



Purchase Order

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VENTURA FOODS, FT. WORTH-INVENTORY

PO Creation Date: 01/04/21

PO Number 8374765 OP

PO Revision Date: 01/13/21

Ventura Foods, LLC ("Buyer") hereby agrees to purchase from the below-named supplier ("Supplier") and Supplier agrees to supply to Buyer the products described below (the "Products") in accordance with the following terms and conditions:

Supplier: CHEP USA - 104805 FILE 749003 LOS ANGELES CA 90074-9003	Shipping From: CHEP USA - 104805 FILE 749003 LOS ANGELES CA 90074-9003	Ship To: VENTURA FOODS - FT. WORTH DIVISION - 121742 1100 DEFIEL ROAD SAGINAW TX 76179-1216
Contact: FORT WORTH CUSTOMER SERVICE customer.care@chep.com	Ordered By: LANNUTTI, CHRISTINE	Bill To: VENTURA FOODS - FT. WORTH DIVISION - 121742 1100 DEFIEL ROAD SAGINAW TX 76179-1216
Phone: 0	Receiving Appt: 817-232-5450-172	
Freight: PA PPD/ADD FOB: ORIG		
Ship Via:	Delivery Instructions:	

Line	Rev	Item #	Description / Supplier Item	Qty	UM	Curr	Price/Unit	Extended Price
1.000	1	19380	PALLET,GMA,WHITE WOOD		EA	USD	6.0000	3,240.00
		Requested Date	Promised Date	Delivery Date/Time	VF Scheduled Pickup			
		01/04/21	01/04/21	01/04/21	N/A			
2.000	2	11619	PALLET,CHEP BLOCK		EA	USD	3.7546	2,027.48
		Requested Date	Promised Date	Delivery Date/Time	VF Scheduled Pickup			
		01/04/21	01/04/21	01/04/21	N/A			

Total Order: 5,267.48**Payee:** CHEP USA - 104805**Branch Plant:** 060**Term:** Net 35 Days

THE GENERAL TERMS AND CONDITIONS ATTACHED HERETO CONSTITUTE AN INTEGRAL PART OF THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL BE GOVERNED EXCLUSIVELY BY THE TERMS THEREOF, UNLESS THERE IS A CURRENT WRITTEN AGREEMENT IN PLACE SIGNED BY BOTH PARTIES.

TERMS AND CONDITIONS OF PURCHASE ORDER :8374765| OP

1. **Acceptance.** Supplier's commencement of work on the products or services described on the face hereof (the "Products") or shipment of the Products, whichever occurs first, shall be deemed an effective mode of acceptance of Buyer's offer to purchase contained in this purchase order (this "Order"). Any acceptance of this Order is limited to acceptance of the express terms of the offer contained on the face and back hereof. Any proposal for additional or different terms or any attempt by Supplier to vary in any degree any of the terms of this offer in Supplier's acceptance is hereby objected to and rejected; provided, unless such variations are in the terms of the description, quantity, price or delivery schedule of the Products, such proposal shall not operate as a rejection of this offer but shall be deemed a material alteration thereof, and this offer shall be deemed assented by the Supplier without said additional or different terms. This Order supersedes and cancels all prior discussions, agreements and understandings with respect to the subject matter hereof between the parties, written, oral or implied. No agreement or understanding to modify this Order shall be binding upon Buyer unless in writing and signed by Buyer's authorized agent. All specifications, drawings, and data submitted to Supplier with this Order are hereby incorporated herein and made a part hereof.
2. **Prices.** The prices and terms stipulated on the face of this Order are those actually applying to this transaction, subject to the Buyer's right to discounts, deductions, or rebates agreed between the parties. Supplier represents that the price charged for Products is the lowest price charged by Supplier to buyers of a class similar to Buyer under conditions similar to those specified in this Order. Supplier agrees that any price reduction made in Products subsequent to the placement of this Order, but prior to delivery, will be applicable to this Order. Supplier warrants that prices shown on this Order shall be complete, and no additional charges of any type, including, but not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing or crating, shall be added without Buyer's express written consent.
3. **Delivery.** TIME IS OF THE ESSENCE IN THIS AGREEMENT. Products must arrive at Buyer's location with at least 65% of shelf life remaining from date of manufacture, unless Supplier has received Buyer's prior written approval. Unless the time and place of delivery is specified on the face of this Order, Buyer retains the right to hereafter specify the time and place of delivery and reserves the right to route all shipments. Any deviation from a specified route which shall result in excess transportation charges, delays or claims shall be at the expense of Supplier. The Products may not be transshipped or delivered in installments without the prior written consent of Buyer unless otherwise provided on the face of this Order. If for any reason not the fault of Buyer, Supplier fails to meet the delivery date, Buyer may, at its option, terminate this Order by giving Supplier notice without incurring any liability. Supplier shall advise Buyer immediately of any shortage or delay in shipment. Buyer may, at its option, accept delayed deliveries from Supplier without thereby waiving its right to demand strict compliance with the delivery schedule set forth with respect to all other deliveries. Supplier shall not substitute or back order without prior written consent of Buyer. Any loss sustained or penalties incurred by Buyer resulting from such late delivery shall be paid by Supplier to Buyer when Supplier is responsible for shipment. Title and risk of loss shall remain with the Supplier until FOB point.
4. **Inspection.** Buyer has the right to request samples of finished Product for testing with the Supplier responsible for the cost of the samples and shipping. All Products are subject to the inspection of Buyer upon arrival at destination, even though payment may have been made prior to such arrival. If upon inspection, which shall be made within a reasonable time after delivery of the Products, the same proves not to conform to the requirements of this Order, Buyer shall be entitled to reject the defective or nonconforming Products and return the same to Supplier, whereupon Supplier shall refund to Buyer any part of the purchase price theretofore paid for said Products, together with all charges incurred by Buyer for transportation, handling and storage.
5. **Packing.** Buyer will pay no charge for cartons, wrapping, packing, boxing, crating, delivery, drayage or other extras, unless agreed to in writing by Buyer. All packages and Products must be packed and marked by Supplier at its own expense in accordance with Buyer's instructions. All Products, wrappers and containers must bear markings and labels required by applicable federal, state and local laws and regulations. Any packages or Products not in accordance with this Section may be returned to Supplier, at Supplier's risk and expense, or Buyer may repack and/or remark and charge Supplier. On the date of the shipment, Supplier shall promptly forward to Buyer complete sets of duly executed Supplier's invoice, shipping documents, certifications, packing list and any other documents required to be furnished by Supplier.
6. **Warranties.** Buyer maintains the highest standards for food and packaging products and materials used in its finished products. Because the Products are intended for human consumption or use in the holding, handling, preparation or serving of food for human consumption, the importance of maintaining safety and quality standards is self-evident. Supplier hereby represents, warrants and guarantees to Buyer that: (a) all Products to be furnished hereunder shall strictly conform to the specifications, drawings or other descriptions furnished or specified by Buyer, are of merchantable quality, shall be free from defects in materials or workmanship and shall be safe and fit for the intended purpose, including if applicable, fit for human consumption; (b) there shall not be any variance in the quantity, size or quality of the Products unless authorized by Buyer in writing; (c) all Products shall comply with all federal, state, country and local laws, regulations and requirements and shall be free of any contamination of any type, whether chemical, biological or otherwise, within the tolerances established by the Food and Drug Administration; (d) the Products shall not be adulterated or mis-branded within the meaning of the Federal Food, Drug and Cosmetic Act or consist of an article which may not be introduced into interstate commerce; (e) all Products are free and clear of all liens and encumbrances whatsoever and Supplier has good and marketable title thereto; (f) all warranties of Supplier shall run in favor of Buyer, its successors, assigns, distributors, brokers and customers; (g) this warranty shall survive any inspection, delivery, acceptance, or payment by Buyer of the Products; and (h) in the event any Products do not conform to the warranties set forth herein, Buyer may, at Buyer's option, and without limiting Buyer's remedies under this Order or otherwise, (1) obtain a full refund of the price paid for such non-conforming Products or (2) return such non-conforming Products to Supplier for correction or replacement, at Supplier's sole cost and expense. The above warranties shall be in addition to any other warranties, express or implied, that shall apply to the Products, goods or services provided by Supplier pursuant to this Order.
7. **Changes.** Buyer shall have the right at any time to make changes in the drawings, designs, specifications, quantity, delivery schedules, methods of shipment or packing and place of inspection, acceptance and/or point of delivery of any item to be furnished or services to be rendered under this Order. No change shall be effective without the prior consent of Buyer. If such change causes a delay or an increase or decrease in expense to Supplier, Supplier shall immediately notify Buyer and negotiate an equitable adjustment. However, Supplier shall proceed diligently to supply the items or perform the work or services contracted for under this Order as so changed. No claim for such equitable adjustment by Supplier will be valid unless submitted to Buyer in writing within thirty (30) days from the date of receipt of such notice of change accompanied by an estimate of charges resulting from such changes.
8. **Audit.** Buyer and/or its agents or representatives shall have the right, from time to time, to audit Supplier's fields, facilities, manufacturing processes and products. In addition, Supplier shall provide Buyer with a copy of sanitation, pest control, and regulatory inspections, including those undertaken by employees or agents of Supplier, upon request. Further, Supplier shall conduct at its expense an annual Facility and Food Safety Systems audit by hiring an independent third party, subject to the approval by Buyer, to perform an audit for Buyer. Promptly following completion of the audit, Supplier must provide Buyer with the audit report, report summary, list of deficiencies, score (if applicable) and a reasonable plan for addressing all deficiencies identified in the audit.
9. **Confidentiality.** Supplier acknowledges that (i) any information received by Buyer from third parties which Buyer is obligated to keep confidential, (ii) any information regarding Buyer that is not generally known or readily ascertainable outside of Buyer, whether or not marked confidential and/or (iii) Buyer finances, plans, marketing, customers, vendors, products, programs, techniques, technology, research, recipes, formulae, specifications, design, drawings, methods, strategies, testing, know-how and other activities, that become known to Supplier through disclosure, observation or otherwise (collectively, the "Confidential Information") constitutes valuable confidential information of Buyer and others. Accordingly, Supplier agrees that it will: (a) not use Confidential Information received from Buyer for any purpose other than the performance of the Services under this Agreement; and (b) maintain in confidence and not disclose the Confidential Information to any person or entity without Buyer's prior written consent, which consent Buyer may withhold in its sole discretion. Supplier's obligations under this paragraph shall continue after the termination of this Agreement.
10. **Ownership of Results.** All inserts, materials, information, works of authorship, plans, sketches, recipes, formulae, designs, patterns, documents, devices, data, methods, strategies, procedures, ideas, methods, techniques, drawings, specifications, reports, studies, maps, work sheets, photographs and other work product prepared by or on behalf of Buyer in connection with this Order (collectively, the "Results") shall become the property of Buyer and shall be promptly disclosed and delivered to Buyer when prepared. Supplier hereby assigns to Buyer without separate compensation, all right, title and interest in and to the Results not already owned by Buyer, together with all associated United States and foreign patent, copyright, trade secret and proprietary rights, including without limitation, the right of registration and renewal. All tangible information, including, but not limited to, all summaries, copies and excerpts of any information which come into Supplier's possession, custody or knowledge or are developed, compiled, prepared, or used by Supplier in the course of or in connection with the Services, and all tangible property in Supplier's custody or possession relating to the Services and all copies of same, shall be the sole property of Buyer and shall, upon Buyer's request or in any event upon completion of the Order, be immediately returned by Supplier to Buyer.
11. **Indemnification.** Supplier shall defend, indemnify and hold harmless Buyer, its parents, subsidiaries, affiliates and customers, and its and their respective officers, directors, agents, servants, representatives and employees from and against all loss, including loss of use, liability, damages, claims, settlements, judgments, fines, penalties, demands, actions and proceedings, and all costs and expenses connected therewith, including reasonable attorneys' fees, of whatsoever cause or nature on account of: (1) any damage to or loss or destruction of any property, including property of Buyer or injury to or death of any person, arising directly or indirectly out of or in connection with the Products and Supplier's performance of or failure to perform its obligations pursuant to this Order, including the design, manufacture and sale of any Products; (2) claims that the Products infringe upon any patents, trademarks, copyrights or other proprietary rights of a third party; (3) claims and liens of all persons based upon the furnishing of labor or materials in connection with the performance of work related to the design or manufacture of any Products; or (4) breach of or any default by Supplier of any of its warranties or other obligations under this Order. If Buyer does not elect to defend such suit, Supplier, upon request by Buyer and at Supplier's sole cost and expense, shall take over the defense of any such suit against Buyer. Buyer may retain counsel of its own choosing and participate in any such suit for its own protection with all costs, expenses and attorneys' fees of Buyer being payable by Supplier.
12. **Insurance.** Supplier shall maintain such third party liability and property damage insurance, including general and product liability with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, worker's compensation insurance in the minimum amounts required by law, and automobile insurance coverage with a combined single limit of one million dollars (\$1,000,000), with such insurers and in such amounts as shall be satisfactory to Buyer and which will insure Supplier and Buyer from and against any and all occurrences resulting in claims for damages because of bodily injury, death or damages arising from or in any way related to the design or manufacture of Products, and such coverage will be primary and non-contributory. Supplier shall cause Buyer and its affiliated, parent and subsidiary companies to be added as an additional named insured on any such insurance policy covering such goods, which policy shall require that Buyer be afforded at least 30 days' prior written notice in the event of a material change, expiration, cancellation or termination of such policy or any of the coverages set forth therein. Supplier shall, upon Buyer's request, provide Buyer with certificates evidencing such insurance.
13. **Termination.** In the event (a) Supplier fails to use due diligence in proceeding with the performance of the work required, or fails to perform any of the covenants on its part to be performed hereunder, or breaches this Order; (b) Supplier files a petition for bankruptcy or reorganization under the Bankruptcy Act; or (c) Supplier fails to pay when due any charge for labor, materials, or services incurred in connection with work under this Order, Buyer may, in addition to any remedies which it has at law, terminate this Order upon written notice to Supplier.
14. **Damages.** In the event of any termination of this Order by Supplier, Buyer shall have the right to recover damages against Supplier by reason of Supplier's default or prior breach of this Contract. Whenever Buyer shall be entitled to damages under any term of this Order, such damages shall include all loss of Buyer of every kind and nature, including, but not limited to, loss of profits, special, direct, indirect and consequential damages. IN NO EVENT SHALL BUYER BE LIABLE TO SUPPLIER FOR PENALTIES OF ANY DESCRIPTION, FOR ANTICIPATED PROFITS OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. Buyer's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Order or from the performance or breach thereof shall in no case exceed the price allocable to the good or services or unit thereof which gives rise to the claim. Any action resulting from breach on the part of Buyer as to the goods or services delivered hereunder must be commenced within one year after the cause of action has occurred.
15. **Force Majeure.** This Order and the performance of both parties hereunder are subject to all contingencies beyond the control of either Buyer or Supplier, including, but not limited to, act of God, fire, flood, war, rules, laws and orders of any government restricting export from the United States or restricting import into any foreign country, accidents, strikes or labor disputes and other casualties and contingencies beyond the control of either party or otherwise unavoidable. In any such event, Buyer shall have the right at its election and without any liability on it to Supplier to (i) cancel all or any portion of the Order, or (ii) accept performance of the Order so restricted or modified and Supplier shall perform the Order as so restricted or modified, or (iii) accept performance within a reasonable time after the causes for nonperformance or delay have terminated.
16. **Compliance.** In the performance of its obligations of this Order, including, without limitation, the manufacture, transportation and delivery of Products, Supplier shall comply with, and make all stipulations and representations required by, all applicable federal, state and local laws, regulations and requirements of any department, bureau or other government agency, including, but not limited to, the Occupational Safety and Health Act, Fair Labor Standards Act, U.S. Department of Agriculture, Lacey Act, Toxic Substances Control Act, U.S. Department of Transportation and U.S. Environmental Protection Agency regulations for hazardous substances, and any other standards and regulations promulgated thereunder. In particular, but without limiting the generality of the foregoing, Supplier agrees that it will at all times cause all Products warehoused by Supplier or shipped in its vehicles to be maintained in compliance with all applicable laws, statutes, rules and regulations and any applicable standards required by any governmental agency relation to health, safety, and the preservation of food products, (i) that all Products shall be handled, warehoused and shipped by Supplier in accordance with the requirements of this Agreement and in compliance with standards established by Buyer, which standards Buyer may reasonably modify from time to time, as well as in accordance with the manufacturer's warranty requirements and (ii) that Supplier shall maintain all Products in proper refrigerated storage facilities and proper refrigerated trucks and or other vehicles during the transport of the Products, at the proper temperatures and that no frozen Products will have thawed and been refrozen prior to being delivered to Buyer. Supplier hereby covenants to indemnify and hold Buyer harmless from and against any and all costs, damages and assessments, including reasonable attorneys' fees suffered by Buyer directly or indirectly through any failure of Supplier to comply with any said laws, regulations or requirements which apply to this Order.
17. **Applicable Laws.** This Order shall be deemed to have been entered into in the State of California and all questions concerning the validity, interpretation or performance of any of its terms or provisions or of any rights or obligations of the parties hereto, shall be governed by and resolved in accordance with the laws of the State of California. Any action brought to resolve a dispute arising from this Order shall be brought in a court of appropriate jurisdiction in Orange County, California. Supplier hereby consents to the jurisdiction of any such court. The prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief to which it may be entitled, attorneys' fees and costs incurred by it in prosecuting or defending such action.
18. **Waiver.** No claim or right arising out of a breach of this Order can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. Title invalidity, in whole or in part, of any provision of this Order shall not affect the validity or enforceability of any other provision.
19. **Assignment.** This Order and all rights, duties and obligations of Buyer and warranties of Buyer under this Order may be transferred, assigned or delegated by Buyer in whole or in part to any other person or persons, including without limitation, Buyer's parent, subsidiaries and affiliates, without the prior written consent of Supplier. No right or interest in this Order shall be assigned by Supplier without the prior written consent of Buyer, and no delegation of any obligation owed, or of the performance of any obligation by Supplier, shall be made without the written consent of Buyer. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
20. **Notice.** Any notice required or contemplated by this Order shall be in writing, delivered in person, or by fax with the original copy thereof sent immediately thereafter by established air express courier service addressed to the parties, at such fax numbers and addresses as may from time to time be provided by the parties.
21. **Survivability.** The provisions of this Agreement, which by their nature survive; the final acceptance of the Products, shall remain in full force and effect after such termination to the extent provided in such provisions.