



## Standard Terms and Conditions for Purchase Order

**TERMS:** This purchase order is expressly conditional on acceptance of all terms set forth herein, regardless of any prior offer between buyer and seller. The terms of the contract shall be as herein set forth unless seller within three days of receipt shall object to a provision or provisions herein in a writing which expressly refers to the provision or provisions objected to. Any additional or different terms proposed by seller are rejected unless expressly agreed to in a writing signed by an authorized representative of the buyer.

**ACCEPTANCE:** This Purchase Order is Buyer's offer to purchase the material or services specified herein ("Material" or "Services") at the price stated and by the date required. Buyer may, at any time prior to acceptance of this Purchase Order by Seller, withdraw its offer for any reason or no reason. Seller shall be deemed to have accepted this Purchase Order if: (1) Seller does not notify Buyer, within five business days of Seller's receipt of this Purchase Order, that Seller rejects Buyer's offer; or, (2) Seller ships the Material or begins performing the Services.

**PRICE:** To the extent legally permissible, Buyer may request Seller to meet competitive offers by providing Seller written evidence that Buyer has received an offer from a nonaffiliated producer to sell like grade and the same or lesser quantity material at a lower delivered price for all or any portion of Product to be sold under this Agreement. Within 15 days after receipt of such evidence, Seller will notify Buyer whether Seller will meet the offer on future orders. If Seller does not agree to meet the offer on future orders, Buyer may purchase material offered under the competitive offer without such purchase constituting a breach of this Agreement, and any purchase quantities specified in this Agreement will be reduced by the quantity of material purchased by Buyer under the competitive offer. The prices agreed upon shall include all applicable taxes and other duties, levies, surcharges or other charges of similar purchase. No charge will be allowed for packing, crating, drayage or storage unless stated herein. Buyer assumes no obligation for articles, materials, and work shipped or performed in excess of quantity specified in this Purchase Order.

**COMPLIANCE WITH LAWS** Seller in performance of this Purchase Order agrees to comply with all applicable laws, regulations and orders of governmental bodies relating to the manufacture, packaging, labeling, sale, transportation, delivery or export of articles, pesticides, material, work, food and food grade products, drugs and cosmetics covered by this Purchase Order (the "Material"), the dissemination of information in connection therewith and those relating to wages, hours, employee safety and working conditions. In order to comply with all Central, State and Local regulations, a current Material Safety Data Sheet must be provided for all chemical substances.

**WARRANTIES** Seller expressly warrants that all Material will conform to, and will be delivered in accordance with the specifications, drawings, samples or other descriptions furnished to or adopted by Buyer (the "Specifications"), and will be fit and sufficient for the purpose intended, merchantable, of the highest quality and workmanship, free from defect and are owned solely by Seller and will be delivered by the date specified in this Purchase Order. Seller further warrants that (i) all food grade material ordered hereunder shall have been manufactured, packaged, stored and shipped using the best sanitary standards available in the food industry, (ii) such material will be delivered in sanitary and undamaged condition, (iii) packaging components shall not employ rubber, clear plastic, or metal ties, staples, bands, or similar separable closure devices. Seller warrants that it has good and marketable title to all material delivered to Buyer hereunder, free and clear of all liens and encumbrances. Seller further warrants with respect to material and equipment that all parts thereof and the operation thereof: (1) shall conform to Buyer's standard specifications or such other specifications as are made a part of this Purchase Order; (2) shall conform to all applicable plans, drawings, samples or models furnished to and approved by Buyer; and (3) shall not infringe any patent, trademark or copyright. With respect to any Services provided hereunder, Seller warrants that such service shall be performed in accordance with the highest standards, practices, and codes of the industry applicable to such services. SELLER EXPRESSLY EXCLUDES AND DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.



## SURU CHEMICALS & PHARMACEUTICALS PVT. LTD.

ISO 9001:2015 + ISO 14001:2015 + OSHAS 18001:2007 certified

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**INDEMNITY** Seller agrees to protect, indemnify, defend and hold harmless Buyer, its directors, officers, agents, employees, affiliates, successors, assigns, customers and users of its products, against all liability, loss, damage or expenses whatsoever (including, without limitation, attorneys' fees): (i) which may result from any claim, demand or suit based on (x) a condition in any such Material as would constitute a failure of such material to be as so warranted or (y) any infringement of any intellectual property (except patents owned or controlled by the Buyer) relating in any way to any material or design, composition or processing of Seller's origin or practice supplied by Seller under the Purchase Order or (ii) to all persons or property arising out of the performance of this Purchase Order or otherwise caused by or resulting from, arising out of or occurring in connection with negligence of Seller, its agents or employees or defective product supplied by Seller or its third party suppliers. In addition, Seller shall carry worker's compensation and liability insurance coverage with respect to any indemnifiable matter hereunder in amounts required by Buyer in Buyer's sole discretion. Seller also agrees to supply appropriate certificates of such insurance, naming Buyer as an additional insured upon request.

**INSPECTION** Payment for Material and acknowledgment of receipt thereof shall not constitute an acceptance thereof. Rather, all Material shall be received subject to Buyer's inspection and rejection. Buyer shall have a reasonable time after delivery to test or otherwise inspect the material to determine whether the Material conform to Buyer's specifications. Buyer's specifications include quality of Material, quantity of Material, time of delivery (whether late or early), proper labeling and proper documentation. Buyer's acceptance of the Material or Services, inspection of the Material or Services or payment for the Material or Services shall not relieve Seller of any obligations under this Purchase Order, and does not release Seller from liability for latent defects. Buyer does not waive any of its rights of inspection or rejection by unloading or using non-conforming Material. Payment for Material does not constitute acceptance. Defective Material or Material not in accordance with the Specifications, as determined in Buyer's sole discretion will be returned at Seller's risk and expense and Buyer shall have no obligation to pay for such Material. Seller may not alter the formulation, manufacturing process or specification of any Material without Buyer's prior written consent.

**MODIFYING SPECIFICATIONS** Buyer reserves the right at any time to make changes in Specifications as to any Material. Any difference in contract price resulting from such changes shall be equitably determined and approved by Buyer, and the Purchase Order shall be modified in writing accordingly. Pending price adjustment, Seller shall proceed with performance of this Purchase Order as changed. **OWNERSHIP OF DESIGNS** Buyer retains all rights in designs; drawings, specifications and other materials furnished by or on behalf of Buyer to Seller in connection with this Purchase Order and Seller shall keep the same confidential. Seller hereby assigns any rights in designs, drawings, specifications and other materials it may develop or accrue in connection with supplying the Materials to Buyer pursuant hereto. No such designs, drawings, specifications or other materials, whether or not furnished by or on behalf of Buyer, shall, without Buyer's written permission, be incorporated in, or used in connection with, material furnished to others.

**TIME OF THE ESSENCE** Time is of the essence for this Purchase Order. The time for delivery shall not be extended beyond the date for delivery specified by Buyer, unless Buyer shall have agreed to an extension in writing. In addition to any other rights and remedies Buyer may have under this Purchase Order or provided by law, if deliveries are not made at the time agreed upon, Buyer may cancel the contract in whole or in part and purchase comparable material elsewhere, and hold Seller accountable for any additional costs arising from such cancellation and purchase and other damages incurred by Buyer as a result of Seller's default. Title to and risk of loss of any Materials supplied by Seller under this Purchase Order shall remain with Seller until delivery of said Materials has been affected at the point of delivery stated in this Purchase Order.

**LIENS** If the use of Seller's employees, subcontractors or others under Seller's control at the plant where the Material is to be used or installed shall be involved, Seller will keep the Material and the premises on which the work is to be done free and clear of all liens for materials and labor incident to the performance of work hereunder or on behalf of Seller.

**INVOICES- SHIPMENTS** Invoices and bills of lading, showing full routing, car numbers, lot numbers, size of each lot, ingredient code number and ingredient name (as applicable) etc. should be dated and mailed at the time of shipment.



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A separate invoice must be made for each destination showing point of shipment and how shipped; provided all shipments shall be made the cheapest way to meet required delivery, transportation charges prepaid. Invoices bearing transportation charges must be supported with attached original receipted transportation bills. When the invoice is subject to a cash discount, the discount period shall be calculated from the date of the invoice or the date the Material is received by the Buyer, whichever is later. All carriers' equipment shall be clean and in good condition. When applicable, Seller's carrier must contact Buyer's Receiving Department at Buyer's location of destination at least 48 hours in advance of arrival for an unloading appointment. Invoices: The invoice date shall not precede the date of Material stated on the invoice have been shipped to Buyer or the date Services have been rendered. Payment terms shall be net 60 days from invoice date (unless otherwise stated in this Purchase Order). Buyer shall be responsible only for taxes which, under applicable laws, Buyer is required to pay. All other taxes shall be paid by Seller. The invoice shall only cover the Material actually shipped or Services actually rendered.

**SELLER'S DOCUMENTATION** Seller shall have on file, at each plant producing ingredients and/or packaging material for Buyer, a copy of the applicable ingredient or Packaging Specifications and applicable Analytical Test Procedures, Microbiological Testing Methods and any other testing requirements necessary or advisable to assure compliance with applicable law as well as the criteria stated in the Specifications.

**TERMINATION** (a) Buyer may terminate work under this Purchase Order, including without limitation canceling shipments of Material, in whole or in part at any time, upon notice to Seller which shall state the extent and effective date thereof. Upon receipt thereof, Seller will, as and to the extent so directed, stop work and/or shipment under this Purchase Order or any subcontracts hereunder and the placement of further subcontracts hereunder, and take any necessary action to protect property in Seller's possession in which Buyer has or may acquire an interest. (b) If the parties cannot, by negotiation, agree within a reasonable time upon the amount of fair pro rata compensation to Seller upon such termination, Buyer will pay to Seller the following amounts without duplication: (1) The contract price for all Material delivered in accordance herewith prior to the effective date of termination, and not previously paid for; and (2) The actual costs indicated by Seller which are properly allocable or apportionable under recognized commercial accounting practices to, and incurred solely in respect of, the terminated portion of this Purchase Order and which are not salvageable by Seller. Payment made under this subparagraph (b) shall in no event exceed the aggregate purchase price for the Material less payment otherwise made or to be made. (c) With the consent of Buyer, Seller shall retain at an agreed price, or sell at an approved price, any Material completed or in process the cost of which is allocable or apportionable to this Purchase Order under sub-paragraph (b)(2) above and shall credit or pay the amount so agreed or received as Buyer shall direct. If, and as directed by Buyer, Seller shall transfer title to and make delivery of any such Material not so retained or sold. Proper pro-rata adjustments will be made for delivery costs or savings therein. (d) The provisions of this paragraph 13 shall not limit or affect the right of the Buyer to terminate this Purchase Order for the default of Seller in which case no further payments shall be due to seller following such termination.

**REMEDIES** The remedies herein shall be cumulative and additional to all other remedies provided in law or equity. Buyer hereby notifies Seller that Buyer objects to and specifically rejects any attempt by Seller to limit or condition its liability for breach of damages arising out of its performance or non-performance of this Purchase Order. No waiver of a breach hereunder shall constitute a waiver of any other or further breach. Upon Seller's breach or default of this Purchase Order, and in addition to all other remedies available to Buyer at law or in equity, Buyer may, without further liability to Seller, terminate or cancel this Purchase Order or any portion thereof or any of its obligations hereunder. Buyer may declare Seller in default if: (1) the Material or Services or any part thereof do not conform to specifications or to Seller's representations and warranties, express or implied, (2) the Material or Services or any part thereof are not delivered or performed in accordance with this Purchase Order; (3) Seller is otherwise in breach of this Purchase Order; (4) Seller makes a general assignment for the benefit of creditors; (5) a receiver is appointed over Seller's property or (6) a petition is filed against or by Seller in any bankruptcy or insolvency proceeding. In addition to any other remedies available to Buyer, Seller shall be liable to Buyer for any and all claims arising out of Seller's performance hereunder: (1) replacement of any non-conforming Product, or at Buyer's option, the refund of the purchase price; (2) reimbursement of out-of-pocket costs reasonable incurred by Buyer for removal, storage, transportation and disposal of non-conforming Product (unless non-conforming Product is returned to Seller at its



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request and expense); and (3) all out-of-pocket costs incurred by Buyer to recall or rework of any non-confirming Product. In no event will either party be liable to the other party for incidental, indirect, special or punitive damages.

**TITLE** Unless otherwise expressly specified title, risk of loss and liability with respect to Material shall pass to Buyer upon delivery of the Material in accordance with this Purchase Order.

**GOVERNING LAW** This Purchase Order and the contract resulting here from (i) shall be construed in accordance with the laws under Mumbai jurisdiction without regard for its principles of conflicts of laws and (ii) shall not be assignable by Seller. Any action or proceeding against either party relating to this Purchase Order must be brought and enforced in the courts of Mumbai city, and each party irrevocably submits to the jurisdiction of such courts in respect of any such action or proceeding and waives any claim of forum non convene. This contract and any disputes arising under or related thereto (whether for breach of contract, tortuous conduct or otherwise) shall be governed by the laws under Mumbai Jurisdiction, without reference to its conflicts of law principles. Any legal actions, suits or proceedings arising out of this Agreement (whether for breach of contract, tortuous conduct or otherwise) shall be brought exclusively in Mumbai city Court, and the parties to this Agreement hereby accept and submit to the personal jurisdiction of these Mumbai city Courts with respect to any legal actions, suits, or proceedings arising out of this Agreement. Any action brought by Purchaser must be commenced within one (1) year after delivery of material or completion of services, notwithstanding any statutory period of limitation to the contrary.

**FORCE MAJEURE** Neither party will be considered in default of this Agreement (except for the obligation to make any payment when due), to the extent that any such breach results from, or is made impracticable by, any cause beyond its reasonable control, such as acts of God, war, fires, explosions, natural disasters, strikes or lockouts, sabotage, critical equipment failure, and governmental laws and regulations (a "Force Majeure Event"). The party whose performance is affected by a Force Majeure Event shall (i) give prompt notice to the other party stating the details and the full particulars in connection therewith and the expected duration of the event and (ii) shall take commercially reasonable steps to resume performance promptly. If the Force Majeure Event continues for more than [ninety (90) days] the party not affected shall have the option to terminate this Agreement upon notice to the other party. The party whose performance is affected by the Force Majeure Event shall have the right to omit during the duration of the Force Majeure Event all or any portion of the quantity of Product deliverable during such period for the affected facility whereupon the total quantity of Product deliverable hereunder shall be reduced by the quantity so omitted. If, due to any such Force Majeure Event, Seller is unable to supply the total demands for Product specified hereunder, Seller shall allocate its available supply among its internal and external customers in a fair and equitable manner.

**INSURANCE** Seller agrees to hold and maintain insurance, in such amount and for such period of time as is customary in transactions of the nature set forth in this Purchase Order, to insure all of Seller's obligations under this Purchase Order, and Buyer reserves the right to establish minimum insurance. Seller shall cause Buyer to be named as additional named insured on such policies, and at Buyer's request, Seller shall deliver a certificate of insurance evidencing the coverages required by this Agreement. Seller waives subrogation against the Buyer under the insurance coverage maintained by Seller pursuant to this Purchase Order.

**SAFETY, HEALTH & ENVIRONMENT** If on-site services are provided by the Seller, the Seller agrees to comply with all applicable site Safety, Health, and Environmental rules and requirements as specified by the governing laws. Non-compliance with such rules and requirements will be considered as non-performance by Seller. Successors and Assigns: This Purchase Order is neither assignable nor transferable in whole or in part by Seller without the prior written consent of Buyer.

**CONFIDENTIALITY** Seller agrees to keep confidential and not disclose to any third party, without the written consent of Buyer, any technical or business information or research plans or activities relating to Buyer made available to Seller by Buyer or otherwise learned or developed by Seller relating to the Material or Services, specifically including the existence and contents of this Purchase Order and the identity or quantity of the Material or nature and subject matter of the Services. Seller further agrees not to use such information except for the purpose of performing this Purchase Order.