



## **SUGARIGHT, LLC TERMS AND CONDITIONS**

These Terms and Conditions (“Terms and Conditions”), together with the pricing, quantity, delivery, and other details set forth in any accepted purchase orders (“Purchase Orders”) under paragraph 3 below, constitute a binding agreement between Sugaright LLC (“Company”) and Company’s customer submitting the Purchase Order (“Customer”), and govern the terms and conditions applicable to the sale and delivery of all Products (as hereinafter defined) and services by Company to Customer and all Purchase Orders for Products and services placed by Customer. In the event of a conflict between the terms set forth in any Purchase Order and the terms set forth in these Terms and Conditions, except as expressly provided herein, these Terms and Conditions shall govern. By placing a Purchase Order or Volume Order, taking delivery of Products, or engaging Company to perform any production, tolling, or other services, Customer evidences its agreement to be bound by these Terms and Conditions and all Purchase Orders and Volume Orders (as defined herein) governed hereby. These Terms and Conditions may be accepted electronically, and electronic signatures shall be binding as originals.

### **1. APPLICABILITY:**

These Terms and Conditions shall govern and apply to all Purchase Orders and Volume Orders placed by Customer and accepted by Company for refined sugar or other products (“Products”) or services sold by Company, commencing upon acceptance by Company of Customer’s initial Order. These Terms and Conditions may be amended by mutual written agreement for specific customers or orders.

### **2. PRODUCT PRICING:**

(a) Company agrees to supply Customer with the Products or services specified in each accepted Purchase Order at the price or prices set forth in such Purchase Order or as otherwise set forth in the Confirmation (as hereinafter defined) relating thereto (any such price, a “Price”). Except as may be specified in the applicable Purchase Order, the Prices do not include any sales, use, excise, or other taxes, or customs duties applicable to the sale, processing, use, or delivery of the Products or services. In the event that any such tax or duty is payable, the amount thereof shall be added to the Price and paid by Customer. Company shall provide a good-faith estimate of any applicable taxes or duties in the Confirmation and notify Customer of any material changes (e.g., >5%) at least 10 days prior to invoicing.

(b) Unless otherwise stated in the Confirmation, Prices for Products are per dry pound. Charges for drums, totes, and pallets are in addition to the Price, unless otherwise indicated on the invoices.

(c) All Prices are quoted and payable in U.S. dollars. In the event of a material fluctuation in the exchange rate (defined as a change exceeding 5% from the rate at the time of Confirmation) between the U.S. dollar and the currency of the Customer’s payment source, Company may, upon written notice to Customer at least 10 days prior to invoicing, adjust the Price to reflect such fluctuation. Customer may dispute the adjustment within 5 days of notice, and the parties shall negotiate in good faith to reach an agreement. If no agreement is reached, either party may terminate the affected Purchase Order or Volume Order without penalty.

### **3. PLACEMENT AND ACCEPTANCE OF ORDERS:**

(a) All Purchase Orders for Products or services shall be submitted to Company by Customer at least 7 days prior to the requested delivery date, in such form as Company may require, which may include telephone, email, or other communications acceptable to the Company, and shall identify the Products to be purchased or services rendered, price and delivery terms, and any other terms and conditions mutually agreed by Customer and Company. For the avoidance of doubt, these Terms and Conditions shall control over and supersede any clause included in the correspondence, order forms, invoice, or business documents of the Customer. No term or condition in any Purchase Order submitted by Customer shall have effect unless accepted in writing by Company’s issuance of a Confirmation.

(b) Company shall endeavor to promptly provide Customer with written acknowledgment of each Purchase Order and, subject to availability, with written acceptance by email or otherwise (a “Confirmation”), of each Purchase Order submitted by Customer. Acceptance may also occur via clickwrap or similar digital methods for online orders. Each Purchase Order submitted by Customer shall be irrevocable, and Company shall be deemed to have accepted such Purchase Order only if it issues the Confirmation relating thereto. Except in the case of Purchase Orders submitted under outstanding Volume Orders, Company may accept or reject any Purchase Order in its sole discretion. Each such accepted Purchase Order shall form a binding contract for the supply of Products under and subject to the terms of the Confirmation and these Terms and Conditions, which shall be incorporated by reference in each accepted Purchase Order. References in these Terms and Conditions to the terms of any Purchase Order or Volume Order shall mean and refer to the terms of such Purchase Order or Volume Order as accepted by, and subject to any modifications set forth in, the



Confirmation applicable thereto. In the event of any discrepancy between any Purchase Order or Volume Orders submitted by Customer and Company's Confirmation applicable thereto, the terms of such Confirmation shall control unless Customer disputes any such term by email or other writing delivered to Company within 24 hours after delivery of such Confirmation, time being of the essence for such purposes.

(c) Customer may place orders involving multiple deliveries at different times ("Volume Orders"), which shall constitute Customer's irrevocable commitment to purchase 100% of the aggregate volume of Products covered thereby and shall be subject to acceptance by Company's Confirmation. Unless otherwise specified in the Confirmation, deliveries under Volume Orders will be made in approximately equal monthly installments. To obtain deliveries under any accepted Volume Order, Customer shall submit individual Purchase Orders thereunder in accordance with paragraphs 3(a) and 3(b) above, subject to any applicable terms of the accepted Volume Order; provided, that Customer's failure to submit Purchase Orders for the entire quantity of Products covered by any Volume Order shall not relieve Customer of its obligation to purchase such entire quantity on the terms and conditions, and within the delivery period, specified in such Volume Order ("Full and Timely Performance"). If Customer fails to make Full and Timely Performance by the end of the delivery period specified in the Volume Order, Company may, without limiting any other right or remedy, cancel such Volume Order as to any undelivered Products thereunder. Customer may request adjustments to the aggregate volume ( $\pm 10\%$ ) with 30 days' notice, subject to Company's reasonable approval based on availability. If approved, pricing may be adjusted proportionally.

(d) The Company location from which Products sold hereunder shall be produced or delivered shall be stated in the Confirmation. Company is not obligated to fill any Purchase Order with production from another location.

(e) Company shall use diligent efforts to fill accepted Purchase Orders within the delivery period requested by Customer, subject to Product availability. Unless otherwise agreed, Company may fill orders from any Company facilities. The inability of Company to fill a Purchase Order within the delivery period requested by Customer shall not entitle Customer to claim damages or release Customer from its obligations under any Purchase Order or Volume Order. If Company cannot meet the requested delivery period due to its fault, Customer may cancel the affected portion without penalty.

#### **4. DELIVERIES; TRANSFER OF RISKS:**

(a) Unless otherwise specified in the applicable Purchase Order, Company will include all applicable freight, insurance, and other charges in the Price for the shipment and delivery of the Products to the Customer's designated dock ("Delivered Pricing"). Delivered Pricing is provided as a service to the Customer, subject to the following conditions:

- (i) if actual freight, insurance, or other costs exceed the estimated amounts used to establish Delivered Pricing, Company and Customer shall share equally any unexpected increases exceeding 10% of the estimate, unless the increase results from changes requested by the Customer; and
- (ii) Company will not be liable for delivery errors or damages caused by the freight carrier or other third parties, including claims related to contamination, penalties, late charges, or fees (collectively, "Delivery Claims"); however, Company will submit any Delivery Claims made by the Customer to the freight carrier and make reasonable efforts to seek reimbursement.
- (iii) Company may discontinue Delivered Pricing at any time by providing notice to the Customer. If Delivered Pricing is discontinued, Company shall provide at least 30 days' notice.
- (iv) Title to and risk of loss for the Products will remain with Company until the Products are received at the Customer's dock. The carrier's signed receipt, corresponding to the invoice, will serve as proof of delivery.

(b) Customer will accept delivery of the Products during the delivery period specified in the Confirmation. If the Customer is unable or unwilling to accept delivery within this period, Company may, at its discretion and in addition to other rights or remedies, do the following:

- (i) impose a monthly charge on all Products not timely accepted, starting on the 30th day after the specified delivery period (with a 5-day grace period for documented reasons), equal to 1.5% of the gross Price of such Products, and/or
- (ii) cancel the Order. The Customer will be responsible for paying any increased duties, fees, taxes, or other charges or tariffs resulting from any delivery delay caused by the Customer.

#### **5. PAYMENT CONDITIONS:**

(a) Company will issue an invoice with respect to each delivery of Products or services promptly following delivery, at the Prices established in accordance with the applicable Confirmation and these Terms and Conditions. Invoices issued by Company shall be payable as set forth in the applicable Purchase Order. Customer shall not be entitled or permitted to apply any setoffs, charge-backs, overhead, carriage costs, or any other expenses or deductions against monies owed to Company pursuant to any invoice. Customer may apply setoffs only for undisputed amounts related to non-conforming Products, with prior written notice and Company's approval (not to be unreasonably withheld). Any statement or legend



on a payment transmission or check indicating that it is “payment in full” or other statements to that effect shall have no effect and that Company’s accepting such or cashing such check does not constitute acceptance of any such statement or legend. Without limiting any other right or remedy, Company may suspend shipments or performance under any accepted Purchase Orders or Volume Orders at any time that Customer fails to make timely payment of outstanding invoices.

(b) Except as otherwise agreed, all payments shall be quoted and denominated in U.S. dollars and shall be paid by wire transfer of immediately available funds to an account designated by Company. Any invoiced amount that remains unpaid after due date shall bear interest at a rate of 1% per month (or the highest rate permitted by law, if lower) for delays under 30 days calculated from the due date to the date of payment (including the payment of any accrued interest thereon). Customer shall be additionally liable for any costs and expenses of collection, including, without limitation, reasonable fees and costs for attorneys.

(c) Without prejudice to any right or remedy available to it at law or in equity, in the event Customer fails to make a payment when due, and fails to cure such breach within 10 days’ notice, Company reserves the right to cancel, or suspend delivery of, any order-in-process; refuse to accept any more Purchase Orders and/or Volume Orders from Customer; and/or require Customer to secure the full payment of any Purchase Orders-in-process by a letter of credit, bank guarantee, or substantially identical device satisfactory to Company. Any letter of credit shall, at a minimum, be:

- (i) irrevocable and transferable,
- (ii) in form and substance satisfactory to Company and will appropriately reflect the purpose thereof, and
- (iii) issued by a bank acceptable to Company. Company’s exercise of any of the remedies set forth in this paragraph 5 or otherwise in these Terms and Conditions shall not operate as a waiver of any other rights or remedies that Company may have.

## **6. WARRANTIES; LIMITATION OF LIABILITY:**

(a) Company represents and warrants to Customer that the Products comprising each shipment or other delivery by Company under any Purchase Order shall, as of the date of delivery of such Product under paragraph 4(a) above, satisfy Company’s specifications for such Product set forth on Company’s website, [www.sugaright.com](http://www.sugaright.com), under “Technical Specifications”, and shall not be, on such date: (i) adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act (the “Act”); (ii) an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce; or (iii) adulterated or misbranded within the meaning of food, drug, and cosmetic laws of the state to which such article is shipped by Company, the adulteration and misbranding provisions of which are substantially the same as those found in the Act; provided, that no representation or warranty concerning misbranding is given if an article is delivered under a label designed or furnished by Customer. EXCEPT AS EXPRESSLY SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, COMPANY HAS NOT MADE AND HEREBY DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY OTHER REPRESENTATIONS OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, PERFORMANCE, SUITABILITY, NON-INFRINGEMENT OR FITNESS OF THE PRODUCTS FOR ANY PARTICULAR USE BY CUSTOMER OR ANY OTHER PERSON. Company shall notify Customer of any material changes to specifications at least 30 days in advance.

(b) The warranty stated above is in lieu of all other obligations or liabilities on the part of Company, and Company neither assumes nor authorizes any other person to assume for it any other liability. Customer expressly waives any right, claim, or cause of action that might otherwise arise out of the purchase and use of the Products after the Customer has accepted the Products.

(c) Company’s sole liability under the foregoing warranty is limited to either replacing the non-conforming Product or refunding to Customer the purchase price therefor at Company’s sole discretion. Any claims under the foregoing warranty must be made within 30 days after delivery of the applicable Products, and otherwise shall be irrevocably waived. WITHOUT LIMITING THE FOREGOING, COMPANY SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, SUFFERED BY CUSTOMER OR ANY OF ITS EMPLOYEES OR AGENTS OR ANY OTHER PERSON ARISING OUT OF OR IN CONNECTION WITH ANY PURCHASE ORDER OR VOLUME ORDER, OR WITH THE PURCHASE OR USE OF ANY PRODUCTS OR SERVICES PROVIDED BY COMPANY, INCLUDING WITHOUT LIMITATION, DAMAGES BASED UPON LOST GOODWILL, LOST SALES OR PROFITS, WORK STOPPAGE, DOWNTIME, PRODUCTION FAILURE, IMPAIRMENT OF OTHER PRODUCTS OR INGREDIENTS, FOR ANY REASON OR UNDER ANY THEORY OF LIABILITY WHATSOEVER. IN NO EVENT SHALL COMPANY’S LIABILITY IN RESPECT OF ANY PRODUCTS OR SERVICES EXCEED THE AGGREGATE AMOUNT PAYABLE BY CUSTOMER THEREFOR, except for gross negligence or willful misconduct by Company.

## **7. INSURANCE**



Company shall maintain commercial general liability insurance including Product liability and contractual liability, on a 'claims made' basis with minimum limits of liability of \$2,000,000. Upon request the Customer will be added to Company's Product liability policy as an "additional insured vendor" per the terms of the broad form vendor's endorsement currently in use.

## **8. TERMINATION**

(a) Either Company or Customer may terminate any Purchase Order or Volume Order immediately upon written notice to the other party if the other party is in material breach of any Purchase Order or Volume Order and has failed to cure such breach within thirty (30) days (10 days in the case of failure to make any payment) after receiving written notice from the first party identifying the breach.

(b) Termination of any Purchase Order or Volume Order shall not affect the parties' obligations to make payments to one another accruing prior to such termination or in respect to an antecedent breach thereof, and will not prejudice any other right of the parties hereunder in respect of any such accrued obligations including, without limitation damages for breach and right to indemnity, and each party agrees to reimburse the other party for any reasonable costs and expenses (including reasonable attorneys' fees) incurred by such party in enforcing its rights hereunder. Without limiting the foregoing, the provisions of paragraphs 5, 6, 9, and 11 of these Terms and Conditions shall survive any termination of any Purchase Order or Volume Order.

## **9. FORCE MAJEURE:**

Company and Customer shall not be responsible to each other for any failure or delay in delivery where such failure or delay is caused by fire, labor trouble (including strikes and lockouts), war, governmental regulations, interruption of or delay in transportation, inability to obtain materials and supplies, accidents, excessive demand over the available supply of raw materials, pandemics or epidemics, cyberattacks or data breaches, supply chain disruptions, acts of God, climate-related events (e.g. extreme weather), or any other cause of like or different character beyond the control of either party. A party reporting the occurrence of force majeure circumstances must inform the other party thereof immediately and shall continue to perform to the extent feasible. If such events continue for six (6) months or more, either party may unilaterally terminate any Purchase Order or Volume Order whose performance is prevented by such events by written notification to the other Party. In the event of the occurrence of a force majeure event, Company shall have the right, but not the obligation, to allocate Product among its Customers. Allocation shall be on a pro-rata basis based on customers' historical volumes.

## **10. ASSIGNMENT:**

(a) No Purchase Order or Volume Order, or any rights or obligations thereunder, may be assigned by Customer without the prior written consent of Company, other than in connection with the sale of all or substantially all of the assets, business, and goodwill of the Customer to a third party that expressly assumes the obligations of Customer thereunder or to affiliates without consent, provided notice is given and the affiliate assumes obligations. Any Purchase Order or Volume Order shall be binding upon both Customer and any successor or assign of Customer, whether or not permitted hereunder, in the same manner and to the same extent as though such successor or assign were the Customer.

(b) Further, and notwithstanding anything herein to the contrary, Customer consents to the assignment from time to time of any part of Company's rights to payment hereunder in respect of invoices addressed to Customer or its Affiliates (a "Receivable"), and in connection with such assignments, and notwithstanding any confidentiality agreements to the contrary, Company may disclose the terms of the contractual arrangements between Customer and Company solely for the purpose of assigning any Receivables and in order for assignee to collect such payments to which it may become entitled. Subject to the foregoing, any Purchase Order or Volume Order shall inure to the benefit of, and be binding upon, the parties hereto and their legal representatives, successors, and permitted assigns.

## **11. CERTAIN RESTRICTIONS:**

(a) Customer acknowledges that U.S. export control laws apply to the sales contemplated in these Terms and Conditions. Customer warrants that it will not knowingly sell or permit the resale of Products to any person located in, or any person who will resell to a person located in, any country which is subject to an embargo under the U.S. Department of Commerce Bureau of Industry and Security, the U.S. Department of Treasury Office of Foreign Assets Control Regulations, or similar laws and regulations. Additionally, Customer understands and acknowledges that the United States maintains lists of persons and entities prohibited from participating in any U.S. export or re-export transaction. Whenever Company believes that a violation of the U.S. export control laws may occur or has occurred, Company reserves the right to request additional information regarding the end-user and/or destination of the Products and Customer agrees to provide such information. Company reserves the right to refuse to proceed with any transaction where Company determines that the transaction may violate the U.S. export controls laws and to terminate and discontinue doing business with any Customer that Company determines has engaged in transactions placing Company at risk of



violation of such laws. Company shall provide reasonable assistance with export documentation upon request.

(b) Customer represents and warrants that it shall use, handle, store, distribute, and sell all Products ordered herein in accordance with all applicable laws, statutes, ordinances, regulations, codes, and standards (collectively, "Laws"). Except as expressly stated in these Terms and Conditions or in the Company's specifications, Company makes no promise or representation that the Product shall conform to any other Laws. Customer shall be exclusively responsible for ensuring compliance with all Laws associated with its intended use of the Products.

## **12. DATA PROTECTION:**

(a) Both parties acknowledge that in the course of performing under any Purchase Order or Volume Order, they may exchange or process personal data or confidential information (collectively, "Data"). Each party shall comply with all applicable data protection laws, including but not limited to the California Consumer Privacy Act (CCPA) and similar state laws, in handling such Data.

(b) Each party agrees to:

- (i) use Data solely for the purposes of fulfilling its obligations under these Terms and Conditions;
- (ii) implement reasonable security measures to protect Data from unauthorized access, disclosure, or loss;
- (iii) notify the other party promptly of any data breach involving the other party's Data; and
- (iv) not disclose Data to third parties without the other party's prior written consent, except as required by law.

(c) In the event of a breach, the breaching party shall indemnify the other for direct losses, up to the liability cap in Section 6.

(d) Upon termination or at the other party's request, each party shall return or destroy the other party's Data, except as required for legal compliance. This section shall survive termination of any Purchase Order or Volume Order.

## **13. MISCELLANEOUS:**

(a) A waiver by either party hereto of any particular default or breach by the other party shall not affect or prejudice the rights of the aggrieved party with respect to any other default or breach whether of the same or different nature.

(b) The laws of the Commonwealth of Pennsylvania will govern any Purchase Orders, Volume Orders, these Terms and Conditions, and the sale of Products and services under this agreement, without considering its rules on conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods, as amended, will not apply. If a dispute arises related to these Terms and Conditions, the parties will first try to resolve it through good-faith discussions within 30 days. If still unresolved after 30 days, the parties may choose mediation or arbitration under the American Arbitration Association (AAA) rules in a location both agree on. If the dispute remains unresolved, the Customer agrees that any legal action will be handled exclusively by a State or Federal court in Pennsylvania, or at the Company's option, in the Customer's state of business. The Customer waives any objections based on personal jurisdiction or venue. The parties may still seek protective or enforcement measures from local courts as needed.

(c) If any provision of these Terms and Conditions is held invalid or unenforceable, the remainder shall continue in full force and effect.

(d) Both parties shall maintain the confidentiality of the other's proprietary information disclosed under any Purchase Order or Volume Order, except as required by law.

(e) Both parties agree to comply with applicable food safety laws, including the Food Safety Modernization Act (FSMA) requirements.