

**OFFER OF SALE TERMS  
BREWSTER CHEESE COMPANY (“BREWSTER”)**

1. Terms and Conditions of Sale. All offers, purchases, acceptances, acknowledgments and sales of (“Products”) shall be governed exclusively by the terms and conditions set forth in this (“Agreement”). Acceptance by the (“Customer”) of any offer to sell by Brewster is limited to the terms and conditions herein, and any terms or conditions proposed by Customer which differ from, are inconsistent with and/or which are in addition to those stated herein are objected to by Brewster. No such additional or inconsistent terms proposed by Customer shall become part of any contract to purchase the Products. Brewster’s acceptance of any offer to purchase Products which may be presented by Customer is expressly conditional on Customer’s acceptance of all the terms and conditions set forth herein, including those terms herein which may differ from, be inconsistent with or be in addition to Customer’s offer to purchase or purchase order terms. Customer’s authorized representative may confirm Customer’s purchase on the terms and conditions herein through acknowledgment of this Agreement (through email or otherwise); however Customer’s request to receive Products by any method (whether by offer, purchase order, etc.), its payment for, or its use of delivered Products, shall in all circumstances constitute Customer’s acceptance of the terms and conditions set forth herein. The only provisions of Customer’s purchase order that will be applicable will be the product identification, quantity and price; all other terms (pre-printed or otherwise are rejected).

2. - Acceptance, Transfer of Title and Risk of Loss.

i) Customer shall be deemed to have accepted the Products purchased hereunder upon delivery of the Products to the common carrier at Brewster’s dock. ii) Title, risk of loss, and the right to use the Products, will pass to Customer upon Customer’s acceptance thereof according to Subsection (i) above. iii) Any delivery dates indicated by Brewster for the Products are approximate and Brewster shall not be liable for any delays in delivery.

3. - Warranty. Products are warranted to be manufactured in accordance with GMP, to substantially conform to all laws applicable to Brewster’s manufacture of Products, and to substantially conform to any agreed specification for the Products. Such warranties will be for a period of the lesser of (a) thirty days from Brewster’s pack date or (b) the recognized useful life of the Product, whichever is less. This warranty is void if Products have been damaged or misused. EXCEPT FOR THE FOREGOING WARRANTY, BREWSTER AND ITS SUPPLIERS DISCLAIM ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED WITH REGARD TO ANY PRODUCT PROVIDED HEREUNDER. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE HEREBY DISCLAIMED. BREWSTER IS NOT RESPONSIBLE FOR WARRANTY CLAIMS RESULTING FROM THE ACTIONS OR OMISSION OF CUSTOMER, ANY COMMON CARRIER OR ANY OTHER THIRD PARTY.

4. - Insurance. Brewster maintains in place commercial general liability insurance of at least one million dollars and has workers compensation coverage in place pursuant to statutory requirements.

5. - Limitation of Remedies. The liability of Brewster, arising from any Products, or in any way connected with a contract for sale of Products, shall be limited solely and exclusively at Brewster’s option to either:

i) replacement of any Product alleged to be in violation of the above warranty or otherwise defective; or

ii) if Brewster, in its sole discretion, determines replacement is not possible or practical, refund the amount paid by Customer for the Product which is alleged to be defective. At Brewster’s discretion, such refund may only be made after the defect is determined to be Brewster fault and further Brewster may condition remedy on the defective Product being returned to Brewster or destroyed.

NEITHER BREWSTER NOR ANY OF ITS PARTNERS, AFFILIATES, CONTRACTORS OR SUPPLIERS SHALL BE LIABLE FOR ANY INTERRUPTION OF BUSINESS, LOST PROFIT OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHICH ARE ALLEGED TO ARISE FROM CUSTOMER’S USE OF OR OTHERWISE RELATED TO ANY PRODUCTS SUPPLIED PURSUANT TO THIS AGREEMENT OR BREWSTER’S PERFORMANCE HEREUNDER, EVEN IF BREWSTER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THIS LIMITATION OF LIABILITY SHALL APPLY REGARDLESS OF THE TYPE OR NATURE OF THE CLAIM, INCLUDING BUT NOT LIMITED TO ANY CLAIMS ARISING IN TORT (INCLUDING ANY ALLEGED NEGLIGENCE, FAILURE TO WARN, FAILURE TO PROVIDE PROPER INSTRUCTION OR STRICT LIABILITY), CONTRACT OR EQUITY. CUSTOMER ACKNOWLEDGES AND AGREES THAT: BREWSTER DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS ARE FIT FOR ANY PARTICULAR PURPOSE. As a material consideration for Brewster entering into this Agreement, Customer agrees that if Brewster has any liability whatsoever, notwithstanding the foregoing limitations, such liability shall not exceed the charge for Product(s) directly connected with such liability. The amounts paid by Customer and received by Brewster for the Products reflect the foregoing allocation of risk. Such maximum liability shall apply in all instances, except for claims requiring a recall of the Products caused solely by Brewster’s actions.

6. - Taxes. All prices for Products are exclusive of taxes, including but not limited to excise, sales, use or value-added taxes, which may be imposed by any taxing authority. If any such taxes must be paid by Brewster or if Brewster is liable for the collection of such tax (other than taxes based solely on Brewster’s income), the amount thereof shall be in addition to the amounts at which Brewster offers to sell the Products herein. Customer agrees to pay all such taxes or to reimburse Brewster therefore within ten (10) days of receipt of invoice. If Customer claims exemption from any such taxes, Customer shall provide a certificate evidencing such exemption and shall indemnify, defend and hold Brewster harmless from and against any claim that Brewster must pay or collect such taxes, and Customer shall pay any interest or penalties and the legal and other costs of defending against any such claim.

6. - Beyond the Control of Brewster or Customer. Should any circumstances beyond the control of Brewster or Customer occur that delay or render impossible performance of any obligation due under this Agreement (other than payment obligations), such obligation will be postponed for such time as necessary or cancelled if performance has been rendered impossible thereby.

7. - Proper Use, Storage and Transportation. Customer is solely responsible for determining the suitability of the Products for use in its manufacturing and processing. Customer recognizes that the Products are perishable items and Customer is responsible for proper transportation, storage and use of the Products, including proper sanitation and temperature parameters. If any defect arises due to Customer’s failure to ensure proper storage, transportation and use of the Products, Brewster will have no warranty obligation or liability related to the same. Any alleged defect of the products will require Customer to agree to appropriate lab testing to determine the applicable failure. Customer may not reject an entire pallet or truckload due to issues with some Products within the pallet or truckload, only individual packed units of the particular product may be rejected, and only if Brewster agrees with such rejection.

8. - Failure to Pay or Take Delivery. If Customer fails to pay or dispute in writing any amount when due and such failure continues for thirty (30) days or more, Customer shall pay interest at the rate of 1% per month or the maximum rate permitted by law (whichever is less) on the entire unpaid balance for the Products for each month or portion thereof that payment is late. If Customer fails to provide any necessary information for Brewster to manufacture any Product or if Customer delays or defers delivery of the Product(s), Brewster’s time for performance shall be correspondingly extended, and Customer shall pay all costs including reasonable costs for storage and insurance on the Products during the period of delay.

9. - Governing Law. This Agreement shall be governed by the laws of the State of Ohio without regard to any conflicts of laws provisions thereof. Both parties hereby consent to the jurisdiction of the state courts sitting in Stark county, Ohio or the Federal District Court of the Northern District of Ohio for all disputes arising hereunder.

All claims under this Agreement must be brought within one year of delivery of the Products or they will forever be barred. The terms and conditions of this Agreement will survive termination.

10. - Entire Agreement/Modifications. This Agreement states the entire agreement between Customer and Brewster concerning the subject matter hereof and supersedes all prior proposals or agreements whether oral or written. No alteration, waiver or modification of any provision of this Agreement shall be effective unless it is in a writing which expressly indicates that it modifies this Agreement and is signed by a duly authorized representative of both Customer and Brewster.

