



# PURCHASE ORDER

<b>PO NUMBER:</b>	CA72693
<b>PO DATE:</b>	3/29/2024
<b>BRANCH:</b>	18200

**VENDOR:** ISEE STORE INNOVATIONS LLC  
 3725 FOUNDRY WAY  
 SUITE 223

**SHIP TO:** DIPPIN DOTS KIOSK BUILDING  
 5111 CHARTER OAK DRIVE  
 PADUCAH KY 42001

**PHONE:**  
**FAX:** 800-3337247  
**VENDOR#:** 72719

**BILL TO:** DIPPIN DOTS LLC  
 Attn. Accounts Payable  
 5101 CHARTER OAK DRIVE  
 PADUCAH KY 42001

Reference Blanket PO:-

<b>FOB:</b> Destination Fgt Allowed						<b>CONFIRMED TO:</b>				
<b>TERMS</b> Net 60 Days			<b>CARRIER:</b> YOUR TRUCK			<b>PO TYPE:</b> CA Capital Project PO				
LINE	ITEM #	DUE DATE	REV	DESCRIPTION	QTY	UOM	TAX	PRICE	AMOUNT	
1.000	CAPX	6/28/2024		Capital Expense FREEZER RACKS - AMC 18.16680 Construction In Progress 00072657 CP24 - AMC Full Roll Out DEPOSIT OF \$52,465.84 WAS PAID	500.00	EA	N	193.7000	96,850.00	
<b>PURCHASE ORDER TOTAL</b>									<b>96,850.00</b>	

**Purchasing Agent:** NEWELL, KATIE

**Authorization:** FACHNER, DAN

*Instructions to Seller: This purchase order is issued subject to and expressly conditioned on your acceptance of all terms and conditions on the face and on the reverse side hereof.*

# GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

**1. Applicability.** These terms and conditions of purchase (these "Terms") are the only terms which govern the purchase of the goods ("Goods") and services ("Services") by J & J Snack Foods Corp. and its subsidiaries ("Buyer") from the seller/vendor named on the Purchase Order ("Seller"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. The purchase order printed on the reverse side of these Terms (the "Purchase Order") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller's general terms and conditions regardless of whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller's acceptance to the terms of this Agreement. Fulfillment of, or other performance under this Purchase Order, constitutes acceptance of these Terms. Notwithstanding the foregoing, the Buyer's Supplier Requirements Manual (as amended from time to time) shall be deemed incorporated into, and a part of, these Terms.

**2. Delivery of Goods and Performance of Services.** Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "Delivery Date"). If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate this Agreement immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date. Seller shall deliver all Goods to the address specified in the Purchase Order (the "Delivery Point") during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall pack all goods for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller shall provide the Services to Buyer as described and in accordance with the dates or schedule set forth on the Purchase Order and in accordance with the terms and conditions set forth in these Terms. Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods and Services.

**3. Quantity; Shipping Terms; Inspection.** If Seller delivers more or less than the quantity of Goods ordered, Buyer may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis. Delivery shall be made in accordance with the terms set forth in the Purchase Order. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order. Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point, or as otherwise specified in the Purchase Order. Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective.

**4. Price.** The price of the Goods and Services is the price stated in the Purchase Order (the "Price"). Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

**5. Payment Terms; Payment Fraud.** Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller within sixty (60) days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller. Seller shall notify Buyer within forty-eight (48) hours (by emailing Buyer's accounts payable contact) if it becomes aware of any potentially fraudulent activity or any security incident that indicates that the payment information Seller has provided to Buyer might have been compromised. If, as a result of a security incident or otherwise, a third party is enabled to misdirect or fraudulently induce Buyer to misdirect payments intended to be made to Seller or another party (including by a third party fraudulently representing itself as Seller in providing payment instructions to Buyer), such misdirected payments will be deemed payment made by Buyer against any amounts owed to Seller.

**6. Warranties.** Seller represents, warrants and covenants to Buyer that: (a) all Goods will be free from defects in workmanship, material and design; confirm to applicable specifications; be fit for their intended purpose and operate as intended; be merchantable and free and clear of all liens, security interests or other encumbrances; (b) the Goods shall not infringe or misappropriate any third party's patent or other intellectual property rights; and (c) it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner. The warranties set forth herein are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods, at Buyer's option, and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

**7. General Indemnification.** Seller shall defend, indemnify and hold harmless Buyer and its subsidiaries, affiliates, successors or assigns and its and their respective directors, officers, shareholders and employees (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the Goods and Services purchased from Seller, or from Seller's negligence, willful misconduct or breach of the Terms.

**8. Intellectual Property Indemnification.** Seller shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party.

**9. Termination.** In addition to any remedies that may be provided under these Terms, Buyer may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or the seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

**10. Waiver.** No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**11. Confidential Information.** All non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section.

**12. Seller's Obligations Regarding Services.** Seller shall: (a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services; (b) comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures and general health and safety practices and procedures; (c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve; (d) obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "Permitted Subcontractor"); (e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon Buyer's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Buyer; (f) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services; and (g) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Buyer.

**13. Force Majeure.** No party shall be liable to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such party's failure or delay is caused by or results from the following force majeure events: (a) acts of God; (b) flood, fire, earthquake or explosion; or (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest.

**14. Miscellaneous.** (a) The relationship between the parties is that of independent contractors and nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties. (b) Seller shall not assign, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer and any purported assignment or delegation in violation of this Section shall be null and void. (c) This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns. (d) All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of New Jersey without giving effect to any choice or conflict of law provision or rule. (e) Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the state and federal courts located in the State of New Jersey, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. (f) All notices hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Purchase Order, or to such other address that may be designated by the receiving party in writing. (g) All Notices shall be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail. (h) If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement. (i) These Terms may only be amended or modified in a writing stating specifically that it amends these Terms, and which is signed by an authorized representative of each party.