Blommer CHOCOLATE COMPANY

TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE OF PURCHASE AGREEMENT: These terms and conditions of sale ("Terms") govern the sale by BLOMMER CHOCOLATE COMPANY ("Seller") of the goods ("Products") to the buyer ("Buyer"). Buyer shall be deemed to have made an unqualified acceptance of these Terms on the earliest to occur of the following: (a) failure by Buyer to notify Seller in writing (whether by email, text or letter) of any objection which Buyer may have to any provision of these Terms within 10 calendar days of receipt hereof; (b) Seller's first delivery of the Products; or (c) any other event constituting acceptance under applicable law. Any acceptance, confirmation, purchase order or the like sent by Buyer with respect to the purchase of Products which states additional or differing terms from this Agreement shall operate as an acceptance of all terms and conditions hereof, and all such additional or differing terms sent by Buyer shall be deemed proposals for material modification hereof, to which notice of objection is hereby given, and they shall not become part of this Agreement unless Seller expressly assents thereto in writing within five (5) days of receipt. Unless otherwise specifically agreed to in writing, all Products are produced and purchased under Blommer Chocolate Company specifications. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

2. PRICING/INVOICING: Prices are firm irrespective of changes in market prices or seller's list prices. However, if Buyer does not return to seller within 10 days of receipt hereof a signed copy of this Agreement, prices may, at Seller's option, be subject to upward market changes. Seller may increase the price for any Products by the amount of any increase in Seller's costs including without limitation (a) shipping including increased freight, fuel, surcharges or other shipping costs, and (b) compliance with laws, regulations, orders, or industry standards including existing, new or increased tax, charge, duty, tariff or similar fee imposed by a governmental entity.

3. WEIGHTS: On liquid bulk shipments, Buyer shall make payment based upon shipped weights, not off-loaded weights. Seller stipulates that the invoiced weights of the goods provided for herein shall have been determined by certified scales and presumed accurate.

4. DELIVERY: Shipments shall be made within the time period(s) specified on the front side of this Agreement. Seller will apply carrying charges, based on actual costs, to any unshipped balance after completion of the shipment period set forth in this Agreement.

5. LIMITED WARRANTY; DISCLAIMER OF OTHER WARRANTIES: Seller warrants to Buyer that, at the time of delivery, the Products are merchantable. Buyer must make any claim for breach of warranty in writing within ninety (90) days of the date of delivery and within 10 days after discovery of breach. Buyer's failure to make such claim within such time frames shall constitute Buyer's irrevocable acceptance of the Products and Buyer's acknowledgement that the Products fully comply with this Agreement. Seller shall, at its option, either replace at its expense any Products proven to Seller's reasonable satisfaction to be in breach of this section or refund to Buyer any of the purchase price received by Seller for such Products. Such warranty shall not apply in cases of damage in transit, negligence, abuse, failure to follow Seller's instructions, improper storage, accident, misuse, neglect or alteration by any party other than Seller or by physical environment. **SELLER'S AGGREGATE LIABILITY WITH RESPECT TO THIS AGREEMENT AND THE PRODUCT SHALL BE LIMITED AND SHALL IN NO EVENT EXCEED THE PURCHASE PRICE RECEIVED BY SELLER FOR THE DEFECTIVE PRODUCTS. SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN, ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING THE PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FOR BREACH OF ANY WARRANTY, FOR BREACH OR REPUDIATION OF ANY OTHER TERM OR CONDITION OF SALE, OR FOR LIABILITY ON THE BASIS OF NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF SELLER SHALL HAVE BEEN ADVISED IN ADVANCE OF THE LIKELIHOOD THEREOF. BUYER ACKNOWLEDGES AND AGREES TO ADVISE ITS CUSTOMERS THAT PRODUCTS, INCLUDING ANY DARK CHOCOLATE PRODUCTS AND ANY PRODUCTS DESIGNATED PAREVE, ARE PRODUCED IN A PLANT THAT PROCESSES MILK BASED PRODUCTS, AND, THEREFORE, THESE PRODUCTS MAY CONTAIN SOME MILK PROTEIN. SELLER SHALL NOT BE LIABLE FOR ANY DAMAGE, CLAIM, LOSS, COST OR EXPENSE OF THE BUYER OR ANY OTHER PARTY IN RELATION TO THE PRESENCE OF MILK IN ANY PRODUCTS.**

6. FORCE MAJEURE: Neither party shall be in default hereunder by reason of any failure or delay in the performance of any obligation under this Agreement where such failure or delay arises out of any cause beyond the reasonable control and without the fault or negligence of such party. Such causes shall include, without limitation, pandemic, storms, floods, other acts of nature, fires, explosions, riots, war or civil disturbance, strikes or other labor unrest, embargoes and other governmental actions or regulations that would prohibit a party from ordering or furnishing Products or performing any other aspects of the obligations hereunder. This section shall not apply to Buyer's payment obligations hereunder.

7. TERMINATION: Seller may, upon written notice to Buyer, immediately terminate this Agreement and any further obligations to make any shipments hereunder if Buyer fails to comply with the terms of this Agreement or the Credit Application, or fails to sign this Agreement within 30 days of the date of this Agreement. If Buyer cancels or modifies this Agreement, Buyer shall compensate Seller for all costs and damages resulting therefrom, including (without limitation) lost profits, allocable overhead, commodity market losses and all other incidental and consequential damages.

8. PRODUCT RETURNS: Buyer may not return Products except upon terms accepted in writing by Seller. Customer agrees to abide by the Blommer Chocolate Company Returned Goods Policy previously provided to Buyer or made available on its website.

9. INTERNATIONAL SALES: For international sales, the U.N. Convention on Contracts for the International Sale of Goods shall not apply, and Buyer agrees to comply with all applicable export laws.

10. MISCELLANEOUS: No change, modification or amendment of this Agreement shall be binding upon the parties unless the same shall be in writing and signed by or on behalf of both of the parties hereto. No waiver of or failure or omission to enforce any term or provision of this Agreement or any right or claim arising hereunder shall be deemed to be a waiver of any other term or provision hereof or any other right or claim arising before, concurrently with or after any such wavier, failure or omission or any event giving rise to any right or claim so waived or unenforced. Neither party shall assign this Agreement without the prior written consent of the other party, which consent may be withheld for any reason or no reason. This Agreement shall bind and inure to the benefit of Seller and Buyer and their respective successors and assigns. The laws of the State of Illinois, including the Uniform Commercial Code as adopted therein (without regard to Conflict of Laws Principles), shall govern the rights and obligations of the parties hereunder. Any cause of action, claim, suit or demand by either party shall be brought in a state or federal court situated in the State of Illinois. Both parties irrevocably admit themselves to and consent to the jurisdiction and venue of said court, and specifically waive the doctrine of *forum non conveniens*. This Agreement constitutes the final written expression of the terms between the parties and is a complete and exclusive statement of those terms.

11. GRANT OF SECURITY INTEREST. As collateral security for the prompt, complete, and timely satisfaction of all present and future indebtedness, liabilities, duties, and obligations of Buyer to Seller evidenced by or arising under this Agreement, and including, without limitation, all principal and interest payable under the Note (as such term is defined herein or in the Credit Application), any Purchase Order or any subsequent agreement and all attorneys' fees, costs and expenses incurred by Buyer in the collection or enforcement of the same (collectively, the "Obligations"), Buyer hereby pledges, assigns and grants to Seller a continuing purchase money security interest and lien in all of the Buyer's right, title and interest in and to any Blommer Chocolate goods sold to Buyer at any time, including the proceeds of any disposition thereof, and all products and accounts receivable related thereto described on any Purchase Order now or in the future issued to Buyer or any subsequent agreement (the "Collateral"). As applicable, the terms of this Agreement with respect to Buyer's granting of a continuing purchase money security interest in the Collateral to Seller shall be deemed to be a purchase money security agreement under applicable provisions of the Uniform Commercial Code, with Buyer as the debtor and Seller as the secured party. Buyer specifically authorizes Seller to execute and file financing statements describing the Collateral to perfect the purchase money security interest created hereunder with the Secretary of State of Buyer's state of incorporation. At Seller's option, all amounts owing to Seller under any Purchase Order or any subsequent agreement shall be evidenced by a promissory note in form and substance satisfactory to Seller, upon which Seller shall have the right to schedule any additional amounts owing under any Purchase Order now or in the future issued to Buyer (the "Note").

12. INDEMNIFICATION. Buyer hereby agrees to indemnify, defend and hold Seller harmless from and against any and all liability, expense, cost or damage which may be incurred by, asserted against or imposed upon Seller at any time which relate to or arise from the sale of any Blommer Chocolate Products and Buyer's failure to adhere to Seller's instructions set forth in Section 5 of this Agreement with respect to such Products.