



THE J.M. SMUCKER Co

PURCHASE ORDER TERMS AND CONDITIONS – INDIRECT PURCHASES

1. DEFINITIONS. “**Smucker**” means The J. M. Smucker Company or its designated subsidiary. “**Supplier**” means the person or entity that receives this Purchase Order from, or fills an order from, Smucker for the sale of Goods (collectively the “**Parties**”). “**Goods**” mean the goods and/or services ordered by Smucker or delivered by Supplier to Smucker under this Purchase Order. “**Purchase Order**” means this purchase order used by Smucker to place an order for Goods with Supplier.
2. ACCEPTANCE OF PURCHASE ORDER. This Purchase Order constitutes Smucker’s offer to Supplier and is subject to withdrawal at any time prior to written communication to Smucker of Supplier’s acceptance of this Purchase Order. Upon Supplier’s acceptance of this Purchase Order or commencement of performance pursuant to this Purchase Order, the terms and conditions set forth herein will constitute the entire agreement relating to the purchase of the Goods. Smucker objects to and specifically rejects any terms and conditions proposed by Supplier which are inconsistent with or in addition to the terms and conditions contained in this Purchase Order. Neither Smucker’s subsequent lack of objection to any such terms and conditions, nor the acceptance of goods or services ordered, will constitute agreement by Smucker to any terms proposed by Supplier.
3. ORDERS. Supplier may not substitute or alter Goods unless Smucker gives Supplier its prior written consent. For Goods that are based on designs or specifications provided by Smucker, Supplier agrees that such designs and specifications are the sole and exclusive property of Smucker and agrees not to make any alterations, changes, improvements or modifications (collectively, “**Improvements**”) to such designs or specifications without the advanced written permission of Smucker. In the event that Supplier makes an Improvement to the Goods in filling this Purchase Order, Supplier hereby agrees to assign and hereby does assign all rights, title, and interest it has to any such Improvement to Smucker and agrees to grant and hereby does grant to Smucker a non-exclusive, fully paid-up and irrevocable license to any of Supplier’s know-how, patents, proprietary processes or techniques, or trade secret information that is required to make, have made, use and sell any Improvements in the Goods made or introduced by Supplier in filling this Purchase Order.
4. CHANGES. At any time after Supplier accepts this Purchase Order, Smucker may on one or more occasions change the quantity or specifications of the Goods by giving Supplier written notice thereof. In this event and if appropriate, Smucker may request in writing an equitable adjustment in the prices or delivery terms of this Purchase Order. Supplier may make a claim in writing of any redundant material or work in progress, but not for any cost of design, engineering or development, special tooling or general purpose equipment, unless such items have been specifically ordered and separately priced in the Purchase Order.
5. CANCELLATION FOR CONVENIENCE. At any time after Supplier accepts this Purchase Order, Smucker may terminate this Purchase Order by giving Supplier written notice thereof. In that event, Supplier will take reasonable steps to mitigate its damages and will stop work on the date and to the extent specified in the notice, and will terminate all orders and subcontracts to the extent they relate to the terminated work. Supplier will promptly advise Smucker of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Supplier can make thereof. Supplier will comply with Smucker’s instructions regarding protection, transfer, and disposition of title to, and possession of, such work and material. Within 90 days after receipt of such termination notice, Supplier will submit all its claims resulting from such termination to Smucker. Smucker may check such claims at any reasonable time or times by inspecting and auditing the records, facilities, work, or materials of Supplier relating to this Purchase Order. Smucker will pay Supplier, without

duplication, the order price for finished work and the cost to Supplier of work in process and raw materials allocable to the terminated work, based on any audit Smucker may conduct, less, however: (1) the reasonable value or cost (whichever is higher) of any items used or sold by Supplier without Smucker's consent; (2) the agreed value of any item sold by Supplier with Smucker's consent; and (3) the cost of any defective, damaged, or destroyed work or material. Smucker will make no payments for finished work, work in process, or raw material fabricated or procured by Supplier in excess of authorized amounts. The foregoing notwithstanding, payments made under this Section will not exceed the aggregate price specified in this Purchase Order less payments otherwise made. In the event this Purchase Order is terminated, Smucker will only be liable for payments made under this Section and will not be liable for any special, consequential, indirect, or incidental damages arising from such order change or termination.

6. CANCELLATION FOR CAUSE. Except for completed Goods that Supplier already delivered and that Smucker already accepted, Smucker may cancel this Purchase Order or any unfilled portion of this Purchase Order without liability if Supplier does not make the shipment as Smucker required, if the Goods are defective, or if Supplier breaches any other term of this Purchase Order.
7. REJECTION OF GOODS. At Supplier's expense, Smucker may reject and return any Goods that do not meet Smucker's specifications as to quality, quantity, or Supplier's express or implied warranties. Supplier will grant Smucker a reasonable time within which to inspect and approve the Goods, but in no event less than 45 days after receipt. Supplier will not deem Smucker's payment for the Goods an acceptance or a waiver by Smucker of any defect in the Goods, whether known before or after payment. At Smucker's option, Smucker may return any Goods it does not accept to Supplier for full credit or replacement at Supplier's sole risk and expense. Even if it accepts part of the Goods, Smucker will not have to accept future shipments, and may return any Goods it already accepted as well as make any claims for damages. If the Goods consist of services, Smucker may reject the Goods that do not meet Smucker's specifications as to quality or Supplier's express or implied warranties, and Smucker in its sole discretion may require Supplier to re-perform the services or to refund any prepaid fees to Smucker. The rights and remedies set forth in this Section are not exclusive and nothing herein limits Smucker's rights and remedies under this Purchase Order.
8. PRICES, INVOICING AND PAYMENT.
 - a. As the price for the Goods, Smucker will pay Supplier the amount set forth in this Purchase Order, or, if this Purchase Order states no price, then Smucker will pay Supplier the lower of Supplier's then prevailing market price, time and material rates, and the price Supplier last quoted Smucker. Unless otherwise indicated in this Purchase Order, Smucker will pay each invoice net 120 days from the date of Smucker's receipt of the invoice or the date of completion of delivery or performance of the applicable Goods, whichever is later. Smucker may withhold payment if Supplier's invoice is incorrect or does not conform to Smucker's invoicing instructions. Supplier warrants to Smucker that the price for the Goods is not less favorable than the price currently extended to any other customer for the same or like Goods in equal or lesser amounts. If Supplier reduces its price for the Goods before payment by Smucker, then Supplier will reduce this Purchase Order price correspondingly. Supplier will provide Smucker with all cash discounts or other incentives as generally offered by Supplier. Supplier will calculate price discounts, if any, from the later of the invoice date or the date Smucker receives the Goods. Unless otherwise stated in this Purchase Order, pricing includes Supplier's packaging (including boxing and crating), labels, labor, materials, production costs (including any design and fabrication work, dies, tools, molds or similar items used to produce the Goods), and shipping to the designated F.O.B. delivery point. All containers, packing, and crating materials will become the property of Smucker.
 - b. Smucker may require Supplier to automate certain operations for purchase and sale transactions conducted under this Purchase Order, by transmitting and receiving documents electronically ("**eRouting**") through the computer network of a Smucker-designated third party e-commerce provider ("**Provider Network**"). Supplier will comply with Smucker's requirements, will pay any costs associated with using the products and services of such Provider Network and adhere to any terms and conditions as required by the Provider Network. Smucker may reject paper-based invoices at its sole discretion once

an electronic Document has been successfully transmitted and received by either the Supplier or Smucker.

- c. Smucker may select another third party e-commerce provider by giving prior written notice to Supplier. Each party will, at its own expense, provide and maintain the equipment, software and services necessary to effectively and reliably transmit and receive Documents via the Provider Network Smucker designates. In addition, Supplier will be solely responsible for the cost of routing and storing information or Documents on the Provider Network which information or Documents Smucker may retrieve at no additional charge to Smucker.
9. SHIPMENT. With respect to domestic shipments, Supplier will ship Goods F.O.B. destination. With respect to international shipments, unless otherwise specified in this Purchase Order, Supplier will ship Goods DDP (as such term is defined under Incoterms 2020) to Smucker's designated facility. Supplier will visibly place Supplier's name and Smucker's purchase order number on all correspondence and packaging related to this Purchase Order, even if the Supplier fills a shipment through a third party. Supplier will accept as conclusive Smucker's count on all shipments not accompanied by a packing slip. Delivery dates specified in this Purchase Order are of the essence. If Supplier cannot meet delivery dates, then it will inform Smucker in writing of Supplier's best possible delivery date for Smucker's approval. If Smucker does not approve the alternate delivery dates or if Supplier delivers Goods outside of the delivery date, then Smucker may cancel this Purchase Order without further liability, purchase the Goods elsewhere, and/or hold Supplier accountable for all damages resulting from the alternate or delayed delivery dates.
10. SET-OFFS. Smucker may deduct from all claims for money due or to become due from Smucker any set-off or counterclaim arising out of this Purchase Order or any other purchase order between Smucker and Supplier.
11. WARRANTIES. Supplier represents, warrants, and guarantees to Smucker that the Goods and Supplier's manufacturing processes, practices and procedures: (a) will conform strictly to specifications, samples and description specified by Smucker, furnished by Supplier, and/or set forth in this Purchase Order; (b) will be of good and merchantable quality; (c) will be fit for any particular purpose for which the Goods are required by Smucker, to the extent known by Supplier; (d) will be free from defects in material, design, and workmanship; (e) will not infringe any patents, copyrights, trademarks or intellectual property rights of third parties; (f) are owned by Supplier immediately prior to delivery, and Supplier will transfer them to Smucker without violation of any agreement to which Supplier is a party or by which Supplier is bound and will be free of security interests, liens, and encumbrances; and (g) will be produced, packaged and shipped in compliance with good manufacturing practices, applicable licenses and all applicable laws, regulations and rules, including without limitation those related to hazardous and toxic materials, the environment, labor, equal employment opportunity, affirmative action, immigration, occupational safety and health, labeling and adulterated, misbranded or banned goods. These representations, warranties, and guarantees will survive any inspection, delivery, acceptance, payment and/or use by Smucker of or for the Goods.
12. TITLE AND RISK OF LOSS. Except as otherwise expressly provided in this Purchase Order, Supplier will pass title and risk of loss on all Goods shipped by Supplier to Smucker at the destination designated on the face of this Purchase Order; provided, however that if Smucker discovers any type of damage after transfer of title that Smucker determines to be a result of faulty packaging or handling by Supplier, the Supplier will be solely responsible for the damage. Supplier will bear the cost of all return shipments with title and risk of loss passing to Supplier at the return shipping point.
13. CONFIDENTIALITY. **"Confidential Information"** of Smucker means products, formulae, formulations, recipes, flavors, flavor names, ingredients, advertising, labels, designs, equipment, processes and computer programs, packaging, operations, techniques, strategies, methods of distribution, capabilities, systems, technology, specifications, customers, marketing and sales information, business plans, financial data, consumer data, employee information, or any other private matters, whether or not related to this Purchase Order, regardless of whether such information is disclosed directly or indirectly in written,

oral, or visual form. Confidential Information does not include information which Supplier can demonstrate by competent written evidence: (a) is now, or hereafter becomes generally known or available to the public, through no fault of Supplier; (b) is known by Supplier prior to the time of receiving such information; (c) is hereafter furnished to Supplier by a third party, as a matter of right and without restriction on disclosure; (d) is disclosed pursuant to the prior written consent of Smucker; (e) is required to be disclosed by Supplier pursuant to a court order or as otherwise required by law; provided, however, that Supplier notifies Smucker within sufficient time to allow Smucker to contest such order; or (f) is independently developed by persons at Supplier who had no access to the Confidential Information. Supplier will not use or disclose Smucker's Confidential Information except as is necessary to perform its obligations under this Purchase Order and will take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information of a similar nature, to prevent the disclosure of the Confidential Information to any third party. Supplier will limit dissemination of Confidential Information to only those employees or consultants of Supplier as are necessary to perform Supplier's obligations under this Purchase Order; provided, however, that such employees or consultants have executed appropriate written agreements sufficient to enable the Parties to comply with all the provisions of this Section. All Confidential Information is and will remain the exclusive property of Smucker. Nothing in this Purchase Order grants any express or implied right to or waiver by Smucker of its proprietary interests in the Confidential Information, including, without limitation, patents, copyrights, trademarks, or trade secrets. Supplier will return all tangible or computer-generated representations of the Confidential Information, and all copies or evidence thereof, within five business days of the request of Smucker. Supplier will not object to Smucker using any reports, ideas, or recommendations Supplier made in connection with this Purchase Order concerning Smucker's products or processes. The obligations contained in this Purchase Order are necessary and reasonable to protect the business of Smucker, and Supplier expressly agrees and acknowledges that monetary damages would be inadequate to compensate Smucker for any breach of any covenant set forth in this Purchase Order. Smucker developed or obtained the Confidential Information by investment of significant time, effort and/or expense, and the Confidential Information provides Smucker with a significant competitive advantage in its business. Any violation, or threatened violation of this Purchase Order by Supplier will cause irreparable harm to Smucker, and Smucker will be entitled to obtain injunctive or equitable relief, in addition to any other remedies available, as may be deemed proper by a court of competent jurisdiction without posting any bond. Supplier will continue to comply with the obligations of nondisclosure set forth in this Section after the termination or expiration of this Purchase Order.

14. **INDEMNIFICATION.** Supplier will indemnify, defend and hold harmless Smucker and its subsidiaries and affiliates, and its and their respective directors, officers, employees, and agents, from and against any and all third party claims, demands, suits, obligations, liabilities, damages, losses, and judgments, including reasonable costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs, and out-of-pocket expenses) ("**Losses**") arising out of or resulting from (i) the Goods Supplier provided Smucker under this Purchase Order, (ii) Supplier's violations or alleged violations of any applicable laws or regulations, (iii) Supplier's breach of this Purchase Order, (iv) the negligent or wrongful acts or omissions of Supplier, its employees, or agents, or (v) an allegation that the use, sale, or distribution of the Goods Supplier provided Smucker under this Purchase Order infringes any domestic or international patent, copyright, trademark, or other proprietary right. This indemnity obligation will not extend to, and Smucker will likewise indemnify, defend and hold harmless Supplier and its directors, officers, employees, and agents from and against any Losses to the extent arising out of or resulting from, (a) Smucker's violations or alleged violations of any applicable laws or regulations, (b) Smucker's breach of this Purchase Order, or (c) the negligent or wrongful acts or omissions of Smucker, its employees, or agents. Should there be shared liability resulting in Losses, the Parties will contribute to such claim in the ratios of their respective fault. Supplier and Smucker will continue to comply with the indemnity obligations set forth in this Section after the termination or expiration of this Purchase Order.
15. **INSURANCE.** Supplier will carry at its sole cost and expense (a) Commercial General Liability Insurance, including Products and Completed Operations and Blanket Contractual Liability coverage, in an amount not less than \$1,000,000 per bodily injury, personal injury, death or for property damage, \$2,000,000 aggregate, with an umbrella coverage of \$5,000,000, including coverage for the obligations assumed under this engagement; (b) Professional Errors and Omissions Insurance with minimum limits of liability

of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (c) Automobile Liability including owned (if any), hired and non-owned automobiles with a combined single limit per accident of \$1,000,000; (d) Workers' Compensation Coverage meeting all statutory minimum requirements and containing Employers' Liability insurance in the amount of at least \$1,000,000; and (e) Cyber Liability Insurance, in an amount not less than \$5,000,000 per occurrence.

Supplier will carry all insurance with a company or companies of good repute with an AM Best rating of at least A-VII and qualified to do business in all states in which goods or services are provided under this Purchase Order. Supplier will include in such policies a Waiver of Subrogation in favor of The J. M. Smucker Company as it pertains to Commercial General Liability, Workers' Compensation and Automobile Liability insurance coverage and, when such endorsements are available, name "The J. M. Smucker Company, its subsidiaries, affiliates, directors, officers and employees" as additional insured for all liability arising out of the operations by or on behalf of the named insured in the manufacture of goods or performance of services for the additional insured. Supplier may not cancel such insurance, unless it gives 30 days prior written notice to Smucker. If such insurance for product liability and professional errors and omissions is carried on a "claims made" basis, Supplier will continue such insurance for a period of three years subsequent to termination of this Purchase Order. Supplier will afford Smucker and its subsidiaries and affiliates primary insurance over any other valid and collectible insurance which Smucker may have with respect to loss under any of the above listed policies. Other insurance maintained by Smucker will be non-contributory and excess over Supplier's insurance. The insurance limits set forth in this Section are the minimum requirements, and Supplier will not claim that the insurance or the limits required are sufficient or adequate to protect Supplier's interests or liabilities.

16. **DISPUTE RESOLUTION.** Upon mutual agreement, the parties may attempt in good faith to settle any dispute or claim arising out of or relating to this Purchase Order, via non-binding mediation in accordance with the applicable rules of the American Arbitration Association ("**AAA**"). The mediation will be held in Cleveland, Ohio and each party will bear its own costs incurred in such mediation, and the parties will equally defray the mediator's fees. Any negotiations pursuant to this Section will be confidential, will take place for no more than three consecutive days, and will be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence. Neither party will be bound by the provisions of this Section if the parties' dispute pertains to a breach of the confidentiality obligations set forth herein.

Upon mutual agreement, the parties may submit any dispute or claim arising out of or relating to this Purchase Order, which is not settled through mediation (if elected), to binding arbitration administered by the AAA in accordance with its Commercial Arbitration Rules and its Optional Procedures for Large, Complex Commercial Disputes. The arbitration will be heard and determined by one arbitrator selected and mutually agreed upon by the parties, and such arbitrator will be an attorney having experience and familiarity with the type of business dispute to be resolved. In the event that the parties cannot agree upon an arbitrator, the arbitrator will be selected by the AAA. The arbitration proceeding will occur in Cleveland, Ohio, each party will bear its own costs relating to such arbitration, and the parties will equally share the arbitrator's fees. The arbitration and all related proceedings and discovery will take place pursuant to a protective order entered by the arbitrator that adequately protects the confidential nature of the parties' proprietary and confidential information. In no event will any arbitration award provide a remedy beyond those permitted under this Purchase Order, and any award providing a remedy beyond those permitted under this Purchase Order will not be confirmed, no presumption of validity will attach, and such award will be vacated. Smucker may, without waiving any remedy under this Purchase Order, seek from any court of competent jurisdiction within Ohio any interim or provisional relief that Smucker deems necessary to protect its Confidential Information and property rights, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the claim(s) presented).

If Smucker and Supplier are Canadian entities, this Section 16 is replaced with the following: If there is any controversy or claim arising out of or relating to this Purchase Order that has not been resolved, a written description of such claim will be provided to the other party and a good faith effort to resolve the problem via non-binding mediation will be made by both Parties prior to proceeding to arbitration. The Parties will appoint a mutually agreeable neutral mediator (the "**Mediator**"). If the Parties are unable to agree on a Mediator within ten days after the mediation is requested, either party may refer

the matter to a justice of an Ontario court of competent jurisdiction for the limited purpose of having the court select a Mediator. The mediation will be conducted within 30 days after the appointment of the Mediator. The Parties will share equally the cost of the mediation, including, but not limited to, fees of the Mediator, the cost, if any, of obtaining a location for the mediation and any filing fee. If during the mediation the Parties reach a settlement of all or any of their dispute, they will reduce the settlement to the form of a written settlement agreement which will be binding upon the Parties. The mediation may be terminated only after both Parties have participated in the mediation and are unable to agree on a settlement. Mediation discussions or opinions of the Mediator are confidential and may not be relied upon, referred to or introduced as evidence in any subsequent arbitration or other proceeding. Any controversy or claim arising out of or relating to this Purchase Order (except where injunctive relief is claimed) that is not settled through mediation will be finally determined by binding arbitration. Matters referred to final and binding arbitration pursuant to this Purchase Order will be arbitrated in accordance with the Arbitration Act, 1991 (Ontario) and in accordance with the following procedures: (a) the arbitration will be conducted by a single arbitrator appointed by mutual agreement of the Parties or, in the event of failure to reach agreement within 15 days, either party may apply to a judge of an Ontario court of competent jurisdiction to appoint an arbitrator; (b) the arbitrator will be qualified by education and training to pass upon the matter to be decided; (c) the arbitrator will be instructed that time will be of the essence in proceeding with the determination of the dispute; (d) the arbitration will be conducted in Toronto, Ontario or such other location as may be agreed to by the Parties; (e) the arbitration decision will be in writing and will be final, binding upon the Parties and not subject to any appeal; (f) each party will bear its own costs relating to such arbitration, and the Parties will equally share the arbitrator's fees; and (g) the arbitration and all related proceedings and discovery will take place pursuant to a protective order entered by the arbitrator that adequately protects the confidential nature of the Parties' proprietary and confidential information. In no event will any arbitration award provide a remedy beyond those permitted under this Purchase Order, and any award providing a remedy beyond those permitted will not be confirmed, no presumption of validity will attach, and such award will be vacated.

17. **GOVERNING LAW.** Without regard to its conflict of laws principles, the laws of the State of Ohio govern the formation, validity, construction and performance of this Purchase Order and any proceeding between the Parties is to take place in Cuyahoga County, Ohio, which will be the exclusive venue for any such dispute. The Parties expressly waive the application of the United Nations Convention for the International Sale of Goods.

If Smucker is a Canadian entity, Section 17 is replaced with the following: This Purchase Order will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties expressly waive the application of the United Nations Convention for the International Sale of Goods.

18. **INDEPENDENT CONTRACTOR STATUS.** The Parties are and will remain independent contractors with respect to each other, and nothing in this Purchase Order will be construed to place the Parties in the relationship of partners, joint ventures, fiduciaries or agents. Neither party grants the other party any right or any authority to assume or to create an obligation or responsibility, express or implied, on behalf of or in the name of the other nor bind the other in any manner whatsoever. Supplier will not hire any person or persons on behalf of Smucker, and Smucker will have no obligations of any sort to Supplier's employees. Supplier is the sole employer of all employees performing hereunder and is responsible for all matters concerning such employees.
19. **PUBLIC DISCLOSURES.** Except as required by law or with Smucker's prior written consent, Supplier will neither (i) disclose the existence, or the terms and conditions, or the subject matter of this Purchase Order to any party, (ii) issue press releases or any other publication regarding the existence, the terms and conditions, or the subject matter of this Purchase Order, (iii) issue statements as to the existence of a relationship between the Parties hereto, nor (iv) use Smucker's or its affiliates' or licensors' corporate names, trademarks, service marks, logos or other identifiers.

20. SUPPLIER COMPLIANCE.

- a. Supplier will maintain complete records on Goods provided under this Purchase Order in a form satisfactory to Smucker. Supplier will keep all records pertaining to this Purchase Order for a period of five years from the date of provision of relevant Goods with regard to which such records relate, or for such lesser or greater period of time as may be agreed upon in writing by Smucker.
- b. Smucker may, during reasonable business hours when Supplier is performing any of its services under this Purchase Order, maintain a representative or representatives in all facilities where Smucker ingredients, packaging materials, or goods are stored and processed ("**Location**"), and inspect the facilities and procedures to assure that they are consistent with the terms hereof. In addition, upon advanced written notice at a mutually agreeable time, Smucker may conduct Quality Assurance/Operational Audits of the Location from time to time.
- c. If Smucker determines that Supplier has failed to fulfill any of the requirements set forth in this Purchase Order, then Smucker will give Supplier written notice of such deficiency and Supplier will take immediate corrective action.
- d. If Supplier's agents, employees or subcontractors need to perform any work on Smucker's premises in connection with this Purchase Order, Smucker and Supplier will also comply with Smucker's Supplemental Agreement, which can be found at <https://www.jmsmucker.com/Legal> and is incorporated by reference.

21. FORCE MAJEURE. Failure of either party to perform any of its obligations under this Purchase Order as a result of circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, acts of God, threatened acts of terrorism, pestilence or epidemic, or war or other violence will not constitute a default under or breach of this Purchase Order; provided, however, that if such an event will prevent Supplier from performing under this Purchase Order for a period of 14 consecutive days, Smucker may terminate this Purchase Order at its sole option.

22. ASSIGNMENT. This Purchase Order binds and benefits the Parties hereto and their respective successors and permitted assigns, but Supplier may not assign its obligations and rights under this Purchase Order without the prior written consent of Smucker. Any change in the control of Supplier will be deemed an assignment under this Purchase Order.

23. GOVERNING LANGUAGE. The governing language for this Purchase Order will be English, and no concurrent or subsequent translation of this Purchase Order into any language will modify any term of this Purchase Order.

24. ENTIRE AGREEMENT. This Purchase Order, any Exhibits attached hereto and incorporated herein, and any master agreement between the Parties related to the subject matter hereof, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. The Parties may modify or supplement this Purchase Order only by means of a written amendment duly executed by the authorized representatives of both Parties. Neither the terms of any invoice, or other instrument documenting a payment or transaction that is issued by Supplier in connection with this Purchase Order, nor any other act, document, usage, custom, or course of dealing can modify the terms of this Purchase Order.

25. NO WAIVER OF BREACH. No failure or delay on the part of either party in exercising any right, remedy, or power arising under this Purchase Order may operate as a waiver thereof. Nor may any single or partial exercise of any such right, remedy or power preclude any other or further exercise of any other right, remedy, or power. No notice or demand, in a case where it is not required by this Purchase Order, may entitle the recipient to any similar notice or demand in subsequent similar circumstances. No waiver is valid unless it is in writing and bears the signature of the party to be bound thereby.

26. SEVERABILITY. If a court of competent jurisdiction determines that any provision of this Purchase Order is invalid, such determination will in no way affect the validity or enforceability of any other provision hereof.
27. SURVIVAL. Neither the expiration nor termination of this Purchase Order will affect the provisions of this Purchase Order that expressly provide that they operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
28. COUNTERPARTS. The Parties may execute any number of counterparts to this Purchase Order, each of which will be deemed an original instrument, but all of which taken together will constitute one and the same agreement. Signed facsimile or electronic copies of this Purchase Order or any other electronic documents bind the Parties to the same extent as original documents. The Parties will not contest the validity and enforceability of any documents transmitted through eRouting, as per Section 8 of this Purchase Order, including but not limited to this Purchase Order, acknowledgements and modifications to this Purchase Order, invoices, changer order, discount acceptance notices, and proposals.
29. NOTICES. The Parties will send all notices, requests, or demands and other communications under this Purchase Order in writing and such notices will be deemed to have been duly given upon personal delivery, five days after being mailed by registered or certified mail, return receipt requested, or one business day after being sent by nationally recognized overnight courier. The Parties will address all notices to the addresses set forth on the face of this Purchase Order to the attention of each party's Legal Department.
30. AUTHORIZATION. The Parties warrant that the persons signing this Purchase Order respectively for each party are authorized representatives and have all requisite authority to execute this Purchase Order on behalf of such party.
31. COMPLIANCE WITH LEGAL AND REGULATORY REQUIREMENTS.
- a. Supplier will comply with (i) all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption, and (ii) Smucker's Code of Business Conduct and Ethics, Global Supplier Code of Conduct, and Animal Welfare Policies, as Smucker may update them from time to time. Supplier will not take any action that would cause Smucker to be in violation of any law applicable to Smucker including, but not limited to, the United States Foreign Corrupt Practices Act. Supplier will promptly report to Smucker any request or demand for any undue financial or other advantage of any kind Supplier received in connection with the performance of this Purchase Order.
 - b. Supplier will fully comply with the export control, economic sanctions, and anti-boycott laws and regulations of all governmental bodies with respect to the disposition of the Goods, any ancillary services (including any marketing, preparatory activities, payments, or deposits related to the contract, or work performed in furtherance thereof), and the commercial and technical data and information and other publications supplied by Smucker, including without limitation the Export Administration Regulations ("EAR," 15 C.F.R. Parts 730-774), and any regulations issues by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"). Any of Smucker's performance obligations are subject to and contingent upon any required government authorizations, in Smucker's sole discretion, and will cease upon the lapse, termination, or expiration of any required authorizations.
 - c. If Supplier produces all or any portion of the Goods outside of the United States, Supplier will either (i) participate in an accredited supply chain security program that meets the Customs-Trade Partnership Against Terrorism minimum criteria and provide Smucker with proof of accreditation annually, or (ii) comply with the minimum criteria outlined in such program, complete an annual security questionnaire, and permit an annual on-site visit by Smucker or its representative to validate the information provided on said questionnaire.

- d. Supplier will comply with all of the Federal Acquisition Regulation (“**FAR**”) clauses that are mandatory for subcontracts for commercial items; a list of these clauses is set forth in 48 C.F.R. § 52.212-5(e)(1).
- e. Supplier will provide Smucker with the assurances and official documents that Smucker periodically may request to verify the Supplier's compliance with this Section 31.

32. **EQUAL OPPORTUNITY/AFFIRMATIVE ACTION.** Smucker is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 C.F.R. § 60-1.4(a), 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, transgender status, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, transgender status, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 C.F.R. Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.
33. **CHILD LABOR & FORCED LABOR.** Supplier will not employ, directly or indirectly, children, prison labor, indentured labor, bonded labor or use corporal punishment or other forms of mental and physical coercion as a form of discipline or participate in human trafficking. In the absence of any national or local law, Smucker and Supplier define “child” as any person less than 15 years of age. If local law sets the minimum age below 15 years of age, but is in accordance with exceptions under International Labor Organization Convention 138, the lower age will apply.
34. **ELECTRONIC SIGNATURE.** Supplier and Smucker agree that any orders, supplemental terms or amendments to this Purchase Order, including any document adopting any of the foregoing, may be executed by Supplier or Smucker electronically, via facsimile signature, or by an Electronic Record utilizing Electronic Signatures (both as defined in the ESIGN Act, 15 U.S.C. §7001 et seq.). Both parties agree that such Electronic Signatures are equally valid and enforceable as a handwritten signature in order to bind each party providing such facsimile or Electronic Signature.