

# Master Food Products and Packaging Agreement

## Terms and Conditions

**Application.** These Terms and Conditions apply to every purchase, sale, shipment and delivery of certain Products and Related Services that Darden approves for sale to the Restaurants, unless otherwise agreed in writing by Darden and Supplier. These Terms and Conditions may be amended or modified from time to time by Darden, at its sole option, and such amendments or modifications will apply to any Purchase Order Supplier fills after thirty (30) days from the effective date of the modification or change. These Terms and Conditions are incorporated into and deemed part of the Agreement.

**Definitions.** Capitalized terms have the meanings given to them in the Appendix to the Agreement and as otherwise ascribed in the Agreement.

**Limited Agency Appointment of Distributors.** Supplier acknowledges that Darden has appointed and authorized certain ADs to perform limited business activities on behalf of and for the benefit of Darden, its Affiliates and/or its Restaurants including, but not limited to, issuing Purchase Orders for Products, drawing checks, drafts and other orders for payment of money for Products purchased under this Agreement and certain other warehousing and delivery functions. Supplier acknowledges that Darden will not have any financial responsibility for any sales made by Supplier to any AD unless such sale is made pursuant to a Purchase Order or specific instructions provided to Supplier in writing by Darden. Supplier further acknowledges the following: (i) Darden is not a guarantor or surety of any AD; (ii) Darden makes no representation or warranty as to the financial condition or solvency of any AD; and (iii) any document Supplier may send to an AD containing terms or conditions that conflict or are contrary to this Agreement or Terms and Conditions are not binding on Darden.

**Products.** Supplier will perform the Related Services and sell to Darden the Products described in the Catalogue or as incorporated into any Purchase Order submitted by Darden and accepted by Supplier in accordance with the terms of these Terms and Conditions at the prices set forth in the Catalogue or in a separate Pricing Agreement. Darden reserves the right to add, change or modify any Product or disapprove any Product or Related Service.

**Product Specifications.** All Products sold to Darden hereunder will meet the Product Specifications. Any modifications to the Product Specifications must be in writing and approved by the Parties; provided that if Supplier determines that a change to the Product

Specifications is needed to comply with Applicable Law, Supplier will notify Darden in writing and will issue modified Product Specifications. Any outstanding Purchase Order will be fulfilled using Products satisfying the modified Product Specifications, unless otherwise agreed to by Darden in writing. Without limiting the foregoing, if Supplier cannot obtain, produce and sell the Products to Darden in accordance with any modified Product Specifications, then Darden may terminate this Agreement in accordance with Sections 24 and 25. For any Products added during the Term, new Product Specifications will be established by Supplier in writing and will be approved by Darden before beginning production.

**Purchase Orders.** Darden will have the option to order and purchase Products through one or more Purchase Orders delivered by Darden to Supplier from time to time during the Term. Supplier's electronic transmission system or an authorized agent of Supplier will accept such Order by dispatching an Order Confirmation to Darden confirming receipt and acceptance of the Purchase Order. Notwithstanding the above, Purchase Orders will be deemed confirmed and accepted by the Supplier if no acknowledgment, rejection or modification is provided within twenty-four (24) hours from submission of the Purchase Order. Any modification by Supplier to a Purchase Order will not be effective unless and until Darden provides Supplier with a Modification Acceptance.

Once accepted as described above, Purchase Orders are binding on Supplier and, absent a Force Majeure Event, may not be varied, delayed, or canceled without prior written consent of Darden. Except as provided in the Purchase Order, neither Darden, its Affiliates, nor any AD makes any representations, warranties, guarantees or other assurances that any additional or other Product will be ordered at any time or under any circumstances. Neither Darden, its Affiliates nor ADs will have any liability to Supplier for Darden's discontinuance or termination of any Products, termination of any of Darden's ADs, any volume estimate or any other representation, warranty or assurance except as expressly provided by Darden and confirmed by Supplier in accordance with these Terms and Conditions or in a Pricing Agreement.

Any changes to or cancellations of Purchase Orders by Darden will be binding on Supplier if the shipment of Products is not in transit to the Destination Point. With

respect to cancellation of an order by Darden, Darden will have the option, in its sole discretion, to pay Supplier for Work in Progress that is specific to the Purchase Order. Regarding any Work in Progress related to a cancelled Purchase Order, Supplier will either finish such Work in Progress and deliver the Products to Darden or otherwise dispose of the Work in Progress as directed by Darden.

**Product Availability and Deliveries.** Supplier at all times will use reasonable efforts to ensure the availability of all Products to sell to Darden and its Affiliates. In the event of any shortages of Product caused by Supplier or a Force Majeure Event that extends beyond a single Purchase Order, Supplier will reasonably allocate Product and provide Darden and its Affiliates with the volume of Product consistent with Darden's respective prior six months of Purchase Orders or forecasted purchases provided by Darden and previously accepted by Supplier. If any defect, shortage or discrepancy materially affects the ability of Darden or its Affiliates to obtain the volume of Products subject to Purchase Orders, in its sole determination, Darden may terminate this Agreement upon written notice to Supplier in accordance with Section 24.

Products purchased from Supplier will be delivered to the Destination Point by the party selected by Darden as identified in the Catalogue. If Supplier is selected to deliver, Products will be shipped to the Destination Point pursuant to DDP (Incoterms 2020). Supplier bears all risk of loss and shipping, storage, and related costs associated with delivering the Products to the Destination Point, including but not limited to any taxes, insurance, freight, customs, tariffs, lumper fees, AD charges and related charges (including but not limited to any impositions), ready for unloading. The time of delivery to the Destination Point will be stated by Supplier in the Order Confirmation and will be binding on Supplier. Title to the Products will pass to Darden upon delivery at the Destination Point. Supplier will notify Darden as soon as possible if Supplier anticipates a delivery after the date specified in the Order Confirmation to enable the best possible delivery alternative to be determined. Notwithstanding Section 6 above, if Supplier fails to deliver Product in accordance with this Section 7, Darden is entitled to cancel the applicable Purchase Order without liability as a result of such cancellation.

If Darden chooses to arrange for delivery to the Destination Point, by means other than Supplier, Darden will arrange for its designated carrier to pick up Products from Supplier (on a shipper load and count basis). Darden will pay all related all freight costs. including but not limited to any taxes, insurance, customs, tariffs, lumper fees, AD charges and related charges (including but not limited to any impositions). Title and risk of loss will

remain with Supplier and pass to Darden upon delivery at the Destination Point. Supplier acknowledges that all production, storage, and transportation of Products will comply with Darden Policies.

**Acceptance and Inspection of Orders.** Upon receipt of Product from Supplier at the Destination Point, the Products will be inspected to confirm compliance with the Product Specifications and the Purchase Order. Product will be considered Accepted unless Darden provides Supplier with a Deficiency Notice noting any shortage, excess or failure to conform to Product Specifications, apparent defect, or other discrepancies in the Product no later than ten (10) days after receipt. Supplier will, within twenty-four (24) hours of receipt of any such notice from Darden, use all reasonable efforts to correct such shortage, defect, or other discrepancy by, replacing the defective Product, or issuing a credit to Darden (including a reasonable case fee, or credit to administrative and delivery charges) at Darden's sole option. Any excess Product will be held by Darden at Supplier's risk and may be returned to Supplier, at Supplier's sole cost.

**Supplier Paid Credits and Recovery.** In addition to the foregoing Darden reserves the right to collect credits from or reduce future payments to the Supplier for (a) Product found to be non-compliant with the Product Specification based on final inspection of Products at the Restaurants; and (b) if Supplier fails to deliver substitute and compliant Product within two (2) days of the date stated on the original Purchase Order. Darden reserves the right to charge the Supplier for any direct fees, including but not limited special transportation, AD fees, and reasonable costs related to procuring a substitute Product to fulfill the Product not delivered by Supplier.

**Warranty.** With respect to any Purchase Order accepted by Supplier, Supplier warrants that the Products will be: (1) free from material defect; (2) merchantable; (3) fit for its particular purpose; (4) free from any security interest or other claim, lien or encumbrance of any kind whatsoever against them; (5) manufactured, produced, transported, handled, stored and unloaded in accordance with Applicable Law, including Good Manufacturing Practices as defined in Applicable Law; (6); packaged in compliance with safety standards as required by Applicable Law; (7) labeled in compliance with all Applicable Law regarding country of origin labeling and related requirements, including those required by the Tariff Act (19 U.S.C. § 4) as amended by the Customs Modernization Act, those contained in the Agricultural Marketing Act, as amended by the 2002 Farm Bill and the implementing regulations; (8) not adulterated or misbranded within the meaning of the FDCA, including, without limitation, the Food Additives Amendment and

the Food Safety Modernization Act and any other amendment thereto; (9) not adulterated or misbranded within the meaning of any state food and drug law, including but not limited to California Proposition 65; (10) not in violation of any other provision of the FDCA; (11) containing any article that may not be shipped or introduced into interstate commerce, pursuant to Sections 404, 505 or 512 of the FDCA, or the Federal Hazardous Substances Act; (12) if meat, poultry, seafood, and/or egg, in compliance with the Federal Meat Inspection Act, Poultry Products Inspection Act, and Egg Product Inspection Act respectively; and (13) in compliance in all other material respects with all other Applicable Law.

Supplier will provide such Product information, nutritional data and supplier profile information in the form and at the time Darden requests, and all such information will be correct, true and complete at the time submitted by Supplier. Supplier will obtain and maintain all Permits necessary to sell and transport the Products under this Agreement and will deliver copies of any such documents to Darden promptly upon Darden's request. Except for the above and any other express warranty provided to Darden by Supplier in writing, Supplier makes no other warranty, promise, or obligation with respect to the Products.

**Records, Reports, Audits, Testing and Inspections; Factories.** Supplier will maintain at all times during the Term and for five (5) years thereafter, complete and accurate records and supporting documentation pertaining to the production of the Products including but not limited to records pertaining to the manufacture, production, storage, sales, shipment and delivery of such Products. Supplier will make such records available to Darden or its Affiliates or any designee thereof upon reasonable request for review and inspection by Darden including in digital and written, at Supplier's cost. Supplier agrees to comply with any requests by the U.S. Food and Drug Administration ("FDA"), USDA or CFIA for records, documents, information or other materials. Supplier will also comply at its sole cost, with any litigation hold placed on such records in the event of a lawsuit being filed in any court or in an arbitration proceeding involving Darden, any of its Affiliates or any AD. Each Party will, at its own expense, obtain and maintain all certification, credentials, authorizations, licenses and permits necessary to conduct its business relating to the exercise of its rights and the performance of its obligations under this Agreement, including any Permits required for the sale, export, or import of Products, and the shipment of hazardous materials, as applicable.

Supplier, if required by Applicable Law, will report to the FDA, USDA, or CFIA when there is a reasonable

probability that the use of, or exposure to, a Product will cause serious adverse health consequences or death to humans or animals and send a copy of such report to Darden.

Supplier will, at its cost, provide to Darden on an annual basis a successful Food Safety Audit conducted by a third party auditor that conforms to the GFSI or other standard as approved by Darden. Supplier will provide Darden other food safety documentation based on product risk, upon Darden's request.

Supplier will provide to Darden or its designee access to Supplier's facilities during normal business hours to perform operational audits and inspections of the Products and Supplier and its facilities and equipment used in the production and provision of the Products. Supplier will at all times maintain a safe, clean, healthy and productive work and factory environment. Supplier will operate its facilities and equipment in compliance with all Applicable Law, including but not limited to, those governing (a) registration of facilities that manufacture, process, pack, or hold food that is intended for human or animal consumption in the United States, (b) worker training and health and hygiene for those handling Products to prevent contamination of Product and food-contact surfaces by ill or infected Persons, (c) requirements for food safety plans, and (d) measures to prevent contamination of covered produce, other food products, and food contact surfaces including, for example, appropriate storage, maintenance and cleaning of equipment and tools. At any time, Darden or its designee may at Darden's sole option test samples of the Products for compliance with its Product Specifications and Applicable Law and in that event Supplier will, at its own cost, send samples of the Product designated by Darden to any independent laboratory selected by Darden. Supplier will pay the independent laboratory a reasonable fee for such testing; provided payment for such testing will be limited to two (2) times in a calendar year, unless testing is due to a product recall or a health or safety-related concern by Darden.

Without limiting the foregoing, if at any point Supplier's Financial Risk Rating drops below an acceptable level as determined solely by Darden, Supplier will provide Darden with a certified copy of its annual audit including balance sheet and profit and loss statement within ten (10) days of written notice thereof by Darden to Supplier. On a quarterly basis, Supplier will provide such other reports concerning the Products and financial statements at Supplier's sole cost, as Darden may reasonably require until such Financial Risk Rating reaches an acceptable level as determined solely by Darden.

**Darden's Intellectual Property.** Darden will be the sole owner of all right, title and interest in and to any Intellectual Property Rights created as a result of or related to Proprietary Product Specifications and any forms, improvements, modifications or derivative works of the Products in compliance with such Proprietary Product Specifications, regardless of whether or not Supplier contributes, improves or produces any improvements, modifications or derivative works of the Products or Proprietary Product Specifications. Darden does not grant Supplier any ownership right with respect to any Intellectual Property Rights created as a result of Supplier's supply of such Products to Darden in accordance with the Proprietary Product Specifications. Supplier does hereby, on behalf of itself and on behalf of its employees, without reservation, irrevocably sell, assign, transfer and convey, and will be deemed to have irrevocably sold, assigned, transferred, and conveyed to Darden, its successors, assigns and legal representatives, all right, title and interest (past, present, future, and throughout the world) in and to such Products, together with all corresponding Intellectual Property Rights related to Proprietary Product Specifications; and any and all claims, of any nature whatsoever, for past, present or future infringement or violation of such Intellectual Property Rights. If Supplier has any rights to work product arising from the Proprietary Product Specifications that cannot be assigned to Darden, Supplier unconditionally and irrevocably waives the enforcement of such rights, and if such rights cannot be waived, Supplier hereby grants to Darden a fully paid-up, exclusive, irrevocable, perpetual, worldwide license to display, copy, distribute, perform or use in any manner and to make derivative works of the work product. Supplier will assist Darden to register and record (as may be required by Applicable Law or requested by Darden), and from time to time enforce, all Intellectual Property Rights, and other rights and protections relating to the work product created hereunder in any and all countries. Supplier will execute (and cause employees to execute) any documents and take any other actions reasonably necessary to effectuate the purposes of this Section 12. Darden's Intellectual Property Rights will not be impacted by any Event of Default or expiration or termination of this Agreement.

**Marks.** Supplier does not own any right, title, or interest whatsoever in the Marks. Supplier will refrain from making any claims or asserting any right or interest in the Marks. Supplier will have no right or authority to use, display, license, refer to or in any way benefit from such Marks in any manner. Supplier does not have the right to publicize or advertise, using any media sources, the Products or Supplier's relationship with Darden. Supplier will not indicate, and Darden grants no permission for Supplier to indicate, in any manner whatsoever that

Supplier or the Products are endorsed or sponsored by Darden or any of its Affiliates. In connection with any disposition of Products bearing the Marks, Supplier will comply with Darden's procedures therefore.

**Darden's Confidential Information.** The Confidential Information created, developed or obtained by Darden or Supplier and/or provided to or made accessible by either Darden or Supplier to the other in connection with this Agreement, these Terms and Conditions, and Supplier's performance hereunder is valuable and proprietary information and property of Darden or its Affiliates, including any information Darden designates as Confidential Information in connection with this Agreement or any Products. The disclosure of the Confidential Information to Darden by Supplier or developed by Supplier or Darden as a result of the Products supplied and Related Services provided hereunder is induced by and in reliance on the covenants regarding confidentiality set forth in this Section 14. All Darden's Confidential Information will be subject to these Terms and Conditions. Except as otherwise permitted in the Agreement, these Terms and Conditions or in a separate writing signed by the Parties, Supplier will keep and maintain Darden's Confidential Information in strict confidence and will not disclose any of the Confidential Information to any Person other than to bona fide employees, agents or professional advisors of Supplier who are bound by these confidentiality restrictions and Supplier believes requires such Confidential Information on a need-to-know basis in the course of their employment or work with Supplier. If any unauthorized disclosure of the Confidential Information occurs or is suspected by Supplier, then Supplier will immediately notify Darden of the full particulars of such actual or suspected disclosure. Upon the expiration or earlier termination of this Agreement, Supplier will promptly: (a) return to Darden all Confidential Information in its possession, together with all the copies thereof and all documents based thereon; (b) destroy, and confirm to Darden that it has been destroyed, Confidential Information in its possession, including all Confidential Information stored on any electrical or magnetic storage device; (c) cease to use, in any manner whatsoever, all of the Confidential Information; and (d) cause any employees, agents and advisors to return or destroy all Confidential Information. The foregoing restrictions will not apply to Confidential Information (1) that Supplier is compelled to disclose by judicial or administrative process, provided that Supplier gives prompt advance notice to Darden of Supplier's intention to make such disclosures so Darden has the opportunity to prevent or restrict such disclosures as it deems necessary in Darden's best interests; (2) Supplier can show such information to have been generally available to the public other than as a result of the breach of this

Agreement; (3) has been disclosed to Supplier by a third party having legitimate possession thereof and the unrestricted right to disclose such information; (4) or which constitutes Supplier's Confidential Information.

**Supplier's Confidential Information.** Further, to the extent that Supplier can demonstrate that it has Confidential Information that does not constitute Darden's Confidential Information, Darden will keep and maintain Supplier's Confidential Information in strict confidence and will not disclose any of such Confidential Information to any Person other than to bona fide employees, agents or professional advisors of Darden who are bound by these confidentiality restrictions and Darden believes requires such Confidential Information on a need-to-know basis in the course of their employment or work with Darden. If any unauthorized disclosure of the Supplier's Confidential Information occurs or is suspected by Darden, then Darden will promptly notify Supplier of the full particulars of such actual or suspected disclosure. Upon the expiration or earlier termination of this Agreement, Darden will promptly: (a) return to Supplier all Supplier's Confidential Information in its possession, together with all the copies thereof and all documents based thereon; (b) destroy, and confirm to Supplier that it has been destroyed, all Supplier's Confidential Information in its possession or stored on any electrical or magnetic storage device; (c) cease to use, in any manner whatsoever, all of the Supplier's Confidential Information; and (d) cause any employees, agents and advisors to return or destroy all of Supplier's Confidential Information. The foregoing restrictions will not apply to Confidential Information: (1) that Darden is compelled to disclose by judicial or administrative process, provided that Darden gives prompt advance notice to Supplier of Darden's intention to make such disclosures so Supplier has the opportunity to prevent or restrict such disclosures as it deems necessary in Supplier's best interests; (2) Supplier can show such information to have been generally available to the public other than as a result of the breach of this Agreement; (3) has been disclosed to Darden by a third party having legitimate possession thereof and the unrestricted right to disclose such information; and (4) constitutes Darden's Confidential Information under Section 14 above.

**Subcontractors.** Supplier may only use Subcontractors to provide any part of the Products or Related Services or performance of the Supplier under the Agreement to the extent Supplier causes each such Subcontractor to: (1) comply with Applicable Law; (2) comply with the restrictions on Confidential Information described in Section 14; (3) comply with the representations and warranties described in Section 20; and (4) comply with the requirements in Section 11 (Records, Reports, Audits,

Testing and Inspection; Factories); and (5) provide all goods, supplies, products and other items in accordance with the Product Specifications. Darden acknowledges that Supplier may either manufacture Products itself or cause them to be produced by appropriate single or multiple source manufacturing providers for whom Supplier has ensured compliance with the terms of this Section. Supplier agrees that neither it nor its manufacturers will change or relocate, for any reason, any manufacturing location producing Products, without first obtaining Darden's written consent. Darden reserves the right, at its sole discretion, to revoke any Subcontractor's ability to perform under this Agreement, and Supplier will be responsible for any Subcontractor's failure to comply with the foregoing. Supplier will have full and sole responsibility to manage its manufacturers' performance of their obligations, and full and sole discretion as to the form and content of its contracts with its manufacturers, subject to the terms of this Agreement. Supplier will ensure that Darden is the beneficiary of any pass-through warranty or indemnification from such manufacturers and will include language in its agreements with its manufacturers securing the protection of Darden's Intellectual Property Rights.

**Indemnification.** SUPPLIER WILL, AT ALL TIMES, INDEMNIFY, DEFEND AND HOLD HARMLESS TO THE FULLEST EXTENT PERMITTED BY LAW DARDEN AND ALL OF ITS AFFILIATES AND ITS ADS FROM ALL LOSSES AND EXPENSES INCURRED IN CONNECTION WITH ANY ACTION, SUIT, PROCEEDING, CLAIM, DEMAND, INVESTIGATION OR INQUIRY (FORMAL OR INFORMAL), OR ANY SETTLEMENT THEREOF, BY A THIRD PARTY ("CLAIM"), WHETHER OR NOT A FORMAL PROCEEDING OR ACTION HAS BEEN INSTITUTED WHICH ARISES OUT OF OR IS BASED UPON ANY OF THE FOLLOWING: (A) ANY DEFECT IN THE PRODUCTS SUPPLIED BY SUPPLIER; (B) SUPPLIER'S BREACH OF ITS REPRESENTATIONS, COVENANTS AND WARRANTIES OR OTHER BREACH OF THE AGREEMENT OR THESE TERMS AND CONDITIONS; (C) SUPPLIER'S SERVICES IN VIOLATION OF APPLICABLE LAW OR INFRINGING UPON ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS; (D) ANY CHARGES AND IMPOSITIONS ARISING AFTER A SUPPLIER HAS ACCEPTED A PURCHASE ORDER IN ACCORDANCE WITH SECTION 6 OF THESE TERMS AND CONDITIONS; (E) SUPPLIER'S NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUDULENT ACTS; (F) ANY CLAIMS OF SUPPLIER'S MANUFACTURERS OR OTHER SUBCONTRACTORS; AND (G) ASSERTIONS UNDER WORKER'S COMPENSATION, JOINT

EMPLOYER, OR SIMILAR ACTS MADE BY PERSONS EMPLOYED OR ENGAGED BY SUPPLIER UNDER THIS AGREEMENT, PROVIDED THE FOREGOING EXCLUDES ANY GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD BY DARDEN OR ITS ADS.

SUPPLIER WILL DEFEND ANY OF THE FOREGOING CLAIMS AT ITS SOLE COST INCLUDING BUT NOT LIMITED TO ALL LOSSES AND EXPENSES ASSOCIATED THEREWITH WITH COUNSEL OF ITS CHOOSING PROVIDED SUCH COUNSEL IS REASONABLY ACCEPTABLE TO DARDEN. DARDEN ALSO HAS THE RIGHT AT ITS SOLE OPTION TO RETAIN COUNSEL OF ITS OWN CHOOSING AT SUPPLIER'S COST. AT NO TIME WILL SUPPLIER HAVE THE RIGHT TO SETTLE ANY CLAIM WITHOUT THE PRIOR APPROVAL OF DARDEN.

**Product Recall.** IF DARDEN, ITS AFFILIATES, AN AD, SUPPLIER, OR ANY GOVERNMENTAL AGENCY HAVING JURISDICTION IDENTIFIES A DEFECTIVE PRODUCT, REGARDLESS OF WHETHER SUCH IDENTIFICATION IS BASED ON INFORMATION RECEIVED THROUGH CUSTOMER COMPLAINTS, WARRANTY RETURNS, INSURANCE CLAIMS OR PAYMENTS, PRODUCT LIABILITY CLAIMS OR LAWSUITS, REPORTS OF PRODUCTION PROBLEMS OR PRODUCT TESTING, SUPPLIER WILL, AT ITS EXPENSE: (1) IMPLEMENT A CORRECTIVE ACTION PLAN THAT COMPLIES WITH APPLICABLE LAW AND DARDEN'S RECALL PROCEDURES; AND (2) NOTIFY ANY REQUIRED GOVERNMENTAL AGENCY OR AUTHORITY IN COMPLIANCE WITH APPLICABLE LAW AND SUBMIT ALL REQUIRED REPORTS IN COMPLIANCE WITH APPLICABLE LAW. THE PARTIES WILL COOPERATE IN ANY REPORTS OR CORRECTIVE ACTION PLAN UNDER THIS SECTION 18. AT ALL TIMES SUPPLIER SHALL BE SOLELY LIABLE FOR ALL LOSSES AND EXPENSES CAUSED AS A RESULT OF DEFECTIVE PRODUCTS.

**LIMITATION OF LIABILITY.** EXCEPT AS SET FORTH IN SECTION 17 OR FOR A BREACH OF SECTION 14, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS OR LOST BUSINESS, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Gratuities and Gifts, Conduct and Employment Matters.** The Parties will not make or offer a gratuity or gift of any kind to either Parties' employees or their families that could be viewed as relating to an actual or potential business relationship with either Party. Gifts include entertainment, personal services, favors, discounts, and other preferential treatment of any kind. Either Party will interpret any such action as an improper attempt to influence its employees, which will jeopardize the Parties' relationship. For the avoidance of doubt, gifts do not include: (a) samples of Products in reasonable quantities provided by Supplier in furtherance of the Agreement, including these Terms and Conditions, (b) reasonable food and beverages at a meeting between Supplier and Darden, or (c) gifts valued at \$150.00 or less. In addition, Supplier will fairly compensate its employees by providing wages (including overtime pay, when applicable) and benefits that are in compliance with all Applicable Laws of the jurisdictions in which Supplier is doing business or which are consistent with the prevailing local standards in the principal jurisdiction in which Supplier is doing business, if the prevailing local standards are higher. Supplier will maintain reasonable employee work hours in compliance with local standards and Applicable Laws of the jurisdictions in which Supplier does business or produces or transports Products. Supplier will not utilize forced or prison labor. Supplier will not utilize child labor for the manufacture, assembly, packaging, transport of the Products or for any other activity. Supplier will not employ a Person younger than permitted by Applicable Law in the relevant jurisdiction; regardless of such Applicable Law, all of Supplier's employees will be over the age of 14 years, and Supplier will ensure that the ages of all employees are appropriately documented. Supplier will not discriminate in employment (including in recruitment, hiring, training, working conditions, job assignments, pay, benefits, promotions, discipline, termination and retirement) on the basis of gender, race, ethnicity, social origin, religion, age, disability, sexual orientation, national origin, or political opinion. Supplier will not subject any of its or their employees to any physical, sexual, psychological or verbal harassment or abuse. Supplier will ensure that all of its employees have the right to establish and join legal organizations of their own choosing, without being penalized for the non-violent exercise of such rights. If and to the extent that these Terms and Conditions establish, with respect to employment, conduct or other matters covered by this Section 20, standards more strict than those prescribed by Applicable Law, Supplier will adhere to the stricter requirements set forth in this Section 20.

**Insurance.** During the Term Supplier will, at its own expense and at all times, carry insurance of the types, in the amounts and with the coverages specified in the

Agreement and as otherwise modified by Darden pursuant to these Terms and Conditions. Upon request by Darden or any Affiliate, Supplier will immediately provide certificates or other written evidence of insurance coverage to Darden or its Affiliates. The relevant policies will name Darden and its Affiliates as additional insureds with respect to all liability arising out of Supplier's operations, acts, omissions or products and as a loss payee on any cargo insurance and the policies must contain a standard separation of insureds provision. The relevant policies must also be endorsed to provide that coverage for Darden will be primary to and not contributory to any policies carried by Darden or its Affiliates. In no event may the limits of such insurance be less than the minimum amount specified in the Agreement or as otherwise modified by Darden and required limits may be satisfied by a combination of primary and umbrella liability policies. Supplier must give 30 days' prior written notice to Darden of any material changes in or termination of such policies.

**System Access.** If for any reason, Supplier is provided access by Darden to any of Darden's computer systems including any third-party computer systems and any email, intranet, Internet, extranet, and telephone voicemail systems, Supplier must comply with all of Darden's instructions and requirements pertaining to such access. Supplier will be responsible for all harm to or damages incurred by Darden with respect to any such systems as a result of or arising from Supplier's failure to comply with such requirements including but not limited to any use or misuse of logon codes, passwords, or other authentication codes provided to Supplier. Any access will only be granted to Supplier's authorized employees and may only be made subject to and through Darden's authorized security gateways and firewalls. Supplier will execute any agreements and other documents deemed necessary by Darden in connection with any access to such systems authorized by Darden. Any failure to fully comply with Darden's requirements with respect to the foregoing will be a material breach of these Terms and Conditions.

**Anti-Terrorism and Anti-Bribery Laws.** Supplier represents and warrants that neither Supplier nor any of its parents, Affiliates, representatives, agents or employees: (i) is identified, either by name or an alias, pseudonym or nickname, on the lists of "Specially Designated Nationals" or "Blocked Persons" maintained by the U.S. Treasury Department's Office of Foreign Assets Control (texts currently available at [www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/)); (ii) is directly or indirectly owned or controlled by the government of any country that is subject to a United States embargo; (iii) acts, and none of them will act, directly or indirectly on behalf of the government of any country that is subject

to a United States embargo; or (iv) has violated, and none of them will violate, any law prohibiting corrupt business practices, money laundering or the aid or support of Persons who conspire to commit acts of terror against any Person or government, including acts prohibited by the USA Patriot Act (text currently available at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13224 (text currently at <http://www.state.gov/j/ct/rls/other/des/122570.htm>), or any similar law. Supplier further represents and warrants that, as of the date of this Agreement, Supplier and its Subcontractors, and its and their respective representatives, agents and employees are, and during the Term will remain (and Supplier will cause its Affiliates, Subcontractors and their respective representatives, agents and employees to remain), in full compliance with Applicable Law and regulations, including but not limited to laws prohibiting unfair, fraudulent or corrupt business practices in the performance of Supplier's obligations under this Agreement and related activities, including but not limited to the making of any expenditures other than for lawful purposes or directly or indirectly offering, giving, promising to give or authorizing the payment or the gift of any money, or anything of value, to any Person, while knowing or having reason to know that all or a portion of such money or thing of value will be given or promised, directly or indirectly, to any government official, official of an international organization, officer or employee of a foreign government or anyone acting in an official capacity for a foreign government, for the purpose of (a) influencing any action, inaction or decision of such official in a manner contrary to his or her position or creating an improper advantage; or (b) inducing such official to influence any government or instrumentality thereof to effect or influence any act or decision of such government or instrumentality. Supplier further represents and warrants that no government official, official of an international organization, political party or official thereof, or candidate has any direct or indirect ownership or investment interest in the revenues or profits of Supplier or its Affiliates. Supplier understands, and has been advised by its legal counsel regarding, the requirements of all Applicable Laws, including those referred to above, the United States Foreign Corrupt Practices Act (text currently located at <http://www.justice.gov/criminal/fraud/fcpa/>), the UK Bribery Act or any other applicable local anti-corruption practices or laws. Supplier hereby acknowledges the importance to the Parties' relationship of its compliance with the requirements of this Section 23, including any applicable auditing requirements and any requirement to report or provide access to information to Darden or any government that is made part of any Applicable Law. Supplier will take all steps to require its Subcontractors and their respective representatives, consultants, agents,

subcontractors and employees to comply with such laws prior to engaging or employing any such Persons. The foregoing constitutes continuing representations and warranties of Supplier and its Affiliates, and Supplier and its Affiliates will immediately notify Darden in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate or misleading.

### **Termination.**

**Breach by Supplier.** Except as otherwise provided in this Agreement, if any Event of Default described below occurs, Darden may terminate this Agreement immediately upon notice to Supplier, subject to any cure periods applicable to the Event of Default set forth below.

Supplier's failure or refusal to comply with the Product Specifications and failure to cure such default within seven (7) days following notice from Darden.

Revocation or suspension of any necessary license or certification in whole or in part or Supplier's failure to comply with Applicable Law.

Supplier's failure to comply with any other provision of this Agreement, any Schedule or any written directive or guideline issued by Darden pertaining to the matters addressed in this Agreement and failure to cure such default within seven (7) days following notice from Darden.

If Supplier becomes insolvent, is adjudicated bankrupt, voluntarily files a petition for liquidation or reorganization under any provision of the United States Bankruptcy Code, or other similar bankruptcy law applicable to Supplier, has a receiver appointed over it or its assets, makes an assignment for the benefit of creditors or takes any other action pursuant to any applicable insolvency statute; provided that in the event of any Supplier bankruptcy, the Agreement will terminate automatically.

**Breach by Darden.** If Darden fails to pay or facilitate payment of any undisputed amount due to Supplier pursuant to an invoice delivered to Darden in accordance with Section 6 of the Agreement, then Supplier will provide notice to Darden of such default. If Darden fails to cure its default within sixty

(60) days following Darden's receipt of such notice from Supplier, then Supplier will have the right to terminate the Agreement immediately upon notice to Darden.

**Termination Upon a Force Majeure Event.** If a Force Majeure Event materially and adversely affects Supplier's ability to perform its obligations under this Agreement and the Force Majeure Event continues for more than 30 days, Darden may terminate this Agreement immediately upon written notice to Supplier.

**Termination for Convenience.** Darden may terminate this Agreement without cause upon 30 days' written notice to Supplier. In the event of termination for convenience by Darden, Darden will pay Supplier for all Products subject to any Purchase Order that Darden submitted to Supplier and for which Supplier shipped to Darden, an AD or a Restaurant prior to the date of the notice of termination under this Section 25.

**Work in Progress.** In connection with any termination of this Agreement and upon receipt of documentation from Supplier regarding the costs incurred by Supplier for Work in Progress specific to any Purchase Order submitted to Supplier and for which Supplier delivered to Darden an Order Confirmation prior to the date of Darden's or Supplier's notice of termination under this Section 26, Supplier will either finish the Work in Progress and deliver such Work in Progress to Darden or dispose of the Work in Progress, as directed and in accordance with Darden's instructions.

**Force Majeure.** Neither Party will be held responsible for failure to perform its obligations under the Agreement including these Terms and Conditions or any Purchase Order due to a Force Majeure Event to the extent and for the length of time that performance is rendered impossible or commercially impractical; provided, however, upon the occurrence of a Force Majeure Event, the Party that is unable to perform its obligations hereunder will promptly notify the other Party in writing of the existence, nature, and expected duration of the Force Majeure Event and use all reasonable efforts to overcome the effects of the Force Majeure Event and resume performance as soon as reasonably practicable. If the Force Majeure Event effecting Supplier continues beyond 30 days, Darden may terminate the Agreement pursuant to Section 24.3.

### **Dispute Resolution.**

**Negotiation.** Before submitting any claim, controversy or dispute arising out of this Agreement to litigation or other legal proceedings (except

actions seeking extraordinary relief, i.e., specific performance or an injunction), the complaining Party will provide written notice to the other of the claim, controversy or dispute, and each will, as promptly as practical, appoint one or more senior executives with authority to settle such claim, controversy or dispute who will meet with each other in good faith for the purpose of resolving the claim, controversy or dispute.

**Mediation.** Except for actions seeking extraordinary relief (i.e., specific performance or an injunction), if the Parties are unable to resolve any claim, controversy or dispute by negotiation in accordance with Section 28.1 within 30 days of a Party providing written notice of the claim, controversy or dispute, then either Party may deliver to the other Party written notice of its intention to commence mediation in accordance with this Section 28.2, which it must do before commencing proceedings with respect to the claim, controversy or dispute. The Parties will endeavor to settle the claim, controversy or dispute by mediation by first jointly selecting an independent and neutral third party to be the mediator. If the Parties fail to select the mediator within 15 days following delivery of the written notice of intention to commence proceedings with respect to a claim, controversy or dispute in accordance with this Section 28.2, a mediator will be selected by the American Arbitration Association from its approved panel of mediators. The mediation will be conducted within 30 days of the selection of the mediator in the Orlando, Florida metropolitan area or such other location expressly agreed to by the Parties. Darden and Supplier will be responsible for their respective attorneys' fees and costs and share equally the fees and costs of the selected mediator. If the claim, controversy or dispute is not resolved by mediation in accordance with this Section 28.2 within 60 days following the selection of a mediator in accordance with the foregoing, either Darden or Supplier may elect to pursue available remedies with respect to the claim, controversy or dispute in accordance with this Agreement.

**Injunctive or Provisional Relief or Enforcement.** Notwithstanding the above, Darden may elect to apply to any court of competent jurisdiction to seek interim or provisional injunctive, equitable or other extraordinary relief or its equivalent with respect to any matters contemplated by this Agreement.

**Governing Law and Venue.** The laws of Florida (without giving effect to any conflict of laws) will govern the Parties' relationship and the interpretation and enforcement of this Agreement.

Darden and Supplier acknowledge and agree that the activities contemplated under this Agreement occur in Orlando, Florida. With respect to all suits, actions or other legal proceedings under this Agreement, except as provided in Section 28.3, each of the Parties submits to the exclusive jurisdiction of the state and federal courts for Orlando, Florida. Darden and Supplier each agrees that such courts are a reasonable venue and waives and agrees not to assert by way of motion, defense or otherwise, any claims that it is not subject to the jurisdiction of such courts, that such suit is brought in an inconvenient forum or that the venue of the suit is improper.

**Limitation of Actions.** Any claims between the Parties must be commenced within two years from the date on which the Party asserting the claim knew or should have known of the facts giving rise to the claim, or such claim will be barred.

**JURY TRIAL WAIVER. ANY LEGAL ACTION IN CONNECTION WITH THIS AGREEMENT WILL BE TRIED TO THE COURT SITTING WITHOUT A JURY, AND ALL PARTIES WAIVE ANY RIGHT TO HAVE ANY ACTION TRIED BY JURY.**

**CLASS ACTION WAIVER. THE PARTIES AGREE TO PROCEED IN ANY ACTION ON AN INDIVIDUAL BASIS AND WAIVE ANY RIGHT TO JOINDER, CONSOLIDATION, OR TO PROCEED IN A CLASS ACTION.**

**Freedom of Action.** This Agreement will not limit Darden's and its Affiliate's right to develop, procure, market, sell, or distribute any products or services whatsoever through any channel of distribution or to any customer or through any provider or supplier, now or in the future, including any products which are the same as or which may be competitive with those Products which are the subject of these Terms and Conditions. Supplier retains the right to sell or distribute the Products, and any other products or services, to any Person Supplier determines at its option, including without limitation to Darden's competitors, provided the foregoing will not apply to any Products in which Darden has Intellectual Property Rights or otherwise constitute Darden's Proprietary Products.

**Entire Agreement; Amendments.** The Agreement and all Schedules to the Agreement, including, without limitation, these Terms and Conditions, and any Purchase Orders submitted by Darden pursuant thereto represent the entire agreement between the Parties regarding the Products and Related Services and supersede all prior

discussions, agreements and understandings of every kind between the Parties.

**Notices and Correspondence.** Except as otherwise provided herein, all notices, requests, consents, and approvals under the Agreement will be in writing and will be deemed to have been properly given if transmitted electronically via email provided that a delivery receipt is obtained by the Party sending the notice to the email address set forth in the Agreement or at such other email address as any of the Parties hereto from time to time may have designated by written notice to the other Party.

**Severability.** If any one or more of the provisions contained in these Terms and Conditions are deemed illegal or unenforceable, such provision: (a) will be construed in a manner to enable it to be enforced to the extent permitted by Applicable Law; and (b) will not affect the validity and enforceability of any legal and enforceable provision hereof.

**Assignment.** Darden may assign its rights and interest in the Agreement or any Purchase Order to any third party, including, without limitation, its Affiliates without Supplier's consent. Supplier will not assign its rights in the Agreement or any Purchase Order to any third party, including Supplier's Affiliate, without Darden's prior written consent. If Supplier merges with, acquires or is acquired by a third party, Supplier will promptly provide notice to Darden of such merger or acquisition and Darden will have the option to immediately terminate this Agreement upon notice without liability to Supplier.

**Survival.** All terms which by their nature survive any termination or expiration of this Agreement will survive any termination or expiration of this Agreement, including, without limitation: Section 10 (Warranty); Section 12 (Darden's Intellectual Property); Section 14 (Darden's Confidential Information); Section 17 (Indemnification); Section 18 (Product Recall); and Section 28 (Dispute Resolution).

**Independent Contractor.** Supplier is an independent contractor and not an employee, partner or agent of Darden or its Affiliates. Neither Party will have authority to commit or create any liability on the part of the other in any manner whatsoever. Personnel retained or assigned by Supplier to perform work under this Agreement will at all times be considered employees, agents or contractors of Supplier and at no time employees, agents or partners of Darden or its Affiliates, and Supplier will be fully responsible for compensation, payroll taxes, workers' compensation insurance coverage, and any other legal requirements associated with employment.

**Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto and will not confer upon third parties any remedy, claims, actions, or other right.

**Waivers.** The failure of either Party at any time to require performance by the other Party of any of the provisions herein will not operate as a waiver of the right of a Party to require strict performance of the same or like provisions, or any other provisions hereof, at a later time.

**Cumulative Remedies.** Each right and remedy hereunder is cumulative with each and every other right and remedy herein or in any other agreement between the Parties or under Applicable Law.

## APPENDIX

### Definitions

**Acceptance** means Darden's acceptance of all or a subset of Products contained and delivered on a Purchase Order.

**Additional Schedule(s)** means schedules that are not listed in the Agreement as of the Effective Date.

**Affiliate** means a Person that, directly or indirectly, Controls, is Controlled by, or is under common Control with another Person by virtue of equity ownership, by contract or by other means. Supplier's Affiliates that are approved to provide Products and Related Services under the Agreement are set forth in Section 1 of the Agreement.

**Agreement** means the Master Food Products and Packaging Agreement between Darden and Supplier and all Schedules thereto.

**Applicable Law** means any federal, state, foreign, community, provincial and local laws, ordinances and codes, together with all rules, regulations, policies and guides promulgated thereunder or pursuant thereto, including without limitation the Federal Food, Drug, & Cosmetics Act ("FDCA"), the Food Safety Modernization Act, the Tariff Act (19 U.S.C. § 4), California Proposition 65, the Federal Hazardous Substances Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Product Inspection Act, as each is amended from time to time the rules and promulgated by the United States Department of Agriculture and the Food and Drug Administration and all applicable law regarding raw material, ingredients, components, chemicals, product manufacture, packaging, labeling, recordkeeping, reporting and transportation laws, intellectual property laws, environmental laws, labor laws and safety standards, consumer protection laws, laws relating to rebates, laws relating to bribes or other unlawful or corrupt payments, laws relating to gifts given or loans made to any Person to obtain or retain business or to gain an improper advantage, together with all rules, regulations, and guides promulgated under any such laws and any directives issued by governmental or intergovernmental authority.

**Approved Supplier Program** means Darden's program for vetting, investigating and accepting certain suppliers that satisfy Darden's requirements and criteria for providing the Products and Related Services under this Agreement.

**AD** means an authorized distributor for Darden's Products which purchases, warehouses and/or delivers Products to certain Restaurants.

**Catalogue** means a digital platform identifying Products and related information which may include specifications, pricing and related product information (e.g. iSupply, iTQ, iKitchen).

**Confidential Information** means all information and data, in any form whatsoever, relating to Darden's or Supplier's business, trade practices, trade secrets, recipes, software programs, staffing methods, subcontractors, packaging, shipping and delivery procedures, Products, designs, quality standards, forecasts, operational methods, compliance methods, sales, marketing, technology, know-how, providers, customers, team members, financial statements or other financial information, margins, strategies, prices, Pricing Agreements, investigations and business plans and analytics (including any copies or versions thereof), which may be communicated to Supplier or Darden, respectively or its representatives or of which Supplier, Darden, or its representatives, as applicable, may be apprised of by virtue of the Agreement and these Terms and Conditions, including, without limitation, the identity of any other information regarding the Product Specifications and Proprietary Product Specifications.

**Consequential Damages** means damages and injury that result from a Party's negligent performance of or other breach of the Agreement for: (a) lost profits; and (b) compensation for damages to reputation and goodwill including costs of or resulting from delays, financing, marketing materials and media time and space, and costs of changing, substituting or replacing the same.

**Control, Controls and Controlled** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise.

**Corrective Action Plan** means an action plan to be executed by Supplier in the event of recall or a quality issue or abnormality caused by a process deviation of one or more defective Products, including, but not limited to, any plan for return of defective Products to Supplier for a refund or replacement Products, any plan for withdrawal of defective Products from the marketplace, repair of defective Products and any notice to Darden and the general public of hazards with respect to one or more defective Products. For purposes of these Terms and Conditions, a Corrective Action Plan includes all actions necessary or advisable to comply with all Applicable Law, including all steps mandated, requested or suggested by governmental authorities.

**Cybersecurity Incident** means any event that results in unauthorized access to, or adversely affects the availability or integrity of, the Confidential Information, which could not have been prevented by reasonable administrative, physical and technical security measures.

**Darden Policies** means the Darden Supplier Total Quality Expectations Manual, the Darden Supplier Transportation Policy, the Darden Supplier Code of Conduct, the Animal Welfare Compliance Certificate (if applicable), and any other policies or guidelines provided by Darden for the Related Services, as may be amended by Darden, at its sole option, at any time and from time to time.

**Deficiency Notice** means notice from Darden specifying the material defects in a Product including shortages, delays, quality and compliance with Product Specifications.

**Destination Point** means the destination point to which Supplier is to deliver the Products as set forth in the applicable Purchase Order or as otherwise directed by Darden.

**Event of Default** means a breach of this Agreement as set forth in Section 24.

**Financial Risk Rating** means the predictive scores and ratings of a company from Dun and Bradstreet or similar service designated by Darden indicating the credit-worthiness or financial health of an organization.

**Food Safety Audit** means a third-party inspection that assesses a company's food safety management system against the Global Food Safety Initiative (GFSI) or other benchmark requirements as approved by Darden.

**Force Majeure Event** means an act of nature, strike, fire, flood, war, civil unrest, embargo, Cybersecurity Incident, or any other cause which is beyond the reasonable control of Darden or Supplier and materially and adversely prohibits the applicable Party from performing under the Terms and Conditions and any Purchase Order.

**Initial Schedules** means the Schedules set forth in the Agreement as of the Effective Date.

**Intellectual Property Rights** means all rights arising under contract, statutes, civil law or common law, whether or not perfected, associated with (a) patents and patent applications; (b) trademarks, service marks,

layouts, designs, decor and color schemes; (c) works of authorship, including, without limitation, copyrights, source codes, moral rights, and neighboring rights; (d) the protection of trade and industrial secrets and Confidential Information; (e) any rights analogous to those set forth herein and any other proprietary rights relating to intangible or intellectual property now existing or later recognized in any jurisdiction; and (f) divisions, continuations, renewals, re-issuances, re-examinations, applications and registrations, and extensions of the foregoing (as applicable) now existing or hereafter filed, issued, or acquired.

**Losses and Expenses** means, without limitation, all losses, compensatory, exemplary or punitive damages, settlement amounts, judgments, court costs, fines, charges, costs, and expenses, including reasonable attorneys' fees and Consequential Damages.

**Marks** means Darden's trademarks, service marks, names, identifying symbols, logos, tag lines, domain names, URLs or any other indicia of origin related to, owned by, used or associated with Darden, its Affiliates or the goodwill thereof.

**Modification Acceptance** means acceptance by Darden in writing of any modification made by Supplier to a Purchase Order.

**Modified Schedules** means changes, modifications and additions to the Initial Schedules.

**Order Confirmation** means Supplier's written acknowledgement of receipt and acceptance of each Purchase Order and in which Supplier will provide a confirmed delivery date for the Products ordered.

**Permits** means permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained or required to be obtained, from any governmental authority.

**Person** includes natural persons, partnerships, firms, and other unincorporated bodies, corporate bodies, and all other legal persons however constituted.

**Pricing Agreement** means an agreement wherein Darden commits to a certain price arrangement for Products, including any separate agreement establishing the unit price for each Product ("Pricing Term") as may be modified by the Parties from time to time in accordance with Pricing Terms. Prices do not include any taxes and will be net of any rebate, discount or credit.

**Product(s)** means the products that Supplier and its Affiliates have been authorized pursuant to the Approved Supplier Program to provide to Darden and, its Affiliates, in accordance with the terms of the Terms and Conditions and as set forth in the Catalogue, as may be amended by Darden from time to time.

**Product Specifications** means any document, instruction or other guidance, issued by Supplier and approved by Darden or provided to Supplier by Darden, that indicates particular qualities, standards, characteristics or specifications of a particular Product and may include, without limitation, a product description, artwork, labels, component raw material requirements or prohibitions, formulations, processing steps, process control points, packaging requirements, ingredients, nutrition information, and shipping, handling and distribution requirements for the Products. Without limiting the foregoing, Product Specifications also include Darden's supplier guidelines, policies on animal welfare, bioterrorism and transportation as such may be modified, changed and expanded by Darden as it deems appropriate. Any such Product Specifications designated by Darden as proprietary or by their nature and content would be considered the proprietary products of Darden will be deemed "Proprietary Product Specifications."

**Proprietary Product Specifications** means Product Specifications designated by Darden as proprietary or which by their nature and content would be considered the proprietary products of Darden.

**Purchase Order** refers to any purchase order (in a form and manner acceptable to Supplier) submitted by Darden to Supplier for Products, including, without limitation, any modification of such Purchase Order agreed to by Darden and Supplier in writing. All Purchase Orders are subject to these Terms and Conditions. Any reference to a Purchase Order herein refers to the Purchase Order(s) applicable to the Product ordered by Darden. If there is a conflict between these Terms and Conditions and any Purchase Order, these Terms and Conditions will control.

**Related Services** means design, sourcing, production, assembly, storage, handling and transportation of the Product by Supplier and any other services Supplier will perform pursuant to the Agreement, these Terms and Conditions and any other Schedule to the Agreement and any Purchase Order.

**Restaurants** means all restaurants owned, operated or franchised by Darden or its Affiliates during the Term of this Agreement, as may be changed from time to time.

**Schedule or Schedules** means those schedules made available to Supplier via hyperlink, including the Terms and Conditions and all schedules incorporated herein by reference, as such schedules may be modified and updated from time to time in accordance with the terms of the Agreement, including the Terms and Conditions or other schedule including the Initial Schedules, Modified Schedules and Additional Schedules.

**Subcontractor** means any third party that performs all or part of Supplier's obligations under the Agreement, including, but not limited to, vendors supplying raw materials, inputs, chemicals, components for the Products and any vendors assembling the Products.

**Supplier** means the supplier of Products hereunder.

**Supplier's Confidential Information** is confidential information that falls outside the scope of Section 14 of the Agreement and any information which Supplier designates as confidential in connection with this Agreement and Darden agrees to keep confidential as provided in the Agreement.

**Taxes** means all taxes imposed by any national, federal, state, provincial or local government authority, including, without limitation, sales, use, personal, franchise, gross receipts, excise, tariff and withholding and similar taxes. Taxes do not include any employment, income, property, or similar taxes.

**U.S. Dollars** means the legal currency of the United States of America.

**Work in Progress** means material and parts used by Supplier to make Products ordered by Darden pursuant to a Purchase Order which are (i) unique to the Products supplied under this Agreement and therefore unable to be used by Supplier for products for other customers; and (ii) properly conform to Darden's specifications in all respects as approved by Darden.