

## TERMS AND CONDITIONS

### 1. PARTIES.

"Seller" as used herein means the addressee of this order. "Wegmans" as used herein means Wegmans Food Markets, Inc.

### 2. ACCEPTANCE AND LIMITATIONS.

Acceptance of this order must be made by filling out, signing and returning to Wegmans the Acknowledgement Copy attached hereto. The terms and conditions of this purchase order shall not in any manner be changed, limited, controlled or restricted by any oral statements or the provisions on any of Seller's forms or documents that are inconsistent herewith, unless specifically agreed to in writing by Wegmans. No waiver by Wegmans of any breach of the terms of this order shall operate to relieve Seller of responsibility for any prior or subsequent breach hereunder. Shipment in whole or in part of the goods herein ordered shall constitute acceptance of this order and all of these terms and conditions.

### 3. QUANTITY.

Goods shipped in excess of Wegmans' order may be returned at Seller's expense.

### 4. CHARGES.

All shipments must be shipped F.O.B. Wegmans' delivery point and must be prepaid, unless otherwise expressly agreed in advance by Wegmans. No charge for packing or cartage will be allowed and all shipments f.o.b. destination or on which full freight is allowed must be prepaid, unless otherwise expressly agreed upon by Wegmans. Payment for any additional charges incurred at Wegmans' delivery deck will also be Seller's responsibility.

### 5. DELIVERY.

Risk of loss and/or damage are upon Seller until the goods are physically delivered to Wegmans' plant, or to such other delivery point specified in this order. If the goods are delivered in a damaged or defective condition or are damaged during delivery, Wegmans may, at its option, exercise the rights and remedies set forth in Paragraph 7 below and may also refuse to accept delivery of the goods from the carrier. Time is of the essence and Wegmans may, at its option and without limitation of any of its other rights, cancel all or any unfulfilled part of this order if deliveries are not made within the time specified.

### 6. SHIPPING INSTRUCTIONS.

Seller warrants and agrees that it will comply with and be governed by the following shipping instructions and provisions related thereto:

#### (a) PACKING

Wegmans' purchase order number, part number, and material description must appear on the outside of each package and must appear on all packing slips, invoices, and allied papers. A packing slip must be included with each shipment.

#### (b) INVOICES

Invoices must be emailed to Wegmans (apinv@wegmans.com) in PDF format within 24 hours following the date of shipment together with bill of lading, express receipt or other shipping documents. The time for discounting invoices shall begin on the date of receipt of goods at Wegmans' plant or other specified delivery point or on the date of receipt of the Seller's invoice, whichever is later.

#### (c) CARLOAD OR TRUCKLOAD SHIPMENTS

If carload or truckload shipment is made, Seller will wire or Telex the following information to Wegmans (Attention: Purchasing Department) on the day shipment is made: contents, car number (if by rail), freight bill number and routing.

#### (d) ROUTING

If no shipping instructions are specified by Wegmans, Seller shall ship by the most direct and cheapest way. If shipping instructions are specified, Wegmans will charge to Seller's account any excess freight and other expenses resulting from shipments of goods in a n unspecified or unauthorized manner. Seller will enter in full on the face of the bill of lading the routing information as shown on the face thereof.

### 7. WARRANTIES.

Seller warrants that all goods supplied to Wegmans under this order shall conform to specifications, drawings, samples, or other descriptions furnished or adopted by Wegmans, and shall be fit and serviceable for the purpose intended, merchantable and free from defect. Wegmans shall have a reasonable time after receipt of the goods within which to inspect them before it shall be deemed to have accepted the goods and Wegmans may also revoke its acceptance if use of the goods reveals defects not apparent upon receipt or inspection. If Wegmans refuses to accept or revokes acceptance of goods because of the Seller's breach of warranty, or because of the Seller's delay in performance, Wegmans may, at its option, exercise the following rights and remedies with respect to all or part of the goods: (a) hold the goods at Seller's risk and expense, subject to the Seller's order; (b) return the goods to Seller, at Seller's risk and expense, for repair, replacement or credit, at Wegmans' option; (c) retain the goods subject to the Seller's granting an equitable reduction in price; and/or (d) repair the goods at Seller's expense. Neither receipt of the goods nor payment therefore shall constitute a waiver of this provision.

### 8. COMPLIANCE WITH STATUTES AND LAWS.

Seller represents and warrants that, in the production and sale of the goods to be delivered pursuant hereto, it has complied with the requirements of the Fair Labor Standards Act of 1938, as amended, and the Occupational Safety and Health Act of 1970, as amended, and all other applicable federal, state and municipal laws. Any legal disputes arising under this contract shall be governed by the internal laws of the State of New York. Jurisdiction and venue for any legal proceedings hereunder will be in the state and Federal courts located in Monroe County, New York.

### 9. INDEMNIFICATION.

Seller agrees to indemnify, defend and save harmless Wegmans, its officers, agents, employees, successors and assigns, from any and all loss, cost, liability and expense, including legal fees or judgments, resulting from any claim made or action brought against Wegmans as a result of goods or services provided hereunder (including but not limited to, claims from the use or resale by Wegmans, or by anyone purchasing from Wegmans of the goods or materials hereby ordered infringes any patent, trademark, copyright, trade name, license, or other proprietary right of other parties).

### 10. CANCELLATION.

Wegmans shall have the right to cancel this order or any part thereof at any time. If production of the goods or performance of the services hereby ordered has not commenced, Wegmans' liability, in the event of such cancellation, shall be limited to actual expenditures incurred by Seller on this order. If production of the goods or performance of the services has commenced, Wegmans' liability shall be limited to acceptance of and payment for goods or services the manufacture or performance of which has been completed in accordance with this order and to the payment for actual expenditures incurred by Seller on the balance of the order. Wegmans shall also have the right at any time to elect to have Seller suspend work on goods or services ordered pending a determination of whether Wegmans will cancel the order. If Wegmans subsequently elects to cancel the order, its liability to Seller shall be determined as aforesaid but Wegmans shall not be liable for costs or expenses incurred by Seller after the date of Wegmans' election to suspend work. Wegmans shall also have the right to cancel this order without liability hereunder if Seller's rights hereunder are assigned without the written consent of Wegmans or in the event that the Seller becomes bankrupt or insolvent or makes an assignment for the benefit of creditors.

### 11. PRICE AND ALLOWANCES.

Seller warrants that the prices, allowances and other terms and conditions applicable to this order are as favorable as any currently offered by Seller to any other customer of the same or substantially similar goods. If more favorable prices, allowances or other terms and conditions are hereunder offered by Seller to any other customer prior to completion of deliveries hereunder, Seller shall immediately notify Wegmans and such prices, allowances, and other terms and conditions shall apply to such portion of this order as shall not have been delivered on the date such charges become effective.

### 12. DISCLOSURES.

Seller hereby acknowledges and accepts Wegmans' policy requirements that outside ideas, suggestions, plans, programs, proposals, designs, layouts, constructions, formulae and the like, submitted to Wegmans are submitted on a wholly non-confidential basis in order for Wegmans to consider them and Seller further agrees that that all disclosures of such matters which it has made to Wegmans in the past have been made on a non-confidential basis and without restriction on Wegmans' freedom to use such matters in its' business whatever manner it chooses without obligation to Seller. Seller further agrees that all disclosures it may make to Wegmans in the future will also be made on a non-confidential and unrestricted basis, unless Wegmans agrees otherwise in writing.

### 13. WAIVER.

Seller agrees that all disclosures made to Wegmans concerning the merchandise, material, work or services ordered herein, and all ideas, suggestions, plans, programs, proposals, designs, layouts, constructions, formulae and the like, utilized or embodied or incorporated therein or pertaining thereto, and all discussions, meetings and correspondence, if any, in regard thereto, have been made, submitted and conducted on a completely non-confidential basis. Seller further agrees that, except to the extent, if any, that it now owns or may later acquire valid patent rights covering said merchandise, material, work or services, of which patent rights or intention to acquire patent rights it has already given Wegmans express notice, it expressly waives any and all property rights it may have, or may claim to have in or to those ideas, suggestions, plans, programs, proposals, designs, layouts, constructions, formulae and the like, and without in any way limiting the generality of the foregoing. It recognizes and concedes Wegmans' freedom to obtain the same or similar merchandise, material, work or services, or improvements or modifications thereof, from other sources, or to manufacture or provide them itself, and to use and/or sell them in any desired quantities or volumes, without any obligation whatsoever to Seller.

### 14. TRADEMARKS.

The use of Wegmans' name or trademark, service marks, tradenames, or any derivations thereof may not be used by any supplier for advertising or other purposes without the explicit written approval of an authorized officer of Wegmans.

### 15. INSPECTION.

Notwithstanding prior payment to obtain cash discount, all goods will be subject to Wegmans' inspection and approval with respect to material, workmanship and other qualities. If this order covers services the quality of workmanship and services rendered shall likewise be subject to Wegmans' inspection and approval.

### 16. TOOLS, DESIGNS, PATTERNS, DIES, ETC.

No tools, designs, patterns, dies, etc., belonging to Wegmans and used by the Seller in the manufacture of the articles contracted for herein shall be used in the production, design or manufacture of articles for any other person, firm or corporation, nor for the manufacture of larger quantities than those specified herein, except with the specific written permission of Wegmans. At the termination of this contract, said tools, designs, patterns, etc., shall be disposed of as Wegmans shall direct. All such items must be permanently marked or identified as property of Wegmans and with the tool number designated by Wegmans.

**17. PRIOR AGREEMENTS.**

All prior representations, conversations, or preliminary negotiations shall be deemed to be merged in this order, and no changes will be considered or approved unless this contract is modified by an authorized representative of Wegmans in WRITING. This contract supersedes any and all past practices of Wegmans.

**18. DEFAULT.**

In the event of default of any of the terms or conditions set forth herein, the Seller agrees to pay any costs resulting therefrom, including but not limited to, Wegmans' reasonable attorney's fees.