

NUTRANEXT, LLC AUTHORIZED RETAILER PURCHASE TERMS AND CONDITIONS

Effective December 15, 2018

These Nutranext, LLC Authorized Retailer Purchase Terms and Conditions (the “**Terms**”) are issued by Nutranext, LLC and its subsidiaries and affiliates (“**Nutranext**”) and apply to all Authorized Retailers of Rainbow Light, NeoCell, and Natural Vitality products (the “**Products**”) in the United States of America and its territories (the “**Territory**”). By purchasing Products from Nutranext for retail sale, you (hereinafter “**Retailer**,” “**you**,” or “**your**”) agree to adhere to the following terms. Please read these terms carefully. The Terms supersede any prior Nutranext policy applicable to Retailer and supplement any agreement between Nutranext and Retailer.

1. Manner of Sale. Sales in violation of these terms are strictly prohibited, are considered a material breach of these Terms, and may result in Nutranext’s immediate termination of Retailer’s account, in addition to other remedies. Products sold to unauthorized persons or through unauthorized channels, including unauthorized websites, shall not be eligible for certain Nutranext promotions, services, and/or benefits, including, unless prohibited by law, coverage under any Product guarantees.

1.1 Retailer shall sell Products solely to End Users of the Products. An “**End User**” is any purchaser of the Products who is the ultimate consumer of the Products and who does not intend to resell the Products to any third-party. Retailer shall not sell to anyone a quantity of the Products greater than that generally purchased by an individual for personal use or gifting.

1.2 Retailer shall not sell or transfer any of the Products to any person or entity for re-sale without the prior written consent of Nutranext. This includes sales to subsidiaries/unique banners owned by Retailer, B2B accounts, wholesalers, freight forwarders/drop shippers for other retailers, online retailers such as Amazon.com, any person or entity with a direct customer relationship with Nutranext, or any other person or entity Retailer knows or has reason to know intends to re-sell the Products.

1.3 Retailer shall not market for sale, sell, invoice, promote, or ship the Products to any individual or business outside the Territory without obtaining Nutranext’s prior written consent.

1.4 Retailer is not authorized to sell within the United States and its territories Products purchased outside of the United States of America and its territories, without obtaining Nutranext’s prior written consent.

1.5 Nutranext reserves the right to request information from Retailer regarding where and to whom the Products are being sold, and Retailer shall furnish such information upon request.

1.6 Online Sales

1.6.A Retailer may not sell the Products online anonymously. Retailer is permitted to market for sale or sell the Products through websites owned or operated by Retailer, provided however, that such websites identify Retailer’s full legal name, mailing address, telephone number, and email address. Retailer must notify Nutranext in writing of any owned and operated websites operating under a different business name than Retailer’s legal name.

1.6.B Retailer shall not sell the Products on or through any other website(s), including any third-party marketplace website such as Amazon, eBay, Jet, Rakuten, or Walmart Marketplace, without the prior written consent of Nutranext.

1.6.C Unless separately authorized by Nutranext, Retailer shall not hold inventory of the Products at any third-party fulfillment center nor use any third-party fulfillment service, such as Amazon Fulfillment Services, to fulfill any orders for the Products.

1.6.D Nutranext reserves the right to limit sales of its Products, including online. Nutranext reserves the right to terminate, at any time and in its sole discretion, its approval for Retailer to market and sell Products online, and you must cease all such marketing and sales immediately upon receiving notice of such termination.

1.6.E Retailer must have an advertised price displayed for each Product marketed for sale online. If Retailer chooses to offer pricing that is only visible by “adding to cart/seeing price in cart,” such pricing must be in addition to and not in lieu of, a displayed advertised price that is visible on the product page.

1.6.F Nothing in this paragraph 1.6 is intended to or shall modify the prohibition on marketing for sale, selling, invoicing, promoting, or shipping Products outside of the United States of America or its territories without Nutranext’s prior written consent.

2. Terms of Sale.

2.1 Orders and Pricing. Orders for Products made by Retailer shall be handled pursuant to Nutranext’s product ordering and order processing procedures. Nutranext reserves the right to reject any order, in whole or in part, for any reason. For all of the Products you order, you will pay to Nutranext the Wholesale Price as set forth by Nutranext from time to time on its price lists, which prices are subject to change. Nutranext may take price increase upon written notice. Nutranext reserves the right to discontinue the production of one or more of the Products at any time without notice to Retailer.

2.2 Sales Taxes. If Retailer has not furnished Nutranext with appropriate evidence of its exemption from all applicable sales taxes, Nutranext may also add applicable sales taxes to invoices.

2.3 Return Policy. Product returns shall be handled in accordance with the procedures set forth in the then-current Nutranext Customer Product Return Policy.

3. Retailer’s Obligations

3.1 Product Inspection. Promptly upon receipt of Products, Retailer shall inspect the Products for damage, defect, broken seals, evidence of tampering, or other non-conformance. If any defect is identified, Retailer must not offer the Product for sale and must report the defect to Nutranext. Furthermore, Retailer shall regularly inspect its inventory for expired or soon-to-be expired Products and shall remove those Products from inventory. Retailers shall not sell expired Product. Retailer shall destroy or dispose of expired or soon-to-be expired Products in accordance with instructions provided by Nutranext.

3.2 Product Storage and Handling. Retailer shall store all Products in a cool, dry place, away from direct sunlight, extreme heat, and dampness, and in accordance with any other cGMPs, applicable laws, rules and regulations, and any additional storage or handling guidelines specified by Nutranext.

3.3 Alterations Prohibited. Retailer shall sell Products in their original packaging, with all seals intact. Retailer shall not sell or label the Products as “used,” “open box,” or any similar descriptors. Relabeling, repackaging (including the separation of bundled products or the bundling of products), misbranding, adulterating, diluting, and other alterations are not permitted. Tampering with, defacing, or otherwise altering any lot code, batch code, UPC number, or other identifying information on Products is prohibited. Retailer shall not remove or destroy any copyright notices, trademarks, or other proprietary markings on the Products, documentation, or other materials related to the Products. Further, Retailer may not remove, translate, or modify the contents of any label or literature on or accompanying the Product. Retailer shall not represent or advertise any Product as “new” that has been returned open or repackaged.

3.4 Customer Service. Retailer shall be familiar with the special features of all Products kept in inventory and must obtain sufficient product knowledge to advise end-user customers on how to use the Products safely and properly. Retailer must make itself available to respond to customer questions and concerns both before and after sale of the Products and should endeavor to respond to customer inquiries within 24 hours. At all times, Retailer and Retailer’s agents must represent the Products in a professional manner and refrain from any conduct that is or could be illegal, gives or could give the appearance of impropriety, or otherwise is or could be detrimental to the reputation of the Nutranext brands.

3.5 Recall and Consumer Safety. To ensure the safety and well-being of the end-users of the Products, Retailer shall cooperate with Nutranext with respect to any Product recall or other consumer safety information dissemination effort.

3.6 Contact Information. Retailer shall maintain accurate and up-to-date company information and shall promptly notify Nutranext of any change in Retailer’s telephone number, mailing address, email address, or other contact information.

3.7 Compliance with Applicable Laws. Retailer shall comply with any and all applicable laws, rules, regulations, and policies related to the advertising, sale, and marketing of the Products.

3.8 Consumer Confusion. Retailer shall not advertise, market, display, or demonstrate non-Nutranext products together with Products in a manner that would create the impression that the non-Nutranext products are made by, endorsed by, or associated with Nutranext. Retailer shall not advertise, offer for sale, or sell any Products as genuine that in fact are not or falsely or inaccurately represent the features or functionality of any Products.

3.9 Product Representations. Retailer shall (i) conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill, and reputation of Nutranext; (ii) avoid deceptive, misleading or unethical practices that are or might be detrimental to Nutranext or the Products; (iii) make no false or misleading representations with regard to Nutranext or the Products; (iv) not publish or employ, or cooperate in the publication or employment of, any misleading or deceptive advertising material with regard to Nutranext or the Products; and (v) make no representations, warranties or guarantees to customers or to the trade with respect to the specifications, features or capabilities of the Products that are inconsistent with the literature distributed by Nutranext. Approved claims are available on the Nutranext website, www.Nutranext.net or in the Nutranext published marketing literature.

3.10 Product Tracking and Product Quality. Retailer shall comply with any Product tracking systems implemented by Nutranext. Retailer shall cooperate with Nutranext in the investigation and resolution of any quality or customer service issues related to Retailer’s sale of the Products, including disclosing information regarding Product sources, shipment, and handling.

4. Intellectual Property. Retailer acknowledges and agrees that Nutranext or its licensors own all proprietary rights in and to the Nutranext brands, names, logos, trademarks, designations, service marks, trade dress, patents, copyrights, and other intellectual property related to the Products (the “Nutranext IP”). Retailer shall refrain from questioning or challenging the rights claimed by Nutranext or its licensors in the Nutranext IP or assisting any others in doing so. Retailer is granted a limited, non-exclusive, non-transferable, revocable sublicense to use the Nutranext IP in the United States solely for purposes of marketing and selling the Products as set forth herein. This sublicense will cease upon termination of Retailer’s status as an Authorized Retailer. Retailer’s use of the Nutranext Trademarks shall be in conformance with Nutranext’s then-current trademark usage policies. Retailer must display the appropriate trademark designation symbol - ® alongside registered trademarks, and ™ alongside any unregistered trademarks – anywhere that Retailer displays trademarks owned by or licensed to Nutranext. Nutranext reserves the right to review and approve, in its sole discretion, Retailer’s use or intended use of the Nutranext IP at any time, without limitation. Upon request by Nutranext or its licensors, Retailer shall be required to submit samples of its display or use of the Nutranext IP or of the Products sold under the Nutranext IP. All goodwill arising from Retailer’s use of the Nutranext IP shall inure solely to the benefit of Nutranext or its licensors.

5. Termination. Nutranext may terminate Retailer’s account with or without cause at any time with written notice.

5.1 Upon termination of this Agreement, Nutranext, in its sole discretion, may repossess from Retailer all or any part of any stocks of Products then held by Retailer in inventory either by paying or giving credit for their invoice value or the value at which they stand in the books of Retailer, whichever is lower, provided: (i) Nutranext shall be responsible for arranging for and paying the costs of transport and insurance; and (ii) Retailer may sell the stocks for which it has accepted orders prior to the date of termination, and for that purpose and to that extent, the provisions of this Agreement shall continue in full force and effect, and after which point, Retailer shall cease representing itself as an authorized retailer of the Products and shall cease all use of anything that may give the impression that Retailer is an authorized retailer of the Products or has any affiliation whatsoever with Nutranext.

6. Availability of Injunctive Relief. If there is a breach or threatened breach of paragraphs 1, 3, 4, 5.1, or 11 of these Terms, it is agreed and understood that Nutranext shall have no adequate remedy in money or other damages and accordingly shall be entitled to injunctive relief and other equitable remedies; provided, however, no specification in these Terms of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach or threatened breach of these Terms. Except as otherwise provided or as the Retailer and Nutranext may otherwise agree in writing, no failure, refusal, neglect, delay, waiver, forbearance, or omission by Nutranext to exercise any right(s) herein or to insist upon full compliance by Retailer with Retailer’s obligations herein shall constitute a waiver of any provision or otherwise limit Nutranext’s right to fully enforce any or all provisions and parts thereof.

7. Indemnification.

7.1 Retailer shall, and hereby does, indemnify, defend, save and hold harmless, Nutranext, and its directors, officers, employees, shareholders, agents and advisors and each of the heirs, executors, successors and assigns of any of the foregoing, from and against any and all liabilities, damages, judgments, costs and expenses (including reasonable attorneys’ fees) to the extent they are caused by, arise from, or are incurred in connection with (i) any breach of, or failure to perform, any term, covenant or condition in this Agreement by Retailer, or (ii) the negligence or willful misconduct of Retailer or its officers, employees, agents or contractors.

7.2 Nutranext shall, and hereby does, indemnify, defend, save and hold harmless, Retailer, and its directors, officers, employees, shareholders, agents and advisors and each of the heirs, executors, successors and assigns of any of the foregoing, from and against any and all liabilities, damages, judgments, costs and expenses (including reasonable attorneys' fees) to the extent they are caused by, arise from, or are incurred in connection with (i) bodily injury, sickness, including death, or damage to or the destruction of tangible property resulting from defective Rainbow Light, NeoCell, or Natural Vitality products or defective products sold, shipped or delivered to Retailer by Nutranext; or (ii) the infringement or alleged infringement of any U.S. patent, trademark, trade dress, copyright or other intellectual property right arising out of the offering for sale or sale of such products. Excluded are any claims, suits, or other actions relating to (i) personal injury caused or alleged to have been caused, in whole or in part, by the negligence or willful misconduct of Retailer, or (ii) any claims, suits, or other actions due to premises liability.

8. WARRANTY. NUTRANEXT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARISING BY OPERATION OF LAW, COURSE OF DEALING, CUSTOM OF TRADE OR OTHERWISE. NUTRANEXT SHALL NOT BE LIABLE TO RETAILER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOSS OF SALES, OR LOSS OF PROFITS.

9. Modification. Nutranext reserves the right to update, amend, or modify these Terms at any time. Unless otherwise provided, such amendments will take effect immediately and Retailer's continued use, advertising, offering for sale, or sale of the Products, use of the Nutranext IP, or use of any other information or materials provided by Nutranext to Retailer following notice of the amendments will be deemed Retailer's acceptance of the amendments.

10. Miscellaneous. The Terms will be governed by, and interpreted and enforced in accordance with, the laws of the State of California without reference to the principles of conflicts of laws. Any disputes or differences occurring between the parties arising out of or in any way relating to the Terms, or their rights and responsibilities to each other, will be settled by arbitration under the then current rules of the American Arbitration Association. The decision and award of the arbitrator(s) will be final and binding and the award so rendered may be entered in any court having jurisdiction thereof. The place of arbitration will be Oakland, California or any other place selected by mutual agreement of the parties. Nothing in the foregoing requirement that disputes or differences be submitted to arbitration will prohibit the right to seek provisional or equitable relief from any court having jurisdiction over the parties, including injunctive relief, pending a final award issued by the arbitrator(s); provided, however, this right is not intended to nor will it usurp the obligation of the parties to otherwise resolve such differences in accordance with this paragraph. Furthermore, nothing in the Terms is intended to or shall preclude Nutranext's ability to commence an action in a court of law for purposes of ascertaining the identity of any unauthorized seller of the Products. If any provision of the Terms is held contrary to law, the remaining provisions shall remain valid.

11. Confidentiality. The Terms constitute confidential, proprietary information of Nutranext and shall not be used for any purpose other than the authorized advertising and sale of the Products nor disclosed to any third-party without the prior written consent of Nutranext.