

**PURATOS CORPORATION**  
**TERMS AND CONDITIONS OF PURCHASE**

- 1. AGREEMENT.** These Terms and Conditions (the “**Terms and Conditions**”), along with the Purchase Order, Statement of Work, or other written mechanism for ordering products or services (the “**Order**”), represents the offer of Puratos Corporation (“**Puratos**”) to purchase goods and products (“**Products**”), and services (the “**Services**”) from the seller, including any of its subsidiaries or affiliates (“**Seller**”). The Order and Terms and Conditions are collectively referred to herein as the “**Agreement**.” Puratos’ offer to purchase the Products or Services is expressly limited to, and expressly made conditional on, Seller’s acceptance of the Agreement, including the terms and conditions set forth herein. Puratos hereby expressly rejects modifications and additions to any of the terms of this Agreement, irrespective of the wording of Seller’s acceptance, invoice, shipping receipt, packing slip, other written material offer, proposal or by any other means (hereinafter called “**Seller’s Forms**”). Even if Seller’s Forms purport to make acceptance conditional on acceptance of inconsistent, additional, or modified terms, Seller will be deemed to have accepted the terms of the Agreement by: (a) acknowledging the Order in writing; or (b) shipping or delivering Products, providing the Services, or otherwise performing in connection with the Order. Notwithstanding the foregoing, in the event Puratos and Seller are parties to a mutually executed effective Supply or Service Agreement intended to apply generally to Puratos’ purchase of Products or Services from Seller, the terms of such Supply or Service Agreement shall override any conflicting provision herein.
- 2. ACCEPTANCE, MODIFICATION, AND CANCELLATION OF ORDERS.** Seller shall confirm acceptance of an Order within two (2) business days of receipt. If Seller fails to affirmatively reject an Order it shall be automatically deemed accepted. An accepted Order may not be cancelled or changed by Seller without the written approval of Puratos. Puratos reserves the right to cancel an Order (as set forth in Section 11) or change quantities, Specifications (as defined in Section 5), delivery dates, materials and other descriptions relating to the Products or Services at any time prior to shipment or delivery. If Puratos’ change to an Order causes an increase or decrease in the cost or time required for Seller’s performance, Seller and Puratos will negotiate an equitable adjustment.
- 3. PRICE AND TAXES.** The purchase price is set forth on the Order. Unless otherwise set forth in the Order, the purchase price is DDP (Incoterms 2020) to the delivery point specified by Puratos and includes any and all packaging, handling, shipping, or insurance costs and all taxes, whether sales, use, excise or other, or fees, duties or other governmental impositions, whether or not the same are set forth separately on invoices to Puratos. Prices may only be changed with the written approval of Puratos. All invoices and statements (unless otherwise specified on the Purchase Order) shall be net forty-five (45) days and shall be sent electronically to: [accountspayable@puratos.com](mailto:accountspayable@puratos.com), “Attn: Accounts Payable” with the Purchase Order number included on the invoice and in the email subject line. The invoice payment period shall start on the later of the date: (a) Seller’s invoice is received at Puratos Account Payable Department; or (b) the Products are received at the delivery point. Upon request, Seller shall provide Puratos with proof of delivery in connection with an invoice. Each delivery will be separately invoiced, unless otherwise agreed in writing. If Puratos is required to pay any taxes or other fees relating to the Services to be performed or to the production, sale or transportation of the Products, Seller will reimburse Puratos for any such taxes or fees. Without limiting its other rights and remedies, Puratos has the right to offset any amounts owed to Puratos by Seller against amounts Puratos owes to the Seller.
- 4. SHIPPING AND DELIVERY.** Unless otherwise specified in an Order, title and risk of loss will pass to Puratos only upon delivery to the destination point identified in the Order. Unless otherwise specified in an Order, shipping terms shall be DDP (Incoterms 2020) to the delivery point identified in the Order. Any delivery deadline or schedule listed on the Order will be binding upon Seller and time is of the essence. Seller must provide immediate written notice if a delivery date cannot be met. In the case of delayed delivery, Puratos reserves the right, in its sole discretion, to: (a) request that Seller ships the Products by other than designated routing to expedite delivery (cost of alternative means of shipment will be borne by Seller); (b) cancel the Order in whole or in part, without penalty; (c) refuse to accept any subsequent delivery of Products; (d) recover from Seller any expenditure reasonably incurred by Puratos in obtaining substitution Products or Services from another supplier; (e) apply a penalty for late delivery of 0.5% of the price of the applicable Order per day, until Seller delivers the Products or Services; or (f) claim damages for any costs, losses or expenses incurred by Puratos which relate to Seller’s failure to deliver the Products or Services on the due date. Seller shall pack, mark, and ship Products pursuant to Puratos’ supplier guidelines. All shipment documents must refer to the applicable Order. No charge will be made by Seller in connection with shipping or packing, unless explicitly set forth in the Order. Seller shall coordinate delivery using Puratos’ designated delivery management system. Except in the case of urgent deliveries approved by Puratos, all deliveries must be made during Puratos’ normal working days and hours. Puratos may refuse deliveries outside of normal working days and hours and shall not be liable for any resulting cost to Seller. Puratos will not accept partial deliveries unless it provides written prior approval to Seller. Puratos will receive all Products subject to its rights of inspection and rejection. Puratos will not accept chemicals and materials subject to the OSHA Hazard Communication Act 1910.1200, unless Material Safety Data Sheets are provided with the shipment.
- 5. ACCEPTANCE OF PRODUCTS.** All shipments and deliveries of Products and provision of Services must be in accordance with the quantities, delivery schedules, warranties and other requirements set forth in the Agreement, including the Order. All Products and Services must comply with the specifications, samples, requirements, and guidelines identified on the Order or otherwise provided or approved by Puratos in writing (collectively, the “**Specifications**”). Seller shall not make any substitutions whatsoever without Puratos’

express prior written approval. Puratos' acknowledgement of receipt of the Products or Services or payment for the Products or Services will not constitute acceptance of such Products or Services or acknowledgement of the quantity of Products shipped. All Products and Services are subject to inspection and testing after delivery. If upon inspection or testing, the Products or Services or any portions thereof are found to be non-conforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any Specifications or fail to meet any warranties or other requirements of the Agreement, then without prejudice to any other rights and remedies, Puratos may reject the Products or Services (in whole or in part), return them at Seller's expense, and recover a full refund. Additionally, Puratos may exercise one or more of the following remedies: (a) cancel the Order, in whole or in part; (b) terminate this Agreement and any additional Orders, in whole or in part; (c) seek a reduction of the purchase price if the non-conformity is partial; (d) refuse to accept any further installments or deliveries of Products or Services from Seller; (e) carry out work (at Seller's expense) to make the Products or Services compliant; or (f) claim any and all related damages. Neither the inspection, nor failure to make inspection, nor acceptance or payment for Products or Services will release Seller from any of the warranties or other provisions of this Agreement nor impair Puratos' right to reject non-conforming Products or Services or make claims in connection with the non-conforming Products or Services. Puratos' acceptance of any non-conforming Products or Services will not constitute a waiver of any requirements under this Agreement for Products or Services subsequently delivered.

**6. WARRANTIES.** Seller represents, warrants, and covenants that all Products: (a) are free from defects; (b) are merchantable; (c) are fit for their intended purpose; (d) conform to the Specifications and other requirements in this Agreement; (e) are free and clear of all liens, claims or encumbrances; (f) comply with all applicable laws, ordinances, regulations, rules or governmental orders ("Laws"), including but not limited to laws relating to labeling, health, safety, environmental protection, food products, advertising, and pricing; (g) do not infringe upon or violate the intellectual property rights of any third parties; (h) are not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act of 1938, as amended (the "FD&C Act") or any applicable federal, state or municipal law regarding the preparation, manufacture, labeling, or delivery of the Products; (i) are not articles that may not, under the provisions of Section 404 or 505 of the FD&C Act, be introduced into interstate commerce; (j) are fit for human consumption; (k) are sourced, harvested, processed, manufactured, produced, packaged, stored, handled, advertised, labeled, sold, transported, and delivered in compliance with all Laws and all industry and food safety standards and certifications otherwise required by Puratos; (l) are in compliance with FDA regulations relating to food additives; (m) if any Product contains any color additive that is required to be certified, the applicable batch(es) of such color additive(s) have been so certified in accordance with the FD&C Act and all other applicable Laws and that such color additive is suitable for addition to each Product; and (n) are not required to contain a warning under the California Safe Drinking Water and Toxic Enforcement Act of 1986, as amended ("Proposition 65"), or, if a warning is required or advisable, such Products will be labeled with a warning as required by Proposition 65, provided that Seller will provide Puratos with prior notice before placing a Proposition 65 warning on any Product delivered to Puratos.

Seller represents, warrants, and covenants that all Services (including any deliverables provided in connection therewith): (p) will be fit and sufficient for the purposes intended; (q) will conform to the Specifications; (r) will be provided in a good and workmanlike manner, in accordance with best practices and best industry standards; (r) will not infringe upon or violate the intellectual property rights of any third parties; and (s) will comply with all applicable Laws.

Seller further represents, warrants, and covenants that: (p) it has complied with and will at all times comply with all applicable Laws; (q) it has all necessary licenses, permits, rights, powers, and authority to enter into this Agreement and perform hereunder; (r) the execution and performance of this Agreement will not result in the breach of any agreement, covenant, court order, judgment, or decree to which Seller is a party or otherwise bound.

The warranties set forth in this Section 6 are in addition to all other warranties, expressed or implied. All warranties will survive any delivery, inspection, acceptance, payment, expiration or termination of any Order by Puratos. All warranties will run to Puratos, its successors, assigns, and customers.

**7. AUDITS AND INSPECTIONS.** Seller shall provide Puratos (and its third party service providers) with access to the locations where the Services are performed or the Products are being processed, produced, packaged, or stored for purposes of ensuring Seller's compliance with this Agreement. Seller shall provide Puratos with all documents, records, information, verifications, and cooperation in connection with its audits or inspections. If an audit or inspection reveals that Seller has not met its obligations, duties, or warranties under this Agreement, Seller shall be responsible for reimbursing Puratos for the cost of such audit or inspection and Puratos may, in its sole discretion: (a) immediately terminate this Agreement and any Order, in whole or in part, without penalty; or (b) provide a cure period to allow Seller to remedy any issues and if Seller fails to remedy the identified issues during any cure period provided, then Puratos may immediately terminate the Agreement and any Order, in whole or in part, without penalty.

**8. PRODUCT RECALL.** Seller shall immediately notify Puratos of the initiation of, or any circumstances relating to, the necessity to initiate a product recall, withdrawal, inventory retrieval or any other action to remove Products from distribution and/or sale (a "Recall"). Seller shall be solely responsible for Recalls and any related costs or liabilities, including, without limitation, reimbursement of Puratos for all liability, costs, damages (including consequential damages), fees, and expenses incurred by Puratos in the event of a Recall. Seller shall

at all times be able to provide details and data regarding the exact origin of each and every ingredient used to produce the Products and the movement of the Products, in order to ensure traceability of each and every ingredient used and guarantee an efficient recall action of Products.

**9. INTELLECTUAL PROPERTY.** Puratos is and shall remain the exclusive owner of all intellectual property rights (including know-how and trade secrets) vested in its Confidential Information, products, technologies, formula, production and other processes, software, data, material or any other of Puratos' other intellectual property rights made available to the Seller ("**Puratos IP**"). The Seller shall only be entitled to use such Puratos IP if and to the extent necessary to perform under this Agreement. The Seller agrees that it will not at any time contest the ownership or validity of any of the Puratos IP nor register or attempt to register any of the foregoing. Unless otherwise agreed in writing, each party shall remain the owner of its intellectual property rights already existing at the entry into force of this Agreement. Notwithstanding the above, Puratos shall, become as from their creation the sole owner of all rights (worldwide) in: (a) any Products or deliverables that are specifically produced and/or developed by or on behalf of the Seller for Puratos, and/or (b) any developments, improvements or derivatives containing, based on, related to or inspired by Puratos IP (collectively, the "**Works**"). The Works shall be deemed to have been specifically ordered and commissioned by Puratos and will be considered a work made for hire from the moment of creation, without any need for accounting therefor. To the extent that the Works are not considered a work made for hire, Seller hereby assigns, transfers, and conveys the Works to Puratos, exclusively, irrevocably, and perpetually, without limitation or reservation, together with all right, title and interest an any goodwill associated therewith throughout the world and Seller shall take such reasonable actions and execute such documents as are necessary to confirm Puratos' rights with respect to the Works.

**10. FORCE MAJEURE.** If either party is prevented from complying, either totally or in part, with any of the terms or provisions of this Agreement by any reasons or causes beyond the reasonable control of such party, which by their nature could not have been foreseen by such party (a "**Force Majeure Event**"), then upon written notice to the other party, the affected provisions and/or other requirements of this Agreement shall be suspended during the period of such disability. The party whose performance is hindered by the Force Majeure Event shall diligently endeavor to remove or overcome the Force Majeure Event. Notwithstanding the above, if any Force Majeure Event continues for more than 15 days, Puratos may, at its option, immediately cancel this Agreement and all its related obligations on notice to Seller.

**11. TERMINATION.** In addition to any other rights of termination set forth herein, Puratos may terminate this Agreement or any Order: (a) for any reason or no reason at all upon fifteen (15) days prior written notice (a "**Convenience Termination**"); or (b) immediately on notice to Seller if any of the following occurs: (i) Seller breaches any of obligations or requirements of this Agreement; or (ii) Seller is insolvent or bankrupt or makes an assignment for the benefit of creditors or has a receiver appointed. Upon the termination or expiration of this Agreement, Seller shall: (x) cease performance and cooperate in winding down each parties' activities under this Agreement; (y) return all data, information, materials, and Confidential Information provided by Puratos; and (z) promptly deliver any Products or completed Services (i.e. deliverables) which have been previously paid for by Puratos. With respect to a Convenience Termination of this Agreement or any Order, Seller must take all reasonable steps to minimize costs due to the termination and (as Seller's exclusive remedy) Puratos will pay Seller for its unavoidable costs incurred in reasonable reliance on the Order before receiving the notice of cancellation (less any savings realized from the cancellation and commercially reasonable mitigation efforts) that Seller can document to Puratos' reasonable satisfaction. In no event shall Seller be entitled to recover a termination fee, reallocation of costs, lost profits, indirect or consequential damages, or overhead charges in connection with this Agreement or any Order or any termination or cancellation thereof. All provisions which by their nature are intended to survive the termination or expiration of this Agreement shall survive termination or expiration, including but not limited to Sections 5, 6, 8, 9, 11, 12, 13, 14, 16, 18, 19, 20, 21, and 22.

**12. INDEMNIFICATION.** Seller shall defend, indemnify and hold harmless Puratos, its subsidiaries, affiliates, successors, assigns, employees, agents, and customers from any and all claims, actions, suits, allegations, investigations, demands, injuries, losses, damages, recall costs, and expenses (including attorneys fees and other professional fees) in any way arising out of or resulting from: (a) the Products, Services, or Seller's performance under this Agreement; (b) Seller's breach of this Agreement, including the warranties set forth herein; (c) Seller's negligence, misconduct, or violation of law; (d) any Recall involving the Products; or (e) any dispute between Seller and its vendors, suppliers, or service providers. The obligation to pay attorneys' fees in this indemnity provision includes all attorneys fees and costs incurred in defending any claim or establishing the right to indemnity under this Agreement. Seller's indemnification obligations shall survive the expiration or termination of this Agreement or any Order.

**13. RIGHTS AND REMEDIES.** In addition to any remedy identified in the Agreement, if Seller breaches any term of the Agreement, Puratos will have the right to: (a) terminate the Agreement and/or any Order; (b) recover all of its damages resulting from such breach, including without limitation, incidental, and consequential damages, and its attorneys' fees; (c) obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement; and (d) pursue any other remedy available at law or in equity. Failure to properly demand compliance or performance of any term of the Agreement will not constitute a waiver of Puratos' rights or remedies. All rights and remedies of Puratos as set forth herein or elsewhere are cumulative of each other, and the exercise of one or more rights or remedies will not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

**14. INSURANCE.** During the term of this Agreement and for two (2) years thereafter, Seller shall carry and maintain in force and effect: (a) a commercial general liability policy, including coverage for product liability, with limits of no less than \$2,000,000 each occurrence and \$5,000,000 general and products aggregate; (b) workers' compensation and employers' liability policies with limits of no less than \$1,000,000 (or such larger amount required by law); (c) an automobile liability policy covering owned, hired and non-owned vehicles with limits of no less than \$1,000,000; (d) a product recall direct and third-party expense coverage policy, with limits of no less than \$2,000,000 each occurrence and \$5,000,000 aggregate; and (e) an umbrella/excess liability policy with limits no less than \$10,000,000, in each case, with an insurance company having an A.M. Best Rating of A IX or better. All such policies shall: (x) name Puratos as an additional insured party; (y) include, as permitted by law, a waiver of subrogation by the insurance carrier in favor of Puratos or any of its affiliates; and (z) provide that Puratos will receive notice of a cancellation or change of such policy in accordance with the applicable policy provisions. Seller agrees to notify each of its insurance companies of the waivers of subrogation so as to prevent any invalidation of said insurance coverage by reason of the aforesaid waiver. Seller shall provide Puratos with certificates of insurance and written acknowledgments of such waivers of subrogation executed by authorized representatives of such insurance carriers.

**15. QUANTITY.** The quantity and description of the Products and Services shall be set forth in the Order. Except for an Order containing an explicit firm volume commitment issued by Puratos, nothing in this Agreement shall be construed as requiring Puratos to buy any quantity of Products or Services. Purchaser has the absolute right to purchase the Products and Services from manufacturers, suppliers, or providers other than Seller. Purchaser shall have no obligation to Seller for any of Seller's inventory or finished goods, packing materials or raw materials of any kind.

**16. CONFIDENTIALITY.** Seller may become aware of certain trade secrets and other confidential, non-public information of Puratos, including, without limitation, Puratos' requirements, Specifications, recipes, processes, systems procedures, vendor or supplier information, customer lists, marketing information, and information concerning Puratos' employees, products, services, prices, operations, and procedures, in any format, including, but not limited to, written, printed, graphic and electronically recorded information. Any such information ("**Confidential Information**") shall be used by Seller only to fulfill its obligations under this Agreement and shall not be used by Seller for its own benefit, nor disclosed to any third parties, except to the extent required by law and then only upon prior written notice to Puratos. Upon request of Puratos, Seller will return to Puratos all originals and any copies of Confidential Information in Seller's possession or control. Seller's obligations with respect to Confidential Information shall survive the termination or expiration of this Agreement.

**17. LAWS AND REGULATIONS.** Seller shall comply with all applicable Laws, including any import and export control laws and regulations, and, in the United States, all applicable laws, ordinances, rules and regulations covering the production, sale and delivery of the Products and Services, including but not limited to: (a) the Equal Opportunity Clause prescribed in 41 CFR 60-1.4, (b) the Affirmative Action Clause prescribed in 41 CFR 60-250.4 regarding disabled veterans and veterans of the Vietnam Era, (c) the Affirmative Action Clause for Handicapped Workers prescribed in 41 CFR 60-741.4, (d) 48 CFR Chapter 1 Subpart 19.7, regarding Small Business and Small Disadvantaged Business Concerns, (e) the Affirmative Action Compliance Program (41 CFR 60-1.40), (f) the annual filing of SF-100 Employer Information Report (41 CFR 60-1.7), (g) 41 CFR 60-1.8 prohibiting segregated facilities, and (h) the Fair Labor Standards Act of 1938, as amended. If applicable, Seller shall adopt a subcontracting plan for small, disadvantaged and women-owned businesses, and will prepare and file Forms 294 and 295 in Federal Acquisition Regulations, Part 52. By accepting this Agreement, Seller hereby represents, warrants and certifies that it is not presently debarred, suspended, proposed for debarment or declared ineligible for the award of contracts by any federal agency.

**18. SEVERABILITY.** The provisions of this Agreement shall be severable and the invalidity of any provision, or portion thereof, shall not affect the enforceability of the remaining provisions.

**19. ASSIGNMENT AND SUBCONTRACTING.** Seller may not assign, delegate, subcontract or otherwise transfer its rights or obligations under this Agreement and may not assign any present or future right to receive payment under this Agreement without the prior written consent of Puratos. If Puratos, in its sole discretion, provides such written consent, then Seller shall remain fully liable for performance hereunder.

**20. NO WAIVER.** No waiver of any term or condition is valid unless it is in writing and executed by Seller and Puratos. Puratos' inspection or acceptance of a nonconforming delivery, test, payment, delay, failure to inspect or test, or failure to discover any defect will not be deemed to be a waiver of Puratos' rights or remedies.

**21. ENTIRE AGREEMENT.** This Agreement, including the Order, constitutes the final expression of agreement between Seller and Puratos with respect to the purchase and sale of the Products or Services, and is a complete and exclusive statement of the terms of this Agreement, superseding all other oral or written agreements, or communications by or between Seller and Puratos. This Agreement shall not be altered in any manner except by a separate, written agreement executed by authorized officers of both Puratos and Seller. If Seller has also executed Puratos' form of Continuing Guaranty, Indemnity, and Insurance Agreement (the "**Food Guaranty**"), then the

representations, warranties, obligations, and remedies in this Agreement shall be deemed to be in addition to and not in lieu of the provisions set forth in the Food Guaranty.

**22. GOVERNING LAW AND ENFORCEABILITY.** The terms and provisions of this Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of New Jersey, without regard to its conflict of law rules. Seller consents and submits to the exclusive jurisdiction of the state or federal courts sitting in the State of New Jersey with respect to any action related to the Agreement or the Products or Services.

10/2022