

TERMS AND CONDITIONS OF SALE

Sales of all products by Lamex Foods, Inc., Lamex Agrifoods, Inc., and Lamex Agrifoods Canada Limited ("Seller") to buyer of the products ("Buyer") shall be governed by the following terms and conditions:

- 1. Terms to Govern.** These terms and conditions together with Seller's Sales Contract (collectively, "the Contract") represent the entire agreement between the Buyer and Seller, and shall govern all sales of product by Seller to Buyer. Any and all of Buyer's purchase order terms and conditions are hereby rejected. 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 regardless of whether Buyer has signed and returned Seller's Sales Contract. Buyer shall be deemed to have accepted these terms and conditions by the following occurrence, whichever occurs first: (1) Buyer returns a signed Sales Contract to Seller or otherwise expresses written agreement to the Sales Contract; (2) Buyer receives Seller's Sales Contract and fails to object to the Contract within 3 days of receipt, (3) Buyer accepts or makes payment for all or any part of the products, and (4) any other action evidencing Buyer's acceptance of the Contract.
- 2. 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 assigns.
- 3. Alteration of Terms/Waiver.** Subject to the right of Seller to add, 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conditions upon written notice to Buyer, none of the terms and conditions contained herein may be added to, modified, superseded, or otherwise altered, unless agreed to in writing by both parties, and specifically referring to these terms and conditions. The Contract may not be changed or modified unless agreed to in writing by both parties. No additional or variant terms will be made a part of the contract unless acknowledged in writing by the Seller. Waiver of any default must be in writing signed by both Buyer and Seller and shall not constitute waiver of any subsequent default.
- 4. 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.
- 5. Price and Payment.** All sales are subject to approval of the Seller's credit department. All prices shall be in the currency identified in the Sales Contract and all payments must be made in that currency regardless of any fluctuations in the currency of other countries. All remittances shall be submitted according to invoice terms unless otherwise agreed to in writing by the parties in advance of the remittance. For sales in which delivery will be made outside the United States or Canada, the Sales Contract price does not include payment of any tax, duty, tariff, or other charge assessed by any foreign government entity. Buyer shall be responsible for the payment of all such charges. For sales in which delivery will be made within the United States or Canada and Seller is the importer of record, the Sales Contract price includes duties, taxes, tariffs and other government charges set by the United States or Canada as of the date of the Sales Contract. To the extent the rate of any duty, tax, tariff or other government charge increases from the date of the Sales Contract to the date of delivery, or the formula by which the government calculates any duty, tax, tariff, or other government charge related to the Contract results in an increase of total government charges from the date of the Sales Contract to the date of delivery, Buyer shall be responsible for any such increase.
- 6. Cybercrime/Fraudulent Payment Loss.** Seller shall not be liable to Buyer for any loss suffered by Buyer as a result of any cybercrime, hacking, corruption, security breach, data breach, or fraudulent correspondence purportedly sent by Seller to Buyer. In all cases in which Buyer receives a change in payment instructions of any kind from Seller or any person or entity purporting to be Seller or acting on behalf of Seller, the Buyer shall confirm the change in payment instructions (1) by telephone with Seller and (2) in writing with Seller using Seller's email address, accountsreceivable@lamexfoods.us. Buyer shall at all times remain liable in full for all sums due and owing to Seller.
- 7. Title and Risk of Loss.** Until payment in full has been received by Seller, the product shall remain the property of Seller but the risk of loss or damage shall pass to Buyer upon delivery. In the event Buyer resells the product prior to making payment to Seller, Buyer shall hold the sale proceeds in trust for Seller.

8. **Shipment/Delivery Schedule.** The destination routing of shipments and carrier selection will be at Seller's option. Delivery dates provided by Seller are estimates only, and Seller's failure to meet the same shall not be deemed a breach of the Contract. Seller will not be responsible to Buyer for damages arising from delays in delivery. Partial shipments/deliveries are permitted within the shipment/delivery period stated in the Sales Contract. Each shipment/delivery constitutes a separate contract and failure of any one shipment and/or delivery shall not invalidate or constitute a breach of any remaining shipment or delivery, or the Contract as a whole. Buyer shall promptly accept delivery of the Product at the time Seller makes the Product available for shipment/delivery. Buyer shall be responsible for any damages to Seller arising from Buyer's delay in shipment or delivery, including any lost profit, storage fees, or finance charges.
9. **Shipping Requirements.** Buyer shall furnish complete shipping instructions and provide prepayment or adequate credit as determined by Seller's credit department at the time of order and shipment/delivery to enable Seller to perform its obligations. Seller shall not be obligated to make shipment or delivery in absence thereof. Each delivery or partial delivery is a separate contract for the purposes of Buyer furnishing complete shipping instructions and prepayment or adequate credit.
10. **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, flood, tornado, hurricane, breakdown, change of fiscal policy, fire, war, breakdown, strike, labor dispute, lock-out, government intervention, embargo, terrorism, shortage of raw materials (including without limitation, shortage resulting from inadequate produce, honey or livestock supply or from grade changes resulting from variations in produce, honey, or livestock supply), shortage or non-availability of transportation facilities or equipment or any Act of God. If Seller declares Force Majeure, the Contract shall remain in full force and effect for a period of sixty (60) days from said declaration. After sixty (60) days, Seller may cancel any unperformed portion of the Contract by providing written notice to Buyer.
11. **Default.** If Buyer (1) fails to furnish shipping instructions, (2) refuses to accept any shipment properly tendered, (3) fails to maintain a sufficient financial condition such that Seller is able to secure credit insurance on the Buyer, (4) fails to tender any payment in full when due, or (5) fails to perform any of its obligations set forth 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 the Seller may have at law or in equity, Seller may cancel the Contract, terminate the Contract as to the portion thereof in default or as to any unshipped balance, or both, and/or resell, after written notice to Buyer, any of the product which have been shipped and which Buyer has wrongfully failed or refused to accept, and receive from Buyer the difference between the Sales Contract price and the price obtained on resale if the latter be less than the former, as well as any incidental loss and expense including storage fees and finance charges. 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.
12. **Nonconformity.** Buyer agrees to notify Seller in writing of all non-conformities of product within fourteen (14) days of the date of the receipt of product, or be deemed to have accepted the product as is and shall forfeit all remedies it has.
13. **Interest.** Buyer agrees to pay Seller an interest charge of 1-1/2 percent per month unless prohibited by applicable law (in which case the maximum rate permitted shall apply) on all unpaid invoices after due date for said invoice.
14. **Governing Laws.** The Contract, including these terms and conditions, shall be governed by and construed in accordance with the laws of the State of Minnesota, except as herein specifically altered, without regard to its conflict of law rules.
15. **Forum Selection.** Any action arising from the Contract shall be brought exclusively in the state or federal court located in the State of Minnesota, County of Hennepin. Buyer, acting for itself and its successors and assigns, expressly and irrevocably consents to the exclusive jurisdiction in the state and federal courts of Hennepin County, Minnesota. Buyer waives any objection to the venue of such action, including an objection based upon forum non-conveniens.
16. **Attorney Fees and Costs.** Buyer agrees to reimburse Seller for all costs and expenses, including attorney's fees, arising from Buyer's breach of Contract or otherwise incurred in collecting any funds owed to Seller or enforcing the rights of Seller under this Contract and/or applicable law.

17. **Buyer's Warranty.** Buyer warrants that its ownership, storage, handling, and subsequent resale or delivery of product shall be in compliance with all applicable U.S. and foreign laws and regulations.
18. **Seller's Warranty.** Seller warrants that it has free and clear title to the product. Seller further warrants that, as of the time and place of shipment/delivery hereafter made by Seller, the product shall not be adulterated or misbranded within the meaning of the U.S. Federal Meat Inspection Act, as amended (if applicable), the Poultry Products Inspection Act, as amended (if applicable) and/or the U.S. Federal Food, Drug and Cosmetic Act, as amended (if applicable).
19. **No Other Warranties.** Except for the warranties expressly set forth in Section 18, **SELLER DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.** The parties acknowledge that many of the products are subject to extensive and exclusive U.S. federal regulation and that such federal regulation often preempts, and thus makes inapplicable, state and local laws.
20. **Limitation on Damages. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER, OR TO ANY OTHER PERSON OR ENTITY, FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES WHATSOEVER (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, 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 PRODUCT, EITHER ALONE OR IN COMBINATION WITH OTHER PRODUCT.**
21. **Exclusive Remedies.** Buyer's exclusive remedy and Seller's sole liability for shipment of nonconforming product, including 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, by Buyer in the same state in which it was received, 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 PRODUCT.**
22. **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.
23. **Non-waiver.** The failure of Seller to enforce any provision of this Contract shall not be deemed a waiver of such provision or of subsequent failures of Buyer to comply with any such provision or any other provision.
24. **Assignment.** The rights and obligations under the Contract, including these terms and conditions, are not assignable by Buyer unless Seller agrees to such assignment in writing.
25. **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, unless otherwise agreed upon in writing by the parties.