

## VERDURE'S STANDARD PURCHASE ORDER TERMS AND CONDITIONS

**1. The Agreement.** The Agreement between Supplier (the legal entity providing the Materials to Verdure or otherwise performing pursuant to a Verdure purchase order) and Verdure Sciences, Inc. ("Verdure") with respect to Verdure's purchase of any of Supplier's materials, products and goods (the "Materials") shall consist only of the terms and conditions contained in this Purchase Order ("PO"), including these standard purchase order terms and conditions, and any terms specifically mutually agreed to in writing by Supplier and Verdure (including any Verdure Compliance Agreement executed by Supplier). Verdure objects to and shall not otherwise be bound by any other additional or different terms, whether printed or otherwise, in any Supplier invoice, sales quotation, or purchase acknowledgment or in any other communication from Supplier to Verdure, regardless of format or medium. Verdure's agreement to purchase Supplier's Materials is expressly conditioned upon Supplier's assent to these terms and conditions. Supplier's shipment of Materials is also deemed to constitute Supplier's assent to these terms and conditions. Prior courses of dealing, trade usage and verbal agreements not reduced to a writing signed by Verdure, to the extent they differ from, modify, add to or detract from this Agreement, shall not be binding on Verdure. Other than the Verdure Compliance Agreement (if signed by Supplier), there are no agreements, promises or understandings, either verbal or written that are not fully expressed herein. 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. No representative or employee of Verdure has the authority to modify these terms orally. Verdure's failure or refusal to object to additional or different provisions contained in any communication from Supplier shall not be deemed a waiver of these terms and conditions. BY SUPPLYING A QUOTE TO VERDURE OR BY SHIPPING AN ORDER TO VERDURE, SUPPLIER AGREES THESE TERMS & CONDITIONS SHALL GOVERN ALL PURCHASES OF MATERIALS BY VERDURE FROM SUPPLIER, AND NO CHANGES OR ADDITIONAL OR DIFFERENT TERMS WILL CHANGE THESE TERMS & CONDITIONS UNLESS ACKNOWLEDGED IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF VERDURE. VERDURE OBJECTS TO AND REJECTS ANY TERMS BETWEEN SUPPLIER AND ANY OTHER PARTY, AND NO SUCH TERMS, INCLUDING BUT NOT LIMITED TO ANY GOVERNMENT REGULATIONS OR "FLOWDOWN" TERMS, SHALL BE A PART OF OR INCORPORATED INTO ANY AGREEMENT FOR THE PURCHASE OF MATERIALS BY VERDURE FROM SUPPLIER, UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF VERDURE.

**2. Terms of Payment; Delivery.** Unless otherwise indicated in this PO, payment terms are 45 days net from the date of delivery and acceptance of Materials by Verdure, whichever is later, or upon such other terms approved by Verdure in writing. Prices are FOB/CIF Verdure's designated location unless otherwise agreed upon as specified on the PO or in writing related to a particular purchase of Materials. Unless prohibited by law, Supplier shall pay all federal, state, local or foreign tax, transportation tax, or other tax, including but not limited to customs duties and tariffs, which is required by or imposed upon any Materials ordered by Verdure, or by reason of their sale or delivery. All order prices shall be deemed to have included all such taxes. Title and risk of loss shall pass to Verdure only upon receipt of Materials at Verdure's designated facility or third-party drop shipment point. Supplier agrees to pay Verdure's reasonable attorneys' fees and court costs incurred by Verdure to enforce any term of the parties' agreement. Supplier is responsible for all charges for packing, transportation, and insurance of the Materials unless otherwise specifically agreed in writing by Verdure. All Supplier boxing, packing, crating and shipping procedures must comply with all applicable Verdure requirements (including those generally provided in Verdure's Compliance Agreement) and must otherwise meet Verdure's expectations for the protection of the Materials in shipment and storage to maintain the highest quality standards available related to the Materials. Time is of the essence in Supplier's performance of an order placed by Verdure and Supplier shall deliver Materials by the delivery dates stated on a PO. If Supplier is unable to deliver the Materials by the delivery date stated by Verdure, then Verdure may, without liability: (i) reduce or cancel its requirements for any part of the quantity of Materials that cannot be delivered by the stated delivery date, (ii) reallocate another PO, or reschedule, any portion of the Materials that cannot be delivered by the delivery date, or (iii) waive the stated delivery date and agree, in writing with Supplier, to a revised delivery schedule with appropriate credits to Verdure for such nonconformance. In addition to any other rights and remedies Verdure may have, in the event Supplier's nonconformance with any of the shipment and delivery terms or any other delivery obligation, Supplier shall be responsible for all shipping costs and expense incurred with respect to such nonconformance, including costs of expedited shipment with respect to delayed or late deliveries. Without affecting any other rights of Verdure, Verdure may also cancel POs, in whole or in part, without liability to Supplier, at any time prior to commencement of Supplier's shipment of Materials. Verdure may at any time, by written notice to Supplier, request changes within the general scope of a PO in any one or more of the following categories: (i) specifications, (ii) method of shipping or packing, (iii) place of delivery, and (iv) delivery schedule. Such changes must be agreed by Supplier to be effective. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under a PO, Supplier may request a change in the price or delivery schedule for approval by Verdure.

**3. Inspection; Acceptance; Rejection.** Supplier shall only tender Materials to Verdure that have passed inspection in accordance with Verdure's quality control standards and general requirements contained in Verdure's Compliance Agreement and that otherwise strictly conform to all requirements stated in a PO. All Materials that Supplier provides to Verdure shall be free of defects, contamination and adulteration, meet all applicable specifications related to the Materials being supplied, supplier questionnaires and statements Supplier submits to Verdure, and shall meet all applicable regulatory requirements, including but not limited to 21 CFR 111 (FDA Good Manufacturing Practices for Dietary Supplements) and all other specifications generally provided in Verdure's Quality Requirements statement contained in its Compliance Agreement. Verdure may provide written notice of acceptance of the Materials to Supplier. However, in the absence of Verdure's written acceptance and notwithstanding (i) prior inspection of, (ii) payment for, (iii) use of, or (iv) delivery of the Materials, acceptance shall not be deemed to occur until twelve (12) months following Verdure's receipt of the Materials ("Inspection Period"). Transfer of title to Verdure shall not constitute acceptance. During the Inspection Period, Verdure may, with respect to any Materials: (i) reject all or a portion of any nonconforming Materials; (ii) accept all or a portion of such nonconforming Materials with a price reduction for the cost of replacement of the diminution of value; or (iii) accept any conforming Materials and reject the rest. Within thirty (30) days of Supplier's receipt of Verdure's notification of a nonconformity, Supplier shall investigate the nonconformity, deliver to Verdure a written report of its investigation and conclusions, and formulate a corrective plan to provide conforming Materials to Verdure that is acceptable to Verdure. With respect to rejected nonconforming Materials, Verdure may at its election and at Supplier's risk and expense (i) hold nonconforming Materials for Supplier, or (ii) return nonconforming Materials to Supplier for, at Verdure's option, either (a) full credit or refund or (b) replacement Materials to be received within 24 hours of nonconformity notification. Title to such rejected Materials returned to Supplier shall transfer to Supplier upon such delivery and such Materials shall not be replaced by Supplier except upon written instructions from Verdure. Materials returned to Supplier hereunder shall be shipped at Supplier's expense and risk of loss. Additionally, rejected nonconforming Materials shall not be tendered again to Verdure for acceptance unless permitted by Verdure and applicable law, and accompanied by a disclosure of Verdure's prior rejection(s). Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Verdure's actual costs, expenses and damages related to or arising from nonconforming Materials, including but not limited to labor and other costs related to transportation of Materials, expediting, removal, quality analysis, reinspection, and any and all other such corrective action costs incurred by Buyer.

**4. WARRANTY.** Supplier guarantees and warrants to Verdure that all Materials (including without limitation, any raw materials, food, drugs or dietary supplements) comprising each shipment or other delivery made by Supplier to Verdure, as of the date of each shipment or delivery: (a) are not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (hereunder, the "Act") and 21 CFR 110 (Food GMP) and CFR 111 (Dietary Supplement GMP), or within the meaning of any applicable federal, state or municipal law within which the definitions of adulteration or misbranding are substantially the same as those contained in the Act; (b) complies with all applicable international, federal, state and municipal laws concerning food, if applicable, and that all food products are wholesome and fit for human consumption; (c) are free of contamination and defects; (d) will be free from infringement of any and all United States and foreign patents, copyrights, trademarks, trade names or any proprietary interest granted or recognized by the United States or any other foreign government, the statutes or the common law of the United States, any political subdivision thereof or any foreign jurisdiction; (e) complies with any and all laws and regulations governing packaging, labeling, and weights and measures, and any and all other applicable federal, state and municipal laws, rules, regulation or orders; (f) are materials, goods, products and merchandise which may be legally transported or sold under the provisions of any applicable international, federal, state or municipal law; (g) complies with all other applicable laws and regulations of domestic (federal, state and/or municipal) or foreign governments, as the case may be. Supplier may not disclaim any applicable warranties, whether implied or express, and any attempted disclaimer shall be void and ineffective. In addition to the rights

conferred upon Verdure herein, Verdure maintains and reserves all of its rights and warranties express or implied, conferred upon it by any applicable law or regulation. Notwithstanding any other provision, in addition to the foregoing, Supplier shall be liable for Verdure's actual costs, expenses and damages related to or arising from Materials not conforming to these or other warranties of Supplier.

**1. Limitations of Liability.** To the fullest extent permitted by law, Verdure's total liability to Supplier, its agents, affiliates or successors, arising from or related to a Verdure PO or the parties' business relationship, shall be limited to the price of the Materials paid by Verdure. Verdure shall not be liable for any special, incidental, direct, consequential 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 Supplier's suppliers or other parties).

**2. Indemnification.** To the fullest extent of the law, Supplier agrees to hold Verdure, its employees, affiliates, shareholders, officers, directors, customers, agents, representatives, successors, assigns and attorneys (collectively, "Verdure Indemnified Parties") harmless, defend (at Supplier's sole expense), and indemnify Verdure against any and all claims, losses, costs, fees, damages, expenses, demands, actions, causes of action, suits, judgments, obligations or liabilities (including all costs of defense and attorneys' fees and other professional fees and including all investigative costs and all indirect and consequential damages) ("Claims") arising from or relating to, directly or indirectly, or in connection with the Materials supplied by Supplier, or its agents, pursuant to any Verdure Compliance Agreement or any Verdure PO. These indemnity and defense obligations shall also apply to all of the following: (i) Claims for injuries or any other damage arising from the Materials notwithstanding any actual or alleged defect or hazard inherent in the Materials or negligence of Verdure Indemnified Parties; (ii) Claims related to any recall, inspection, testing, replacement or correction of the Materials or any parts of equipment or goods in which such Materials are incorporated, whether required by any governmental authority or otherwise, (iii) Claims related to the violation of any law, regulation, rule, order or restriction of any governmental authority resulting from or incident to the sale and/or delivery of Materials to Verdure, (iv) Claims by any of Supplier's subcontractors or lower-tier suppliers, (v) any breach of the representations and warranties contained in a PO, this Compliance Agreement or any other documents or agreements by and between Verdure and Supplier, (vi) any actions or proceedings brought by any person, entity or domestic or foreign government for any actual or alleged violation of the Act or any other federal, state or municipal law or regulation or the foreign equivalent thereof, (vii) any product liability (including without limitation, bodily injury and property damage), quality control issues, false advertising claims or any claims regarding the quality, efficacy or effectiveness, directly or indirectly, relating to the Materials supplied by Supplier, (viii) any infringement by any Materials or by Supplier of any patents, copyrights, trademarks, trade names, trade dress or any other intellectual property rights of a third party, and (ix) any other breach of this Compliance Agreement, including any deficiency, interest, penalty, imposition, assessments or fines arising out of or resulting from the foregoing. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of Supplier, and its employees or agents, whether active or passive. Said indemnity and defense obligations shall also apply whether or not said claims arise out of the concurrent act, omission, or negligence of the Verdure Indemnified Parties, whether active or passive. Further, Supplier's indemnification and defense obligations hereunder shall extend to Claims occurring after any applicable Verdure Compliance Agreement or Verdure PO is terminated, cancelled, or no longer in effect, for any reason, as well as while it is in force, and shall continue until such Claims are finally adjudicated such that any and all actions against the Verdure Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable laws.

**3. Force Majeure.** Supplier shall not be liable to Verdure for delays in delivery due to acts of God, floods, fire, war, declaration of a pandemic by the World Health Organization, riot, strikes or causes beyond Supplier's reasonable control (each a "Force Majeure Event") so long as not caused by Supplier's actions, omissions or negligence and so long as Supplier notifies Verdure promptly (and in all cases within 48 hours) upon the occurrence of the Force Majeure Event; provided, however, that Supplier shall not be excused by a failure or delay that is caused by any labor problems or strikes relating to the workforce of Supplier or its suppliers or subcontractors or any commercial circumstances affecting pricing or availability of any Materials, and the foregoing shall not constitute Force Majeure Events. During the period of any such delay or failure by Supplier, Verdure at its option may (a) purchase Materials from other sources and reduce its purchases from Supplier by such quantities, without liability to Supplier, or (b) have Supplier provide Materials from other sources in quantities and at times requested by Verdure and at the price set forth in the applicable PO. Verdure will attempt to agree in writing to a revised delivery schedule in the event of a Force Majeure Event but shall not be obligated to do so. If Verdure agrees to accept deliveries after the date of delivery as stated in the PO, and such delays are not due to a Force Majeure Event, Verdure shall have the right to direct Supplier to make shipment to the delivery point set forth in the PO by the most expeditious means, with the additional cost of expedited shipping and handling borne by Supplier. Supplier shall within 10 days of Verdure's request for adequate assurances provide Verdure with assurances that the delay or failure shall not exceed 30 days. If the delay lasts more than 30 days or Supplier does not provide adequate assurance that the delay or failure will cease within 30 days, Verdure may immediately cancel the PO without liability. Verdure shall also be excused for any failure or delay in performing under any applicable PO or in accepting delivery, if such failure or delay is due to any Force Majeure Event.

**4. Default.** Upon the occurrence of any one of the following events, Supplier shall be deemed to be in default under the PO, and Verdure shall (without limitation to any other rights or remedies that may be available to Verdure at law or equity) have the unrestricted right, upon written notice, to terminate the PO and, upon the delivery of such notice to Supplier, every obligation of Verdure under the PO shall immediately terminate: (i) Supplier becoming insolvent; (ii) commencement of proceedings by, for or against Supplier under any law relating to bankruptcy or the relief of debtors; the appointment of a receiver or trustee for Supplier; or the execution by Supplier of an assignment for the benefit of its creditors; (iii) determination by Verdure, in its sole judgment, that Supplier's financial condition is such as to endanger its performance hereunder; (iv) the dissolution of Supplier; the sale, transfer or disposition by Supplier of all or substantially all of its assets (either in one transaction or through a series of transactions); or any merger, consolidation, reorganization, sale or other transfer of stock or other equity or other event that results in more than fifty percent (50%) of the equity ownership of Supplier being owned by a person(s) who is not currently an equity owner of Supplier; (v) Supplier's failure to strictly comply with any of the provisions, terms, conditions or obligations of a PO (including, without limitation, its failure to make timely deliveries of Materials) or any applicable Verdure Compliance Agreement; (vi) any breach by Supplier of any representations or warranties hereunder or in any applicable Verdure Compliance Agreement; (vii) Supplier at any time ceasing in any way to be competitive with respect to cost, quality or delivery; or (viii) Supplier's failure to comply with any other obligation owed by Supplier to Verdure, including, without limitation, pursuant to other contracts between Verdure and Supplier. If Verdure cancels a PO as hereinabove provided, Verdure shall not be liable to Supplier for any amount, except for payments owed for conforming materials accepted by Verdure prior to termination, and (without limitation to any other rights that Verdure may have hereunder or at law or in equity) Supplier shall compensate Verdure for all losses and damages (direct or indirect, including, without limitation, consequential and incidental damages and lost profits) sustained, and costs and expenses incurred, by Verdure by reason of such default and/or cancellation, including, without limitation, excess costs incurred by Verdure as a result of obtaining materials from another source.

**5. Confidentiality.** Any specifications, samples, designs, formulations, trade secrets, patents, financial data, or other information that Verdure or Supplier (the "Disclosing Party") identifies as or otherwise deems confidential (the "Confidential Information") and discloses to the other Party ("Receiving Party") in connection with this 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 performing under the PO. The covenant of confidentiality and nondisclosure set forth above shall survive termination of the PO and shall remain in effect for so long as the Confidential Information remains confidential.

**6. Compliance with Laws.** Supplier 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 in connection with the use and resale of Materials.

**7. 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 and any PO shall be governed by the laws of the State of Indiana 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 court proceedings shall be litigated in the state courts located in Hamilton County,

regard to any *forum non conveniens* claim, and regardless of the party's present or future domicile.

**12. Miscellaneous.** Failure of Verdure 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 Verdure 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 sent by fax, received by mail, or by express delivery service. Section headings are for convenience only and are not to be construed as part of this Agreement.

**5. Ethical Practices Statement.** Verdure Sciences expects all suppliers to adhere to the same business practices hereby stating the following: Verdure Sciences complies with wage and hour, child labor, slavery and human trafficking laws, and the rules and regulations of the countries in which we do business. Verdure Sciences does not engage children in forced and hazardous labor as defined by the ILO (International Labour Organization of the United Nations). Verdure Sciences does not exploit the farmers, harvesters and factory workers with which it does business. Verdure Sciences' work, night work, overtime and rest periods are in accordance with applicable laws or collective agreements. Verdure Sciences pays its workers reasonable wages at regular intervals. Verdure Sciences makes potable water for drinking available for all its employees. Verdure Sciences follows safe work procedures and instructions for all workers in the safe and efficient use of tools and machinery are provided, and personal protective gear such as gloves and dust masks are available when applicable.

Also available online at <http://www.vs-corp.com/terms-conditions.html>

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