



THE J.M. SMUCKER CO.

PURCHASE ORDER TERMS AND CONDITIONS

- 1. Applicability.** These terms and conditions of purchase (“**Terms**”) govern the purchase order, including any attachments and releases (the “**Purchase Order**”), for the goods (“**Goods**”) and services (“**Services**”) between the buyer (“**Smucker**”) and supplier identified in the Purchase Order (“**Supplier**”) and together with Smucker, the “**Parties**”). The Purchase Order, these Terms, and any applicable addendum or statement of work (collectively, this “**Agreement**”) comprise the entire agreement between the Parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. This Agreement prevails over any of Supplier’s general terms and conditions of sale regardless of whether or when Supplier has submitted its sales confirmation or such terms. This Agreement expressly limits Supplier’s acceptance to the terms of this Agreement. Fulfillment of the Purchase Order constitutes Supplier’s acceptance of this Agreement. The Purchase Order constitutes Smucker’s offer to Supplier and is subject to withdrawal at any time prior to Smucker receiving Supplier’s written acceptance of the Purchase Order. If a written contract signed by both Parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of the contract will prevail. This Agreement will commence on the earlier of (a) the acceptance of a Purchase Order, or (b) the start of performance and will end on (i) the end date specified in the Purchase Order, or (ii) completion of performance under a Purchase Order (unless earlier terminated by Smucker under Section 7 below) (collectively, the “**Term**”).
- 2. Delivery of Goods.** Supplier will deliver the Goods in the quantities and by the date(s) specified in the Purchase Order (the “**Delivery Date**”). Unless otherwise specified in the Purchase Order, Supplier will ship all Goods DDP (Incoterms 2020 definition) to the address specified in the Purchase Order (the “**Delivery Point**”). If the Delivery Point is a Smucker facility, Supplier will only deliver during Smucker’s normal business hours. Title and risk of loss passes to Smucker upon delivery of the Goods at the Delivery Point. Supplier acknowledges that time is of the essence with respect to Supplier’s obligations under this Agreement, including timely delivery of the Goods and Services, all performance dates, and project milestones. Supplier will include the Purchase Order number on all correspondence and packaging related to the Purchase Order. Supplier will pack all Goods for shipment according to Smucker’s instructions or, if no instructions are provided, in a manner sufficient to ensure the Goods are delivered in an undamaged condition. All containers, packing, and crating materials will become the property of Smucker unless Supplier provides Smucker prior written notice that it requires such materials be returned, in which case, Smucker will return such packaging material at Supplier’s risk and expense.
- 3. Inspection.** Smucker has the right to inspect all or any portion of the Goods after receipt. Smucker may reject all or any portion of the Goods if it determines the Goods are nonconforming, defective, or fail Smucker’s required acceptance testing. Any inspection or other action by Smucker under this Section will not reduce or otherwise affect Supplier’s obligations under this Agreement. Smucker may conduct further inspections after Supplier has carried out any remedial actions.
- 4. Price.** The price of the Goods and Services is the price stated in the Purchase Order (the “**Price**”). If no price is included in the Purchase Order, the Price will be the lower of Supplier’s then prevailing market price, time and material rates, or the Price Supplier last quoted Smucker. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, labels, labor, materials, production costs (including any design and fabrication work, dies, tools, molds, or similar items used to produce the Goods), insurance, customs duties and fees, and applicable taxes, including all sales, use, or excise taxes. Supplier warrants to Smucker that the Price for the Goods or Services is not less favorable than the Price currently extended to any other customer for the same or like Goods or Services in equal or lesser amounts. If Supplier reduces its price for the same or like Goods or Services before payment by Smucker, then Supplier will reduce this Purchase Order Price correspondingly. Supplier will provide Smucker with all cash discounts or other incentives as generally offered by Supplier. Purchases under this Agreement will be aggregated for purpose of calculating any volume discounts or rebates. All reimbursables for travel must be authorized by Smucker in advance and will be paid only in accordance with Smucker’s Travel and Expense Reimbursement Policy, found at jmsmucker.com/legal, and which may be modified by Smucker from time to time.
- 5. Payment Terms.** Unless otherwise indicated in the Purchase Order, Supplier will invoice Smucker only after all Goods have been delivered and/or all Services have been performed. Each invoice must include all information Smucker reasonably requests. Unless otherwise indicated in the Purchase Order, Smucker will pay each invoice 120 days from the date of Smucker’s receipt of an accurate invoice, except for any amounts disputed by Smucker in good faith. Smucker may withhold payment if Supplier’s invoice is incorrect or does not conform to Smucker’s invoicing instructions. Without prejudice to any other right or remedy it may have, Smucker may deduct any amount owed by Supplier for any set-off or counterclaim Smucker may have against Supplier. Smucker may reject paper-based invoices once an electronic document has been transmitted and received by either Supplier or Smucker.

6. Records Maintenance. During the Term and for a period of two years after, Supplier must maintain complete and accurate records relating to the Goods and Services provided hereunder and, upon Smucker's written request, will allow Smucker to inspect and make copies of such records.

7. Change Orders; Termination Without Cause.

- (a) Smucker may make changes to the Goods or Services in writing ("**Change Proposal**"). Supplier will respond in writing to Smucker's Change Proposal within five business days of receipt and, if applicable, include a firm cost proposal with any adjustments to Price or deadlines ("**Change Order**") for the Change Order. If Supplier accepts a Change Proposal without a Change Order or if Supplier fails to respond to a Change Proposal within five business days of receipt, Supplier must proceed with the changed Goods or Services without any adjustments to Price or deadlines.
- (b) Smucker may terminate the Purchase Order without cause with respect to any Goods not yet delivered or Services not yet performed by notifying Supplier. Upon notification, Supplier will take all reasonable steps to minimize costs due to Smucker's termination. As Supplier's exclusive remedy for termination under this Section, Smucker will pay Supplier for Supplier's unavoidable, out-of-pocket costs incurred before receiving notice of termination that Supplier can document to Smucker's reasonable satisfaction, less any savings Supplier realizes from Smucker's termination or Supplier's related mitigation efforts.

8. Warranties.

Supplier represents, warrants, and guarantees to Smucker:

- (a) that the Goods, including Supplier's manufacturing processes, practices, and procedures as applicable: (i) will conform strictly to specifications, samples, or descriptions specified by Smucker, furnished by Supplier (and approved in writing by Smucker), and/or set forth in this Purchase Order; (ii) will be free from defects in material, design, or workmanship; (iii) will not infringe or misappropriate any patents, copyrights, trademarks, or intellectual property rights of third parties; (iv) will be produced, packaged, shipped, and performed in compliance with applicable laws and regulations; (v) will be of merchantable quality; (vi) will be fit for any particular purpose for which the Goods are required by Smucker, to the extent known by Supplier; (vii) are owned by Supplier immediately prior to delivery, and transferred to Smucker without violation of any agreement to which Supplier is a party or by which Supplier is bound; and (viii) will be free of security interests, liens, and encumbrances;
- (b) that the Services will be performed in a competent and workmanlike manner using qualified personnel;
- (c) that the Services will be performed in accordance with generally recognized industry standards for similar services;
- (d) that these representations, warranties, and guarantees will continue beyond any inspection, delivery, acceptance, payment, and/or use by Smucker of the Goods or Services;
- (e) that Supplier will keep any Smucker equipment in its possession in good working order, free from all liens, and will not dispose of or use such equipment other than in accordance with Smucker's written instructions; and
- (f) that Supplier will visibly mark any Smucker equipment in its possession as owned by Smucker.

9. Remedies. The rights and remedies of Smucker in this Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity.

10. Indemnification.

- (a) Supplier will indemnify Smucker Indemnitees (defined below) against any Indemnifiable Amounts (defined below) arising out of any action, suit, claim, demand, investigation, or similar proceeding or dispute brought by a person or entity that is not a party to this Agreement (each, a "**Nonparty Claim**"), against one or more Smucker Indemnitees that arises out of this Agreement, except to the extent that the Indemnifiable Amounts were caused solely by Smucker's negligence or intentional misconduct as adjudicated by a court of competent jurisdiction. "**Smucker Indemnitees**" means (i) Smucker, (ii) any subsidiary, affiliate, or parent company of Smucker ("**Affiliates**"), (iii) Smucker and Affiliates' directors, officers, employees, agents, consultants, advisors, and other representatives, and (iv) the heirs, executors, successors, and assignees of any of the foregoing. "**Indemnifiable Amounts**" means, collectively, the expenses incurred in defending the Nonparty Claim or in any related investigation or negotiation, including court filing fees, court costs, arbitration fees, witness fees, and attorneys' and other professionals' fees, and disbursements of any amount awarded in, or paid in settlement of, any Nonparty Claim, including any interest allowable by law.
- (b) Upon written demand from Smucker, Supplier will assume the defense of a Nonparty Claim and provide written confirmation to Smucker that it is doing so. Promptly thereafter, Supplier will retain legal counsel that is reasonably acceptable to the

Smucker Indemnitee to represent the Smucker Indemnitee in the Nonparty Claim. After Supplier assumes the defense of a Nonparty Claim, Supplier may contest, pay, or settle the Nonparty Claim without the consent of the Smucker Indemnitee only if such settlement (i) does not include an admission of Smucker Indemnitee's liability, including that the Smucker Indemnitee violated any law or infringed the rights of any person, (ii) has no effect on any other claim against the Smucker Indemnitee, (iii) provides as the claimant's sole relief monetary damages that are paid in full by the Supplier, and (iv) requires that the claimant release the Smucker Indemnitee from all liability alleged in the Nonparty Claim.

- (c) If Supplier does not provide a timely response in (b) above assuming the defense, the Smucker Indemnitee may defend the Nonparty Claim with counsel of its own choosing and without the Supplier participating, in which case Supplier will reimburse the Smucker Indemnitee for all Indemnifiable Amounts.

11. Insurance. Supplier will carry at its sole cost and expense:

- (a) Commercial General Liability Insurance (coverage per ISO Form CG 00 01 or an equivalent) including liability coverage for Products and Completed Operations and Blanket Contractual Liability coverage, in an amount not less than \$1,000,000 per bodily injury, personal injury, death or for property damage, \$2,000,000 aggregate and \$2,000,000 Completed Operations/Product Liability aggregate;
- (b) If Supplier is a licensed professional (e.g., consultant, engineer), Professional Errors and Omissions Insurance with minimum limits of liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; or alternatively, if Supplier is a provider of technology services or hardware provider, Technology Errors & Omissions Insurance with a minimum limit of \$2,000,000 per claim and annual aggregate;
- (c) Commercial Automobile Liability including owned (if any), hired and non-owned automobiles with a combined single limit per accident of \$1,000,000;
- (d) Umbrella/Excess Liability with limits of \$5,000,000. Coverage will be at least as broad as underlying policies for General, Auto, and Employer's Liability, including coverage obligations assumed under Supplier's engagement(s);
- (e) Workers' Compensation Coverage meeting all statutory minimum requirements as prescribed by the law(s) of the jurisdiction(s) where Supplier will be performing under this Agreement and containing Employers' Liability insurance in the amount of at least \$1,000,000 per accident, disease per employee and policy limit; and
- (f) Cyber Liability Insurance, in an amount not less than \$5,000,000 for each claim and in the aggregate. Such policy will include coverage for cyber liabilities including network security and privacy liability and related fines and penalties. This policy will suffice for Technology E&O above provided per claim and annual limit increases by the required \$2,000,000.

Supplier will carry all insurance with a company(ies) with an AM Best rating of at least A-VII and qualified to do business in all states in which the Goods or Services are provided. Supplier will include in such policies a Waiver of Subrogation in favor of The J. M. Smucker Company as it pertains to Commercial General Liability, Umbrella/Excess Liability and Automobile Liability insurance coverage. Supplier will name "The J. M. Smucker Company, its subsidiaries, affiliates, directors, officers, and employees" as additional insured for all liability arising out of the operations by or on behalf of the named insured in the manufacture of the Goods or performance of the Services for the additional insured. Supplier may not cancel such insurance unless it gives 30 days prior written notice to Smucker. All coverage (except Professional Liability or Technology E&O and Cyber Liability) must be written on an occurrence basis and must be maintained without interruption from the date of this Agreement. Supplier will continue such insurance for a period of three years subsequent to termination or completion of this Agreement. Supplier will provide endorsements affording Smucker and its Affiliates primary and non-contributory coverage under the policies over any other valid and collectible insurance which Smucker may have with respect to loss under any of the above listed policies. The insurance limits set forth in this Section are the minimum requirements, and Supplier will not claim that the insurance or the limits required are sufficient or adequate to protect Supplier's interests or liabilities. Supplier will provide a copy of the Certificate of Insurance prior to providing Goods or commencing Services under this Agreement to: The J. M. Smucker Company, One Strawberry Lane, Orrville, Ohio 44667, certificates@jmsmucker.com.

12. Compliance with Policies, Legal and Regulatory Requirements.

- (a) Supplier will comply with Smucker's Our Commitment to Integrity: Our Code, Global Supplier Code of Conduct, Animal Welfare Policy, and Service Provider Access Requirements found at jmsmucker.com/legal, as Smucker may update them from time to time.
- (b) Supplier will not take any action that would cause Smucker to be in violation of any law applicable to Smucker. Supplier will promptly report to Smucker any request or demand for any undue financial or other advantage Supplier received in connection with the performance of this Agreement.

- (c) Supplier will fully comply with the export control, economic sanctions, and anti-boycott laws and regulations of all governmental bodies with respect to the Goods and Services, including the Export Administration Regulations 15 C.F.R. Parts 730-774, and any regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control.
- (d) If Supplier produces all or any portion of the Goods outside of the United States, Supplier will either (i) participate in an accredited supply chain security program that meets the Customs-Trade Partnership Against Terrorism minimum criteria and provide Smucker with proof of accreditation annually or (ii) comply with the minimum criteria outlined in such program and complete an annual security questionnaire.
- (e) Supplier will comply with all of the Federal Acquisition Regulations ("FAR") clauses that are mandatory for subcontracts for commercial items; a list of these clauses is set forth in FAR 52.212-5(e)(1) found at 48 C.F.R. § 52.212-5(e)(1).
- (f) To the extent applicable to the performance of work under this Agreement, Supplier will comply with FAR 52.222-90 (Addressing DEI Discrimination by Federal Contractors), found at 48 C.F.R. § 52.222-90, which is incorporated herein by reference. Supplier agrees as follows:
 - i. Supplier will not engage in any racially discriminatory DEI activities, including in Program participation as defined in FAR 52.222-90(a);
 - ii. Supplier will furnish all information and reports, including providing access to books, records, and accounts, as required by the Government contracting agency pursuant to FAR 52.222-90, for purposes of ascertaining compliance with this clause;
 - iii. In the event of Supplier's or a subcontractor's noncompliance with this clause, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Supplier or subcontractor may be declared ineligible for further government contracts;
 - iv. Supplier will report any subcontractor's known or reasonably knowable conduct that may violate this clause to Smucker and take any appropriate remedial actions directed by the Government contracting department or agency;
 - v. Supplier will inform Smucker if a subcontractor sues the contractor and the suit puts at issue, in any way, the validity of this clause;
 - vi. Supplier recognizes that compliance with the requirements of this clause is material to the Government's payment decisions for purposes of Section 3729(b)(4) of Title 31, United States Code (False Claims Act); and
 - vii. Supplier will include the substance of FAR 52.222-90(a), including this paragraph, in subcontracts at any tier, including those for commercial products and commercial services, except those where the place of delivery or performance is outside the United States.

13. Equal Employment Opportunity and Affirmative Action. Smucker is an equal opportunity employer and federal contractor or subcontractor. Consequently, the Parties agree that, as applicable, they abide by the requirements of 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals with disabilities or protected veteran status. As applicable, the Parties will also abide by the requirements of Executive Order 13496 (29 C.F.R. Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

14. Child Labor & Forced Labor. Supplier will not employ, directly or indirectly, children, prison, indentured, bonded, involuntary, or forced labor of any kind. Supplier will not use corporal punishment or other forms of mental and physical coercion as a form of discipline or participate in human trafficking. In the absence of any national or local law, Smucker and Supplier define "child" as any person less than 15 years of age. If local law sets the minimum age below 15 years of age but is in accordance with exceptions under International Labor Organization Convention 138, the lower age will apply.

15. Modification and Waiver. This Agreement, including any Change Order, may only be amended in writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party. No waiver by Smucker of any provision of this Agreement is effective unless in writing and signed by Smucker, and no failure or delay by Smucker in exercising any right or remedy may be construed as a waiver.

16. Confidential Information.

- (a) "**Confidential Information**" means any information, whether disclosed in oral, written, visual, electronic or other form, that Smucker discloses or Supplier observes in connection with this Agreement. Confidential Information includes, but is not limited to (i) recipes, formulae, processes, methods and other information concerning Smucker's products or production, formulae and recipes; (ii) business plans, strategies, forecasts and analyses; (iii) Smucker's revenues, costs, profits, pricing methods and other financial information; (iv) vendor information; (v) software (including all documentation and code), hardware and system designs, architectures and protocols; (vi) product and service specifications; (vii) purchasing, logistics, sales, advertising, marketing, and other business processes and business plans, including deliverables; (viii) customer

buying history, requirements and other customer-specific information; (ix) the terms of this Agreement; (x) other private matters that a reasonable person would understand to be confidential in nature; and (xi) Personal Data (as defined below). Supplier acknowledges the confidential and secret character of the Confidential Information and agrees that all such Confidential Information is the sole, exclusive, and valuable property of Smucker. Accordingly, Supplier agrees to hold all Confidential Information it obtains in strictest confidence, not to reproduce any of the Confidential Information without Smucker's consent, and not to use such Confidential Information other than for providing Goods and Services under this Agreement. Dissemination of Confidential Information by Supplier will be limited to only those employees, representatives, agents and subcontractors ("**Representatives**") of Supplier as are necessary to provide the Goods and Services hereunder, and Supplier will cause such Representatives to be bound to confidentiality obligations comparable to this Agreement. Supplier will be responsible for any breach of this Section by its Representatives. The obligations set forth in this Section will apply to all Confidential Information regardless of how it is received by Supplier. In the event that any Confidential Information is lost, misplaced, stolen, used without authority, misused, copied, distributed, or in any way compromised, Supplier will notify Smucker as soon as reasonably possible after becoming aware of such loss, misplacement, theft, unauthorized use, copying, distribution, or other compromise, and will provide to Smucker the details and nature of such situation.

- (b) Supplier will have no liability under this Agreement with respect to the disclosure and/or use of any such Confidential Information which it can demonstrate by competent written evidence: (i) is now, or thereafter becomes generally known or available to the public, through no fault of Supplier; (ii) is known by Supplier prior to the time of receiving such information as shown by Supplier's written records existing immediately prior to the time of such disclosure; (iii) is hereafter furnished to Supplier by a third party having an independent right to disclose the information; (iv) is disclosed pursuant to the prior written consent of Smucker; (v) is required to be disclosed by Supplier pursuant to a court order or as otherwise required by law; provided, however, that Supplier notifies Smucker within sufficient time to allow Smucker to contest such order; (vi) or is independently developed by persons at Supplier who had no access to the Confidential Information.
 - (c) Nothing in these terms grants any express or implied right to Supplier in the Confidential Information, including patents, copyrights, trademarks, or trade secrets, other than as stated above. Supplier will return or deliver all tangible or computer-generated representations of the Confidential Information, and all copies or evidence thereof, within five business days of the request of Smucker or immediately upon the termination of this Agreement. The obligations contained in this Section are necessary and reasonable to protect Smucker's business, and Supplier expressly agrees and acknowledges that monetary damages would be inadequate to compensate Smucker for any breach of any covenant set forth in this Section. Any violation or threatened violation of this Section by Supplier will cause irreparable harm to Smucker, and Smucker will be entitled to obtain preliminary and permanent injunctive or equitable relief, in addition to an equitable accounting of all profits or benefits arising out of such violation and any other remedies available, as may be deemed proper by a court of competent jurisdiction without posting any bond. Further, Supplier's failure to comply with any of the provisions of this Section will be deemed a material breach of the Agreement, and Smucker may terminate the Agreement without liability.
 - (d) Supplier may receive Confidential Information that is considered material inside information within the meaning and intent of the securities laws of the United States. Supplier will not disclose this information to others except as authorized by Smucker and will not use such information directly or indirectly for its own benefit or as a basis for advice to any other party concerning any decision to buy, sell, or otherwise deal in the stock of Smucker.
 - (e) If Supplier will have access to any information personal or unique to a specific individual, including any information that can be used to identify or contact a specific individual, and first and last name, email address, telephone number, social security or social insurance number, health-related information, location information, device identifiers, IP addresses, contact information, financial account, and other financial information, date of birth, credit card and other payment card number, and online behaviors ("**Personal Data**"), Supplier represents and warrants that it will comply with the Data Privacy Exhibit which can be found at [jmsmucker.com/legal](https://www.jmsmucker.com/legal).
 - (f) Smucker's Security Measures Exhibit, found at [jmsmucker.com/legal](https://www.jmsmucker.com/legal) identifies Confidential Information Smucker defines as "**Smucker Proprietary Data**". Supplier represents and warrants it will comply with this exhibit, if applicable.
 - (g) If the Services will involve Artificial Intelligence Technology as defined in Smucker's Artificial Intelligence Terms Exhibit found at [jmsmucker.com/legal](https://www.jmsmucker.com/legal), Service Provider represents and warrants that it will comply with this exhibit.
17. **Ownership.** If Supplier (i) creates, produces, or develops tangible or intangible work product or deliverables for Smucker under the Purchase Order, (ii) makes modifications to the specifications or any process related to the Goods or Services specifically for Smucker, or (iii) uses or makes modifications to the Confidential Information or intellectual property of Smucker ("**Custom Work**"), Smucker owns the Custom Work. Supplier hereby assigns all rights, title and interest in the Custom Work.

Supplier grants Smucker a non-exclusive, worldwide, fully paid-up and irrevocable license in Supplier's patents, know-how, or other proprietary processes and techniques that are required for Smucker to make, have made, use and sell the Goods or Custom Work. Notwithstanding the prior sentence, Smucker is not disclosing or licensing any trade secret information under this Agreement.

18. Force Majeure. Failure of either Party to perform any of its obligations under this Agreement as a result of an unforeseen circumstance that is beyond its reasonable control and not caused by the claiming Party will not constitute a default under or breach of this Agreement. However, if such an event will prevent Supplier from performing under this Agreement for a period of 14 consecutive days, Smucker may terminate this Agreement in whole or in part at its sole option. Supplier's economic hardship and unexpected cost increases caused by changes in market conditions are not force majeure events.
19. Assignment. Supplier may not assign its obligations and rights under this Agreement without the prior written consent of Smucker. Any change in the control of Supplier will be deemed an assignment under this Agreement.
20. Relationship of the Parties: Representatives. Supplier and Smucker are and will remain independent contractors with respect to each other, and nothing in this Agreement will be construed to place Supplier and Smucker in the relationship of partners, joint ventures, fiduciaries, or agents. Neither Party grants the other Party any right or any authority to assume or create an obligation or responsibility, express or implied, on behalf of or in the name of the other nor bind the other in any manner. Supplier is the sole employer of all employees performing hereunder and is responsible for all matters concerning such employees. Nothing contained in this Agreement will create any contractual relationship between Smucker and any Supplier Representatives. Supplier will remain fully responsible for the performance of the Services and compliance with this Agreement by any Supplier Representatives as if they were Supplier's own employees.
21. Governing Law. Without regard to its conflict of laws principles, the laws of the State of Ohio govern the formation, validity, construction, and performance of this Agreement. Any proceeding between the Parties is to take place in Cuyahoga County, Ohio, which will be the exclusive venue for any such dispute. The Parties expressly waive the application of the United Nations Convention for the International Sale of Goods.
22. Notices. The Parties will send notices, requests, or demands under this Agreement in writing. Notices will be deemed received by a Party (i) upon personal delivery, (ii) five business days after being mailed by certified mail, return receipt requested, or (iii) one business day after being sent by nationally recognized overnight courier. Notices to Supplier will be sent to the address on the Purchase Order and to Smucker at: The J. M. Smucker Company, One Strawberry Lane, Orrville, Ohio 44667, Attn: Legal Department; with copy to: Legal.Notices@jmsmucker.com.
23. Severability. If any term or provision of this Agreement is illegal or unenforceable in any jurisdiction, it will not affect any other term or provision of this Agreement or render unenforceable such term or provision in any other jurisdiction.
24. Survival. This Agreement's completion or termination will not affect any rights or obligations that by their nature must continue to have effect after such completion or termination.
25. Public Disclosures. Except as required by law or with Smucker's written consent, Supplier will not (i) disclose the existence of the Parties' relationship or the terms or subject matter of this Agreement; (ii) issue press releases or any other publication regarding the existence, the terms and conditions, or the subject matter of this Agreement; or (iii) use Smucker's or its affiliates' or licensors' corporate names, trademarks, service marks, logos, or other identifiers.
26. Governing Language. The governing language for this Agreement will be English, and no concurrent or subsequent translation of this Agreement into any language will modify any term of this Agreement.
27. Counterparts. The Parties may sign any number of counterparts to this Agreement, each of which will be deemed an original instrument, but all of which taken together will constitute one and the same agreement. Signed electronic copies of this Agreement or any other electronic documents bind the Parties to the same extent as original documents.
28. Authorization. The Parties respectively warrant that the persons entering into this Agreement are authorized representatives and have all requisite authority to execute this Agreement on behalf of such Party.

ADDENDUM 1 – DIRECT MATERIALS

IF GOODS ARE A FINISHED PRODUCT OR AN INGREDIENT INTENDED FOR A SMUCKER FINISHED PRODUCT, INCLUDING PACKAGING MATERIAL, THE FOLLOWING TERMS APPLY. THESE TERMS ARE IN ADDITION TO AND DO NOT REPLACE THE TERMS SET FORTH IN THE AGREEMENT.

1. Supplier Qualification. Supplier will provide all documentation required by Smucker to qualify the Goods, or any Supplier location supplying the Goods, and will promptly update this documentation upon Smucker's request.
2. Quality Audit. Supplier will allow Smucker reasonable access to visit and inspect the facility and review records relevant to quality and food safety. Supplier will conduct a third-party audit under a Global Food Safety Initiative standard on an annual basis and will provide Smucker with a copy of each report promptly upon receipt. Additionally, Supplier will provide copies of any federal, state, or local regulatory audits promptly upon receipt.
3. Recall. Supplier will provide immediate notice and any material information of any event that could result in a seizure, destruction, recall, or withdrawal of the Goods or any Smucker finished product which incorporates the Goods. Any such decision to seize, destroy, recall, or withdraw will be at Smucker's discretion.
4. Warranties. Supplier represents, warrants, and guarantees that:
 - (a) it will comply with applicable state and federal regulations, including Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Preventive Controls regulations applicable to the Goods;
 - (b) it will comply with all sanitation, food safety, quality, or related requirements that Smucker may provide to Supplier from time to time relating to the Goods;
 - (c) it will promptly complete questionnaires and information requests provided by Smucker relating to quality or food safety;
 - (d) it will only supply the Goods from Smucker-approved supply locations;
 - (e) no Good is adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, or is an article which may not, under the provisions of sections 301 (Prohibited Acts), 402 (Adulterated Food), or 403 (Misbranded Food) of the Act, be introduced into interstate commerce; and
 - (f) no Good is adulterated or misbranded within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Caustic Poison Act, state Pure Food Acts or any other applicable federal, state, or local laws.
5. Insurance. If Supplier provides any food-related Goods, then Supplier will maintain Commercial General Liability and Umbrella/Excess Liability policies that do not have an exclusion for fungi, mold, and/or bacteria in food products intended for consumption.
6. Supply Planning and CoPack Services.
 - (a) If Supplier purchases or manages raw materials or packaging components used to manufacture the Goods, Supplier may purchase raw materials and packaging components to support 90 calendar days of production in Smucker's most recent forecast provided Supplier is also using commercially reasonable efforts in line with past practice. The Parties may agree to longer lead times for raw materials or packaging components through mutual written agreement. Any extra charges, including downtime and freight expediting charges, arising out of Supplier's failure to maintain such inventories or delivery lead times, will be at Supplier's sole cost and expense. Supplier is responsible for inspecting or otherwise ensuring that all materials used in the manufacture of the Goods meet Smucker's specifications.
 - (b) Each Party will comply with all Site Level Execution Documents ("**SLEDs**") that may be mutually agreed to in writing, which will include supplier service level requirements, Smucker's forecasting mechanisms, structures and updates, quality requirements and measures, requirements for Certificates of Analysis ("**COA**"), and data and performance reporting requirements, and other details for day-to-day interactions and running of the business between the plants.
 - (c) Unless otherwise mutually agreed in writing, Supplier shall pay to Smucker the full invoice price for any loss of raw materials, including labels, ingredients, packaging, or equipment furnished by Smucker and in Supplier's possession ("**Smucker Owned Materials**") that exceed five percent of the total Smucker Owned Materials provided to Supplier for a production run.

ADDENDUM 2 – COUNTRY SPECIFIC REQUIREMENTS

IF SMUCKER IS A CANADIAN ENTITY, THE FOLLOWING TERMS APPLY.

Section 13 is deleted in its entirety.

Section 21 is deleted in its entirety and replaced with the following:

21. Governing Law. The formation, validity, construction and performance of this Agreement will be governed by and construed in accordance with the laws of the Province of Ontario without any application of conflict of law rules, and any proceeding between the -Parties not subject to mediation or arbitration will take place in Toronto, Ontario, which will be the exclusive venue for any such dispute.

Section 22 is deleted in its entirety and replaced with the following:

22. Notices. The Parties will send notices, requests, or demands under this Agreement in writing. Notices will be deemed received by a Party (i) upon personal delivery, (ii) five business days after being mailed by certified mail, return receipt requested, or (iii) one business day after being sent by nationally recognized overnight courier. Notices to Supplier will be sent to the address on the Purchase Order and to Smucker at: Smucker Foods of Canada Corp., 675 Cochrane Drive, Floor 6, North Tower, Markham, ON, L3R 0B8, Attn: Legal Department; Copy to: Legal.Notices@jmsmucker.com.

Section 26 is deleted in its entirety and replaced with the following:

26. Governing Language. The governing language for this Agreement will be English, and no concurrent or subsequent translation of this Agreement into any language will modify any term of this Agreement. C'est la volonté expresse des parties que cette convention et tous documents y réfèrent soient rédigés en langue anglaise.