

RSS Company, LLC
Purchase Order – Terms and Conditions

1. **Definitions.** These Terms and Conditions of Purchase Order are referred to below as “these Terms.” “Buyer” means RSS Company, LLC, and these Terms shall be for the benefit of RSS Company, LLC who may buy from Seller (“Affiliates”). “Seller” means the vendor identified in the Purchase Order, and its subsidiaries or affiliates. These Terms and Conditions and the Purchase Order issued by Buyer into which these Terms are incorporated are referred to as the “Purchase Order.” The goods to be purchased by Buyer under the Purchase Order are referred to below as the “Goods.”
2. **Entire Contract.** Goods purchased from Seller will be confirmed with a Purchase Order from Buyer. Unless a separate written agreement is signed by both parties, the entire contract between Buyer and Seller shall be contained in the Purchase Order and these Terms.
3. **Acceptance.** Any additional or different term or condition stated by Seller in any acknowledgement form, or in otherwise acknowledging or accepting the purchase order, is deemed by Buyer to be a material alteration of the Purchase Order and is hereby rejected by Buyer unless specifically accepted by Buyer in writing.
4. **Seller’s Warranties.** Seller warrants that all Goods sold shall strictly conform to the specifications set forth in the Purchase Order and are free from liens and patent infringement. Seller also warrants and represents that all the Goods will be of merchantable quality, free from all defects in design, workmanship and materials, and will be fit for the particular purposes for which they are purchased and that the Goods shall be provided in strict accordance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Buyer. Seller represents and warrants that all Goods furnished to Buyer will comply with and be manufactured, priced, sold, and labeled in compliance with all applicable federal, state, and local laws, rules, ordinances, regulations, government standards, and codes, including without limitation, food safety, health and safety, environmental protection, labor, consumer product safety regulations and labeling requirements, and the Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S. C. 6901 et seq. Seller represents and warrants that all Goods furnished to Buyer shall comply with all United States laws and regulations applicable to trademark, trade secret, copyright, and patent rights. Seller represents and warrants that all Goods are and will be manufactured, processed, labeled, packaged, accurately marked, tagged, tested, certified (including kosher, fair trade, non-gmo, FSC, organic, or other certificates, if applicable), weighed, inspected, shipped and sold in compliance with all legal requirements, including by way of example all legal requirements relating to labor, health, safety, environment, labeling, country of origin designation and Customs requirements; all FDA, toxic substances, OSHA, CPSC and EPA regulations; Federal Food and Drug Act, or any other food safety statute and the requirements of California Proposition 65. Seller represents and warrants that no component of the goods was mined, produced, or manufactured in whole or in part in the Xinjiang Uyghur Autonomous Region of the People’s Republic of China or produced by any entity included on the UFLPA Entity List. Seller further represents and warrants that Supplier has no child, indentured, or forced labor in the production or shipment of the Goods. Seller shall at Seller’s expense, satisfy all governmental requirements for registrations, permits, notices, reports, licenses and supplier notifications with respect to manufacturing, packaging, labeling, waste disposal, specifications of Goods and use of Goods. Seller shall be deemed the generator and owner of any waste(s) generated in connection with Seller’s performance under the Purchase Order, and as such Seller shall be solely and independently responsible for any liabilities caused by such waste(s); and Seller shall safely, properly and in compliance with applicable laws, regulations and ordinances, dispose of waste(s) or arrange for the disposal of waste(s) in a manner that is safe, proper and in compliance with all applicable laws, regulations and ordinances. Seller shall include an itemized list of Goods, a Certificate of Analysis and Safety Data Sheets with each shipment. Seller represents and warrants that the Goods may be transported and introduced into interstate commerce.
5. **Seller’s Liability.** Seller is responsible for the cost of replacing defective and/or nonconforming Goods as specified in the Buyer’s Purchase Order following rejection by Buyer. Seller shall be liable to Buyer for all damages arising from defects, nonconformity of the Goods, delays in shipments and any other misrepresentation or breach by Seller, including but not limited to incidental and consequential damages.

6. **Indemnification.** Seller agrees to defend, indemnify, and hold harmless Buyer and its customers from all claims, losses, damages, costs, and legal fees of any nature whatsoever, including but not limited to consequential or incidental damages, arising out of, or related to the Goods, and any acts or omissions, including the negligence of Seller, its agents, employees, subcontractors, or any other persons directly or indirectly acting on behalf of them. The indemnified losses shall include, without limitation, those losses incurred because of any violation of any law, regulation, or order; bodily injury, death or property damage; breach of warranty; recall; representation or misrepresentation regarding a product's attributes or performance ability.
7. **Insurance.** Seller agrees to maintain, in force, insurance coverage for the indemnity obligations set forth above, including contractual liability insurance.
8. **Set-Off.** Buyer and Seller agree that Buyer may deduct and set off from any sums due and owing Seller amounts equal to the costs, damages and losses that Buyer has incurred because of the failure of the Goods to comply with the specifications and/or any breach of this or any other contract by Seller.
9. **Extra Charges.** No extra charges of any kind will be allowed for Buyer's account unless specifically agreed to by Buyer.
10. **Inspection/Claims.** Final acceptance or rejection of the Goods shall be made as promptly as practical after delivery to the ultimate destination, except as otherwise provided in the Purchase Order. Failure to inspect, accept or reject the Goods or failure to detect defects by inspection shall neither relieve Seller from responsibility for the Goods nor impose liabilities on the Buyer.
11. **Recalls, Tainted Goods Claims.**
 - a. Recalls, Safety Notices. If all or any portion of the Goods are the subject of a recall (or safety notice) or other action required to bring the Goods into compliance with the specifications, the Purchase Order or these Terms and Conditions whether initiated by Buyer, Seller, or a government or consumer protection agency, Seller shall be responsible for all costs and expenses associated with the recall, notice or action and shall promptly reimburse Buyer for all actual costs and expenses incurred by Buyer in recalling, publishing notices about, shipping and/or destroying the Goods (and where applicable, any products with which the Goods has been packaged, consolidated or commingled), including refunds to customers and Seller's net landed cost of unsold Goods.
 - b. Defects; Tampering. In the event of a claim or potential claim of any defect regarding any Goods or of any tampering with the Goods, Seller agrees to promptly notify Buyer, contact the FDA and/or other appropriate government agency, and immediately conduct at its expense a full and complete analysis of said Product.
12. **Title; Risk of Loss; Delivery.** Title to the Goods and risk of loss shall pass to Buyer at time of delivery of Goods to the required location and acceptance by Buyer of such Goods. The goods will be delivered in the time frame set forth in the Purchase Order. Any change in freight rates between the date of the Order and bill of lading date above and beyond the negotiated price shall be for the account of Seller. For any Order identifying the delivery term as mill truck, "DLVD," or delivered, the default 2020 INCOTERM applicable is DAP to the designated destination.
13. **Changes.** Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made, and the Purchase Order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph.
14. **Force Majeure and Cancellation.** The Purchase Order can be cancelled or rescinded only by a writing signed by both of the parties, except as otherwise expressly provided in these Terms and Conditions. In the event of United States or foreign government intervention, trade restrictions, and/or quotas which may delay or prevent delivery of the Goods or any part thereof, Buyer, at Buyer's option, may cancel purchase of Goods without liability. In the event any of the Goods shall become subject to any governmental fees or duties not presently in effect, or to any increase in any existing fee or duty, including any antidumping duty or countervailing duty, Buyer, at Buyer's option, may cancel the unshipped balance of the Goods without liability.

15. **Seller Compliance.** The Seller agrees to comply with the following: A) Executive Order 11246 as amended and all regulations promulgated pursuant to that Executive Order including but not limited to the provisions of paragraphs (1) through (7) of the “Equal Opportunity Clause” and the “Certification of Nonsegregated Facilities”, each of which is incorporated herein by reference, B) Section 503 of the Rehabilitation Act of 1973 including the applicable parts of the affirmative action clause entitled “Affirmative Action for Handicapped Workers” (41 CFR 60-741.4) incorporated by reference, C) The Vietnam Era Veterans Readjustment Assistance Act (30 USC §2012) including the applicable parts of the affirmative action clause entitled “Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era” (41 CFR 60-250.4) incorporated herein by reference, D) Executive Order 13496 “Notification of Employee Rights Under Federal labor laws” (29 CFR Part 471, Appendix A to Subpart A) also incorporated herein by reference, E) Seller agrees to comply with all applicable commercial and public anti-bribery laws, including, without limitation, the US Foreign Corrupt Practices Act, the Canadian Corruption of Foreign Public Officials, and the UK Bribery Act and F) Seller hereby represents and warrants that neither Seller, nor any persons or entities holding any legal or beneficial interest whatsoever in Seller, are (i) the target of any sanctions program that is established by Executive order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury (“OFAC”); (ii) designated by the President of OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, The International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, The Patriot Act, Public law 107-56, Executive Order 13224 (September 23, 2001) or any Executive Order of the President issued pursuant to such statutes; or (iii) named on the following list that is published by OFAC: “List of Specially Designated nationals and Blocked Persons.” If the foregoing representation is untrue at any time, an event of default will be deemed to have occurred without the necessity of notice to Seller.
16. **Default.** Time is of the essence. The Goods are to be made available to Buyer for shipment within the shipping period stipulated in the Purchase Order or as otherwise specified and agreed to by Buyer in writing. In the event Seller fails to make shipment strictly in accordance with the delivery terms of the Purchase Order or Buyer’s change order, Buyer, at Buyer’s option, may cancel the unshipped balance of the Goods without liability, and pursue any and all remedies at law or in equity for breach of contract against Seller.
17. **Dispute Resolution.** Except as specifically set forth in Section 17, any claim of any kind that arises out of or relates to the Purchase Order, or to the interpretation or breach thereof, shall be brought solely in the State of Minnesota or in Buyer’s discretion, in the state in which Buyer or any Affiliate is located. Buyer may, in its sole discretion, join Seller in any dispute or proceeding brought by Buyer’s customer that arises from or relates to the Goods sold by Seller. Except with respect to a joinder in a proceeding involving Seller’s customer, which shall be governed by the law of the state where the action is filed, all claims and disputes arising out of or related to the Order Confirmation shall be governed by and in accordance with the state law of Minnesota. The 1980 United Nations Convention on Contracts for the International Sale of Goods, as amended, shall not apply to the Purchase Order. In connection with any proceeding, each party shall pay its own attorney and other professional fees and costs.
18. **Environmental.** Seller acknowledges that the Goods sold to Buyer may contain organic material or be classified as regulated articles that may pose an environmental hazard under various laws and regulations. Seller follows all Federal, State and Provincial requirements, including but not limited to laws related to food safety, and the manufacture, transportation, and storage of hazardous materials, and indemnifies Buyer for any non-compliance issues that may arise. Seller shall ship only Goods free of mold (except as specifically required by the specifications) and other contaminants.
19. **Taxes.** Unless specified on the Purchase Order, the prices are inclusive of, and Seller shall be solely responsible for and pay, all federal, state, and local taxes, including, but not limited to, value added tax, goods and services tax, sales use or excise tax. No sales or use tax shall be added when a valid tax-exempt notation is indicated on the Purchase Order.
20. **Severability.** If any portion of the Agreement or its application is construed to be invalid, illegal, or unenforceable, then the other portions of the Agreement or its application thereof shall not be affected thereby and shall be given full force and effect without regard to the invalid or unenforceable portions.
21. **International Shipments.** International shipments must comply with all applicable laws and regulations, including those imposed or enforced by all US Government Departments (I.E. Customs and Border Protection, US Department of

Agriculture, US Food and Drug Administration, US Environmental Protection Agency, ECT...). All invoices must include the following information: Purchase Order number, clear description of the Goods, HTS classification number, unit of measure, quantity, unit price, currency, country of origin, terms of sale, and Incoterms® 2020 applicable to the sale. All articles and their containers, shipped to the US must be permanently mark