TERMS AND CONDITIONS

These Terms and Conditions constitute an agreement between Nut-Tritious Foods Technology, LLC (“Nut-Tritious Foods”) and the purchaser of Nut-Tritious Foods’s products, such agreement defined as follows:

1. **Prices.** The prices and products and/or services of Nut-Tritious Foods to be sold hereunder are listed on the attached agreement between Nut-Tritious Foods and the purchaser. Nut-Tritious Foods’s prices are subject to change without notice. Prices do not include sales tax, customs duties or fees, which shall be the responsibility of the purchaser.
2. **Orders.** Orders placed with Nut-Tritious Foods are subject to written approval and confirmation by Nut-Tritious Foods. Acceptance of the invoice is acceptance of these terms and conditions in full.
3. **Payment.** All payments shall be made in US dollars. Payment is due as defined by the invoice. General terms within the USA is in full thirty (30) days after the date of shipment of any products purchased by the purchaser. Interest will accrue at a rate of one percent (1%) per month on all overdue accounts.
4. **Shipment.** Freight charges will be prepaid and charged unless otherwise agreed in writing. If Nut-Tritious Foods agrees to act as the purchaser’s agent to arrange delivery of products and/or services, (i) the purchaser will provide a full and correct address to which the products and/or services are to be delivered, (ii) the method and route of shipment are to be determined in Nut-Tritious Foods’s sole discretion, (iii) all shipments will be insured at the purchaser’s expense and will be made at the purchaser’s risk, (iv) the purchaser will indemnify and hold Nut-Tritious Foods harmless from and against all claims, losses liabilities and expenses (including attorney fees and costs) arising out of any acts of Nut-Tritious Foods while so acting as the purchaser’s agent. Nut-Tritious Foods will use reasonably commercial efforts to meet shipment schedules; however, Nut-Tritious Foods assumes no liability, consequential or otherwise, because of any delay or failure to deliver all or any part of the purchaser’s order for any reason, including but not limited to Nut-Tritious Foods’s active or passive negligence.
5. **Limited Warranty.** Nut-Tritious Foods warrants that products delivered under an order by the purchaser will be free from defect in material and workmanship no later than five (5) days after the date the purchaser received shipment of the product or prior to the first use thereof, whichever is earlier. The warranty does not extend to any products which have been subject to misuse, accidental or improper installation, maintenance or alteration, nor does it extend to any labor charges for removal and/or replacement of the non-conforming or defective product or part thereof. This warranty is in lieu of and excludes all other warranties, express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose. Nut-Tritious Foods shall have no liability for special, indirect, liquidated or consequential damages, including but not limited to damages for lost profits or injury to persons or property. Any liability under this warranty shall be limited at Nut-Tritious Foods’s option to: replacing at Nut-Tritious Foods’s expense the non- conforming or defective product or part thereof or providing for the return of such product or part thereof and granting credit for the purchase price. Proof of all damages is required by the receiver.
6. **Returns.** Products may not be returned.
7. **Indemnification.** Nut-Tritious Foods’s liability with respect to any claim put forth by the purchaser shall not exceed the invoice price of the products as to which the claim is made. The purchaser shall be responsible for inspecting and testing all products delivered to it hereunder prior to use by the purchaser. Any claim with respect to the products must be made no later than five (5) days after the date the purchaser received shipment of the product or prior to the first use thereof, whichever is earlier. Failure by the purchaser to assert a written claim against Nut-Tritious Foods

within such time shall constitute a waiver of any such claim. The Purchaser agrees to indemnify and hold Nut-Tritious Foods harmless from and against all claims, losses, liabilities and expenses (including attorney fees and costs) arising out of the handling, possession, use or sale of any products hereunder.

1. **Proprietary Information.** Any proprietary information provided by Nut-Tritious Foods to the purchaser will remain the property of Nut-Tritious Foods and will be held in confidence by the purchaser. Upon the written request of Nut-Tritious Foods, any such information shall be returned to Nut-Tritious Foods. The purchaser may not use any such information for any purpose other than its intended use hereunder without the express written consent of Nut-Tritious Foods.
2. **Force Majeure.** Failure of Nut-Tritious Foods to deliver or of the purchaser to receive a delivery hereunder when due shall not subject any party so failing to any liability to the other if such failure shall be caused by act of God, the public enemy, governmental action, fire, explosion, flood, drought, pandemic, war, riot, sabotage, embargo, strikes or other labor trouble, failure of any Nut-Tritious Foods suppliers or any sub-contractor to deliver on schedule, interruption of or delay in transportation, shortage of fuel, or by any other event or circumstances beyond the reasonable control of the party so failing.
3. **Failure to Purchase.** Should the purchaser terminate the purchase of products contemplated hereunder for any reason prior to purchasing and paying for the full quantity or products required to be purchased, upon such termination if the products required to be purchased are not saleable to other customers within a reasonable time (as determined by Nut-Tritious Foods), the purchaser will pay Nut-Tritious Foods an amount equal to the entire contract price thereof. If such products are saleable to other customers within a reasonable time (as determined by Nut-Tritious Foods), the purchaser shall pay to Nut-Tritious Foods, as liquidated damages, an amount of twenty-five percent (25%) of the full contract price (including any non-product fees such as shipping, taxes, and duties) for the quantity of goods the purchaser was required to but did not purchase.
4. **Venue, Attorney Fees.** Any controversy or claim arising out of or related to these Terms and Conditions, or the breach thereof, shall be settled in Clark County, Washington. If any party to these Terms and Conditions brings a cause of action against the other party arising from or relating to these Terms and Conditions, the prevailing party in such proceeding shall be entitled to recover reasonable attorney fees and costs.
5. **Interpretation.** If any portion of these Terms and Conditions is found to be invalid, such provision shall be deemed severed, and these Terms and Conditions shall continue in full force and effect. These Terms and Conditions shall be interpreted and governed in accordance with the laws of the State of Washington.
6. **General.** These Terms and Conditions together with the purchase order set forth the entire agreement of the parties with respect to the subject matter hereof and supersede and replace all prior discussions, writings, or understandings between the parties. These Terms and Conditions may only be amended or terminated by writing signed by both parties. These Terms and Conditions are accepted by the purchaser on placement of their order. Stenographic and clerical errors are subject to correction as agreed upon by the parties.