

## PRIVATE LABEL TERMS AND CONDITIONS OF SALE

The terms and conditions of sale set forth below, except as otherwise modified in writing by the selling entity, NutraPure Inc. (“NutraPure”), shall govern the transaction specified on any Accepted Order between NutraPure and the party submitting the associated purchase order or service request as “Customer”, notwithstanding any conflicting term or condition of Customer’s purchase order, service request, acknowledgement, or any other document or communication to the contrary.

- 1. Terms of Sale.** The private label services (“Services”) or products (“Products”) provided by NutraPure to Customer, including formulation, manufacturing, and fulfillment services (Products and Services are sometimes collectively the “Articles”) shall be governed by these Private Label Terms and Conditions of Sale (“Terms and Conditions”). Except as set forth in a separate Private Label Agreement between the parties that explicitly references these Terms and Conditions, nothing contained in any agreement, correspondence, or purchase order between the parties, including but not limited to any terms and conditions referenced therein, shall in any way modify or add to these Terms and Conditions. Customer shall be deemed to have accepted and agreed to these Terms and Conditions upon the earlier to occur of: (i) its initial order becoming an Accepted Order as set forth in Section 2 below, (ii) Customer’s signature of a Private Label Agreement that references these Terms and Conditions, or (iii) Customer’s payment of any invoice for Articles issued by NutraPure. All transactions between Customer and NutraPure regarding the Articles shall be governed by these Terms and Conditions. These Terms and Conditions may be revised at any time by NutraPure, and any purchase orders, service requests, and Accepted Orders submitted after such revisions will be governed by the revised Terms and Conditions. The most current Terms and Conditions are available at [www.nutraceutical.com/private-label-terms-and-conditions-of-sale](http://www.nutraceutical.com/private-label-terms-and-conditions-of-sale). Except as set forth herein, all sales are final.
- 2. Orders.** Customer may request Articles by submitting a service request or purchase order to NutraPure in writing that sets forth the desired specifications in as much detail as possible, including requested delivery date(s) that are consistent with NutraPure’s established lead times. Accepted service requests or purchase orders will be confirmed (subject to necessary revisions) by NutraPure via written confirmation (“Order Confirmation”). An Order Confirmation shall be deemed accepted by and binding on Customer (an “Accepted Order”) as follows: (i) if the Order Confirmation confirms Customer’s Service Request without modification, upon delivery by NutraPure; or (ii) if the Order Confirmation contains any revisions or changes, upon the earlier to occur of Customer’s written acknowledgment of the same or three (3) business days after receipt and no objection from Customer.
- 3. Payment.** Unless NutraPure has granted different terms to Customer in writing, payment terms shall be fifty percent (50%) at the time of the Accepted Order and fifty percent (50%) net fifteen (15) days from date of shipment of Products or completion of work. NutraPure may require a completed credit application prior to granting credit and may, in its sole discretion, suspend Customer’s credit at any time. NutraPure will not be required to perform or undertake any Services or produce any Products or take any other action until and unless payment is current. All payments hereunder shall be in U.S. dollars. Any amounts owing hereunder and not paid on a timely basis shall bear interest at a rate of one and a half percent (1.5%) per month, which is eighteen percent (18%) per annum (or the highest rate permitted by law), applied to the adjusted previous balance from and after the due date thereof. Failure to pay any amount owing in full on the terms specified herein shall void all discounts given. Customer shall pay all of NutraPure’s costs and expenses (including attorney fees, court costs, and other collection costs) incurred to collect any amounts owing. NutraPure reserves the right to apply interest charges retroactively, whether or not they are shown on individual statements or invoices.
- 4. Shipping.** All shipments will be suitably packaged in NutraPure’s standard shipping cartons and shipped to Customer, or an entity designated by Customer, FOB NutraPure’s shipping dock in Ogden, Utah; meaning

that the title and risk of loss shall pass to Customer upon delivery to the carrier, except as otherwise agreed by the parties in an Accepted Order. All freight, insurance, pallet, and other shipping expenses, as well as any special packing expense, shall be paid by Customer; NutraPure may pay the shipping expenses and invoice Customer. The freight carrier chosen by Customer shall call and set up an appointment for pickup and Customer shall be responsible for any delivery notification fees that the freight carrier charges. If applicable, Customer shall be responsible for clearing goods for export and shall pay for all export documentation, clearance, and export license fees and taxes, as well as any special packaging required for export.

5. **Risk of Loss and Delivery; Title.** Liability for loss or damage passes to Customer upon delivery to the carrier. Any shipping or delivery dates set forth in an Accepted Order are approximate only. NutraPure shall not be liable for any loss or expense (consequential, incidental, or otherwise) incurred by Customer (or any of its customers) if NutraPure fails to meet requested shipping or delivery dates for any reason.
6. **Price.** NutraPure shall provide the Articles at the price(s) set forth in each Accepted Order. However, if the raw material or component costs increase by more than 5% after the date on which an Accepted Order was processed, NutraPure may adjust the pricing to reflect such increases and will provide notice to Customer prior to commencing production of any batch that is affected by such increase. Customer shall be deemed to have accepted such increased price(s) unless it notifies NutraPure in writing otherwise within two (2) business days of receiving such notice. NutraPure agrees to provide, upon request, documentation justifying any such proposed price increase. NutraPure may from time to time publish price lists for various Articles and may update the same upon 30 days' written notice to Customer.
7. **Taxes.** Customer's purchase price does not include any federal, state, provincial, or local taxes or fees that may be applicable to the sale or shipment of any Articles, all of which will be the sole responsibility of Customer. NutraPure may either require prepayment of such taxes or fees, or add them as a line item on its invoice, and Customer will reimburse NutraPure for the same within fifteen (15) days of the date of the invoice. If a taxing authority later determines such taxes are owing, Customer shall promptly pay or reimburse NutraPure for the same.
8. **Inspection of Articles.** Customer will inspect all Articles promptly upon receipt. Customer must notify NutraPure within fifteen (15) calendar days of receipt of any Article that it believes fails in a material way to meet applicable specifications. Failure to provide timely notification shall be deemed an acceptance of the Articles. Failure to notify NutraPure of defects within fifteen (15) days after delivery and/or prior to Customer further processing such Articles (such as by encapsulating, tableting, mixing, or processing) constitutes final acceptance by Customer.
9. **Returns.** Customer may not return any Products unless: (i) there is a material defect at the time the Product is received by Customer; (ii) Customer reports the material defect to NutraPure within thirty (30) days of delivery of Product; and (iii) NutraPure confirms the material defects and agrees to the return in writing. Notwithstanding the foregoing, under no circumstances will NutraPure accept return of: (i) expired Products; (ii) Products that have been further processed or handled, including by being bottled, encapsulated, tableted, or incorporated into or mixed with other ingredients or products, or (iii) Products which have been otherwise contaminated. In no event will NutraPure be liable for replacement or credit for Products (or for shipping charges) which have been damaged, destroyed, or discarded by Customer. Unless agreed to in writing by NutraPure, in no event shall Customer be entitled to any refund or credit for formulation or fulfillment services. No credits may be taken by Customer without the express written consent of NutraPure.
10. **Termination.** Upon termination or expiration of the parties' relationship for any reason, including Customer's failure to submit any service requests or purchase orders for a period of ninety (90) days, Customer shall promptly upon demand by NutraPure pay for the following: all invoices associated with

Accepted Orders and the cost of raw materials or components purchased by NutraPure specifically for Customer which are otherwise not usable by NutraPure on behalf of any other customer of NutraPure.

11. **Labeling.** For any Articles, NutraPure shall provide a certificate of analysis or similar document which shall accurately describe the ingredients and quantities of such ingredients used by NutraPure sufficient for purposes of producing a label. NutraPure may also provide a draft or proposed label based on its standard internal processes. Notwithstanding the foregoing, Customer shall be solely responsible for, and NutraPure assumes no liability or responsibility for, the final label used by Customer (even if printed by NutraPure), or any claims, statements, representations, or disclosures contained in the labeling or packaging of any Articles, including whether such labeling or packaging accurately or completely discloses the ingredients. Customer will be solely responsible for, and NutraPure shall have no responsibility to comply with, the labeling or packaging laws and regulations of any state or province or country into which the Articles are sold or used by Customer or its customers (“Distribution Territory”), including without limitation the provisions of the Federal Food Drug and Cosmetic Act, the Federal Trade Commission Act, the National Uniform Food Safety Labeling Act, or any other federal, state, or municipal regulation governing the content of such labeling or packaging. Customer shall only use NutraPure’s trademarks or trade dress with the express consent of NutraPure. If any of NutraPure’s trademarks or trade dress are used on or in connection with goods supplied by NutraPure to Customer, Customer assumes all risks associated with clearance and non-infringement of third party rights in any Distribution Territory. In any case, Customer’s use will be deemed to be pursuant to a limited, revocable license only for the promotion and sale of such goods and Customer shall not acquire any rights in and to such trademarks or trade dress. NutraPure may, at its sole option, require Customer to include an attribution statement reasonably close to the use of the trademark or trade dress, attributing ownership to NutraPure or one of its affiliates, but the failure to include or require such a statement shall not constitute any conveyance of ownership or rights to Customer. Customer may not use any of NutraPure’s trademarks or trade dress following termination of an Accepted Order or Private Label Agreement (if applicable) other than to advertise and sell inventory Customer purchased from NutraPure as of the date of termination. Customer warrants that it is solely responsible for, and NutraPure will not be liable for, securing rights to any of the copy, claims, trademarks, trade names, trade dress, or any other intellectual property rights associated with or used in connection with the packaging and labeling of Products in any Distribution Territory. Customer acknowledges that particular ingredients, and even specific Articles, may not be available for sale or export to every country, region, or geographic area and in the event a supplier of NutraPure or of Customer requests that Customer or NutraPure honor any exclusivity grant to a third party, Customer will comply with such request.
12. **Specifications and Dates.** NutraPure shall use reasonable commercial efforts to meet the requested completion date(s) set forth in an Accepted Order that are consistent with its established lead times but, because of variables associated with producing or otherwise providing the Articles, cannot guarantee that it will meet such requested completion date(s) in all cases. Any delays in receipt of Customer artwork or other Customer supplied materials or components can affect lead times or other deadlines. Likewise, NutraPure warrants that the Articles will conform to NutraPure’s own specifications, subject to any modifications agreed to by NutraPure in writing in an Accepted Order. If Customer provides any ingredients or components of any Articles, they must be received by NutraPure at its Ogden, Utah location no later than the date set forth in the Accepted Order.
13. **Product Recalls or Retrievals.** In the event of a product recall or retrieval that is initiated by NutraPure under applicable laws or regulations, each party agrees to take all actions which are reasonably necessary and appropriate, including contacting customers and assisting in the return, transfer, or destruction of Products. Customer shall defend and hold NutraPure harmless from all damages and costs incurred by NutraPure as a result of any such product recall or retrieval, or other corrective action, associated with Products designed by Customer or which relate to components or materials supplied or sourced by Customer. NutraPure’s liability arising from a product recall or retrieval, or other corrective action, that is exclusively associated with a recall

or retrieval initiated by NutraPure as a result of a material defect in any Articles provided by NutraPure that does not arise from designs by Customer or which do not relate to components or materials supplied or sourced by Customer shall not exceed the amounts paid by Customer to NutraPure for the associated Articles. The parties agree to provide the other party all necessary and pertinent information in its possession or control arising out of a recall or similar action; all such information shall be treated as confidential.

14. **Intellectual Property.** “Intellectual Property” means all documentation, materials, and rights with respect to the Articles that have been or are at any time generated or conceived, whether before, on, or after the date of the Accepted Order (including without limitation products, formulas, formulations, recipes, processes, know how, ingredients, specifications, standards, and procedures specifically developed for Products), and any and all patents, copyrights, trademarks, service marks, and trade industrial property rights (whether or not reduced to tangible form) included in, pertaining to, or associated with the foregoing. It is the express intention and understanding of the parties that unless Customer solely provides the Intellectual Property for the Articles, NutraPure shall be the owner of all rights and interests of any kind whatsoever in the Intellectual Property, including Articles developed under an Accepted Order. Customer acknowledges and agrees that it shall have no, and shall not assert or claim any, legal, equitable, or other right or interest, in whole or in part, in or to any of the Intellectual Property, trademarks, or other intellectual or industrial property of NutraPure whatsoever.

Customer further acknowledges and agrees that NutraPure owns and retains all rights to any formula or recipe that it provides for the manufacture of Articles for Customer, including any and all methods, mixing instructions, and processes, even if such formula, recipe, methods, instructions, or processes are applied to a formula or recipe provided by Customer. Furthermore, NutraPure shall not be obligated to disclose any such formula, recipe, method, instructions, or processes to Customer or any other entity that may request it from NutraPure or Customer. NutraPure shall also own any formula or recipe that it develops for Customer, even if Customer provides input or suggestions into the development of such formula or recipe and NutraPure shall own any enhancements, modifications, or improvements made by NutraPure to any formula or recipe, regardless of whether such formula or recipe is owned or provided by Customer. Customer further acknowledges and agrees that NutraPure shall retain ownership rights to any publicly disclosed list of ingredients provided in list, ratio, or any other form or measurement, to any formula or recipe owned by NutraPure and that NutraPure reserves all rights to make such publicly disclosed formula or recipe, or part thereof, for Customer or any other entity or individual. Notwithstanding the foregoing, Customer shall remain the owner of all right, title, and interest in and to any and all of its own trademarks that are used on Products manufactured by NutraPure for Customer under an Accepted Order. Customer hereby grants to NutraPure a non-exclusive, non-transferable right to use Customer’s marks solely on the Products ordered by Customer hereunder and the associated packaging.

15. **Warranty and Disclaimer.** NutraPure warrants that the Articles conform to the certificate of analysis or product specification provided by NutraPure at the time of shipment. NutraPure does not warrant, and specifically disclaims, that the Articles meet any other or additional written specifications. Customer warrants that any ingredients or materials supplied, sourced, or purchased by it (“Customer Materials”) are fit for the intended purpose and of merchantable quality and meet any specifications provided to or by NutraPure or published by the supplier thereof. Customer further warrants that it has accurately disclosed to NutraPure all components or sub-components of any Customer Materials. Customer’s sole remedy for a defective Article shall be replacement or refund of some or part of the purchase price, as determined by NutraPure in its sole discretion. To the extent that any specifications or certifications are based upon information obtained from NutraPure’s suppliers, NutraPure shall have no liability in the event such specifications or certifications are ultimately determined to be incorrect, other than to assign to Customer, without recourse, any claims which NutraPure may have against such suppliers. NutraPure does not warrant that constituents of Products which are present in trace or minimal amounts (including any levels that are required to be disclosed by the laws of a particular state or locale, other than applicable federal U.S. laws) are or will be disclosed, absent a specific written agreement between NutraPure and Customer which requests that NutraPure either provide or arrange

for specific analytical procedures and which agrees upon a price for such additional services. Customer shall be solely responsible for, and NutraPure shall have no responsibility to comply with, the laws and regulations of any Distribution Territory, unless Customer and NutraPure specifically contract for the provision of additional testing or screening or services to address such laws or regulations. NUTRAPURE HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ARTICLES, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, QUALITY, OR MERCHANTABILITY. IN NO EVENT SHALL NUTRAPURE BE LIABLE FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES OR FOR THE COST OF PROCUREMENT FROM THIRD PARTIES OF ANY SUBSTITUTE GOODS. IN ANY EVENT, NUTRAPURE'S MAXIMUM LIABILITY TO CUSTOMER FOR ANY CLAIM SHALL BE LIMITED TO THE PURCHASE PRICE PAID OR REPLACEMENT OF THE ARTICLES, AT NUTRAPURE'S SOLE DISCRETION. To the extent that Customer provides specifications or Customer Materials, Customer warrants that such items do not infringe on the intellectual property rights of any third party, and will not result in an Article which is harmful or dangerous or unfit for consumption, or which is contaminated, adulterated, mislabeled, or otherwise misrepresented, or contains specified ingredients or components in excess of limits permitted by any applicable laws.

16. **Force Majeure.** Except for obligations to pay any amounts owing NutraPure, neither party shall be deemed to be in breach nor have any liability for any failure or delay in performance caused by reasons beyond such party's control, including but not limited to act of God, extreme weather, earthquakes, wars, terrorism, communication failures, or strikes.
17. **Insurance.** Customer represents and warrants that, as of the date of any Accepted Order, it maintains, and at all times during the performance of the same and for a period of three (3) years thereafter shall maintain, liability insurance with limits through underlying and excess coverage of not less than \$1,000,000 per occurrence and \$2,000,000 unimpaired aggregate and shall name NutraPure as an additional insured on such policy. Upon request, Customer shall provide NutraPure a Certificate of Insurance naming NutraPure as an additional insured on such policy and shall have a continuing obligation to provide updated certificates of insurance upon NutraPure's further request.
18. **Security Interest.** Customer hereby grants, and NutraPure hereby reserves, a security interest in the Articles, foreclosable in accordance with applicable law, until all payments due and owing by Customer to NutraPure have been paid in full.
19. **Requirements of Law.** Customer shall not make any representations, warranties, or guarantees with respect to the specifications, features, or capabilities of the Articles, including but not limited to packaging, research, development, or manufacturing, that are: (i) inconsistent with the documentation accompanying any Articles or Accepted Order; (ii) contrary to applicable law; or (iii) false or misleading. Customer shall be solely responsible for, and shall comply with, all laws and regulations of any Distribution Territory, including those laws or regulations that address, without limitation: (i) any actual or alleged defect in any products; (ii) required or permissible product content, including labeling of products and disclosure of content; (iii) marketing, sales, distribution, or pricing of products; (iv) export, import, re-export, and transfer of controls of products; (v) the United States Foreign Corrupt Practices Act of 1977, as amended, (which prohibits certain payments to government officials or their agents or instruments) and U.S. anti-boycott requirements; (vi) the UK Bribery Act of 2010 (if applicable); and (vii) all applicable economic sanctions, laws, regulations, statutes, and orders, including without limitation the economic and financial sanctions administered by the U.S. Department of Treasury's Office of Foreign Assets Control, the Bureau of Industry and Security of the U.S. Department of Commerce, the European Union and any relevant European Union Member State, and HM Treasury of the United Kingdom.

20. **Indemnification.** Subject to all provisions of these Terms and Conditions and any Private Label Agreement (if applicable), including Customer's obligations under the last sentence of this Section 20, NutraPure shall defend, indemnify, and hold Customer harmless from and against any and all claims, demands, liabilities of whatever nature, and all damages, liabilities, costs, and expenses, including reasonable attorney fees and costs, of any kind incurred in connection with any claim or action arising out of NutraPure's breach of any representation, warranty, or covenant in these Terms and Conditions or any Private Label Agreement (if applicable), provided that any such matter is promptly tendered to NutraPure so that it may, at its option, assume the sole authority to defend and resolve any associated claims. Subject to all provisions of these Terms and Conditions and any Private Label Agreement (if applicable), Customer shall defend, indemnify, and hold NutraPure harmless from and against any and all claims, demands, liabilities of whatever nature, and all damages, liabilities, costs, and expenses, including reasonable attorney fees and costs, of any kind incurred in connection with any claim or action arising out of: (i) Customer's breach of any representation, warranty or covenant in these Terms and Conditions or any Private Label Agreement (if applicable), and (ii) Customer's marketing, sales, promotion, and distribution of the Articles. Customer shall not settle or otherwise compromise any such claim or suit in any manner which requires NutraPure to provide any consideration, admit fault, or take any other action that would be binding on NutraPure without NutraPure's prior written consent.
21. **Independent Contractors.** It is understood and agreed by the parties that neither an Accepted Order nor the Private Label Agreement (if applicable) create a fiduciary relationship between them, each party is an independent contractor, and that nothing therein or in these Terms and Conditions is intended to constitute that any party is an agent, legal representative, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.
22. **Non-Exclusivity.** Notwithstanding anything herein to the contrary, Customer acknowledges that NutraPure has an existing business providing the Articles to third parties and nothing herein or in any Private Label Agreement (if applicable) shall be interpreted to restrict or prevent NutraPure from continuing to operate or pursue such business. NutraPure shall provide the Articles on a non-exclusive basis and may provide the Articles, or any other services or products, to any other entity or company, whether or not in competition with Customer.
23. **Governing Law.** The validity, construction, and performance of all Accepted Orders, the Private Label Agreement (if applicable), and these Terms and Conditions shall be governed by the laws of the State of Utah, without regard to conflict of law principles. All actions, claims, or legal proceedings concerning the same shall be commenced and maintained in the courts of the State of Utah, Weber County, or in the United States District Court for the District of Utah and the parties expressly waive the right to a jury trial therewith.
24. **Other.** The rights accruing to NutraPure hereunder will be deemed to run to and be for the benefit of NutraPure and its affiliates, subsidiaries and/or parent entities.