



STANDARD CUSTOMER TERMS AND CONDITIONS

- 1. Terms and Conditions.** These Standard Terms and Conditions govern all sales made by Tendergrass Farms, Inc. ("Tendergrass") to Customer. Tendergrass rejects any terms and conditions contrary to these Standard Terms and Conditions ("Terms and Conditions"), including but not limited to terms and conditions proposed in a Customer purchase order. Tendergrass' failure to object to provisions contained in any communication from Customer shall not be deemed a waiver of these Terms and Conditions. Any changes in the Terms and Conditions contained herein must be specifically agreed to in writing signed by an authorized officer of Tendergrass.
- 2. Pricing.** The pricing in the current price sheet, proposal or quotation from Tendergrass ("Proposal") applies only to the type of goods and quantity referred to in such Proposal (the "Goods"). Tendergrass may, at its option, change the Goods pricing and other terms for any subsequent sales of the Goods or any other goods offered by Tendergrass. The applicable prices are only those specified in Tendergrass' Proposal and, unless expressly specified in writing signed by an authorized representative of Tendergrass, do not include applicable destination charges or taxes.
- 3. Orders.** All orders shall describe the Goods sought, including the Goods identifier, quantity, unit price and total price; delivery location and delivery schedule; and contain Customer's contact information. Once an order is accepted by Tendergrass in writing, any order for Goods pursuant to the Proposal is firm and adjustments and/or cancellations will not be permitted, unless received within twenty-four (24) hours of the order being entered. Once twenty-four (24) hours have passed, an order is final and non-cancelable, unless Tendergrass agrees in its sole discretion to make an accommodation.
- 4. Shipping/Risk of Loss.** Where Tendergrass arranges for shipping, and the pricing in the Proposal is FOB Tendergrass', or its agent's, facility, Customer agrees to pay the costs therefore at Tendergrass' rates then in effect. Where Tendergrass arranges for shipping, any claims for damages occurring in transit shall be submitted directly to Tendergrass upon discovery of such damage. Customer will be responsible for additional costs incurred due to an incorrect address being provided to Tendergrass. For Goods where Customer arranges the shipping, deliveries shall be FOB Tendergrass', or its agent's, facility, and risk of loss shall pass to Customer upon delivery of the Goods to Customer's selected carrier at Tendergrass' or its agent's facility.
- 5. Title.** Title shall pass to Customer upon receipt of full payment on all outstanding invoices for the Goods and any shipping costs incurred by Tendergrass for delivery of Goods.
- 6. Payments.** Customer will pay Tendergrass for Goods within seven (7) days from invoice date. Interest on late payments will accrue at 1.5% per month (annual rate 18.0%), or the maximum rate permitted by law.
- 7. Compliance with Laws.** Tendergrass will comply with all applicable laws, regulations and ordinances applicable to its provision of the Goods hereunder. Specifically, Tendergrass guarantees and warrants that all Goods will (i) comply with all applicable pure food laws, including the U.S. Food, Drug and Cosmetic Act, as amended (the "FDA Act"), Federal Hazardous Substances Act, the Poultry Products Inspection Act, the Federal Meat Inspection Act, the Federal Poison Prevention Packaging Act, the Federal Consumer Product Safety Act and the Federal Humane Slaughter Act, as applicable.
- 8. Limited Warranty/Disclaimer.** TENDERGRASS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARISING BY LAW, CONTRACT OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE SPECIFICALLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.
- 9. Limitation of Liability.** TENDERGRASS' LIABILITY TO CUSTOMER FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ANY ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, SHALL BE LIMITED TO THE PRICE SPECIFIED IN THE PROPOSAL FOR THE SPECIFIC GOODS THAT CAUSED THE DAMAGES OR THAT IS THE SUBJECT MATTER OF, OR IS DIRECTLY OR INDIRECTLY RELATED TO THE CAUSE OF ACTION. TENDERGRASS SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF USE OR OTHER SPECIAL, COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION THEREOF, WHETHER IN CONTRACT OR IN TORT, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, EVEN IF TENDERGRASS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGES ARISING FROM OR IN CONNECTION WITH, THE USE OR MISUSE OF THE GOODS BY CUSTOMER, ITS EMPLOYEES, OR OTHERS.
- 10. Force Majeure.** Tendergrass will not be responsible or liable for any delay or failure in performance arising as a result of fire, accident, acts of God, acts of public enemy, war, labor, disputes, failure or delays by third parties, transportation, inability to secure Goods, raw materials or machinery for the manufacturing process, pandemics, requirements or acts of any government or agency thereof, judicial action or other causes beyond such party's control. In such event, the delayed party may defer performance for a period equal to the time lost by reason of the delay. If such time exceeds forty-five (45) days, either party may by written notice to the other party cancel the order as to any Goods then undelivered without liability to the other party.
- 11. Miscellaneous.**
 - a. Assignment.** Customer will not assign or subcontract its order, any interest or right therein without the prior written consent of Tendergrass.
 - b. Severability.** In the event of any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this contract will be construed as if such invalid, illegal or unenforceable provision had never been contained therein.
 - c. Waivers/Amendment.** No waiver, amendment or modification of any provision of this Agreement will be valid unless it is in writing and executed by the duly authorized representatives of the Parties. The failure by either party to insist upon strict performance of any provision will not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same provision at any other time or any other provision of this Agreement.
 - d. Governing Law.** Any dispute regarding the order or the Proposal (including these Terms and Conditions) will be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of laws provisions. Customer agrees that it will submit to the personal jurisdiction of the competent courts of the Commonwealth of Virginia and the courts of the United States sitting in the Western District of Virginia, in any controversy or claim arising out of the sale contract. In the event a dispute arises under these Terms and Conditions or any order, the prevailing party in such dispute shall be entitled to recover its reasonable attorneys' fees.
 - e. Headings.** The headings are for convenience only and shall not define, limit or construe the contents of such section.