

#### **SELLER'S STANDARD TERMS AND CONDITIONS**

- The Agreement.** The Agreement between Verdure Sciences, Inc. ("Seller") and Buyer with respect to the sale of any of Seller's ingredients, products, and goods (the "Product") shall consist only of these terms and conditions and any terms mutually agreed to in writing hereafter signed by officers of Seller and Buyer. Seller objects to and shall not be bound by any additional or different terms, whether written or otherwise, in Buyer's Purchase Order (the "PO") or in any other communication from Buyer to Seller, regardless of format or medium. Seller's quotation, sale, and acceptance of Buyer's PO for Seller's Product is expressly conditioned upon Buyer's assent to these terms and conditions. Buyer's acceptance of Seller's Product constitutes Buyer's assent to these terms and conditions and Seller's licensing agreements. This Agreement shall be for the benefit of Buyer and Seller and not for the benefit of any other person. Prior courses of dealing, trade usage and verbal agreements not reduced to a writing signed by Seller, to the extent they differ from, modify, add to or detract from this Agreement, shall not be binding on Seller. There are no agreements, promises or understandings, either verbal or written that are not fully expressed herein and in Seller's licensing agreements. No statements, recommendations, or assistance by either party has been relied upon by either party or shall constitute a waiver by either party of the provisions. Seller's failure or refusal to object to additional or different provisions contained in any communication from Buyer shall not be deemed a waiver of these terms and conditions. BY REQUESTING A QUOTE FROM SELLER OR PRESENTING AN ORDER TO SELLER, BUYER AGREES THESE TERMS & CONDITIONS SHALL GOVERN ALL PURCHASES OF PRODUCT BY BUYER FROM SELLER, AND NO CHANGES OR ADDITIONAL OR DIFFERENT TERMS (CONTAINED IN A PURCHASE ORDER ACCEPTED BY SELLER, OR OTHERWISE) WILL CHANGE THESE TERMS & CONDITIONS UNLESS ACKNOWLEDGED IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER. NO SELLER EMPLOYEE OR AGENT HAS THE AUTHORITY TO MODIFY THESE TERMS & CONDITIONS VERBALLY. SELLER OBJECTS TO AND REJECTS ANY TERMS BETWEEN BUYER AND ANY OTHER PARTY, AND NO SUCH TERMS, INCLUDING ANY GOVERNMENT REGULATIONS OR "FLOW DOWN" TERMS, SHALL BE A PART OF OR INCORPORATED INTO ANY ORDER FROM BUYER TO SELLER, UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF SELLER.
- Price; Terms of Payment.** Buyer agrees to timely pay the prices quoted by Seller, and is responsible for additional applicable shipping and handling charges, taxes and duties. Seller shall collect applicable taxes unless Buyer submits a valid tax exemption certificate, and indicates which Products are covered by it. Payment terms are 30 days net from the invoice date or upon such other terms approved by Seller in writing. Payment shall not be contingent upon Buyer's ability to collect or obtain payment or funds from a third party. Buyer represents and warrants that it is solvent at the time it places any PO with Seller. Any balances unpaid after 30 days will be charged interest of 1% per month (18% per year) from the date such payment was due. If a shipment is delayed by Seller at the request of Buyer, payment therefore shall become due on the date when Seller is prepared to make shipment thereof. Prices are F.O.B. or EXW Seller's shipping point unless otherwise agreed upon as specified on the PO or in writing related to a particular purchase of Product. Seller is entitled to perform periodic credit reviews of Buyer. Whenever, in the discretion of Seller, the financial condition of the Buyer does not justify the continuation of production or shipment on the specified terms of payment, the Seller may require full or partial payment in advance or other adequate assurances of payment from Buyer. Buyer agrees to pay Seller's reasonable attorneys' fees and court costs incurred by Seller to collect payment (including all applicable interest charges and other charges) or to enforce any term of this Agreement. Seller may apply payments to any outstanding invoices unless Buyer provides specific written payment directions. All quotations provided by Seller expire 30 days from the date of the quotations unless otherwise noted on the quotation. Inadvertent and/or clerical errors or omissions on any invoice or PO acknowledgement from Seller are subject to correction.
- Title; Risk of Loss; Delivery.** As to any Product delivered by Seller's carrier, title passes upon delivery at the place Buyer receives delivery or possession; and, thereafter, all risk of loss or damage shall be Buyer's exclusively. All other sales of Product are at F.O.B., point of shipment, and Buyer takes title and assumes responsibility for risk of loss/damage at the point of shipment. Claims for Product damaged/lost in transit are Buyer's sole responsibility when not delivered by Seller's carrier. Delivery dates are not guaranteed but are estimated on the basis of immediate receipt by Seller of all information to be furnished by Buyer and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller will in good faith attempt to meet estimated delivery dates. Seller reserves the right to withhold delivery of the Product if, for any reason, Buyer violates any terms or conditions in this Agreement or fails to pay to Seller any portion of the purchase price for the Product(s) in the amount(s) and at the time(s) specified in the Agreement. Immediately upon Buyer's receipt of any Product shipped hereunder, Buyer shall inspect the same and shall notify Seller in writing of any claims for shortages, defects or damages and shall hold the goods for Seller's written instructions concerning disposition. If Buyer fails to so notify Seller within five (5) business days after the goods have been received by Buyer, such goods shall conclusively be deemed to conform to the terms and conditions and to have been irrevocably accepted by Buyer. Seller shall not be responsible for claims for error in quantity, weight or number not made within five (5) business days after Buyer's receipt of Product. Under no circumstances shall Seller be liable for any damages/losses arising out of or resulting from any delay of any kind whatsoever, unless there is a specific written agreement between the Seller and the Buyer to the contrary. Seller may elect, at Seller's sole discretion, to accept the return of Product(s) ordered by Buyer in error, subject to Buyer notifying Seller of such error within 5 business days of Buyer's receipt of such Product(s) in writing, the Product(s) being returned to Seller within five (5) business days of notification receipt, and Seller agreeing to accept return of such erroneously ordered items in writing. Notwithstanding the foregoing, Seller will not accept return of Product(s) that (i) have been opened, (ii) are not in original packaging, cases or skids (as applicable), (iii) are not otherwise in saleable and usable condition, (iv) have been damaged in any way, (v) have been involved in a fire, flood, bankruptcy or sacrifice sale, (vi) were purchased on a non-returnable or non-refundable basis, all in Seller's sole and unreviewable discretion. Any such returns Seller agrees to accept shall be subject to a 5% return and restocking charge.
- LIMITED WARRANTY.** Seller warrants that all Products sold are new and, upon payment in full by Buyer of the Product, free and clear of any security interests or liens. **THIS WARRANTY IS THE EXCLUSIVE WARRANTY. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION IN THIS PARAGRAPH. SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, BY OPERATION OF LAW OR OTHERWISE, OR AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND SPECIFICALLY DISCLAIMS ANY AND ALL SUCH WARRANTIES.** Solely as a convenience to Buyer, if Buyer believes any Product is initially defective as non-conforming to the PO description of the Product or was shipped to Buyer in error, then Buyer shall give Seller written notice of the alleged nonconformance or error within five (5) business days of receipt of the Product. Seller's sole obligation under the foregoing events, and Buyer's exclusive remedies, will be limited, at Seller's election, to either: (i) replacement of non-conforming Product, or (ii) refunding the purchase price for such Product paid by Buyer and, at Seller's election, either return the Product to Seller (at Seller's expense), make the Product available for inspection and/or procurement by Seller or its agents at Buyer's place of business. In no event shall Seller's liability for non-conforming Product exceed the lesser of the price of the Product or the amount paid by Buyer. Seller shall not be responsible for any defect in Product that is created or originates after the Product is shipped from Seller, including Product subjected to combination, modification, adulteration, misuse, neglect, accident, improper handling or storage, or which has been altered or misbranded by anyone other than Seller or its authorized representative or modifications to or adaptations of the Product made by Buyer or others. Seller shall not be liable on any notice of claim for non-

conforming Product which is not issued to Seller within 30 days after such Product has been received by Buyer. Upon acceptance of Product by Buyer, Buyer irrevocably waives any right to revoke such acceptance for any reason, whether known or unknown to Buyer at the time of acceptance. SELLER DISCLAIMS ANY AND ALL WARRANTIES AND/OR INDEMNIFICATION AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY NATURE. SELLER SHALL, IF GIVEN PROMPT NOTICE BY BUYER OF ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT WITH RESPECT TO ANY PRODUCT SOLD HEREUNDER, REQUEST THE MANUFACTURER TO GRANT FOR THE BUYER SUCH WARRANTY OR INDEMNITY RIGHTS AS THE MANUFACTURER MAY CUSTOMARILY PROVIDE WITH RESPECT TO SUCH PRODUCT. Seller does not warrant that the use of, or the subsequent sale of, the Product delivered hereunder will not infringe the claims of any United States or other patents covering the Product itself or the use thereof in combination with other products or other goods or as a part of another product or good.

**5. Limitations of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER'S TOTAL LIABILITY TO BUYER, BUYER'S CUSTOMERS, OR TO ANY OTHER PERSON, RELATING TO ANY PURCHASES AND/OR PRODUCT GOVERNED BY THIS AGREEMENT, FROM THE USE OF THE PRODUCT FURNISHED, OR FROM ANY ADVICE, INFORMATION OR ASSISTANCE PROVIDED BY SELLER (BY ANY METHOD, INCLUDING A WEBSITE), IS LIMITED TO THE LESSER OF THE PRICE OF THE PRODUCT GIVING RISE TO THE CLAIM OR THE AMOUNT PAID BY BUYER TO SELLER. SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, DIRECT, CONSEQUENTIAL, GENERAL, PUNITIVE, OR PENAL DAMAGES (INCLUDING, WITHOUT LIMITATION, BACK-CHARGES, LABOR COSTS, COSTS OF REMOVAL, REPLACEMENT, TESTING, LOSS OF BUSINESS, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED GOODS, DAMAGE TO ASSOCIATED GOODS, LATENESS OR DELAYS IN DELIVERY, UNAVAILABILITY OF PRODUCT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCT, FACILITIES OR SERVICES, DOWNTIME, OR CLAIMS FROM BUYER'S CUSTOMERS OR OTHER PARTIES). IF SELLER FURNISHES BUYER WITH ADVICE OR OTHER ASSISTANCE WHICH CONCERNS ANY PRODUCT SUPPLIED HEREUNDER, OR ANY OTHER PRODUCT OR GOOD IN WHICH ANY SUCH PRODUCT MAY BE PLACED OR TO WHICH SUCH PRODUCT MAY BE COMBINED, AND WHICH IS NOT REQUIRED PURSUANT TO THIS AGREEMENT, THE FURNISHING OF SUCH ADVICE OR ASSISTANCE WILL NOT SUBJECT SELLER TO ANY LIABILITY, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS. SELLER MAKES NO WARRANTY OR REPRESENTATION REGARDING THE ABSENCE OF FOREIGN MATERIALS OR SUBSTANCES IN THE PURCHASED PRODUCT(S). BUYER IS ADVISED AND ACKNOWLEDGES THAT IT SHOULD, AT ALL TIMES, EXERCISE ITS OWN DUE DILIGENCE AND SHOULD IMPLEMENT ALL REASONABLE AND NECESSARY SAFEGUARDS AND MEASURES TO INSURE THAT NO UNDESIRABLE FOREIGN MATERIALS OR SUBSTANCES ARE CONTAINED IN THE PURCHASED PRODUCT(S) AFTER FINAL PROCESSING AND PRIOR TO BUYER'S SALE OR USE OF ANY INGREDIENT(S)/PRODUCT(S) OBTAINED BY OR THROUGH SELLER. WHEN BUYER HAS EXAMINED THE PRODUCT AS FULLY AS IT DESIRED OR HAS REFUSED TO EXAMINE THE PRODUCT, THERE IS NO WARRANTY WITH REGARD TO ANY DEFECTS WHICH AN EXAMINATION OUGHT IN THE CIRCUMSTANCES TO HAVE REVEALED TO BUYER.

**6. Buyer's Indemnification.** Buyer shall indemnify, defend and hold Seller and its respective officers, directors, employees, shareholders, and agents harmless from and against all damages arising out of, in connection with or resulting from any claim or allegations with respect to the (i) written and graphic content of any product labels, inserts or stickers, promotional materials, advertisements, and or websites, except to the extent solely caused by or attributable to the acts of Seller; (ii) sales of Product sold by Buyer after receipt of the Product by Buyer; (iii) Buyer's failure to warehouse and distribute Product as per the shipping and storage conditions applicable to such Product or specified in written Product materials; (iv) damaging or tampering with the Product by anyone other than Seller, its employees, agents, contractors, licensees, or invitees; (v) any material breach of this Agreement by Buyer; (vi) the negligence or misconduct of Buyer or its agents or employees; (vii) any claim of infringement by the Product or the trademarks or any intellectual property rights or trade secrets of a third party other than those arising from the portions of the Product created solely by Seller; (viii) any suits, losses, claims demands, liabilities, costs and expenses (including attorneys' fees and any other professional fees) that Seller may sustain or incur as a result of any claim against Seller based on negligence, breach of warranty, strict liability in tort, contract, or any other theory of law brought by Buyer, its officers, agents, employees, shareholders, members, partners, associates, affiliates, successors or assigns, by Buyer's customers, by end users, or by other third parties, including without limitation governmental authorities or entities related to alleged violations of any applicable federal or state law, statute, regulations, standards, rules, or guidelines, arising out of, directly or indirectly, the use of Seller's Products, or by reason of Buyer's failure to perform its obligations contained herein. Buyer shall be obligated to notify Seller within five (5) business days of Buyer's receipt of or knowledge of any accident or incident involving Seller's Products which results in personal injury or damage to person or property, or is threatened to result in such injury or damage, and Buyer shall fully cooperate with Seller in the investigation and determination of the cause of such accident or incident and shall make available to Seller all evidence, documentation, data, statements, reports, and tests made by Buyer or at Buyer's request by others, or made available to Buyer by others. The furnishing of such information and notice to Seller shall not in any way constitute any assumption of any liability for such alleged accident or incident by Seller.

**7. Force Majeure.** Seller's failure to deliver Product by reason of any of the following and such event shall not constitute an event of default or breach of the Agreement: strikes, picket lines, boycott efforts, fires, floods, freeze, accidents, war (whether or not declared), acts of terrorism, revolution, riots, insurrections, acts of God, act of nature, weather, acts of government (including without limitation any agency or department of the United States of America or any other country, nation, state, or nation-state), acts of the public enemy, scarcity or rationing of gasoline or other fuel or vital products or vital ingredients, inability to obtain goods, supplies, materials, transportation, or labor, or other causes which are reasonably beyond the control of the Seller. Seller shall promptly notify the Buyer of any such delay and its cause.

**8. Confidentiality.** Any specifications, samples, designs, formulations, trade secrets, copyrights, trademarks, patents, intellectual property, pricing, customer, vendor, manufacturer, distributor, supplier, packager, and shipper information, financial data, or other information that Buyer or Seller (the "Disclosing Party") identifies as or otherwise deems confidential (the "Confidential Information") and discloses to the other Party (the "Receiving Party") in connection with this Agreement or any PO shall remain the exclusive property of the Disclosing Party and shall, along with any information derived from the same, be kept confidential by the Receiving Party and its employees and agents and shall not, without the Disclosing Party's prior written consent, be disclosed to any third party or used except for purposes of the PO. The Receiving Party agrees not to analyze, test, evaluate, formulate, dissect, anatomize, or reverse engineer any sample, ingredient, or product, or to assist and/or allow any third party to do so without the express written consent of and license from the Disclosing Party. Receiving Party also agrees not to use Confidential Information to infringe upon or invade Disclosing Party's rights secured by patents, copyrights, trademarks, trade secrets, and other intellectual property laws or assist or allow any third party to infringe upon or invade such rights. Notwithstanding the foregoing, such information shall not be deemed confidential to the extent that the Receiving Party can demonstrate by written record that it was previously known by the Receiving Party, became generally available to the public through no fault of the Receiving Party, was disclosed to the Receiving Party by a third party without breach of any confidentiality obligation, or is specifically required to be disclosed by law or legal process. The Buyer and Seller agree that the covenant of confidentiality and nondisclosure set forth above shall survive termination of this Agreement and shall remain in effect until the end of the applicable statute of limitations and for so long as the Confidential Information remains confidential. The Parties agree that this covenant shall supersede any contrary duration term set forth in any previously executed Confidentiality Disclosure Agreement.

9. **Compliance with Laws.** Buyer agrees to comply with all applicable export laws, assurances, codes and license requirements, and controls of the United States and other jurisdictions as well as all other applicable laws, codes, and government regulations, standards, rules, guidelines, and requirements in connection with the Buyer's use, manufacturing, distribution, marketing, and resale of Products including Buyer's acceptance of responsibility for the payment of any applicable taxes or duties.

10. **Subdistributors.** Subject to the terms and conditions of this Agreement, Buyer may market and sell the Products only to Subdistributors who agree to written terms which are at least as protective of Seller's interests as the terms of this Agreement, and for which Buyer hereby verifies and warrants that the Subdistributor is not in an embargoed country or on a denied persons' list or subject to any prohibitions or restrictions under EU, U.S. or other applicable export control laws. Buyer shall notify Seller of any purchase by a Subdistributor within 3 business days of the date of the purchase. Buyer shall submit a copy of any agreement with a Subdistributor to Seller immediately following execution thereof.

11. **Governing Law.** Any and all disputes, claims or controversies arising out of, relating to, or between the Parties regarding the execution of, application of, or interpretation of this Agreement shall be governed by the state laws of the State of Indiana (located in the United States) without regard to any conflicts of laws principles. Any dispute arising out of or in any way relating to this Agreement or the Parties' relationship under this Agreement which results in either party initiating formal legal proceedings shall be litigated exclusively in the state courts located in Hamilton County, Indiana and each party hereby consents to exclusive jurisdiction and exclusive venue in such state courts, hereby waiving any *forum non conveniens* claim, and regardless of the party's present or future domicile.

12. **Miscellaneous.** Failure of Seller to insist upon strict performance of any provisions of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment of such rights or the waiver of future performance of any such term or condition or the future exercise of such right. All rights and remedies under this Agreement are cumulative and are in addition to any other rights and remedies Seller may have at law or in equity. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto, and their respective heirs, personal representatives, and successors in interest. In the event any term, provision, undertaking or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable (in whole or in part), the remainder of the terms, provisions, undertakings and restrictions will remain in full force and effect and will in no way be affected, impaired or invalidated. Any notice or request required or permitted to be given in connection with this Agreement shall be sent by mail, prepaid, return receipt requested, by fax, with receipt confirmed, or by express delivery service to the address set forth on the PO or invoice or to any other business address furnished in writing by the intended recipient to the sender. The date of notice shall be deemed to be the date on which such notice has been received by email to the party's registered agent, received by mail, or received by express delivery service.

13. **Covenants.** For a period of 3 years after the last date that Seller supplies any ingredients, materials or Products to Buyer, Buyer hereby agrees and covenants that neither Buyer, nor any affiliate, representative, agent of Buyer, nor any party to which Buyer discloses Confidential Information, will solicit, directly or indirectly, any employee, customer, contractor, vendor, manufacturer, distributor, packager, shipper, supplier or sub-supplier Seller discloses to Buyer. Buyer acknowledges that irreparable damage would occur to Seller in the event that Seller's employees, customers, contractors, vendors, manufacturers, distributors, packagers, shippers, suppliers and sub-suppliers ceased to work or have a business relationship with Seller due to Buyer's breach of this covenant. Accordingly, Seller will be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement, in addition to seeking compensation for damages, and will be entitled to enforce specifically the terms and provisions hereof, in addition to any other remedy to which that party may be entitled at law or in equity.

Information supplied by the Seller including, without limitation, product specifications, certificates of analysis, quality statements, questionnaires, and manufacturing flow charts, is based on manufacturer-supplied information. Seller is not and shall not be responsible for false or misleading information given by manufacturers and other third parties. Seller makes no warranties, express or implied, for the information provided by Seller, and Buyer assumes all responsibilities and liability for loss or damage arising from the use of any such information.

These Seller terms and conditions are periodically updated, subject to change, and current version is available online at: <http://vs-corp.com/terms-conditions.html>

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