following international conventions will not apply to the Order: (i) Uniform Law on International Sale of Goods and Uniform Law on Formation of Contracts for International Sale of Goods, both concluded at the Hague on 1 July 1964, (ii) United Nations Convention on Contracts for International Sale of Goods of 1980 and (iii) United Nations Convention on Limitations Period in the International Sale of Goods, concluded in New York on 14 June, 1974, and Protocol Amending the Convention on Limitations Period in the International Sale of Goods, concluded in Vienna on 11 April, 1980.
21. **WAIVER.** Purchaser's failure or delay in exercising any right or remedy with respect to the Order will not operate as a waiver of that right or remedy. Any waiver of a right or remedy must be in writing and signed by Purchaser.
22. **ASSIGNMENT/SUBCONTRACTING.** Vendor may not assign or subcontract its rights and obligations under the Order without the prior written consent of Purchaser.
23. **SEVERABILITY.** If any provision of the Order is held by any court to be invalid, illegal or unenforceable, either in whole or in part, that holding will not affect the validity, legality or enforceability of the remaining provisions, or any part thereof, of the Order, all of which will remain in full force and effect.

(06/2018)