

PANERA, LLC TERMS AND CONDITIONS OF PURCHASE ORDER

INTRODUCTION

Unless there is a separate written agreement that has been signed by both parties addressing the Goods or Services (each defined below) including without limitation as may be set forth on the cover page hereof, by i) shipping or delivering the goods ordered on the cover page(s) of the purchase order or other agreement into which these Terms and Conditions of Purchase Order are incorporated by reference (collectively for purposes of reference, this "Purchase Order"), ii) performing the services specified on this Purchase Order or which are otherwise requested by Panera in writing, by email, verbally or otherwise (which request shall also be considered a Purchase Order for purposes of these Terms and Conditions of Purchase Order), or iii) acknowledging receipt of this Purchase Order, the Seller identified on the Purchase Order ("Seller") agrees to the terms and conditions herein. Any different or additional terms and conditions contained in any Seller form, including but not limited to an acknowledgement or invoice are hereby rejected unless specifically agreed to in writing by an authorized representative of Panera, LLC or its relevant affiliate (which means and any company or organization (including any partnership and limited liability organization) controlling, or controlled by Panera) (in either case, "Panera") having authority to approve such change.

Notwithstanding i) any prior or subsequent offer made by Seller with respect to any of the Goods or Services, ii) any purported acceptance of any such offer as may be created by this Purchase Order or iii) any prior or subsequent conduct of Panera (including Panera's acceptance of or payment for any of the goods or services), this Purchase Order shall govern the transactions contemplated hereby in all respects.

Seller acknowledges and agrees that it has had sufficient opportunity to review this Purchase Order, and that this Purchase Order shall apply as follows:

- Section A below shall apply specifically to the purchase by Panera of the goods, if any, identified on this Purchase Order (the "Goods");
- Section B below shall apply specifically to the purchase by Panera of the services, if any, identified on this Purchase Order (the "Services"); and
- Section C below shall apply generally to the purchase by Panera of all Goods and/or Services identified on this Purchase Order.

A. TERMS AND CONDITIONS FOR PURCHASE OF GOODS

1. LABOR/PERFORMANCE BOND

If the delivery dates set forth on the cover page(s) or otherwise identified by Panera cannot be met, Seller must inform Panera in writing (in accordance with the notice requirements hereof) of Seller's best possible delivery date for Panera's acceptance or rejection. If requested by Panera, Seller will obtain and deliver to Panera a labor and materials bond as security for Seller's performance and payment for all labor and materials used in connection therewith. The cost of the aforesaid bonds, and all permits approvals and licenses necessary to perform Seller's obligations hereunder, shall be at Seller's expense.

2. PRICE GUARANTY

If no price is shown on the cover page(s) of the Purchase Order, Seller's price shall not be higher than the last price quoted or charged to Panera unless otherwise agreed in writing. Seller warrants that the prices, allowance and other terms and conditions applicable to this Purchase Order are as favorable as any currently offered by Seller to any other customer for similar quality, quantity and delivery requirements. If more favorable prices, allowances or other terms and conditions are hereafter offered by Seller to any other customer prior to completion of deliveries hereunder, Seller shall immediately notify Panera and any such prices, allowances and other terms and conditions shall apply to this Purchase Order.

3. RECEIPT OF GOODS/INSPECTION/ QUALITY ASSURANCE

Receipt by Panera of any Goods, irrespective of any contrary provisions upon such receipt, shall not be deemed acceptance. Such receipt shall evidence only

the time and place thereof and the quantity of cartons or other shipping containers received. Panera and/or its agent shall have the right to conduct all inspections of Goods. If requested by Panera, Seller shall establish a quality assurance program which is acceptable to Panera; such program shall encompass Seller's supply chain at all levels and the provision of audit reports applicable to Seller and its supply chain.

4. REJECTION OF GOODS

At Panera's option, Goods not in every respect as required by Panera or as warranted or not shipped in compliance with Panera's shipping directions, may in whole or in part be rejected and returned to Seller, at Seller's risk and expense, or held by Panera for Seller's account, at Seller's risk and expense, notwithstanding the acceptance or rejection of any previously received partial shipment, and in either such event Panera shall receive credit for the amount rejected or returned; or Panera may retain same for its own account and receive a credit for any shortage. Until reasonable instructions are received from Seller after notice of rejection has been given by Panera, Panera is under no duty as to Goods which are perishable or threaten to decline in value speedily. All return instructions and processes must comply with Panera's directions.

5. WARRANTIES

Seller warrants that all Goods and/or materials delivered hereunder are hereby warranted and guaranteed: (i) to not be adulterated or misbranded within the meaning of all applicable laws (as defined below); (ii) to not be an article which cannot be introduced into interstate commerce or into commerce generally (by Seller or Panera) in compliance with all applicable laws; (iii) to comply and to have been in compliance with all of Panera's specifications,

order and any other terms of purchase including any certifications and/or declarations as Panera may request from time to time; (iv) that use and operation of the Goods in the normal course in compliance with its instructions shall not cause Panera to be in violation of any applicable law; (v) if the Goods will be shipped to Canada (by Seller or Panera), to be an article which can be exported from the United States and imported into Canada in compliance with all applicable laws; if the Goods will be shipped from Canada (by Panera or Seller), to be an article which can be exported from Canada and imported into the United States in compliance with all applicable laws; (vi) (vi) to conform strictly to any proposal, quote, invoice, order form, specifications, drawings, or sample specified or expressly accepted by Panera, furnished or otherwise communicated to Seller by Panera or other terms of purchase; (vii) to be fit for the known purposes for which the Good was purchased; (viii) that Seller has good and merchantable title to each Good and that each Good does not, as a result of the acts or processes of Seller, infringe or contribute to the infringement of any patent, copyright, trademark, trade secret or other intellectual property rights of any third party; and (ix) to comply with all applicable mandatory industry regulations and voluntary industry standard product certifications typically met by companies in Seller's (and, if applicable, the manufacturer's) industry and/or identified by Panera from time to time (such as compliance with American National Standards Institute (ANSI) and American Society for Testing and Materials (ASTM) standards), Canadian Standards Association (CSA), NSF International (NSF), Underwriter's Laboratory, Inc. (UL); and/or Business and Institutional Furniture Manufacturers Association (BIFMA) standards). Seller also warrants that (i) it is in compliance with, and that the Goods and their design, construction, manufacture, production, processing, warehousing, shipment, delivery and supply, as applicable, will comply with, all applicable Federal, State, provincial, territorial, local, municipal and international laws, ordinances, rules, policies, practices and regulations and any subsequent amendments, and all implementing legislation and regulations, and all applicable industry standards (referred to collectively as "laws") applicable to the Goods, or applicable to the advertising, design, distribution, labeling, marking, processing, pricing, production, promotion, sale or testing of the Goods, including, but expressly not limited to, laws in the following areas: access, anti-bribery, consumer product safety, customs, environmental, employment, labor, food and drug, foreign corrupt practices, occupational safety, product labeling, sexual harassment and transshipment, (ii) the Goods and/or materials are and will remain free from all security interests, charges, liens, encumbrances, defects in design, material or workmanship and of good and merchantable quality; (iii) the Goods and their markings, labels, design and appearance do not infringe any patents, trade dress, trademarks, tradenames, copyrights or other rights of others, nor do they unfairly compete therewith, (iv) upon request it will immediately provide to Panera or a Panera-designated recipient full, complete and accurate copies of all import, export or shipment information relating to the Goods and that all such information is in compliance with all applicable laws, and (v) it will perform all applicable testing to ensure that all warranties in this Purchase Order, are accurate, and Seller provide evidence of the same to Panera at Panera's request. These warranties shall survive delivery and inspection and shall not be deemed waived either by reason of Panera's acceptance of said Goods and/or materials or by payment for them. Panera's remedies for breach of the aforesaid warranties shall include the right to recover any loss of profits or other consequential, incidental, indirect or special damages caused thereby. Such rights shall be in addition to any other remedies provided by law. All of Seller's warranty instructions and processes must comply with Panera's directions.

All of the aforesaid warranty provisions are fully transferrable from the actual purchaser of Goods to the end user of the Goods (e.g. Authorized Distributor may transfer the warranty to Panera, an affiliate or a Franchisee which purchases the Goods from Authorized Distributor). No additional paperwork, registration or other process need be completed to evidence any such transfer.

6. RIGHT TO INSPECT

Panera has the right to inspect Goods being manufactured against this Purchase Order at Seller's premises. Exercise of such right to inspect at Seller's premises shall in no way interfere with Panera's right to final inspection as provided in the paragraph herein titled "Receipt of Goods/Inspection".

7. REMEDIES

In the event of any violation of any warranty or other obligation of Seller under this Purchase Order or otherwise with respect to any of the Goods,

Panera shall have the right to return any or all of the Goods to Seller for full credit and/or to be compensated for any and all loss or damages suffered by Panera as a result of such violation, and/or such return, including but not limited to Panera's direct damages (e.g. storage costs, freight costs and handling costs in respect of the Goods), Panera's indirect damages (e.g. incidental and consequential damages) by reason of such violation and/or any such return, and all other costs and expenses associated with such violation or any such return. The foregoing is in addition to all other remedies available under this Purchase Order (including without limitation indemnification obligations of Seller).

8. INDEMNIFICATION

Seller shall indemnify, defend and hold harmless Panera, its affiliates, and each of Panera's and/or its affiliates' Franchisees, Authorized Distributor(s) and each of their respective customers, officers, directors, employees, shareholders, members, managers, insurers and agents (individually, an "Indemnitee"), from and against all actions, suits, claims and/or proceedings (including without limitation by any governmental authority (collectively, "Claims"), and/or any judgments, damages, fines, loss, cost and expense, including counsel fees and costs of defending, incurred by Indemnitee(s) resulting therefrom (including those asserted, brought or commenced by any of Seller's Representatives) or any other person or entity) arising out of or resulting directly or indirectly from (a) the acts or omissions of Seller, its suppliers or any of their Representatives, or any failure by Seller to comply with its obligations under, or any term, obligation, warranty or representation under, this Purchase Order, (b) any circumstances constituting (or which if proven would constitute) a failure or alleged failure of Seller or the Goods to conform to the terms of any obligation of Seller or any warranty made by Seller hereunder, (c) death or injuries to persons or damage to property caused, or alleged to be caused, by any defects in the Goods, (d) the supply, delivery, sale, labeling, use or consumption of any Goods, (e) breach by Seller or any Goods of any intellectual property rights of a third party, or (e) Seller's and/or its Representative's visits to one or more of Panera's facilities. Seller's indemnification obligations hereunder shall not apply to the extent that Claims are caused solely by the malfeasance of Panera. Panera may request Seller to assume the defense of any Claim (it being understood that Panera shall have the right to approve any settlement). Panera shall be entitled to be kept informed of the status of such proceedings. In the alternative, at Panera's option, and in Panera's sole discretion, Panera may retain full control over the defense and settlement of any Claim and may require Seller to cooperate in such defense and settlement, all at Seller's expense. Seller's indemnity hereunder shall be in favor of all Indemnitee(s). Indemnitee shall notify Seller promptly of the service of process or the receipt of actual notice of any Claim; provided, however, that no delay on the part of the Indemnitee in notifying or providing notice to Seller of any Claim shall relieve Seller from any liability or obligation under this Purchase Order unless Seller is damaged or prejudiced thereby, and then only to the extent of such damage or prejudice.

9. RIGHT TO CANCEL/RIGHT TO MODIFY

Panera shall have the right to make, from time to time and without notice to any sureties or assignees, changes as to packing, testing, destinations, specifications, designs, and delivery schedule. Seller shall immediately notify Panera of any increases or decreases in cost caused by such changes and an equitable adjustment in prices or other terms hereof shall be agreed upon in a written amendment to this Purchase Order. Panera reserves the right, in case of fire, vandalism, malicious mischief, other casualty, war, civil commotion, embargo, governmental regulation or labor dispute, or any event beyond its reasonable control to cancel this Purchase Order in whole or part. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, including, without limitation, any proceeding for reorganization, arrangement or debt settlement or compensation, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then Panera shall be entitled to cancel any unfulfilled part of this Purchase Order without any liability whatsoever, and Panera shall be entitled to withhold from any payments due from Panera an amount estimated by Panera to be a reasonable reserve for payment to Panera of any future claims against Seller for returns, defects and the like.

10. RISK OF LOSS

Shipment of Goods shall be made according to Panera's shipping directions. The FOB point for the Goods will be mutually agreed upon between the

parties. Seller shall forward to Panera, with the invoice, the express receipt or bill of lading, signed by the carrier, evidencing the fact that the shipment has been made. Unless otherwise agreed in writing by an authorized representative of Panera in connection with any specific Goods, the risk of loss or damage to Goods, whether in transit or at rest, shall be upon Seller until receipt by Panera.

11. SPECIFICATIONS AND DRAWINGS

All Goods must be identified on all invoices, shipping documents and other documents and communications with the TAG identifier provided by Panera, if available. Any specifications, drawings, notes, instructions, engineering notices, or technical data referred to in this Purchase Order shall be deemed to be incorporated herein by reference as if fully set forth. In case of any discrepancies or questions, Seller shall refer to Panera for decision or instructions or for interpretation. Panera has the right to change the specifications at any time by providing notice of the same to Company; provided, however, that any such change will take into consideration Company's lead time for implementing any changes, and Company will immediately notify Panera if any such change will result in a change in pricing, in which case the parties must mutually agree on any such price change in writing prior to such specification change taking effect.

12. TITLE TO DRAWINGS

Panera shall at all times own all right, title and interest in and to all drawings and specifications furnished by Panera to Seller and intended for use in connection with this Purchase Order, and Seller shall not disclose such drawings or specifications to any person, firm or corporation other than Panera's or Seller's employees, Subcontractors, or Government inspectors who have a need to know such drawings and specifications as a necessary condition to Seller's performance of obligations hereunder. Seller shall upon Panera's request or upon completion of this Purchase Order promptly return all drawings and specifications to Panera.

13. COMMENCEMENT AND DELIVERY

No materials shall be released or work started until Seller is notified to do so by Panera unless this Purchase Order specifies otherwise. Seller shall advise Panera immediately as to the time required to make shipment after material is released. All deliveries must be completed within the time frames set forth in this Purchase Order or as otherwise requested by Panera.

Seller acknowledges that failure to deliver Goods in a timely manner may cause disruption to Panera's location opening schedule; accordingly, Seller will expedite the shipment of any Goods necessary to ensure that Panera's location opening schedule is met, and if such expedited shipment is required due to Seller's failure to perform its obligations, the portion of the expedited shipping expenses which are above the normal shipping expenses will be paid by Seller. Seller will use its best efforts to promptly identify to Panera any delay in shipment of Goods, and will take such steps as are authorized by Panera related to expedited shipping related thereto.

B. TERMS AND CONDITIONS FOR PURCHASE OF SERVICES

The terms and conditions set forth in this Section B shall continue in full force and effect so long as any Services are being provided under this Purchase Order, regardless of whether any fees are due to Seller in connection with any such Services.

1. INDEMNIFICATION

Seller shall defend, indemnify and hold harmless Panera and all Indemnitees, from and against all third party Claims and/or any judgements, damages, fines, loss, cost and expense, including counsel fees and costs of defending, incurred by Indemnitees resulting therefrom (including those asserted, brought or commenced by any of Seller's Representatives) or any other person or entity arising out of or resulting directly or indirectly from the Seller's acts or omissions in connection with the Services. Without limiting the generality of any other indemnity hereunder, Seller shall indemnify, defend and hold harmless Indemnitees from and against any and all losses and/or litigation expenses to the extent caused by, arising out of or related to third party claims caused by, arising out of or related to: (i) the failure of Seller to perform the General Background Investigations (as such term is hereinafter defined), (ii) the inaccuracy of any warranties or representations made by Seller herein, (iii) any obligation imposed on Panera to pay any benefits under workers'

compensation laws, unemployment compensation laws, social security and/or insurance law, the Fair Labor Standards Act, and any and all other applicable laws and regulations relating to terms and conditions of employment pertaining to Seller's Employees (as such term is hereinafter defined), or to pay any taxes or insurance, including without limitation, withholding taxes, social security and/or insurance, unemployment or disability insurance, including interest and penalties thereon, in connection with any payments made to Seller by Panera, or (iv) breach by Seller of any intellectual property rights of a third party. In the event of a Claim by a third party, Panera or its legal representative shall promptly notify Seller in writing of any such Claim arising out of or in connection with the Services and forward all related documents to the Seller. Panera may request Seller to assume the defense of any Claim (it being understood that Panera shall have the right to approve any settlement). Panera shall be entitled to be kept informed of the status of such proceedings. In the alternative, at Panera's option, and in Panera's sole discretion, Panera may retain full control over the defense and settlement of any Claim and may require Seller to cooperate in such defense and settlement, all at Seller's expense. Seller's indemnity hereunder shall be in favor of all Indemnitee(s).

2. WARRANTIES; SELLER EMPLOYEES

2.1. Seller shall preserve and protect all buildings, improvements, fixtures, furnishings and equipment on Panera's premises (the "Premises") and shall repair or restore any damage thereto resulting from the performance of Seller hereunder. Upon completion of any work hereunder Seller shall clean up the Premises and remove all rubbish and trash related to Seller's performance of Services.

2.2. At no cost to Panera and prior to any payment by Panera hereunder, Seller shall promptly cause to be discharged or dismissed (either by payment or by filing of the necessary bond, or otherwise) and deliver to Panera satisfactory releases of any claims and lien(s) against Panera or any premises owned or controlled by Panera and/or Panera's interest therein, which lien(s) arise out of any payment(s) due for, or purported to be due for, any labor, services, materials, supplies or equipment alleged to have been furnished to or for Panera in connection with in connection with the Services or any other arrangement made pursuant to the provision of Services herein. Seller shall defend and hold harmless Panera and such Premises against any such claim or lien.

2.3. Seller's employees, agents and Subcontractors engaged in the performance of Services hereunder (individually and collectively, for the purposes this section, "Seller's Employees") shall conduct themselves courteously and professionally, in accordance with laws, at all times while on the Premises and perform all Services in a professional and workmanlike manner using generally accepted industry standards and practices. Seller's Employees shall comply with all building and elevator, access, security, and safety rules and procedures in effect on the Premises from time to time. Seller's Employees shall be on and have access to the Premises at their sole risk. Based upon the results of its General Background Investigations (as said term is defined elsewhere in this Purchase Order), Seller represents that (i) all of its employees, agents and/or Subcontractors who will be performing the Services hereunder are legally permitted, and professionally qualified, responsible and satisfactory to perform the Services for Panera consistent with the terms of this Purchase Order, and (ii) in particular, but without limiting the generality of the foregoing, none of its employees, agents and/or Subcontractors who will be performing the Services hereunder (a) have been convicted of any crime of violence, assault and battery, murder, rape, kidnapping, sexual assault, manufacturing or delivery of a controlled substance, drug use/trafficking, theft, shoplifting, larceny, embezzlement, forgery, credit card fraud, check fraud, computer fraud or abuse, data theft, identity theft or cyber crime or (b) are the subject of any pending or outstanding warrants.

2.4. Panera shall have the exclusive right in its sole discretion to request the removal of Seller's Employee(s) where Panera has reason to believe that (i) Seller is not in compliance with any of its obligations pertaining to its employees as contained elsewhere herein, or (ii) Seller's Employees have caused damage and/or destruction, malicious or otherwise, and/or that injury has resulted therefrom. Seller shall promptly comply with any such request by Panera.

2.5. Without limiting the generality of the foregoing, it is an express condition that, prior to the commencement of any Services hereunder, and at any time thereafter upon the request of Panera, Seller perform the following background investigations with respect to Seller's Employees located in the United States of America who will be performing Services hereunder: (i) national federal criminal database check; (ii) seven-year county of residence criminal conviction search; (iii) verification of social security number and I-9 completion (for the purposes hereof, verification of social security number shall consist of determining that the number has been issued validly, that it correlates to Seller's Employee(s) who will be performing Services hereunder and that Seller has confirmed the foregoing with the Social Security Administration); (iv) five-year work history; (v) verification of education and professional licenses, if applicable; and, (vi) if the Services are being performed by Seller's Employees on the Premises, a national sex offender registry information check; (collectively, the "U.S. Background Investigations"). Panera may modify the foregoing guidelines, subject to applicable law, in conformance with then-prevailing industry best practices.

2.6. Without limiting the generality of the foregoing, it is an express condition of this Purchase Order that, prior to the commencement of any Services hereunder, and at any time thereafter upon the request of Panera, Seller perform the following background investigations with respect to Seller Employees located in Canada: (i) criminal records check; (ii) education/credential verifications; and (iii) employment history/reference checks (collectively, the "Canada Background Investigations"). Panera may reasonably modify the foregoing guidelines, subject to applicable law, in conformance with then-prevailing industry best practices.

2.7. In the event that any of the above background investigations are unavailable or cannot be conducted due to the location or citizenship of a Seller Employee, Seller shall immediately inform Panera and shall conduct those investigations reasonably required by Panera for persons in such location(s) (such investigations, together with the U.S. Background Investigations and Canada Background Investigations collectively referred to as the "General Background Investigations").

2.8. In no event shall any General Background Investigation results relating to any individual be provided to Panera hereunder. Furthermore, in no event shall any General Background Investigation i) be performed more than twelve (12) months prior to the date of inception of the Services, or ii) be construed so as to release Seller from any of its obligations hereunder. Seller shall immediately notify Panera of any non-compliance discovered by Seller in connection with any General Background Investigation, even if discovered after Seller's Employee has commenced working.

3. TERMINATION

Upon five (5) business days' written notice, Panera may terminate the Services for any reason or no reason without liability, except for any outstanding undisputed financial obligations due for the Services through the date of termination. Seller shall continue to provide (and Panera shall continue to be responsible for payment for) Services performed during such notice period. If one party defaults in the performance of any of its material obligations hereunder, and such default is not fully remedied, or significant progress is not made towards remedying such default, within two (2) business days of written notice to the defaulting party, then the non-defaulting party shall have the right to terminate the Services and avail itself of any and all rights and remedies to which it may be entitled by law or in equity. Either party may also terminate the Services effective immediately without liability upon written notice to the other if any of the following events occurs: (i) the other party files a voluntary petition in bankruptcy or an involuntary petition is filed against it, (ii) the other party is adjudged as bankrupt, (iii) a court assumes jurisdiction of the assets of the other party under a bankruptcy or insolvency law rule or regulation, (iv) a trustee or receiver is appointed by a court for all or a substantial portion of the assets of the other party, (v) the other party becomes insolvent or suspends business, or (vi) the other party makes an assignment of its assets for the benefit of its creditors.

C. GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND/OR SERVICES

1. GENERAL WARRANTIES

1.1 Neither the delivery of Goods nor the performance of Services hereunder directly or indirectly violates or interferes with the terms of any other

agreement to which Seller is a party. Seller shall not enter into any agreement, the execution or performance of which would violate or interfere with the delivery of Goods or performance of Services hereunder.

1.2 Seller shall comply with all laws applicable to Seller, its work and its employees and Subcontractors, including without limitation, all immigration, labor and environmental laws and regulations and all applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, the Canadian Corruption of Foreign Public Officials act and all other similar applicable laws. Seller will also require the same of each Subcontractor that provides Services in connection with the Services. Seller shall also ensure that it has procured at its own expense all licenses and permits necessary for the fulfillment of its obligations in connection with the delivery of Goods or performance of Services hereunder.

1.3 Seller agrees and acknowledges that Panera, its affiliate(s) or their designee own all rights, including copyrights, trademark and trade name rights, in and to the name PANERA, the Panera logo, and other trademarks, trade names, copyrights, logos, and other intellectual property owned by Panera, its affiliate(s) or their designee (the "Marks") and all artwork, designs and plans provided to Seller by or on behalf of Panera (such Marks and artwork, designs and plans are collectively referred to as the "Panera Information"). Seller's use of the Panera Information shall inure to the sole benefit of Panera, its affiliate(s) or their designee. Seller has no right to use the Panera Information except in connection with Goods and/or Services provided by Seller to Panera, and in any event only with Panera's prior written approval. Seller shall not alter any element of the Panera Information without Panera's prior written approval.

1.4 Seller will comply (and will require Seller's Employees to comply) with all Panera policies, rules and regulations of which they have been advised either in person, in writing or by other means prior to or during the term of performance, including but not limited to, those made available by Panera to Seller or those located at <https://www.panerabread.com/en-us/panera-policy-information.html> (the "Supplier Site") all of which are incorporated by reference herein and made part of this Purchase Order.

2. CONFIDENTIALITY

2.1 In the event that Panera and Seller have entered into a Confidentiality Agreement ("CA"), such CA shall apply to any disclosures of Confidential Information made hereunder and the terms of the CA are incorporated herein by this reference; provided, however that the purpose described under the CA shall be expanded to include purchases pursuant to Purchase Orders, there shall be no limit on how long Panera's Confidential Information must be kept confidential, and no warranties or limitations on warranties described in any such CA shall be applicable for purposes of this Purchase Order. Section 2.10 below shall also apply to all Confidential Information disclosed to Company under such CA. In the event no CA has been executed the following terms shall apply.

2.2 Seller (or, for purposes of this section titled "Confidentiality", the "receiving party") shall maintain as confidential and shall not disclose any information relating in any manner to Panera (or, for purposes of this section titled "Confidentiality", the "disclosing party") or its business, including without limitation all information disclosed in writing, orally, or by inspection or access to the disclosing party's computer network, systems and servers, whether directly or indirectly, or otherwise during the performance of the Services, and whether or not such information is designated "confidential" or "proprietary" or some similar designation (including but not limited to financial statements, budgets and projections, customer identities, potential customers, employees, suppliers, servicing methods, equipment, programs, strategies, analyses, profit margins, business methods, plans, designs, inventions, pricing information, product information, marketing information, any and all information that qualifies as personally identifiable information under federal or state law, this Purchase Order, and the existence of the business relationship contemplated by this Purchase Order), however documented, and whether or not such information was made before or after the effective date of this Purchase Order (the "Confidential Information") and receiving party agrees to protect such Confidential Information with the same degree of care it exercises to protect its own confidential information (but in no event less than a reasonable standard of care) and to prevent the

unauthorized, negligent, or inadvertent use, disclosure, or publication of such information. Disclosing party will not disclose Confidential Information to any third party or to any of its Representatives who do not have a need to know it, and will not use (or permit to be used) any Confidential Information except in accordance with instructions by or on behalf of Panera or in connection with the manufacture and supply of the Goods and/or Services. Confidential Information includes, without limitation, Personal Information as described in Section 2.10 below.

2.3 These obligations shall not apply in the event that such Confidential Information (a) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the receiving party; (b) is in the receiving party's possession at the time of disclosure other than as a result of receiving party's breach of any legal obligation; (c) becomes known to the receiving party through disclosure from a third party that is not bound by a similar duty of confidentiality (contractual, legal, fiduciary, or other); (d) is developed subsequently by the receiving party independent of any disclosure by the disclosing party hereunder

2.4 If receiving party is legally compelled to disclose or disclosure is requested pursuant to the requirements of a court or governmental body, or by operation of law, provided that the receiving party provides prior written notice of such required disclosure to the disclosing party but shall otherwise continue to comply with its confidentiality obligations hereunder.

2.5 The provisions of this Section shall survive for a period of ten (10) years after the date of this Purchase Order or ten (10) years after the date of termination of Services or delivery of Goods, whichever is later. Seller shall be responsible for any breach of the terms and conditions of this Purchase Order by it or any of Representatives. For purposes of this Purchase Order, "Representative" means Seller's employees, agents, officers, directors, attorneys, lawyers, accountants, intermediaries, consultants, third party processors, contractors, subcontractors and representatives of Seller, its parent, subsidiary or affiliate entities.

2.6 The receiving party agrees that breach of confidentiality may cause irreparable damage and also agrees that it would be impossible or inadequate to measure and calculate the disclosing party's damages from any breach of the covenants herein. Accordingly, the receiving party, agrees that if such party breaches the obligations hereof, the non-breaching party will have available, in addition to any other right or remedy, the right to seek equitable and injunctive relief, without the requirement of posting a bond, from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision herein.

2.7 The disclosing party may require receiving party to return the Confidential Information to disclosing party at any time or to destroy same, and shall use reasonable efforts to permanently erase or cause to be erased all Confidential Information from any computer memory or storage, and to certify in writing as to said destruction. In any event, all Panera Confidential Information (including all copies and backup) will be returned or destroyed upon the expiration of the confidentiality period set forth above.

2.8 Nothing herein shall be deemed to grant any rights in any Confidential Information of the disclosing party to the receiving party.

2.9 Seller shall at all times comply with all system access and utilization rules and procedures of Panera (including without limitation all provisions of all third party vendor agreements, licenses, terms of service, terms of use, and/or other obligations and/or requirements to which Panera is subject and of which Seller is notified by Panera or of which Seller otherwise is or should be aware). Without limiting the foregoing, Seller agrees that all information about Panera's respective third party vendors shall, as between Panera and Seller, be deemed to be Confidential Information of Panera. Under no circumstances shall Seller copy, use, analyze, reverse engineer, decompile, disassemble, translate, convert, or apply any procedure or process to any Panera or third party provided software in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the software or any trade secret information or process contained in the software.

2.10 Data Security and Privacy. If, at any time, Seller or any of its Representative(s) are exposed to any Personal Information in connection with Goods or Services provided to Panera, the terms and conditions of this section will apply and Seller and such Representative(s) will comply with all such terms and conditions. "Personal Information" means information that relates to or identifies an individual or, that, by itself or in combination with other information, can be used, directly or indirectly, to identify an individual or data that can be reasonably linked to a specific individual, computer, or other device that may be disclosed to, or created, collected, procured, received, used, processed, maintained, accessed, observed or otherwise obtained at any time by Seller or its Representative(s), including, without limitation: (a) name; (b) home or other physical address, including street name and name of city or town or geolocation information; (c) email address or other online contact information; (d) telephone number; (e) any persistent identifier including but not limited to cookie ids, device ids, etc.; (f) date of birth; (g) information that is otherwise considered under applicable law to be Personal Information (h) information that would be defined as personal data of an EU data subject even if that person doesn't reside in the EU; and (i) any information that is combined with any of the foregoing, whether in individual or aggregate form, in any media. Personal Information and Confidential Information are collectively referred to herein as "Panera Data".

(a) Security Program. Seller will Process and maintain Panera Data in compliance with all applicable laws and in a secure fashion aligned with industry security standards and best practices for the management, transport, storage, and other Processing of highly valuable confidential business and personal information. For the purposes of this Section 2.10, "**Process**" or "**Processing**" means anything done with or to Panera Data, including but not limited to, accessing, collecting, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing, disseminating, transferring, blocking, erasing, or destroying such Panera Data, regardless of whether undertaken by Seller directly or by any direct or indirect service providers at Seller's direction. Seller shall implement and maintain reasonable security safeguards and procedures, including administrative, physical, technical and organizational controls designed to protect the confidentiality, security, availability and integrity of the Panera Data against unauthorized access, disclosure or use. At a minimum, the Seller security safeguards and procedures shall include, but not be limited to (i) all safeguards and procedures described as reasonable under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq. and implementing regulations (the "CCPA") and related regulations and official guidance for the protection of "personal information" (as that term is defined under the CCPA); (ii) all twenty (20) of the Center for Internet Security's Critical Security Controls; and (iii) all additional safeguards, procedures or controls recommended by the Attorney General of California, including but not limited to those in the California Department of Justice's February 2016 California Data Breach Report (available at: <https://oag.ca.gov/sites/all/files/agweb/pdfs/dbcr/2016-data-breach-report.pdf>). Seller will not allow any Panera Data to leave the United States. Seller will submit and accept Panera Data using mutually agreed upon data exchange formats. All Panera Data transmitted by Seller in connection with this Purchase Order shall be transmitted using strong cryptography and security protocols (for example, TLS, IPSEC, SSH) to safeguard data in transit. Seller may only provide access to Panera Data to any subcontractor who (i) has been approved in writing in advance by Panera for performance of Services; (ii) agreed in writing to abide by the duties and obligations applicable to Seller under this Purchase Order; and (iii) Seller can reasonably expect to be suitable and capable of performing the Services and Seller's obligations under this Purchase Order.

(b) Security Incidents. Seller shall provide notice of any Security Incident that may involve Panera Data to Panera at datanotices@panerabread.com immediately, and in any event not later than within 24 hours of the discovery of facts suggesting that such an incident may have occurred. For the purposes of this Purchase Order, "**Security Incident**" means any actual or reasonably suspected (i) unauthorized access to or acquisition of Panera Data; (ii) unauthorized or accidental loss, alteration, destruction or other misuse of Panera Data; (iii) any compromise, intrusion, interference with, or unauthorized access to networks, systems, databases, servers, or electronic or other media on which Panera Data is Processed or from which Panera Data may be accessed; (iv) circumstance that actually or is reasonably suspected of compromising, or reasonably could compromise, the privacy, security, confidentiality, availability, or integrity of Panera Data or the proper

functioning of the network resources of Panera; or (v) circumstance whereby applicable law requires notification of such breach to affected parties, government, regulatory, credit authorities or any other activity in response to such circumstance. Seller shall investigate and fully cooperate with Panera with respect to the investigation of, response to, and remediation of any such Security Incident, including where Seller or Panera determines that the Security Incident must be disclosed to the authorities, to individuals whose information was affected or to any other person or entity who has been affected by the Security Incident. Unless otherwise required by law, no such disclosures or notifications about any Security Incident shall be made by Seller without Panera's prior written consent. All notifications made regarding any Security Incident, and any other costs resulting from such Security Incident, shall be solely at the Seller's expense. If Panera determines in its sole discretion that it may need or be required to notify any individual(s) or government authorities as a result of a Security Incident, Panera shall have the right to control all such notifications.

(c) Access and Deletion. Seller shall provide Panera with the ability to delete, access, rectify or procure a copy of Personal Information upon request. Within 30 days of (i) a request by Panera, (ii) the expiration of the need for Seller to retain Panera Data for the purpose of providing Services to Panera, or (iii) the expiration or termination of this Purchase Order, Seller will, unless requested by Panera to return any such information, securely destroy all Panera Data, and all copies thereof, in the possession, custody or control of Seller and/or its Representative(s) in a manner that renders such Panera Data unreadable, undecipherable and unable to be reconstructed. Seller will, upon request, provide to Panera a written affidavit signed by an executive officer of Seller certifying that such return and/or destruction occurred. Without limitation of the foregoing, (i) any hard-copy records containing Panera Data that are destroyed in accordance with this Purchase Order shall be disposed of by cross-cut shredding, incineration or pulping; and (ii) any electronic records or media containing Panera Data to be destroyed in accordance with this Purchase Order shall be disposed of by secure wipe, purging, degaussing, shredding, or otherwise destroying so that such records or media are unreadable or undecipherable and cannot be reconstructed. The obligation to destroy will include any data reposed on any backup media or backup storage platforms (including Cloud) used by Seller. The foregoing is not intended to modify any requirements related to transition services or otherwise providing data to Panera at the expiration or termination of the Services.

(d) CCPA Service Provider. Seller and Panera acknowledge and agree that Seller shall act as a "service provider," as such term is defined in the CCPA, and shall collect, access, maintain, use, process and transfer Personal Information, solely for the purpose of performing Seller's obligations under the Purchase Order for or on behalf of Panera and for no commercial purpose other than the performance of such obligations. Seller does not sell, rent, disclose, release, transfer, make available or otherwise communicate, Personal Information to a third party for monetary or other valuable consideration.

3. SUBCONTRACTING/SECONDARY SOURCING

No individuals or entities other than Seller and Seller's Employees may undertake work in connection with this Purchase Order, unless such individuals or entities are specifically approved by Panera in writing (collectively, "Subcontractors"). Panera has the right, in its sole discretion to disapprove any Subcontractor at any time and Seller shall abide by such decision. Seller shall make all appropriate arrangements with each of its Seller's Employees and/or Subcontractors who undertake work in connection with this Purchase Order, to comply with the intent hereof, including without limitation, instructing, informing and receiving confirmation from such individuals that they have been apprised of and will abide by those provisions hereof relating to the confidentiality and non-disclosure of Panera Confidential Information. In connection with Subcontractors, Seller shall obtain and maintain in effect appropriate written agreements with each such Subcontractor wherein Seller shall (i) incorporate by reference all of the terms hereof, except those which are particular to Panera and Seller alone, (ii) ensure terms sufficient for Seller to comply with all provisions hereof and (iii) impose an obligation of non-disclosure and confidentiality on Seller Subcontractors with respect to Panera Confidential Information. Seller shall remain jointly and severally liable to Panera for the activities of any Subcontractor. Any purported delegation of performance in violation of this section is void and shall entitle Panera to declare Seller in default.

4. ASSIGNMENT; RIGHT OF SETOFF

Seller shall not delegate any duties, nor assign any rights or claims under this Purchase Order without the prior written consent of Panera, and any such attempted delegation or assignment shall be void. All claims for monies due or to become due from Panera shall be subject to deduction by Panera for any setoff or counterclaim arising out of this or any other Panera Purchase Order with Seller, whether such setoff or counterclaim arose before or after any such assignment by Seller.

5. PAYMENT TERMS, TAXES AND EXPENSES

5.1 Goods delivered before the delivery date specified will be considered delivered as of the delivery date specified on the cover page(s) hereof. Panera will pay all undisputed invoices on the next Panera payment date which is 130 days following the Friday after the close of Panera's fiscal period during which the invoice was received. All payments will be made by ACH and Seller is responsible for ensuring its systems are set up to accept payment in such manner. Panera does not process payment by check. Cash discount periods will be computed either from the date of delivery or the date of receipt of correct and proper invoices, prepared in accordance with the terms of this Purchase Order, whichever date is later. No receipt, resale, payment or other action or omission by Panera shall bar Panera from at any time exercising any remedies Panera may have as a result of failure of Seller, or the Goods, to comply with the terms of this Purchase Order. Panera shall have no obligation to make any payment hereunder prior to receipt of all Goods ordered hereunder. Acceptance of any part of this Purchase Order shall not bind Panera to accept future shipment thereof.

5.2 All prices, fees and expenses must be set forth in U.S. Dollars, and are inclusive of all taxes, including value added taxes, GST and all other similar taxes due based upon the Goods and Services provided under this Purchase Order. Panera has no obligation to pay taxes based upon Seller's income, all of which will be paid by Seller. All invoices provided under this Purchase Order must clearly identify all taxes (amount and type) included in the prices, fees and expenses. Additionally, if required by applicable law, Panera shall have the right to withhold U.S. federal income tax on taxable payments made to Seller unless Seller provides the appropriate withholding certification on either Form W-9 or the applicable Form W-8 or other applicable IRS required forms. Panera is not responsible for payment of amount(s) otherwise due if an accurate invoice for such amount(s) (including without limitation any sales and/or service tax amounts, if any, due) was not provided to Panera within sixty (60) days of the applicable billing date set forth herein.

5.3 The actual cost of expenses incurred by Seller, if any, in connection with the Services, such as hotels, flights, telephone, faxes, rental cars and shipping, shall be reimbursed to Seller in accordance with current Panera travel and expense policy guidelines (the "Travel Guidelines") located at the Supplier Site. If the Travel Guidelines do not address a particular expense, Seller must receive the written approval of Panera prior to incurring such expense.

5.4 Seller has taken no action and has not entered into any agreement, understanding or arrangement that would obligate Seller or Panera to pay any broker's or finder's fee or any other similar fee or commission to any agent, broker, investment banker or other firm or person in connection with any of the transactions contemplated by the Purchase Order.

6. AFFILIATES, FRANCHISEES AND DISTRIBUTORS

6.1 Seller understands that Panera and/or its affiliates franchise and/or allow other third parties to operate Panera Bread, Saint Louis Bread Co. and/or other bakery-cafe locations (collectively, "Franchisees"). If requested by Panera, Seller agrees that (i) affiliates may purchase the Goods upon the same terms and conditions described in this Purchase Order, and (ii) Franchisees may purchase the Goods upon the same or equivalent terms and conditions described in this Purchase Order pursuant to an agreement entered into between Seller and such Franchisee(s). Panera shall have no liability for payments required from or other performance obligations of any Franchisee(s), and non-payment or other default by a Franchisee of its obligations to Seller shall not constitute a default by Panera hereunder. Seller agrees to furnish Panera with all information with respect to Goods and Services provided to Franchisees as requested by Panera from time to time.

6.2 Supplier agrees that any current or future Panera authorized distributor ("Authorized Distributor") may also make purchases under this Agreement for the benefit of other members of the Panera System (defined below) and in connection therewith Supplier will fully cooperate with any such Authorized Distributor in connection with the enforcement of this Agreement. "Panera System" shall mean (i) Panera, LLC and its affiliates and their respective Franchisee(s), and (ii) any other party which, with the approval of Panera, LLC or its affiliate(s) (a) operates a Panera Bread, Saint Louis Bread Co., or other restaurant, bakery-cafe or food distribution concept operated by Panera, LLC or its affiliate(s), as any of the same evolve over time. Any modifications to these Terms and Conditions of is Purchase Order as between Authorized Distributor and Seller must be agreed upon in writing by Panera, except that Authorized Distributor and Seller may modify payment terms as between the non-Panera Authorized Distributor and Seller without Panera's approval. 6.3 Seller acknowledges and agrees that (i) whenever a Panera, LLC affiliate, Franchisee or Authorized Distributor places an order which is subject to the terms and conditions of this Purchase Order (e.g. by issuing a purchase order to Seller), unless Seller and such ordering party have otherwise agreed, such ordering party will have all the rights and remedies of Panera, LLC under this Purchase Order that are available to Panera, LLC if it were ordering Goods, and (ii) Authorized Distributor and each member of the Panera System are intended and shall be deemed to be a third party beneficiary of these terms and conditions, as applicable, and shall have the ability to enforce and rely upon the agreements, rights and remedies set forth herein as if they were a party to this Purchase Order.

7. INSURANCE

Seller agrees to maintain in effect insurance coverage with reputable insurance companies covering worker's compensation and employers' liability, automobile liability, commercial general liability, including product liability and excess liability, and all other insurance required by applicable law, in such amounts and covering such risks as shall be ordinary and customary for similar companies of similar size in their respective industries and in any event with limits at least in the amounts set forth below or such higher amounts as are required by law, to protect Seller and Panera from the liabilities insured against by such coverages. Seller's insurance described herein shall be primary and non-contributory. Policies will include a waiver of subrogation. Each such policy (other than workers compensation and employers liability) will name Panera, its affiliates, each of their Franchisees, Authorized Distributor(s), and each of their respective stockholders, members, directors, officers, employees, customers and insurers and their successors and assigns as additional insureds (with no liability for premium payments). Upon receipt of Panera's Purchase Order, Seller shall submit a certificate of insurance evidencing the coverage required by this Section within thirty (30) days. Such insurance shall be with companies with an A.M. Best rating of "A-" or better and shall provide that it may not be canceled or materially changed except upon a minimum thirty (30) days prior written notice to any named additional insured. Seller agrees to maintain insurance in effect for at least five (5) years after the date of the applicable Purchase Order for any claims-made policies.

Certificate of Insurance Coverage Minimum Requirements

Commercial General Liability:

Bodily Injury and Property Damage:

\$1,000,000 per occurrence

\$2,000,000 general aggregate

Personal Injury and Advertising Injury:

\$1,000,000 any one person or organization

Products/Completed Operations:

\$2,000,000 annual aggregate

Fire Legal Liability:

\$1,000,000 any one fire

Automobile Liability:

Bodily Injury and Property Damage:

\$1,000,000 per accident

Hired and Non-Owned Automobiles:

\$1,000,000 per accident

Worker's Compensation*: AS REQUIRED BY LAW

***or equivalent in Seller's (or its subcontractor's) country, including an endorsement providing for coverage while employee's are outside of Seller's (or its subcontractor's) home country**

Employers Liability: \$500,000 per employee bodily injury by disease
\$500,000 per employee bodily injury by accident

Umbrella Liability: \$5,000,000 any one occurrence
\$5,000,000 annual aggregate

Professional Liability/Errors and Omissions

(including Network Security & Privacy coverage):

\$5,000,000 annual aggregate

\$2,000,000 per occurrence

8. MISCELLANEOUS

8.1 All deliverables delivered in connection with the Services ("Work Product") unless otherwise agreed by the parties shall be owned by Panera and shall be subject to review and, in some instances, testing, by Panera to determine whether the Work Product delivered (i) contains the objective requirements and/or functionality described in this Purchase Order and (ii) is otherwise reasonably acceptable to Panera (the preceding (i) and (ii) being referred to collectively as the "Acceptance Criteria"). Each Work Product will be presented to Panera for written approval. Panera will either provide such approval or to indicate in writing that such Work Product will not be authorized for approval, citing the specific reasons for said decision. If Panera shall indicate in writing the reasons for not approving a Work Product, then Seller shall have up to ten (10) business days commencing with the receipt of such notice to cure the failures cited in Panera's communication and resubmit the same for consideration. The foregoing process shall be repeated not more than two (2) successive times following the original notice of rejection, after which the Work Product shall either be accepted or rejected by Panera. If the latter occurs, then the pricing and invoicing described in this Purchase Order shall be adjusted to reflect the deletion of this work from this Purchase Order and Panera shall have all other rights under this Purchase Order or otherwise, under law and/or in equity, in connection with such unaccepted Work Product. To the extent that the foregoing amounts to a material failure to meet the Acceptance Criteria by Seller, Panera reserves its right to exercise its right of termination, as provided herein.

8.2 Any action by Seller for breach of this Purchase Order must be commenced, and Panera must be served with process in any such action, within one year of the date of breach. All suits or proceedings by Seller against Panera or any of its affiliates or any of the agents of Panera or their respective affiliates based upon or arising out of or relating to this Purchase Order or the Goods or Services shall be brought or maintained only in courts of proper jurisdiction located in the State of Missouri, United States of America.

8.3 This Purchase Order, and any claim arising under, based upon, or relating to this Purchase Order or the transaction contemplated by this Purchase Order, shall be governed by and construed and enforced in accordance with the laws of the State of Missouri, United States of America, but without giving effect to any choice or conflict of law provision or rule that would cause application of the law of any other jurisdiction. In the event of any dispute hereunder Seller expressly agrees that such action be filed in the state or federal courts located in the State of Missouri, United States of America. All rights and remedies of Panera provided herein shall be cumulative to one another and cumulative to any rights and remedies to which Panera is entitled by law. Nothing herein shall exclude or limit any other rights and remedies to which Panera is entitled by law. SELLER AGREES THAT THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, AND ANY LOCAL IMPLEMENTING LEGISLATION SHALL NOT APPLY TO THIS PURCHASE ORDER OR TO ANY SALE OF GOODS BY SELLER TO PANERA UNDER THIS PURCHASE ORDER.

8.4 No party shall be considered to be in default in the performance of any of the obligations hereunder if failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond reasonable control of the party affected, despite exercising due diligence and shall include, but not be limited to the flood, earthquake, storm, fire, lightning, epidemic, war, terrorist attack, malicious or criminal acts of third parties, riot, civil disturbance, sabotage, statutory or regulatory changes with material adverse effects or restraint by Court order or public

authority. Any party which is unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch. Economic hardship of either party shall not constitute a force majeure hereunder. Labor disputes and strikes shall not constitute a force majeure hereunder. The party whose performance is prevented by force majeure must provide notice of such force majeure to the other party as soon as is reasonably possible and must use diligent efforts to remove such causes of non-performance.

8.5 Seller agrees to maintain for a period of five (5) years from the last performance of Services or delivery of Goods (or such longer period as may be required by law) hereunder accurate books and records and supporting documentation with respect to the provision of Goods and/or performance of Services. Any audit to be performed by or on behalf of Panera hereunder shall be completed pursuant to the provisions of this section. Panera (or its authorized representative) shall have the right, at Panera's expense, to audit Seller's compliance with the terms hereof. If any such audit reveals overcharges or other monetary discrepancies, Seller will immediately reimburse Panera the full amount of overcharges or other discrepancies, together with interest thereon at the lesser of eighteen percent (18%) or the highest rate of interest allowable by applicable law. If it is discovered that Panera is overcharged by five percent (5%) or more, Seller will also immediately reimburse Panera for the costs of such audit.

8.6 Seller will perform its obligations hereunder as an independent contractor and not as an employee or agent of Panera or any of its affiliated entities. Neither party shall have the power or authority to act for, represent, or bind the other party or any of the other party's affiliated entities.

8.7 If any clause, term or provision hereof shall be judged to be invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other clause, term or provision hereof.

8.8 Any notice or other communication required or permitted shall be in writing and shall be deemed to have been duly given (a) on the day of service if served personally or (b) at the time of electronic receipt if sent by facsimile or electronic transmission or (c) upon receipt if sent via a nationally recognized overnight delivery service such as FedEx or DHL, charges prepaid, and addressed in each case to the party at the address set forth on the first page of this Purchase Order with a copy to Legal Department. All notices to Panera must also be sent to its legal department at legalnotice@panerabread.com.

8.9 The headings appearing at the beginning of the sections contained herein have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation hereof.

8.10 Except as may otherwise be provided elsewhere in this Purchase Order, the terms, provisions, covenants, representations and warranties contained in this Purchase Order which by their nature, sense and context survive or are expressly intended to survive the expiration or termination of this Purchase Order will so survive and continue in full force and effect until they are satisfied or by their nature expire, including but not limited to any terms related to confidentiality, data security, warranty or any indemnity provided hereunder.

8.11 Seller will not disclose the existence of this Purchase Order or the provisions of this Purchase Order without the prior written approval of Panera. Except with the prior written consent of Panera, Seller will not use the name or any Panera Information in any publicity, advertising or customer list.

8.12 This Purchase Order may not be added to, modified, superseded, or otherwise altered except by a written instrument, expressly identified as a modification or supplement of this Purchase Order, signed by an authorized representative of Panera and delivered by Panera to Seller, which modification shall supersede this Purchase Order only to the extent described in such modification or supplement. Each shipment received by Panera from Seller shall be deemed to be only upon this Purchase Order, except as they may be added to, modified, superseded or otherwise altered in accordance with the foregoing, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of

Seller or any of Seller's website terms or click-through agreements and notwithstanding Panera's act of accepting or paying for any shipment or similar act of Panera.

8.13 The Seller expressly consents to the drawing up of this agreement and all documents relating hereto in English. Il est de la volonté expresse des parties que le présent contrat et tous les documents qui s'y rattachent soient rédigés en langue anglaise