

KEYSTONE FOODS INTERMEDIATE LLC
GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Definitions.

- a. "We" or "Buyer" means Keystone Foods Intermediate LLC, or its subsidiary or affiliated business unit that is issuing a Purchase Order or related instrument for the purchase of goods or services.
- b. "You" or "Seller" means the entity to which Buyer is issuing a Purchase Order or related instrument for the purchase of goods or services.
- c. "Terms" means these General Terms and Conditions of Purchase.
- d. "Purchase Order" means a written commitment issued by an authorized representative of Buyer for the purchase of goods or services from Seller, all of which are subject to these Terms.

2. Orders; Entire Agreement.

a. Buyer shall issue Purchase Orders to Seller for the purchase of goods or services, subject to these Terms. Buyer's agreement to purchase goods or services from Seller, and Seller's acceptance of Buyer's Purchase Order and issuance of an invoice to Buyer, are expressly conditioned upon Seller's agreement that all transactions between the parties shall be governed by these Terms. No acknowledgment, invoice or other document submitted by Seller or forwarded to Buyer, containing terms or conditions other than those set forth in these Terms, shall be binding on Buyer unless any such instrument shall be signed by an authorized representative of Buyer and delivered to Seller. In the absence of the execution and delivery of any such instrument by Buyer, all deliveries of goods and/or the rendering of services by the Seller to Buyer shall be delivered, rendered, and accepted upon price, terms, conditions, and shall conform to specifications, set forth in these Terms and any Purchase Order issued by Buyer. These Terms take precedence over any contrary terms in any other document or instrument, and supersede all prior or contemporaneous negotiations or agreements, whether express or implied, oral or written.

3. Prices, Delivery, Risk of Loss.

a. Unless Buyer expressly agrees otherwise in writing, all prices are FOB Buyer's designated facility. No charge will be paid by Buyer for packing, boxing, or cartage, unless specified on the face of the Purchase Order. Loss of or damage to any goods prior to acceptance shall be borne by Seller. Each package of goods shipped must contain a memorandum showing shipper's name, contents of package, and the Purchase Order number on the face hereof.

b. Seller warrants that the prices for goods or services sold to Buyer are not less favorable than those currently extended to any other customer for the same or similar goods or services in similar quantities and circumstances.

c. In the event that no quality is specified in the Purchase Order, the goods delivered and/or services rendered hereunder must be of the best quality applicable in the field. The quantity of goods indicated on the face hereof must not be exceeded without written approval of Buyer.

d. Time is of the essence, and Seller shall ship and deliver goods and render services on the date or dates specified in any Purchase Order, unless prior written approval of any change in such date or dates is given by Buyer. If Seller fails to deliver on time, Buyer may purchase replacements elsewhere and Seller will be liable for any difference in price that Buyer must pay, as well as any actual and reasonable out-of-pocket costs Buyer incurs to obtain the replacement goods or incurs as a result of such delay. Seller will promptly notify Buyer, as soon as it is reasonably likely it will be unable to make timely delivery. Other than Buyer's right to terminate this Purchase Order, Seller shall have no other liability for any delay in delivery of goods or services caused by acts of Buyer, act of God, acts, orders and requests of any government authority, war (declared or undeclared), strikes or other converted acts of workmen, riots, civil disturbance or unrest, destruction of plant or facilities or other cause similar or dissimilar beyond the reasonable control of Seller.

4. Warranty.

a. Seller warrants that all goods or services provided to Buyer shall be merchantable, and free from any defects in workmanship or material, and that Seller will provide Buyer with appropriate and necessary instructions and safety warnings. If Seller has been informed of the use of goods, Seller also warrants that the items are suited and appropriate for such use. Seller shall indemnify and save the Buyer harmless from any breach of this warranty, and no limitations on Buyer's remedy in Seller's documents shall operate to reduce this indemnification. Seller shall extend all warranties it receives from its vendors to Buyer. This warranty is in addition to all warranties contained under the law. These warranties shall survive acceptance and payment by Buyer.

5. Inspection and Rejection.

a. Buyer's payment for goods and services shall not constitute acceptance. Buyer shall have the right to inspect such goods and services and reject any or all which are in Buyer's judgment defective or nonconforming. Buyer's failure to inspect shall not relieve the Seller of any responsibilities hereunder, nor shall anything in these Terms relieve Seller in any way from the obligation of testing, inspection and quality control.

b. If any goods or services are rejected in whole or in part by Buyer, Buyer, after so notifying Seller may either return the rejected portion of such goods and/or services to Seller at Seller's expense or hold the same for such disposal as Seller shall indicate, without invalidating the remainder of this Purchase Order, or Buyer may reject the entire shipment of such goods and/or reject the balances of goods and/or unrendered services. If goods shipped or to be shipped and/or services rendered or to be rendered are rejected, Buyer may purchase like goods elsewhere

and/or obtain like services elsewhere and charge Seller with any loss or damage (either direct or indirect) sustained by Buyer (including, but not by way of limitation, any difference between the price paid by Buyer for such like goods and/or services and the price specified on the face hereof) plus all costs of collecting the same (including, but not by way of limitation, attorney fees, and court costs). Buyer shall not be obligated to pay for any goods shipped and/or services rendered which are rejected by it. No replacement of such goods shall be made without Buyer's written consent.

6. Health and Safety.

a. Seller warrants that all goods provided hereunder have been produced in compliance with applicable federal, state and local laws, ordinances, codes, rules, regulations or standards, including without limitation, the Fair Labor Standards Act, and those pertaining to the manufacture, labeling, invoicing and sale of such goods, environmental protection, immigration, employment and occupational safety and health.

7. Waiver of Liens.

a. Seller, for itself and anyone else acting through or under it, covenants and agrees that no mechanics' or materialmen's liens or claims shall be filed or maintained by it, them or any of them, for or on account of any goods sold or services rendered to Buyer. Seller, for it and any subcontractor and anyone else acting or claiming through or under it, hereby waives the right to file a mechanics' or materialmen's lien, claim or notice of intention to file any lien or claim. Seller agrees to execute and deliver any instrument as may be required by applicable law, including a general Waiver of Liens to be filed of record. Seller shall indemnify, defend and hold harmless Buyer against any lien filed by it or anyone acting through or under it, including with respect to any direct or consequential loss, costs or attorneys' fees.

8. Indemnification.

a. To the fullest extent permitted by the law, Seller hereby agrees to indemnify, defend and hold Buyer, its parent, subsidiaries and affiliates, and any of their respective officers, employees, and agents, and each of them, harmless from all claims, losses, expenses, fees (including attorney fees), costs, and judgments, arising out of or resulting in any way from any defect in the goods or services supplied to Buyer, or from any act or omission of Seller, Seller's employees and Seller's agents, including without limitation any infringement of third party rights, regardless of whether or not such claim, damage, loss or expense is caused in any part by a party indemnified hereunder. With respect to its obligations to defend, indemnify and hold harmless, Seller waives any immunity it might have under any workmen's compensation laws.

b. In the event of any claim subject to this Paragraph, Buyer shall notify Seller of such claim in a reasonable amount of time. Buyer reserves the right, but not the obligation to participate in the defense and to review all documents in connection with the claim. Seller shall not settle any such claim without the written consent of Buyer.

c. Seller's obligations to indemnify, defend and hold Buyer harmless shall be in addition to the warranty obligations of Seller, and shall survive any termination of these Terms or any related Purchase Order.

d. Seller agrees that, in the event Buyer prevails in any legal action or proceedings to enforce its rights to be defended, held harmless and indemnified under this Purchase Order, Seller shall be liable for Buyer's reasonable attorneys' fees and expenses incurred in connection with any such action or proceedings.

9. Insurance.

a. Seller, at its own cost and expense, will maintain the appropriate and customary types and amounts of insurance including:

(1) Worker's Compensation insurance in full compliance with all applicable statutory and regulatory requirements;

(2) Commercial General Liability and following form Excess and Umbrella Liability Insurance: With a combined limit of at least \$5 Million. Coverage shall be written on an occurrence based form, and shall include and cover Seller's Defense, Hold Harmless and Indemnification obligations;

(3) Commercial Vehicle Liability and following form Excess and Umbrella Liability Insurance: With a combined limit of at least \$1 Million insurance for injuries, including accidental death, on a per loss basis;

b. Failure of Buyer to demand proof or evidence of full compliance with these insurance requirements, or, failure of Buyer to identify a deficiency from evidence that is provided shall not be, nor shall it be construed as, a waiver of Seller's obligation to maintain such insurance. By requiring insurance herein, Buyer does not represent that coverage and limits will be adequate to protect Seller, and such coverage and limits shall not be deemed as a limitation on Seller's liability, or, as a limitation of Seller's liability and obligations under the defense, indemnification and hold harmless provisions of this Purchase Order.

10. Set-Off.

a. All claims for money due or to become due from Buyer shall be subject to deduction or setoff by the Buyer by reason of any counterclaim arising out of any other transaction with Seller.

11. Termination.

a. Buyer reserves the right to terminate the Purchase Order or any part of any related order for its sole convenience and without cause at any time. In the event of a termination without cause, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

b. In addition to and without limitation of any other remedy set forth in these Terms, Buyer may also terminate the Purchase Order or any part of any related order for cause in the event of any default by Seller or if Seller fails to comply with any of these Terms. "Cause" justifying termination shall include, but not be limited to, late deliveries, deliveries of goods or services which are defective or which do not conform to specification, and failure to provide Buyer, upon request, of reasonable assurances of future performance. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination.

12. Relationship.

a. Seller acknowledges and agrees that the relationship with Buyer is that of an independent contractor and nothing in this Purchase Order or related to Seller's performance of any obligation hereunder shall be construed to create an employee relationship between Buyer and Seller or any of Seller's employees or agents. Nothing in this agreement shall be construed to create a partnership, joint venture or agency relationship between the parties.

13. Confidential Information; Use of Buyer's Trade Name and Marks.

a. Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than completing transactions with Buyer, unless Seller obtains Buyer's written consent. Seller shall not advertise or publish the fact that Buyer has contracted to purchase goods or services from Seller, nor shall any information relating to any Purchase Order be disclosed without Buyer's written consent. Unless otherwise agreed in writing, no information disclosed in any manner or at any time by Seller to Buyer shall be deemed secret or confidential and Seller shall have no rights against Buyer with respect thereto except such rights as may exist under intellectual property laws.

b. Seller shall not use the names "Keystone Foods," "Marfrig Group", "Equity Group" and/or "M&M Restaurant Supply," or any logo or other trade or service mark or name used by Buyer for any commercial purpose, including but not limited to any advertisement of Seller's business relationships with Buyer, without Buyer's express written consent, which consent may be withheld by Buyer in its sole discretion for any reason.

14. Severability.

a. If any provision of these Terms or any related Purchase Order is held by any court or other tribunal to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If any court or other tribunal finds that any provision of these Terms or any related Purchase Order is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

15. Amendment and Assignment.

a. These Terms and Conditions and any related Purchase Order may not be changed, modified, altered, or amended in any respect without the mutual written consent by authorized representatives of both parties. Any related Purchase Order may not be assigned by Seller or otherwise transferred, in whole or in part, by Seller without the prior written consent of Buyer.

16. No Waiver of Rights.

a. The failure of the Buyer to strictly enforce any provision of these Terms shall not be construed as a waiver or limitation of Buyer's right to enforce and compel strict compliance with every provision of these Terms.

17. Equal Employment

a. We are an Equal Opportunity employer and do not illegally discriminate in our employment decisions based on race, color, national origin, religion, sex, physical or mental disability, veteran status or pregnancy. We are also an Affirmative Action employer and are committed to inclusion of all qualified individuals in our employment selection process. If you meet certain qualification thresholds, you may also have to meet these requirements. 41 CFR 60-1.4(a) is incorporated here by reference.

18. Governing Law and Jurisdiction.

a. These Terms and any related Purchase Order shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without reference to conflict of laws principles. The Courts of the Commonwealth of Pennsylvania and/or the United States District Court for the Eastern District of Pennsylvania shall have exclusive jurisdiction and venue over all controversies in connection with these Terms and any related Purchase Order, and each party irrevocably consents to such exclusive and personal jurisdiction and venue.