

The Mennel Milling Company – Customer Terms and Conditions

The following Terms and Conditions apply to all sales of Products identified in the applicable Sales Confirmation, except for sales to customers with whom Mennel has executed a separate master supply agreement. For customers with a master supply agreement, the terms of that agreement shall exclusively govern the relationship:

1. **Definitions.** As used in these Terms and Conditions:

- a. “**Buyer**” means the person or entity identified in the Sales Confirmation that is purchasing Products from Mennel.
- b. “**End Customer**” means any third party that receives or uses Products purchased by Buyer from Mennel.
- c. “**Mennel**” means The Mennel Milling Company and its subsidiaries, affiliates, and related entities.
- d. “**Mennel Parties**” means Mennel’s officers, directors, employees, agents, contractors, and representatives.
- e. “**Product**” means any goods, materials, or items supplied by Mennel to Buyer pursuant to a Sales Confirmation.
- f. “**Recall**” means any recall, withdrawal, decree, order, or any other action taken or issued by any governmental authority or regulatory agency, whether federal, state, or local, or by Mennel itself related to or identifying any Product contemplated in the applicable Sales Confirmation.
- g. “**Sales Confirmation**” means the applicable Sales Agreement Confirmation entered into and issued to Buyer with respect to the purchase of Products from Mennel.

2. **Price and Quantity.** The price and quantity of each Product sold by Mennel shall be the price and quantity set forth in the applicable Sales Confirmation.

3. **Volume.** Buyer acknowledges and agrees to strictly comply with any and all minimum order requirements, deadlines, and specifications in any volume or quantity commitment to which Buyer is subject and Mennel may pursue and Buyer shall be fully responsible and liable for any and all damages incidental or consequential to, derivative of, or otherwise caused by or arising from Buyer’s failure to comply with the terms and conditions of any applicable volume or quantity commitments, including, without limitation, any and all costs and expenses incurred by Mennel related or connected to, or associated with, Product expiration (including, without limitation, component procurement costs), storage, packing, packaging, manufacturing, processing, distribution, and shipping costs.

4. **Acceptance of Products.** The acceptance of Products by a Buyer under a Sales Confirmation

shall constitute and be deemed unconditional and absolute acceptance of these Terms and Conditions. The relationship between

Mennel and Buyer are expressly limited to the terms, conditions, provisions, and covenants of the parties set forth in the Sales Confirmation, and these Terms and Conditions. Mennel rejects all terms that conflict with or add to those in the Sales Confirmation and these Terms and Conditions, regardless of where they appear or their materiality. Such terms are excluded and unenforceable without requiring any action by Mennel. This provision shall supersede and control any conflicting term contained in any other document provided by Buyer.

5. **Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THE SALES CONFIRMATION OR THESE Terms and Conditions, MENNEL MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Buyer assumes all risk and liability resulting from the use of Products.

6. **Modifications.** Notwithstanding Section 8(i), Mennel may, in its sole discretion, amend these Terms and Conditions at any time without notice to or consent of Buyer. Such modifications shall apply to future transactions only. Mennel may provide Buyer with the Terms and Conditions then in effect at any time.

7. **Recalls.** Buyer shall at all times maintain a written recall plan detailing Buyer’s procedures and guidelines in the event of a Recall (as hereinafter defined). All procedures and guidelines contained in such recall plan shall comply with all applicable federal, state, or local governmental laws, orders, ordinances, rules, and regulations, including without limitation, all applicable provisions of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as amended, the Food Safety Modernization Act, 21 U.S.C. § 2201, et seq., as amended, and the Nutrition Labeling and Education Act, 21 U.S.C. § 343 et seq., as amended, and any other applicable food, health, and safety laws and regulations. Each party will notify the other in writing of any Recall. Buyer shall cooperate with Mennel, any governmental or regulatory authorities, and any other relevant parties in the event of a Recall, and Buyer shall provide such party all necessary documentation, guidance, handling requirements, or other relevant information

for prompt and effective resolution of such Recall. If Buyer is a distributor, Buyer shall: (i) maintain complete and accurate records of all End Customers receiving Products; (ii) ensure End Customers have appropriate recall procedures; (iii) immediately communicate recall information to End Customers; and (iv) coordinate with End Customers to ensure effective implementation of any Recall.

8. **Standard Provisions.** Except as otherwise provided in the applicable Sales Confirmation between Mennel and Buyer, the provisions set forth below shall be the standard terms and conditions upon which the sale of Products shall be governed.

- a. **Shipping.** Product delivery method (pickup or delivery) and date shall be as specified in Buyer's purchase order and confirmed in Mennel's Sales Confirmation. For deliveries without a pre-established freight rate, Mennel will invoice Buyer at the applicable spot rate after delivery. If count discrepancies occur, Buyer shall provide relevant documentation and cooperate to resolve the issue, but Buyer remains obligated to pay for delivered Product until resolution. Mennel shall not be liable for delivery delays caused by unforeseen circumstances and reserves the right to allocate deliveries appropriately during such events. Mennel may use subcontractors as carriers for Product delivery.
- b. **Invoices and Payment.** Mennel will, from time to time, submit regular invoices billing Buyer for the applicable purchases made by and costs charged to Buyer. All invoices and the payments due thereunder shall be due within 30 days of Buyer's receipt of the applicable invoice; provided, however, Mennel may, in its sole and absolute discretion, designate or modify the due date for any invoice upon reasonable written notice to Buyer. Mennel further reserves the right to designate the form or method of payment and reject partial payments, in Mennel's sole and absolute discretion. Mennel may, in its sole and absolute discretion, include any and all amounts due to it, including, without limitation, delivery fees, late payment fees, and any other charges, in any invoice amount. All invoices not paid when due will be subject to a late fee, which shall be 5% of the outstanding invoice balance. If Buyer fails to pay for any one or more deliveries when due, then Mennel may, in addition to any and all other remedies available to it, suspend further deliveries.
- c. **Force Majeure.** Mennel shall not be liable for delays or failures in performance due to causes beyond its reasonable control, including but not limited to acts of God, natural disasters, pandemics, governmental actions, war, terrorism, labor disputes, material shortages, utility failures, transportation difficulties, or crop failures.

- d. **Assignment.** The rights and liabilities of the parties under the applicable Sales Confirmation shall be binding upon, and inure to the benefit of, their respective successors and assigns. Neither party may assign the benefit of such Sales Confirmation or related agreements, other than to a controlled subsidiary or affiliate of the assigning party, without the prior written consent of the other party, which shall not be unreasonably withheld.

- e. **Notices and Requests.** Any notice or approval required or permitted to be given under the terms of the applicable Sales Confirmation shall be sufficient if in writing, and if sent by email or by registered or certified mail to the address for the notified party.

- f. **Governing Law.** All matters relating to the validity, meaning, rights, obligations or performance of the Sales Confirmation and any other applicable agreement between the parties thereof shall be decided in accordance with the laws of the State of Ohio.

- g. **Savings.** If any section or part thereof contained in the Sales Confirmation or these Terms and Conditions is declared invalid by any court of competent jurisdiction, such decree shall not affect the remainder of the section or any other section and each shall remain in full force and effect.

- h. **Waiver of Breach.** Neither party's waiver of a breach of any provision of the Sales Confirmation, these Terms and Conditions, or any agreement for services by the other shall operate or be construed as a waiver of any subsequent breach. No waiver shall be effective unless signed by the waiving party.

- i. **Entire Agreement.** The Sales Confirmation and its accompanying documents, including these Terms and Conditions, constitute the entire agreement between the parties. Modifications to a specific Sales Confirmation require a signed writing that specifically references that Sales Confirmation. However, Mennel reserves the right to modify these Terms and Conditions as provided in Section 4.

- j. **Time.** Time is of the essence in the performance of the Sales Confirmation and any other agreement or understanding between the parties thereof.

- k. **Termination of Relationship.** Mennel may terminate any Sales Confirmation upon written notice if Buyer breaches these Terms and Conditions or any related agreement, in addition to all other available remedies.

- l. **Jurisdiction.** All disputes related to the Sales Confirmation or these Terms and Conditions involving Mennel or Mennel Parties shall be brought exclusively in the U.S. District Court for the Northern District of Ohio, Western Division, or Ohio state courts in Hancock County. All parties submit to these courts' jurisdiction, waive objections

to venue, and waive the right to jury trial.

9. **Indemnities.** Buyer shall indemnify, defend, and hold harmless Mennel and Mennel Parties from all claims, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising from or relating to:
- a. Contract disputes, injuries (including bodily injury and death), property damage, or violations of applicable law in connection with any Sales Confirmation, Product delivery, or activities at any facility;
 - b. Infringement of patents, copyrights, or other intellectual property rights by any Product made according to specifications provided by Buyer or its End Customers;
 - c. Workers' compensation benefits and medical expenses;
 - d. Any Product recall that Buyer or its End Customers are involved in, caused, or contributed to; and
 - e. Failure by Buyer or its End Customers to comply with applicable laws, ordinances, rules, or regulations.

Mennel may, in its sole discretion, refuse any Product requested according to Buyer's specifications. Buyer's indemnity obligations shall not apply to the extent damages or injuries result directly from Mennel's intentional misconduct or gross negligence.

10. **Confidentiality.** Buyer shall keep confidential all information related to transactions with Mennel and Mennel Parties, including pricing, specifications, and order details, and shall use such information only to perform under our agreement.
11. **Consequential Damages; Limitation of Liability.** In no event will Mennel or Mennel Parties be liable to Buyer for indirect, incidental, exemplary, or consequential damages. The term "consequential damages" shall mean loss of anticipated profits, loss of use, loss of revenue, loss of income and damages not reasonably foreseeable. Mennel's total liability for all claims shall not exceed the purchase price of the Products giving rise to the claim.
12. **Compliance with Laws.** Buyer shall comply with all applicable laws, regulations, and standards relating to the purchase, storage, handling, transportation, and use of Products.
13. **Insurance.** Buyer shall maintain adequate insurance coverage, including commercial general liability, product liability, and property insurance, with limits sufficient to cover its obligations under these Terms and Conditions.

14. **OFAC; Anti-Corruption Compliance.** Buyer represents and warrants that it is not and will not be: (i) a person or entity targeted by U.S. or international sanctions, (ii) owned or controlled by sanctioned persons, or (iii) operating in sanctioned territories. Buyer shall not make any payment or transfer of value, directly or indirectly, to government officials, political parties, their intermediaries, or any person for corrupt business purposes or in violation of applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act.

15. **Flow-Down Obligations; Third-Party Beneficiary Status.**

- a. If Buyer is purchasing Products for resale or distribution to End Customers, Buyer shall:
 - i. Require End Customers to comply with all applicable provisions of these Terms;
 - ii. Flow down all quality, safety, and recall obligations to End Customers;
 - iii. Maintain accurate records of all End Customers receiving Products; and
 - iv. Immediately notify Mennel of any End Customer complaints, quality issues, or safety concerns.
- b. If Buyer resells or distributes Products to End Customers, Buyer shall ensure that its agreements with End Customers name Mennel as a third-party beneficiary with respect to all quality, safety, indemnification, and limitation of liability provisions.