

Siebenwurst US Inc. General Terms and Conditions of Purchase

I. General.

- A. The following Terms and Conditions (“Terms”) are applicable to the person, firm, company, or other selling entity (hereinafter referred to as “Seller”) and Siebenwurst US Inc., (“Siebenwurst” or “Buyer”) and apply exclusively for this and all Contracts and/or for items ordered by Buyer from Seller in whatever form or quantity (hereinafter referred to as “Goods”). Any other document(s) containing terms and/or conditions that are in addition to or inconsistent with the following Terms and Conditions listed herein, including but not limited to penalties or liquidated damages for Buyer’s failure to perform, shall not be binding upon Buyer without the express written acceptance of liability by an authorized representative of Buyer. Buyer’s failure to object to any additional, inconsistent, or other provisions contained in any other order or form of communication from Seller shall not be construed as either a waiver or acceptance of such provisions. Buyer reserves the right to correct any clerical or typographical errors at any time.
- B. Seller acknowledges and agrees that it has read and understands these Siebenwurst General Terms and Conditions (the “General Terms and Conditions”) and that these General Terms and Conditions apply to and are incorporated in, and a part of, each purchase order, purchase or supply agreement and each amendment to any such document, release, requisition, work order, shipping instruction, specification and other document, whether expressed in written form, by electronic data interchange or other format, issued or agreed to in writing by Buyer with respect to the Goods (as defined below). (All of the documents that are issued or otherwise agreed to in writing by Buyer as set forth in the preceding sentence are collectively referred to as this “Contract”).
- C. Seller further acknowledges and agrees that Seller is responsible for complying with all of Buyer’s policies, guidelines, manuals and requirements related to the provision of the Goods, including any amendments or modifications as may be implemented by Buyer from time to time during the term of this Contract (“collectively, “Buyer’s Standards”), which are also incorporated in, and a part of, this Contract. Buyer’s Standards may be obtained by contacting Buyer. Seller further acknowledges and agrees that Seller’s written acceptance of or its performance in relation to this Contract shall constitute Seller’s acceptance of these Terms and Conditions.

II. Definitions.

- A. “Delivery Schedule” means any instruction issued by Buyer to Seller specifying the required delivery quantities, place, date and (if relevant) time of delivery of goods.
- B. “Goods” means all production materials specified in this Contract and includes _____.
- C. “EDI” means Electronic Data Interchange, i.e. the transmission of data via electronic communication links between the parties or other machine-readable data media.
- D. “Incoterms” means those trade terms published by the International Chamber of Commerce and entitled “Incoterms 2010.”
- E. “Intellectual Property Rights” means patents, design rights, copyrights, trademarks and service marks (whether registered or not and applications for any of the foregoing), know-how, and rights of a like nature, throughout the world.
- F. “In writing” or “written” means in writing signed by the issuing party and served by any means including fax and EDI.
- G. “DDP” means Delivered Duty Paid.

- H. "Seller" means the Seller identified in the quotation to which these Terms and Conditions are attached or referenced.
- I. "Buyer" means Siebenwurst US Inc., a North Carolina corporation with its principal place of business in Charlotte, North Carolina 28284.

III. Complete Contract. Seller acknowledges and agrees that Seller's written acceptance of or its performance in relation to this Contract shall constitute Seller's acceptance of these Terms and Conditions. This Contract, together with the specifications, drawings, and documents referred to herein, constitute the entire Contract between the parties, and all prior negotiations, proposals, and writings pertaining to this Contract, or the subject matter hereof, are superseded hereby. Any reference to Seller's quotation, bid, or proposal does not imply acceptance by buyer of any terms, conditions, or instruction contained in such document. In the event of any ambiguities, express conflicts, or discrepancies in the specifications, drawings or other documents, which are a part of this Contract, Seller shall immediately submit the matter to Siebenwurst for its determination and shall comply with the determination of Siebenwurst in such matter.

IV. Title. Seller warrants full and unrestricted title to Siebenwurst for all Goods furnished by Seller subject to these Terms, free and clear of any and all claims, demands, liens, restrictions, security interests and encumbrances. If Siebenwurst makes progress payments to Seller under this Contract, title to the Goods ordered hereunder shall pass to Siebenwurst at the time that Seller identifies the Goods to this Contract. Seller shall clearly identify the Goods as property of Siebenwurst by visible marking or tagging, and Siebenwurst shall have the right, at Siebenwurst's option, to inspect and verify the identified Goods as Siebenwurst's property.

V. Notification of Deficiencies. Buyer shall have the right (but not the obligation) to conduct an inspection of incoming Goods. Buyer shall notify Seller in writing of any deficiency of Goods once the deficiency has been discovered by the Buyer in the ordinary course of its business. Insofar the Seller waives the plea of delayed notice of defects. If any Goods are deficient in material or workmanship or otherwise not in conformity with the requirements of any Purchase Order, Buyer shall have the right, notwithstanding payment, any prior inspection or test, custom or usage of trade, either to reject the deficient Goods or to require their correction by and/or at the expense of Seller promptly after notice. Buyer shall return, at Seller's expense, these defective or damaged Goods. Care, custody, and control of such Goods remain with the Seller until such time as Siebenwurst takes physical possession or otherwise agrees in writing by change order to this Contract. Seller shall properly store and ensure maintenance, custody, and control of any and all Goods in accordance with the requirements of this Contract and the best professional practices and shall protect the same against weather hazards, water, humidity, dirt, fire, theft, vandalism, and the like. Seller shall use every means to prevent at all times, any damage or loss whatsoever to the Goods in its custody.

VI. Waiver. No failure by either party to insist on performance of any term, condition or instruction, or to exercise any right or privilege included in this Contract, and no waiver of any breach, shall constitute a waiver any other or subsequent term, condition, instruction, breach, right or privilege.

VII. Warranty. Seller warrants and guarantees to Buyer, its successors, assigns and customers that the Goods covered by this Contract will:

- a) Conform to the then current release/revision level (based on the date Buyer's release is issued to Seller) or Buyer's applicable specifications and drawings;
- b) Conform to all samples, descriptions, performance requirements, brochures and manuals furnished by Seller or Buyer;
- c) Be merchantable;
- d) Be of good material and workmanship;

- e) Be free from defect
- f) Be fit and sufficient for the particular purposes intended by Buyer and any customer of Buyer;
- g) Comply with all guidelines, standards and agreements incorporated and made a part of this Contract; and,
- h) Comply with all present and future applicable statutes, laws, ordinances and regulations of national, federal, the state and local governments now or hereafter in effect relating to the design, manufacture, testing, distribution and/or quality of the Goods.

Seller further warrants and guarantees to Buyer, its successors, assigns, and customers that Seller will, at the time of delivery, convey to Buyer good title for all Goods covered by the Contract, free and clear of all liens, claims, or other encumbrances. Seller warrants that the Goods shall be free of defects in material and workmanship. In the event that Seller has entered into a Warranty Agreement applicable to Buyer's Purchase Order regarding the Goods, all consequences of the delivery of defective Goods shall exclusively be governed by the provisions of such Warranty Agreement. In all other cases the consequences of the delivery of defective Goods shall be governed by this Section VII.

For all Goods, the Warranty Period begins on the date of the delivery and ends on the later of:

- a) The expiry of any warranty provided to end customers of the Goods, products, into which the Goods are incorporated; or
- b) Thirty-six (36) months after the delivery to the Buyer; or
- c) The period provided under applicable law.

VIII. Indemnification. Seller shall indemnify, hold harmless, and defend Siebenwurst, its Affiliates and their respective officers, directors, agents, representatives, employees and successors, customers and users from and against any and all lawsuits, actions, claims, demands, judgments, fines, costs (including attorney and other professional fees and disbursements), expenses, losses, liabilities and damages, including any special, incidental, consequential, punitive and exemplary damages (collectively, "Damages") that any Buyer Indemnify Party may suffer or sustain or be in any way subjected to on account of:

- a) Actual or alleged claim of infringement of patent, copyright, trademark or other rights, misappropriation of trade secrets, breach of confidential relationships or violation of other property right arising out of the purchase, sale or use of the Goods or service covered by this Contract;
- b) Actual or alleged defects in the Goods or in the design, manufacture or material of the Goods;
- c) Actual or alleged breach of warranty,
- d) Failure of Seller to deliver the Goods on a timely basis; failure of the Goods to meet the requirements of all federal, state or local laws; and
- e) Any and all claims, demands, liens, restrictions, security interests, and encumbrances of suppliers or workmen or subcontractors of Seller who are providing equipment or materials in any way related to this Contract.

In the event of a claim under this Section, Siebenwurst may, at its option, terminate this Contract or defer acceptance of the balance of the Goods ordered until the claim is resolved. If Siebenwurst is enjoined from the use of the Goods, Seller will, at Siebenwurst's option, either procure for Siebenwurst the right to continue to use the Goods, replace the Goods with substantially equivalent Goods, modify the Goods so as to be useable by Siebenwurst or repurchase the Goods at the price set forth in this Contract. This section shall not be constructed to indemnify Siebenwurst for any loss to the extent it is attributable to Siebenwurst's design, specification or negligence.

IX. Delivery. The delivery date specified by Siebenwurst in the Contract is to be considered the arrival and/or completion date. Agreed delivery dates are binding with the exception of cases of Force Majeure as defined in these Terms. In the event that Seller fails to perform by the completion date for

moveable property or should the production, installation and commissioning of immovable property such as firmly integrated machines, complete machine and assembly systems or other equipment, Seller hereby agrees to pay a Buyer liquidated damages contractual penalty in the amount of at least 2% of the net order value (max. 10% of the order value) for every week the deadline is missed. In addition, Seller is liable for any damage arising as a result of the missed deadline due to production bottlenecks, order rejections and loss of pay at Siebenwurst's business. Moreover, Siebenwurst is entitled to immediately withdraw from the contract in the event of a missed deadline.

X. Excusable Delay (Force Majeure).

- A. Either of the parties may suspend performance of this Contract for the duration of the occurrence of an Excusable Delay, which shall mean any delay not occasioned by the fault or negligence of the delayed party and which results from (without limitation) acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, embargoes, fires, floods, seismic sea-waves, typhoons, hurricanes, earthquakes, epidemics, unusual severe weather, delays of similar natural or governmental causes, and strikes or labor disputes (of or involving the delayed party's employees or suppliers) or any other circumstances beyond such party's reasonable control. Nothing contained in this Section X shall limit either party's rights under other Provisions of these Terms and Conditions.
- B. Buyer shall be entitled to obtain the Goods covered by this Contract from other sources for the duration of Seller's inability to perform due to Excusable Delay and to reduce without any obligation to Seller, the quantity of the Goods specified in the Purchase Order and/or Delivery Schedules. In the event that Seller discovers any fact which may, or could with the passage of time, result in Excusable Delay, Seller will immediately advise Buyer of such fact and use its best endeavors to take all measures and precautions to reduce the effect of the Excusable Delay.
- C. At any time, at Buyer's request, Seller will furnish to Buyer such information as Buyer may request concerning matters which could result in delays and assurances or contingency plans with respect to those matters. Seller will notify Buyer immediately of any actual or potential labor dispute delaying or threatening to delay timely performance of this Contract or a Delivery Schedule and will include all relevant information.

XI. Packaging & Shipping. Goods shall be suitably, carefully and appropriately packed in such a manner as to prevent damage and deterioration during shipping and storage on site prior to processing by Buyer. All Goods will be shipped by the transport provider and by the mode of transport prescribed by Buyer. Unless otherwise mutually agreed upon by the Parties, the delivery is made "DDP" Buyer's place of business. Seller shall support Buyer to ensure that transportation of the Goods is undertaken in the most cost-effective way, however always in accordance with this Section XI. All packages shall be clearly marked with Project Name, Package Number, Purchase Order Number, description of Goods and storage area requirement. Delivery notes must be made in writing. With regard to documents accompanying Goods (physical or electronic documents), Seller shall comply with Buyer's instructions. Seller shall provide ninety (90) days prior written notice to Buyer before changing the location of the manufacture and/ or dispatch of the Goods.

XII. Price and Payment. This Contract may not be filled at prices higher than shown on Siebenwurst's Contract without the prior written approval of Siebenwurst. If no price is shown on this Contract, Seller will furnish at no higher price than last purchased, or will notify and obtain the written approval of Siebenwurst before proceeding with this Contract. Payments by Siebenwurst are made within 14 days of receipt of the delivery/invoice with a 3% cash discount, within 30 days with a 2% cash discount or within 60 days net. All payments will be made in U.S. funds, unless otherwise stated in the Purchase Order. Payment remittances shall either be made by bank transfer or by check, as specified by Buyer.

Payment by Buyer for any Goods does not indicate nor constitute acceptance of such Goods. Seller may not assign its payment rights hereunder without the prior written consent of Buyer.

XIII. Assumption of Risk. The Goods must be delivered no later than the date specified in the contract. Seller is responsible for compliance with the shipping instructions as they are given to him. Siebenwurst is entitled to refuse the acceptance of shipments if proper shipping documents are not available promptly. This does not constitute delay of acceptance/inspection on the part of Siebenwurst. Seller bears the cost of justified refusal of acceptance. Seller assumes the risk of accidental loss or accidental deterioration up to the point of transfer to Siebenwurst or up to the point of acceptance. Unless otherwise agreed between the parties in writing, the time at which the risk of damage to or loss of the Goods shall pass to Buyer shall be "DDP" Buyer's place of business. Unless otherwise agreed between Buyer and Seller in writing, the Goods shall be deemed to be sold "DDP," with named place being Buyer's place of business.

XIV. Recall. If a recall of the Goods is required by a defect, a failure to conform to specifications, applicable laws or any other reason within Seller's control, Seller will bear all cost and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, cost of returning Goods, lost profits and other expenses incurred to meet the obligations of third parties. As Per Section XX of this Contract, Seller shall also maintain comprehensive general liability insurance, including product liability insurance.

XV. Changes.

A. No substitutions shall be made in this Contract without the prior written consent of Siebenwurst. Siebenwurst shall have the right by written direction to make changes in the specification and drawings for Goods covered by this Contract. If Seller believes that such change affects the price or delivery date for such Goods, Seller shall so notify Siebenwurst in writing (with adequate supporting documentation) within five (5) working days after receipt of said written direction.

B. Seller shall suspend performance of the change unless thereafter released in writing by Siebenwurst to perform said change, and Siebenwurst and Seller shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. Seller's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) working days after Seller receives direction to make such changes.

C. Seller shall not suspend performance of the unaffected portion of this Contract while Siebenwurst and Seller are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by Siebenwurst. If released in writing by Siebenwurst, Seller shall comply with and perform such change in accordance with the terms of this Contract during the time Seller and Siebenwurst require to mutually agree upon an equitable adjustment. No agreement or understanding modifying the conditions of terms of this Contract shall be binding upon Siebenwurst nor will extra compensation be paid by Siebenwurst unless the agreement or understanding is made in writing.

XVI. Cancellation for Default.

A. In the event Seller shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller's insolvency or in the event Seller is in default of any provisions or requirement of this Contract, Siebenwurst may, by written notice to Seller, without prejudice to any other rights or remedies which Siebenwurst may have, cancel further performance by Seller under this Contract, in whole or in part.

B. In the event of such cancellation, without waiving or limiting any other right or remedy that Siebenwurst may have at law or in equity, Siebenwurst may complete the performance of the terminated portion(s) of this Contract by such means as Siebenwurst selects, and Seller shall be responsible for any additional costs incurred by Siebenwurst in doing so.

C. Seller shall deliver or assign to Siebenwurst any work in progress as Siebenwurst may request. Any amounts due to Seller for Goods delivered in full compliance with the Terms of this Contract prior to such cancellation shall be subject to set off of Siebenwurst's additional costs and expenses of completing the Contract and other damages incurred by Siebenwurst as a result of Seller's default. Waiver by Siebenwurst of any default of Seller may only occur in a writing signed by Siebenwurst and any such waiver shall not be considered to be a waiver by Siebenwurst of any provision of this Contract or of any subsequent default by Seller.

XVII. Termination. Siebenwurst may terminate all or any portion of this Contract order at any time by giving notice to Seller. If a defect is discovered before the defective Good has left Buyer's production sites or that of an undertaking commissioned by Buyer, Seller shall be given the opportunity to remedy the defect or to replace the defective Goods before production commences, provided that any such remedy does not cause any delay in Buyer's production.

If Buyer cannot reasonably be expected to allow Seller to remedy the defect or to replace the defective Good due to operational reasons (in particular reasons related to the time and sequence of assembly) or if Seller is not able to remedy or replace the defective Good, then Buyer shall have the right to either:

- a) Remedy the defect itself at Seller's expense;
- b) Have it remedied by a third party at the Seller's cost; or,
- c) Return defective Good at Seller's cost.

If the same Goods are repeatedly delivered in a defective condition, Buyer shall have the right to rescind this entire Contract, provided that Buyer has notified Seller in writing that the Goods are defective and Seller continues to supply defective Goods after such notification. In any case described under this Section VI, Seller shall indemnify Buyer against all damages and losses incurred by Buyer resulting from the delivery of defective Goods. If a defect is discovered after the defective Good has left Buyer's production sites or that of an undertaking commissioned by Buyer, Seller shall indemnify Buyer against all damages and losses incurred by Buyer resulting from the delivery of defective Goods. At Seller's request the defective Goods will be made available to Seller, at Seller's cost. Unless otherwise provided by these Terms and Conditions, Seller shall be liable for damages and losses actually incurred by Buyer and occasioned by or arising out of any breach of Seller's obligations under this Contract. The rights and remedies of Siebenwurst provided in this Termination clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

XVIII. Assignment. Neither this Contract nor any portion hereof may be assigned or delegated without Siebenwurst's prior written consent and any such assignment or delegation will be void. Siebenwurst reserves the right to assign this Contract to Siebenwurst's successors or assigns or to Siebenwurst's affiliates at anytime.

XIX. Amendment. No Amendment to this Contract will be considered effective unless it is in writing, expressly stated to amend this Contract, and signed by an authorized signatory of each party.

XX. Insurance. Seller shall maintain comprehensive general liability insurance, including product liability insurance, property damage insurance, public liability insurance, completed operations insurance and contractual liability insurance, designating Seller as an additional named insured, and have such coverage and limits and be issued by such company as Buyer shall deem reasonably adequate for its protection. Seller shall, within ten (10) days after Buyer's request therefore, furnish to Siebenwurst the certificates of insurance, issued by the applicable insurers, confirming the coverage, limits and expiration dates of the respective insurance policies. All such insurance certificates shall provide that such insurance shall not be cancelled or amended without thirty (30) days' prior written notice to Siebenwurst and shall be with insurance companies reasonably satisfactory to Siebenwurst. Buyer's examination of, or failure to request or demand any evidence of insurance hereunder, shall not

constitute a waiver of any requirement of this Section XX and the existence of any insurance shall not limit Seller's obligation under any Section of this Contract.

XXI. Severability. If any covenant, obligation or provision contained in this Contract or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Contract or the application of such covenant, obligation or provision to any person or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each covenant, obligation or provision of this Contract shall be separately valid and enforceable to the fullest extent of the law.

XXII. Notices. All notices, consent requests, instructions, approvals and other communications hereunder shall be in writing and be given by personal delivery or by facsimile and by registered and certified mail, return receipt requested to the address of Siebenwurst or Seller as shown on this Contract or to such other address as any party hereto may, from time to time, designate in writing. All notices, claims and other communications required or permitted to be made by Seller to Buyer under this Contract will be made in writing and sent by:

- a) First-class mail;
- b) Nationally recognized overnight courier service;
- c) Facsimile, to the purchasing contract for Buyer and at the address designated on the face of the purchase order or at such other address as Buyer may communicate to Seller in writing, with a required copy by first-class mailed to:

112 South Tryon Street, Suite 1130
Charlotte, NC 28284

Notices using method (a) or (b) will be effective as of the date of receipt. Notices using method (c) will be effective as of the date of confirmation or receipt. Any notice required to be made by Buyer to Seller under this Contract may be made to Seller by any of the foregoing means of transmission at any Seller address on the face of the purchase order, including Seller's shipping address.

XXIII. Patents and Trademarks. Seller warrants that all Goods supplied under this Contract shall not infringe on any third party's patent, copyright, trade secret, trade name, trademark, or other proprietary right.

XXIV. Confidentiality. Seller shall keep confidential all designs, processes, drawings, specifications, reports, data and other technical or proprietary information and the features of all parts, equipment, tools, gauges, patterns, and other items furnished or disclosed to the Seller by Siebenwurst in connection with this Contract ("Siebenwurst's Confidential Information"). Seller shall not disclose such information to any third party without the written consent of Siebenwurst and shall not use such Siebenwurst's Confidential Information except as contemplated in this Contract. Upon completion or termination of this Contract, Seller shall return all Siebenwurst's Confidential Information to Siebenwurst or make such other disposition thereof as may be directed and approved by Siebenwurst and shall certify to such return or destruction.

XXV. Drawings and Models. Drawings, models, documents, etc. provided or paid for by Siebenwurst for the execution of a Contract shall remain or become the property of Siebenwurst. Seller shall be liable for their loss or damage and/or misuse until their proper and complete return. The above items must be returned to Siebenwurst without any special request after completion of the order. If tools are required for special parts, these may only be used for the order placed by Siebenwurst. This also applies to tools Siebenwurst has paid Seller to make. Seller may only assign claims against Siebenwurst to third parties with Siebenwurst's written consent. Any assignment made without Siebenwurst's consent entitles Siebenwurst to withdraw from this Contract. The same applies if insolvency proceedings against Seller have been opened or requested. Seller must insure the tools against loss and damage.

- XXVI. Assignment and Set-Off.** Seller is not authorized to make set-offs against Siebenwurst's claims, unless Siebenwurst does not dispute the counterclaims or they have been legally determined.
- XXVII. Arbitration.** Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The number of arbitrators shall be one. The place of arbitration shall take place in Charlotte, NC USA.
- XXVIII. Laws and Regulations.** Seller warrants that the manufacturing, packaging, pricing, sale and delivery of all Goods supplied pursuant to this Contract will comply with all applicable laws, ordinances and regulations. Additionally, Seller shall provide all permits, certificates and licenses that may be required for the performance of the Contract. This Contract and the performance under it shall be controlled and governed exclusively by the internal laws of the State of North Carolina, excluding its conflicts of laws provisions and also excluding the U.N. Convention on International Sales of Goods. Seller hereby submits to the exclusive jurisdiction of the state and federal courts residing in Mecklenburg County, North Carolina for purposes of resolving any disputes arising from or relating to this Contract or the performance thereof.

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