

This order is an offer to obtain the services specified in the work order upon the following additional terms and conditions.

1. **Acceptance of Work Order.** Provider agrees to provide the services described in any work order ("Services") in accordance with the applicable work order and with these Terms and Conditions ("Agreement"). Upon acceptance of the work order, Provider shall be bound by the provisions of this Agreement, including, without limitation, all provisions set forth on the face of any applicable work order, whether or not Provider acknowledges or otherwise signs this Agreement or the work order. This Agreement may not be added to, modified, superseded or otherwise altered, except by a writing signed by an authorized representative of Customer. Any terms or conditions contained in any acknowledgment, invoice or other communication of Provider, which are inconsistent with the terms and conditions of the Agreement, are hereby rejected. To the extent that this Agreement might be treated as an acceptance of any prior offer of Provider, such acceptance is expressly made on condition of assent by Provider to the terms hereof and provision of the Services by Provider shall constitute such assent. Acceptance of Services by Customer is expressly limited by Provider's assent to the terms and conditions stated in the Agreement and Customer objects to the inclusion of any different or additional terms proposed by Provider.

2. **Delivery of Services.** Time is of the essence in the performance of this Agreement and as otherwise directed by Customer. In the event Provider fails to deliver the Services within the time specified, Customer may, at its sole option, cancel the work order. Customer shall not be subject to any charges, costs or other fees as a result of such cancellation. The timing, location and manner of delivery of the Services shall be in a manner which shall cause minimal disruption of Customer's business operations. Provider shall contact the Manager on Duty upon arrival. If in providing the Services Provider determines that additional services are required, such requests shall be forwarded by the Manager on Duty to Customer's main office. Each asset being serviced should have a separate work order. If the cost of repairs exceed either (a) \$500.00 or (b) 50% of the value of the asset, Provider shall contact either Stephanie Puhse, 314-994-4430, spuhse@schnucks.com, or Nancy Meyers, 314-994-4430, nmeyers@schnucks.com, prior to providing the Services. If access to secure areas or refrigeration/HVAC equipment is being taken out of service, Provider will contact the Manager on Duty prior to providing the Services.

3. **Pricing and Payment.** The price for Services and payment thereof shall be as set forth on the face of each work order. The prices of the Services provide hereunder, and any discounts or allowances therefrom, are inclusive of applicable taxes and all other charges, whether similar or dissimilar, unless otherwise indicated by Provider on the face of the work order.

4. **Invoices.** Separate invoices must be rendered for each work order. Customer shall be under no legal, contractual or other obligation of any kind to pay any invoices of Provider, its subcontractors or vendors, physically received by Customer more than ninety (90) days after delivery of the Services to which such invoice relates and any such failure to pay shall not be deemed a default under the terms of this Agreement.

5. **Confidentiality.** Provider shall keep confidential all confidential and/or proprietary information concerning Customer that is furnished by Customer to Provider in connection with this Agreement, including, but not limited to, the existence and contents of this Agreement, any information regarding Customer's products, projects, business, plans, programs, plants, retail or wholesale facilities, processes, equipment, costs, customers and operations and any other information, which, under all of the circumstances, ought reasonably to be treated as confidential and/or proprietary (collectively, "Confidential Information"). Without Customer's prior written

consent, Provider will not disclose nor will it permit Provider's representatives to disclose any Confidential Information to any persons other than who have a need to know such information in connection with performing its obligations under this Agreement. The obligations of Provider to keep confidential any Confidential Information shall continue beyond the termination, expiration or lapse of this Agreement until such Confidential Information comes into the public domain through no omission or unauthorized act of the Provider. Confidential Information shall not include information that is (a) or becomes publicly available other than as a result of a breach of this Agreement by Provider or its representatives; (b) furnished or made known to Provider by third parties (other than those acting on behalf of Customer) reasonably understood to have the right to disclose such information without restriction on disclosure or use; (c) legitimately in Provider's possession prior to disclosure by Customer or (d) developed by Provider without reference to the Confidential Information. If Provider is requested or becomes legally compelled to disclose any Confidential Information, Provider shall provide Customer with prompt Notice of the request or requirement so that Customer may seek a protective order or other appropriate remedy. If such order or other remedy is not obtained, Provider agrees to furnish only that portion of the Confidential Information as it is advised by counsel is legally required to be disclosed and to exercise commercially reasonable efforts to obtain assurance that confidential treatment will be accorded the Confidential Information. The parties acknowledge that the breach of this Section 5 by one party may give rise to irreparable injury to the other party which is not adequately compensable in damages or at law. Accordingly, the parties agree that injunctive relief may be an appropriate remedy to prevent violation of either party's respective rights or obligations under this Section 5.

6. **Indemnification/Damages.** Provider shall indemnify, hold harmless and at Customer's request by counsel reasonably satisfactory to Customer, defend Customer and its officers, directors, shareholders, customers, agents and employees, against any and all liabilities, claims, losses, damages, fines, penalties, costs and expenses, including, without limitation, attorneys' fees and costs, arising from or related to (a) any breach of a representation or warranty by Provider contained in this Agreement, (b) failure to observe any covenant of Provider contained in this Agreement, (c) or otherwise caused by the Services or by any act or omission of Provider, its employees, representatives or agents, (d) regardless of the legal theory or the ultimate validity of the claim, any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs, (e) Provider failing to satisfy the Internal Revenue Service's guidelines for an independent contractor, or (f) any claim based on the negligence, omissions or willful misconduct of Provider, its employees, officers or agents. Provider shall not settle any such suit or claim without Customer's prior written approval. Provider agrees to pay or reimburse all costs that may be incurred by Customer in enforcing this indemnity, including without limitation attorneys' fees. Inspections or opportunity for inspection by Customer shall not relieve Provider of its indemnity obligations under this Section 6. In addition to the indemnification provisions above, Provider shall promptly reimburse Customer for any damages, including direct and indirect damages, which Customer incurs as a result of Provider's breach of this Agreement.

7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, without regard to conflicts of laws principles.

8. **Prevailing Party.** In the event a party commences legal action to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of its costs of suit, not as damages, reasonable attorney's fees and costs to be fixed by the court.

9. **Dispute Resolution.** Customer and Provider shall attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement through discussions between the executive(s) of Customer and Provider responsible for this Agreement. If these discussions are unsuccessful, the parties agree that any legal action or proceeding with respect to this Agreement will be brought either in the state court of St. Louis County, Missouri or the Federal District Court of the United States of America for the Eastern District of Missouri and by execution and delivery of this Agreement, each party hereby consents to the jurisdiction of the aforesaid courts solely for the purpose of adjudicating its rights with respect to this Agreement or any document related thereto. Each party hereby consents to service of process by certified mail and irrevocably waives any objections to the sufficiency of any service which is given in such manner. The parties further agree to waive any right to a jury trial that either party might otherwise have in any and all courts. Notwithstanding anything to the contrary contained herein, Customer may assert any claim to enforce its rights pursuant to Section 3 in any court of competent jurisdiction.

10. **Notices.** To the extent notice is required or the parties are required to respond via written communication (collectively, "Notice"), such Notice shall be sent: (a) by certified mail, postage prepaid, return receipt requested, with such notice deemed to have been given upon the third business day after posting in the United States Mail; or (b) by national delivery service guaranteeing overnight delivery, with such notice deemed to have been given upon the next business day; or (c) by facsimile transmission, provided a confirmation copy is sent via one of the other methods provided herein to the addresses provided below, with such notice deemed to have been given upon receipt of the facsimile transmission. Notices to Provider shall be delivered to the address or facsimile number set forth on the work order and if not set forth in the work order, at the address of Provider reflected in Customer's records. Notices to Customer shall be sent to Customer's purchasing representative listed on the work order at: Schnuck Markets, Inc. 11420 Lackland Road St. Louis, Missouri 63146 with a copy to: Schnuck Markets, Inc. 11420 Lackland Road St. Louis, Missouri 63146 Attention: Chief Legal Officer, Phone No. (314) 994-4134, Fax No. (314) 994-4412 Email: mmoorkamp@schnucks.com.

11. **Entire Agreement.** The Agreement, along with Customer's policies regarding reasonable requests for information as is needed to comply with federal, state, and local food safety laws and regulations, constitutes the entire written expression of all terms of the parties' agreement, and supersedes all proposals, oral and written, and all other communications between the parties, in relation to the subject matter of this Agreement.

12. **Amendment.** No amendment of this Agreement shall be effective unless reduced to writing signed by an authorized representative of Customer.

13. **Severability.** If any term or provision of this Agreement is invalid or unenforceable under any applicable statute, regulation, ordinance, executive order or other rule of law, such term or provision shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, executive order or rule, and the remaining provisions of this Agreement shall remain in full force and effect.

14. **Assignment.** The rights and obligations of Provider hereunder may not be assigned, delegated or transferred without the prior, express, written consent of Customer's authorized representative.

15. **Counterparts; Facsimile Signatures.** A work order may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Notwithstanding anything to the contrary contained in this Agreement, a work order

may also be signed and transmitted by facsimile, PDF, or other electronic means, with such signature to be treated as an original and the document transmitted to be considered to have the same binding effect as an original signature on an original document. At the request of either party, any facsimile, PDF, or electronic document will be re-executed in original form by the parties who signed the facsimile, PDF, or electronic document.

16. **No Waiver**. The failure of any party, in any instance, to insist on strict compliance of any of the terms of this Agreement, or to exercise any right or privilege herein conferred, shall not be construed as waiving any such terms, conditions, rights or privileges but the same shall continue to remain in full force and effect. No course of dealing between the Customer and Provider or usage of trade shall modify this Agreement or be deemed a waiver of either party of their rights pursuant to the express provisions of this Agreement.

17. **Independent Contractor**. In entering into and complying with this Agreement, Provider is at all times performing as an independent contractor. Nothing in this Agreement shall constitute or be construed as the creation of an agency, employment, partnership or joint venture between Provider and Customer.

LAST UPDATED 05/01/20