

Nellson Nutraceutical Canada, Inc. / Les Aliments Multibar Inc.
Standard Purchase Order Terms and Conditions (Canada)

1. **Parties.** These Standard Purchase Order Terms and Conditions (Canada) (the "Standard Terms") shall apply to any and all purchase orders issued from time to time (collectively, the "Purchase Orders") by one or more of Nellson Nutraceutical Canada, Inc. and Les Aliments Multibar Inc., and any of their respective subsidiaries, (collectively, the "Nellson Group") to any and all vendors (collectively, the "Suppliers") for goods and/or services of any kind. Each of such Purchase Orders as issued by a member of the Nellson Group to one of the Suppliers shall be individually subject to and governed by the Standard Terms (such purchase order, the "Purchase Order"; such entity issuing or having issued the Purchaser Order, "Nellson"; such supplier to whom is issued the Purchaser Order, "Seller"; and the Standard Terms as they apply to such Purchaser Order, as well as to Nellson and Seller with respect to such Purchaser Order, the "Terms"). For the purposes of the Purchaser Order and these Terms, Nellson and Seller may be referred to each as a "Party" and, collectively, as the "Parties", and Seller's goods and/or services described in such Purchase Order may be referred to respectively as "Goods" and "Services".
2. **Acceptance.** Nellson shall have no obligation to purchase and pay for Goods and/or Services except (i) to the extent set out in, and in accordance with, the Purchase Order and the Terms, and (ii) if Seller has accepted or be deemed to have accepted the Purchase Order and the Terms. Except as set out in these Terms and the Purchase Order, Nellson expressly rejects and excludes any other terms or conditions, including, but not limited to, any standard terms and conditions of Seller whether in a quote, acknowledgment or other document. Even if Seller's document contains a provision stating that the language of such document or any other referenced document is superior, by accepting or being deemed to have accepted the Purchaser Order, Seller acknowledges and agrees that these Terms and the Purchase Order nonetheless control. Seller accepts the Purchase Order, including these Terms, upon the earliest of (x) a confirmation, acknowledgment or counter-signed Purchase Order by Seller, or any other indication of acceptance of the Purchase Order by Seller; (y) commencement of work on the Goods and/or Services; or (z) shipment of any Goods and/or delivery of any Services. For greater clarity, the occurrence of any of the actions or circumstances set out in any of clauses (x), (y) and (z) of this Section constitutes a deemed acceptance by Seller of the Purchase Order and these Terms.
3. **Seller Qualification Documents.** Furthermore, Nellson shall have no obligation to purchase and pay for Goods and/or Services unless Seller and the Goods and/or Services, as applicable, comply with the Seller qualification documents requested by Nellson and supplied by Seller and that same are satisfactory to Nellson, and Seller's compliance with all materials, samples, pricing, representations, specifications, statements and certifications therein, including but not limited to regulatory, food safety and quality documentation to the extent applying to Seller and/or the Goods and/or Services (collectively, "Qualification Documents"). Nellson, in issuing the Purchase Order, may rely on such Qualification Documents, such that any attempt by Seller within the Qualification Documents to limit or exclude any of its representations, warranties or obligations shall not be effective, and the Purchase Order and these Terms, together with applicable law, shall control.
4. **Entire Agreement.** These Terms, the Purchase Order, the Qualification Documents, along with any other agreement in writing executed by the Parties and intended to govern business between the Parties in respect to the Purchase Order, the Goods and/or Services and/or the Qualification Documents, constitute the entire agreement between Nellson and Seller (collectively, the "Contract") regarding the Goods and/or Services being purchased by Nellson from Seller under the Purchase Order to which these Terms apply, exclude any attempt by Seller within the Qualification Documents or other documents to limit or exclude any representations, warranties or obligations herein or under the Purchase Order, and supersede all prior and contemporaneous agreements and understandings, whether oral or written, between the Parties with respect to the subject matter of the Purchase Order.
5. **Seller's Performance.** Seller shall immediately notify Nellson if the Purchaser Order cannot be filled to the identified specifications and delivery date(s) in compliance with the terms of the Contract.
6. **Identifying Information.** "Identifying Information" shall include the relevant: (1) Purchase Order Number(s), item number(s), lot number(s), sales order number(s) and shipper's name. Seller shall place all Identifying Information on all packages, invoices, shipping papers and all other documentation and correspondence relating to the Purchase Order and shall provide the original of all invoices, packing lists and bills of lading to Nellson.
7. **Cancellation/Changes.** With written notice to Seller, Nellson may cancel its Purchase Order or change at any time the drawings, design, specifications, or any other terms applicable to its Purchase Order, or temporarily suspend or delay delivery or service schedules for any Goods or Services. Upon receipt of such notice, Seller shall, unless notified otherwise, immediately discontinue the work, cease delivery and ordering of material, and make reasonable efforts to cancel/change existing orders, contracts and subcontracts upon terms satisfactory to Nellson, but shall continue to perform any work necessary to preserve and protect any work in progress, until relinquishing possession and control as agreed by Nellson. If any such change shall result in delay or expense to Seller, Seller shall notify Nellson immediately and negotiate a reasonable equitable adjustment in writing, provided, however, that Seller shall proceed diligently to supply the Goods and/or Services as directed by Nellson irrespective of whether an agreement on an equitable adjustment has been reached. Seller's warranties as to the Goods and/or Services shall be deemed restated as changed. Seller shall be obligated to mitigate to the extent possible any such delays and expenses. Seller shall have no valid claim for equitable adjustment or otherwise unless submitted to Nellson in writing within thirty (30) days from the date of any cancellation or change, which claim shall include an estimate of reasonable expenses resulting from such cancellation/change, less payments and credits previously received by Seller from Nellson. No equitable adjustments or damages of any sort may be claimed or awarded in the case of Goods that are commodities and that can be sold by Seller to other customers in the ordinary course. Equitable adjustments or damages shall only constitute of and be claimed for actual and direct expenses that cannot reasonably be avoided or mitigated and shall not include lost revenues and/or lost profits.
8. **Representations and Warranties.** SELLER HEREBY REPRESENTS, WARRANTS AND GUARANTEES TO NELLSON, ITS SUCCESSORS, ASSIGNS, AFFILIATES, PARENT COMPANY, AND SUBSIDIARIES, AND EACH OF THEIR RESPECTIVE CUSTOMERS, AND USERS AND SUBSEQUENT OWNERS/USERS OF THE GOODS HEREUNDER OR OF THE END PRODUCTS OF WHICH THEY FORM A PART ("END PRODUCTS") THE FOLLOWING: (1) TITLE TO THE GOODS IS GOOD AND MARKETABLE, FULL, CLEAR AND UNRESTRICTED, FREE AND CLEAR OF ALL LIENS, RESTRICTIONS, RESERVATIONS, SECURITY INTERESTS, HYPOTHECS, ENCUMBRANCES AND OTHER CLAIMS OF OTHERS (INCLUDING ANY STATUTORY, LEGAL OR COMMON LAW LIENS, RESTRICTIONS, RESERVATIONS, SECURITY INTERESTS, HYPOTHECS, ENCUMBRANCES AND OTHER CLAIMS), WHETHER OR NOT NELLSON HAS KNOWLEDGE THEREOF; (2) THE GOODS SHALL (i) BE MERCHANTABLE, SAFE AND APPROPRIATE FOR THE PURPOSES FOR WHICH GOODS OF THAT KIND ARE NORMALLY USED, (ii) MANUFACTURED IN ACCORDANCE WITH ALL APPLICABLE GOOD MANUFACTURING PRACTICES AND APPLICABLE LAWS, (iii) BE FREE FROM CONTAMINATION, INCLUDING, BUT NOT LIMITED TO, MOISTURE, INSECTS, RODENTS, OTHER ANIMALS AND CHEMICALS, (iv) BE COMPLIANT WITH THE *FOOD AND DRUGS ACT (CANADA)*, THE *FOOD AND DRUGS REGULATIONS (CANADA)* AND WITH ANY OTHER FEDERAL, PROVINCIAL, LOCAL OR MUNICIPAL FOOD AND/OR DRUG ACT, REGULATION, LAW, ORDER, ORDINANCE, RULE OR POLICY TO THE EXTENT GOVERNING THE DISTRIBUTION (INCLUDING THE PURCHASE, SALE AND/OR OFFER TO SELL), MERCHANDISING, MARKETING, STORING, IMPORTING AND/OR EXPORTING OF THE GOODS, SERVICES AND/OR END PRODUCT, (v) BE NEW AND OF THE BEST GRADE OF THEIR RESPECTIVE KIND, UNLESS OTHERWISE REQUESTED BY NELLSON, FREE FROM DEFECTS IN MATERIAL AND/OR WORKMANSHIP, (vi) BE FREE FROM DEFECTS, (vii) STRICTLY CONFORM IN ALL RESPECTS TO ALL SAMPLES, SPECIFICATIONS, STANDARDS, PACKAGING STANDARDS, PERFORMANCE AND QUALITY EXPECTATIONS AND REQUIREMENTS HEREUNDER, (viii) STRICTLY CONFORM TO ANY STATEMENTS MADE OR THAT SHOULD HAVE BEEN MADE ON ANY CONTAINERS, LABELS, PACKAGING, PRODUCT INFORMATION AND/OR ADVERTISEMENTS, (ix) BE ACCOMPANIED BY PROPERLY MADE CERTIFICATES OF ANALYSIS OR CERTIFICATES OF CONFORMANCE AS APPLICABLE, (x) BE PROPERLY CONTAINED, PACKAGED, SHIPPED, MARKED AND LABELLED, (xi) CONFORM TO ALL REPRESENTATIONS, STATEMENTS AND WARRANTIES CONTAINED IN OR CONVEYED BY THE QUALIFICATION DOCUMENTS, (xii) NOT INFRINGE OR MISAPPROPRIATE ANY PATENTS, COPYRIGHTS, TRADEMARKS, TRADE NAMES, TRADE SECRETS OR OTHER INTELLECTUAL PROPERTY RIGHTS, (xiii) IF SELLER KNOWS OR HAS REASON TO KNOW THE PARTICULAR PURPOSE FOR WHICH NELLSON INTENDS TO USE THE GOODS, THAT THE GOODS ARE FIT FOR SUCH PARTICULAR PURPOSE and (xiv) BE COMPLIANT WITH ALL OTHER APPLICABLE LAWS AND REGULATIONS; (3) IN THE CASE OF GOODS THAT ARE FOODS (AS DEFINED IN THE *FOOD AND DRUGS ACT (CANADA)*) AND ALL GOODS FOR USE IN OR FOR FOODS COMPLY WITH THE *WEIGHTS AND MEASURES ACT (CANADA)*,

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THE WEIGHTS AND MEASURES REGULATIONS (CANADA), AND ALL OTHER LAWS, ORDERS, ORDINANCES, RULES OR REGULATIONS TO THE EXTENT APPLYING TO THE GOODS AND/OR SERVICES AND ALL APPLICABLE ENVIRONMENTAL, HEALTH, SAFETY AND/OR HAZARDOUS, RESTRICTED AND/OR TOXIC SUBSTANCE LAWS, STATUTES, ORDERS, ORDINANCES, RULES AND REGULATIONS, AS WELL AS DIRECTIVES, GUIDELINES AND POLICIES, WHETHER OR NOT SUCH HAVING THE FORCE OF LAW; AND (4) IN THE CASE OF GOODS THAT ARE FOOD RELATED PRODUCTS, INCLUDING THE CONTENTS, PACKAGING, AND LABELLING, AND THEIR MANUFACTURE, BRANDING, STORAGE REPRESENTATION FOR USE AND SALE, NEITHER ACCEPTANCE, INSPECTION, TEST, USE, NOR PAYMENT BY NELLSON SHALL WAIVE ANY BREACH OF ANY WARRANTY, REPRESENTATION OR OBLIGATION OF SELLER, OR REDUCE OR OTHERWISE AFFECT SELLER'S OBLIGATIONS, WARRANTIES AND REPRESENTATIONS UNDER THE CONTRACT, ALL OF WHICH SHALL SURVIVE.

9. **Information; Recalls.** Seller shall provide Nellson with the following information in the form requested by Nellson: (i) a list of all ingredients and materials in Goods; (ii) the amount of all ingredients and materials; and (iii) information concerning any changes in or additions to the ingredients. Before and at the time Goods are shipped, Seller shall give Nellson sufficient warning in writing (including appropriate labels on all Goods, containers, and packing, including disposal and recycling instructions, material safety data sheets, certificates of analysis and certificates of compliance) of any hazardous, restricted or toxic material that is an ingredient or part of the Goods, together with any special handling instructions that are needed or useful to take appropriate measures while handling, packing, transporting, processing, using or disposing of the Goods. Whenever Seller becomes aware that any ingredient or component of a Good supplied hereunder is or may become harmful to persons or property, or that the Good may be defective in any manner which is or may become harmful to persons or property, or that a good is misbranded or mislabeled, Seller shall immediately give notice thereof to Nellson, and Seller shall provide all relevant information with respect thereto. If it is deemed necessary by either Nellson, Nellson's customer(s) of the Goods or End Products thereof and/or Seller to recall (or recover) any quantity of the Goods or End Products thereof from any distributor, customer or consumer, either as a result of failure of the Goods to satisfy the specifications, comply with any representations and warranties, or for any other reason bearing on quality or safety of the Goods themselves or as part of the End Products, Seller agrees: (i) to take such steps as Nellson and/or its customer(s) deem(s) necessary to protect the interests of the public, Nellson's customer(s) and Nellson, (ii) to comply diligently with all product recall (or recovery) procedures established by the Canadian Food Inspection Agency, Health Canada or any other governmental authority and (iii) to cooperate with Nellson, Nellson's customer(s) and/or any governmental authority investigation, regardless of whether the necessity of a recall can be conclusively attributed to a problem with the Goods. Should Seller's, Nellson's and/or its customer's or customers' actions or any governmental action require the recall, destruction or withholding from use or market of any Good or End Product thereof (a "Recall"), then Seller shall bear the costs and expenses, including but not limited to the inspection, testing, removal from the market, product loss, cessation in manufacturing, cleaning, shipping and other expenses and losses resulting from such Recall if such Recall is the result of any action or omission attributable to Seller, including, without limitation, supplying Goods that are outside of specifications, violate any representation or warranty or that contain latent defects. If the Parties are equally at fault for such Recall, or should it prove impossible to assign fault to either Party, the Parties shall share such costs and expenses equally.
10. **Delivery Date.** Seller shall deliver the Goods and/or Services in the quantities, per the specifications, of the quality, on the dates, and to the places specified in the Purchase Order being properly packed, sealed, loaded and secured, and TIME SHALL BE OF THE ESSENCE. Seller may deliver up to five (5) days before the delivery date identified on the Purchase Order but not before unless agreed in writing by Nellson. If delivery is to be FOB Shipping Point, then Seller shall notify Nellson and have the Goods available for shipment on a date prior to the delivery date stated within the Purchase Order sufficient to allow for the Goods to be loaded, transported by ordinary, non-expedited means and to arrive at the destination(s) identified in the Purchase Order on or before the stated delivery date. If no delivery date is specified in the Purchase Order, delivery shall be made promptly. If, in order to comply with Nellson's delivery date, the Goods must be shipped via a more expensive or expedited method or means than originally specified or would be typical, then any resulting incremental increase in shipping costs shall be paid by Seller unless the need for such more expensive or expedited method was directly caused by Nellson.

If Nellson issues an updated delivery date at any time after the Purchase Order is issued, any updated delivery date later in time than the original delivery date shall govern, any updated delivery date earlier in time than the original delivery date by five (5) days or less shall govern, and any updated delivery date earlier in time than the original delivery date by more than five (5) days shall govern in the absence of Seller's written objection within two (2) business days of receiving the update.

11. **Shipping.** Unless otherwise stated on the Purchase Order, Goods are sold on an FOB Shipping Point basis, Seller shall ship the Goods freight collect with the carrier designated by Nellson. At least five (5) days prior to the date on which the Goods will be ready for pick-up, Seller shall contact Nellson's transportation coordinator listed on the Purchase Order to arrange for transportation. If Seller ships using its carrier instead of Nellson's designated carrier, Seller shall be responsible for any shipping costs above and beyond what Nellson's designated carrier would have charged, Nellson shall not be responsible for such difference and Nellson may deduct such difference from any amount owed to Seller on any invoice, require a credit for the amount of the difference, or require a new invoice be issued in place of the original invoice that has the difference in shipping reduced from the original invoice amount. Seller's invoice for freight charges shall include a copy of carrier's bill. If the Goods are sold FOB point of destination, Seller shall ship the goods freight prepaid at Seller's cost with a responsible carrier of Seller's choice. Nellson's count shall be accepted as final and conclusive on all shipments, regardless of whether the Seller has included an itemized packing list. All transportation methods/modes need to be directed and approved by Nellson.
12. **Shipping Under Waiver.** In the event that Nellson requests and Seller agrees in writing to allow Goods to be shipped in advance of requisite testing results, such Goods shall be clearly marked as pending testing and will be quarantined by Nellson pending such testing and timely receipt of requisite documentation. Seller shall attach to the Goods any provisional certificates of analysis or compliance and, when testing is complete, send all final certificates of analysis or compliance electronically to Nellson as soon as available. In the event that Goods shipped under quarantine do not meet testing requirements or requisite documentation is not timely received, Nellson may reject such Goods ("Rejected Goods") and Seller shall be responsible to have such Rejected Goods immediately picked up and shipped back to Seller at Seller's sole expense and to deliver conforming replacement Goods by the original delivery date set forth on the Purchase Order or as otherwise updated by Nellson, including incurring any necessary expedite expenses to meet such delivery date. In the event that Seller fails or refuses to timely pick up the Rejected Goods, Nellson may in its sole discretion, but is not required to, ship the Rejected Goods back to Seller and Seller shall pay Nellson for all expenses thereof. Nellson reserves the right, in its sole discretion, to charge reasonable storage fees for all Rejected Goods that remain in Nellson's possession for greater than 10 days from the time Seller was notified of the Rejected Goods. In no event will Nellson be liable to pay Seller for any Rejected Goods.
13. **Certificates.** Seller shall attach to all Goods shipped, with the exception of Goods shipped under waiver, all final certificates of compliance or analysis and also send all certificates of compliance or analysis electronically to Nellson as directed on the Purchase Order.
14. **Title and Risk of Loss.** Regardless of the Party responsible for shipping the Goods, title and risk of loss for such Goods shall pass to Nellson upon acceptance of the delivery of the Goods in accordance with these Terms at Nellson's address designated on the Purchase Order, or when Nellson's chosen freight company takes possession of FOB items, except that in the event the Goods are non-conforming, title to and risk of loss of such non-conforming Goods shall remain at all times with Seller unless and until Nellson agrees in writing to accept such non-conforming Goods. Notwithstanding the foregoing, (1) risk of loss remains with Seller until cure or acceptance and (2) risk of loss remains with Seller with respect to any rejection or refusal by Nellson to receive or retain the Goods, or justified revocations of acceptance. Seller shall bear all cost and expense of return shipments. Seller shall bear all risk and loss for improperly loaded Goods. Seller shall inspect all trucks/trailers used to transport the Goods prior to loading and shall not permit loading if any such truck/trailer is not food safe. Seller shall permit carriers to monitor loading of Goods.
15. **Non-Conforming Goods.** Non-conforming goods shall include any Goods that are defective, damaged, contaminated, improperly packaged or loaded or fail to conform to: (1) any requirements and specifications set forth in the Purchase Order, these Terms and the Qualification Documents, (2) original packing or packaging, including such that is not food safe or is otherwise in non-original condition, such as broken pallets, ripped or open packaging, or if there is any indication of

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- contamination, adulteration, or animal/rodent/insect presence, including, but not limited to, droppings, (3) any approved specifications for the Goods ordered, whether of Nellson or Seller, such as identified specifications for Seller's product offerings, (4) labelling requirements, including that all labelling, packaging and units must match previously received labelling, packing and units for like Goods from Seller, (5) any industry, governmental or other generally applicable standard or (6) any requirements or specifications communicated to Seller by Nellson. Non-conformity shall be determined by Nellson, including any Nellson test results even if different from Seller's test results, and Nellson's test results shall be conclusive. Seller shall, immediately upon being notified of or the discovery of any non-conformity in Goods, including, but not limited to any ingredient, material, packing, packaging or supplies related thereto, notify Nellson and provide Nellson with all documents that suggest or indicate that Goods may be, in whole or in part, non-conforming, including, but not limited to, complaints, notices, inquiries, testing and inspection results, internal investigations, and warnings. In the event any Goods are non-conforming, Nellson shall have, in addition to its other rights and remedies pursuant to the Purchase Order, including these Terms and Qualification Documents, or at law or in equity, the right to cancel or terminate the Purchase Order for cause, in whole or in part, or require Seller to promptly replace or repair (if applicable) defects of any non-conforming goods at the expense of Seller. If a non-conformity is not apparent on examination, Nellson reserves the right to require correction or replacement and damages. In the event of non-conformity, Seller shall be liable for all investigation, testing, charges, fees, administrative costs, expenses, withdraws, recalls, repurchases, commissions, inspections, transportation, storage, disposal, lost profits, expert and attorney's fees and expenses and any other expenses incurred as a result of any non-conformance (collectively, "Damages"). In the event that any Goods are delivered to Nellson with any contamination or animal/rodent/insect presence that results in an infestation at Nellson's facilities, Seller shall be liable for not only all Damages related to the Goods (including, but not limited to, all costs related to the decontamination of any affected facilities), but also all Damages related to any other goods that become contaminated or infested as a result, such as adjacently stored goods.
16. **Shelf Life Requirements.** Seller shall ensure that all Goods have 60% or greater shelf life remaining when delivered to Nellson of the shelf life set forth by Seller in any specifications for the Goods, including in any Qualification Documents, unless agreed otherwise in writing by Nellson.
17. **Inspection; Reservation of Rights.** Nellson shall have the right, but not the obligation, to inspect and/or test all Goods delivered pursuant to any Purchase Order and reject, in whole or in part, any or all of the Goods. Nothing in the Purchase Order or other Contract documents shall relieve Seller of any obligation of testing, inspection and/or quality control. Nellson may reject and return to Seller at Seller's expense and risk any non-conforming or defective Goods, or excess or partial shipments, including, but not limited to any partial or opened packages and Seller shall refund or credit, at Nellson's choice, all amounts for all such non-conforming Goods, including all opened and partial packages. Nellson expressly reserves its right to inspect Goods prior to payment and acceptance, but the making or failure to make any inspection of, or payment for the Goods shall not impair such right nor constitute acceptance by Nellson, notwithstanding Nellson's opportunity to inspect the Goods. If Nellson agrees to accept non-conforming Goods, the price therefore shall be appropriately adjusted downward.
18. **Pricing.** The price of the Goods and/or Services shall be as stated on the Purchase Order and Nellson shall not be billed at a price greater than stated on the Purchase Order unless authorized in writing by Nellson and shall be inclusive of all other charges, including, but not limited to, customs duties, all sales, harmonized, goods and services, provincial sales, value added, use, excise and property taxes (collectively, "Taxes"), shipping, packaging, boxing, carting, crating, labelling, storage, loading, securing on the carrier at the shipping point, insurance and any other similar charges. In the event a price is not contained in the Purchase Order, Seller must notify Nellson of the price and obtain written acceptance of the price by Nellson and the Purchase Order will not be deemed to be accepted unless such written acceptance is obtained. Seller shall give Nellson no less than sixty (60) days' notice in writing of any requested pricing changes, which shall not become effective until the later of sixty (60) days and acceptance in writing by Nellson, and such pricing changes will only apply to such Purchase Order. Seller represents and warrants that the price charged complies with applicable government laws and regulations in effect at the time of quotation, sale and delivery. Any price reductions made in the Goods hereunder subsequent to placement of a Purchase Order but prior to payment thereof will be made available to Nellson.
19. **Payment.**
- a. For any Seller that Nellson is directed to use by a Nellson customer ("Customer"), Nellson's payment terms for payment to Seller, if shorter than the Customer's terms, may be extended at any time before or after the Purchase Order is issued in Nellson's sole discretion to match the Customer's payment terms with Nellson.
 - b. Seller's invoice shall contain all Identifying Information and be submitted to Nellson's Accounts Payable.
 - c. Any improperly submitted or incomplete invoice will not become due or payable and may be returned to the Seller unpaid.
 - d. Discount or payment period terms will be computed from the latest date on which all of the following has occurred: (i) receipt of the conforming Goods or Services at Nellson's facility identified on the Purchase Order, (ii) receipt by Nellson from Seller of correct invoices, prepared in accordance with the terms herein, containing no discrepancies with any packing lists or the Goods received, and containing all Identifying Information; (iii) acceptance of the Purchase Order, including these Terms; and (iv) if and as required by Nellson, certified test reports of certificates of inspection, compliance and/or analysis as applicable, letters of compliance, or manufacturer's literature (including recommended spare parts lists), in form and substance satisfactory to Nellson.
 - e. Nellson will pay all undisputed amounts on each invoice within the time period set forth in the Purchase Order unless otherwise stated herein.
 - f. Nellson shall have no obligation to pay any amount that Seller fails to properly invoice as set forth above to Nellson within 60 days after the Goods were shipped by Seller and/or the Services were delivered to Nellson.
 - g. Nellson shall not be required to pay any late charges, surcharges, interest, finance charges or other amounts.
 - h. Nellson shall have the right to set-off or deduct any amounts owed by Seller to Nellson or any of its affiliates or subsidiaries, whether related to the Purchase Order or otherwise, from any amounts owed by Nellson to Seller under the Purchase Order.
20. **Confidentiality.** Performance by Seller under this Purchase Order will involve the confidential and/or proprietary information of Nellson and/or Nellson's customer(s), including, but not limited to, the identification of ingredients, purchasing, forecasts, pricing, specifications, processes and other business information ("Confidential Information"). Seller shall: (1) maintain the confidentiality of all Confidential Information, whether or not it is marked as such, and shall take steps as may be reasonably necessary to prevent the disclosure of such Confidential Information (i) within Seller's company to employees other than those who need to know such information for Seller to perform under the Contract and (ii) to third parties; (2) use Confidential Information solely for the limited purpose of performance of the Contract; (3) protect the Confidential Information from disclosure using at least the same security measures taken by Seller to protect its own confidential and/or proprietary information and, in any event, no less than reasonable physical and electronic means to secure the Confidential Information from disclosure and use other than as permitted by the Contract; and (4) not, without the prior written consent of an authorized representative of Nellson, deliver, discuss, disclose, or otherwise communicate orally or in writing to any third party any Confidential Information, the fact that Nellson has submitted or executed this Purchase Order or any of the terms of the Contract. If Seller is required to execute a Confidentiality Agreement in connection with this Purchase Order, the provisions of such Agreement are incorporated herein by reference as if herein stated and shall govern in the event of a conflict with any provision herein. If Seller receives any request, order or injunction seeking Confidential Information, Seller shall promptly notify Nellson and reasonably assist Nellson in the protection of such Confidential Information to the extent permitted by law, including, but not limited to, pursuing the opportunity to object to such request/order/injunction and/or to comply while protecting the information from public disclosure, such as requesting a protective order or injunctive relief from a court.
21. **Compliance with Laws.** Seller expressly warrants that the Goods shall comply with and be produced, manufactured, stored, packaged, labelled and delivered in full compliance with all applicable federal, provincial, municipal and local laws, ordinances, orders, rules, and regulations. Upon Nellson's request, Seller shall furnish Nellson with certificates of compliance with the same and any other information reasonably requested by Nellson to demonstrate compliance. Seller shall furnish Nellson with a material safety data sheet with each shipment, delivery, or provision to Nellson of a hazardous chemical, material or substance in strict

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- compliance with any and all federal, provincial, municipal and local hazard communication, right-to-know, and similar or related laws, regulations, guidelines, directives and policies, whether or not having the force of law.
22. **Taxes and Other Exactions.** Seller shall have exclusive liability for and shall pay all customs duties and other Taxes and exactions on the manufacture or sale of the Goods hereunder, or on any process or labour involved therein, except that which Nellson expressly agrees in writing on the face of the Purchase Order or is by law required to pay and for which Nellson is properly invoiced. Seller shall not include in the price, and Nellson shall not be liable for, any Taxes for which Seller can obtain an exemption. Seller represents, warrants and covenants that it will charge, collect and timely remit all Taxes that it is required to charge, collect and/or remit under applicable laws. Seller represents, warrants and covenants that it is not a non-resident of Canada pursuant to the *Income Tax Act* (Canada) and that it is registered for GST, HST, QST and other PST purposes, as applicable, or else Nellson shall be entitled to deduct and withhold from any sum payable to Seller any amount that may be required or permitted under applicable laws to be deducted or withheld. For added precision, all payments made by Nellson to Seller which may be a non-resident of Canada may be subject to withholding.
23. **Indemnification.** Seller agrees to indemnify, to defend (with counsel selected by Nellson), and to hold harmless Nellson, its successors, assigns, affiliates, parent company, and subsidiaries, and each of their respective customers, and users and subsequent owners/users of the goods hereunder or of the end products of which they form a part, and any successors and assigns of any of them, from and against any and all claims, losses, liabilities, causes of action and damages of any kind, including attorney's fees and expenses, arising out of or in connection with, directly or indirectly, (1) an Event of Default hereunder, (2) defects in the Goods, (3) breach or alleged breach of any of Seller's representation, warranties and obligations under the Contract, (4) any potential recall and/or recall of the Goods, (5) contamination of the substances for use in or for foods, if not as a direct result of handling by Nellson, (6) infringement or alleged infringements of any patent, trade secret, trademark, copyright or proprietary right of any third party, in connection with the supply of Goods, (7) the breach of the confidentiality undertakings hereunder or (8) any other act or omission of Seller, its employees, officers, directors, agents, representatives, assigns, contractors, or subcontractors or their respective employees, officers, directors, agents, representative or assigns. Seller shall afford Nellson the opportunity to participate in the defence, compromise or settlement thereof, including with counsel selected by Nellson. The Seller's obligation hereunder shall not be limited to any amount or type of damages, compensation or benefits payable by Seller or any of its subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefits acts. Without limiting the rights and remedies of Nellson, if the use, sale or other distribution of Goods is enjoined or Nellson determines that an injunction is reasonably likely, Nellson may require Seller at Seller's expense (i) to procure within thirty (30) days for Nellson the right to continue using, selling or distributing such Goods (ii) to modify such goods to become non-infringing, (iii) to replace such Goods with non-infringing but functionally equivalent Goods or (iv) to remove such Goods and to refund the purchase price paid by Nellson for such Goods. The indemnification in this Section is expressly intended to cover both first party or direct claims of Nellson against Seller and third-party claims.
24. **Insurance.** While providing Goods or performing Services hereunder, Seller shall carry and maintain the following insurance coverage at its own expense from carriers reasonably acceptable by Nellson: (1) Comprehensive General Liability insurance, on an occurrence basis, including Products/Completed Operations coverage, Contractual Liability coverage and Manufacturer's liability coverage, in an amount not less than \$5,000,000 per occurrence and \$5,000,000 in the aggregate; (2) Excess or Umbrella Coverage of not less than \$5,000,000 per occurrence and \$5,000,000 in the aggregate; (3) Product Liability, as either part of the Comprehensive General Liability or a standalone policy, in an amount of not less than \$3,000,000 per occurrence and \$3,000,000 in the aggregate, with the self-insured retention noted on the certificate as well as whether the policy type is claims made or by occurrence; (4) Automobile Liability insurance with limits not less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage; (5) Employers Liability insurance coverage for injury, disease and death in an amount of not less than \$1,000,000 for each incident, not less than \$1,000,000 per employee; and (6) Workers' Compensation insurance with not less of the minimum coverage amount required by law. Prior to the commencement of Services, Seller shall provide Nellson with certificates of insurance evidencing the required insurance and annually thereafter. Seller shall provide 60 days' notice to Nellson of any cancellation, non-renewal or material change to insurance coverage. Compliance with these insurance requirements will in no way limit Nellson's obligations or liabilities under the Contract. Any insurance Nellson carries will be for its own benefit and will not contribute to any insurance that Seller carries. Seller's insurance shall be primary with respect to Seller's obligations. Seller will cause its insurers to waive rights of subrogation against Nellson. Seller agrees to submit certificates of insurance coverage when requested by Nellson.
25. **Termination for Default.** Nellson shall also have the right to terminate the Contract or any part thereof (including the Purchase Order) by notice to Seller, without any prejudice to any other rights or remedies Nellson may have and without any liability to Seller on account thereof, if (1) Seller fails to make delivery in accordance with the agreed delivery schedule or otherwise fails to comply with any other instruction, term, condition, covenant or warranty applicable to the Contract; (2) Seller fails to make progress so as to endanger performance of the Contract; (3) Seller fails to pay its subcontractors in accordance with applicable agreements or generally fails to pay, or admits in writing its inability to pay, debts as they become due; (4) any proceedings are commenced by or against Seller in bankruptcy or insolvency, or Seller takes advantage of any law for the benefits of creditors; (5) Seller attempts or does assign or delegate the Contract without written consent of Nellson; (6) a receiver, trustee or other custodian is appointed with respect to assets of Seller; (7) an assignment for benefits of creditors is made or any dissolution or liquidation proceeding is commenced in respect of Seller; (8) a violation or asserted violation is made by Seller of any federal, provincial, municipal, or local law, ordinance, order, rule or regulation; or (9) any other breach of the Contract (each, an "Event of Default"). At Nellson's request, Seller shall provide financial statements to Nellson during the term of the Contract. In the event of a termination based on an Event of Default, and without prejudice to any other rights or remedies Nellson may have under this Contract or at law, Seller shall complete performance of the Contract, unless otherwise instructed in writing by Nellson, and Seller shall pay any and all additional costs and expenses incurred by Nellson as a result of the Event of Default. The cancellation or termination of this Contract shall not affect the provisions of this Contract that by their nature are intended to survive termination for any reason, with or without cause, including, but not limited to, Sections regarding Representations and Warranties, Information; Recalls, Non-Conforming Goods, Inspection; Reservation of Rights, Confidentiality, Indemnification, Insurance, Remedies/Waivers and Construction; Legal Proceedings.
26. **Remedies/Waivers/Notice.** The remedies reserved to Nellson herein are cumulative, in addition to and not a limitation of any other or further remedies provided by law. In case of any breach by Seller, Nellson shall be entitled to, including but without limitation, all damages whether direct or indirect for business interruption, loss of profits, revenues and business, and all special, incidental and consequential damages. No waiver of any term hereunder shall be deemed a waiver of any term hereunder nor shall such waiver constitute a continuing waiver unless expressly stated in writing by Nellson. No failure or delay by Nellson in exercising any right, power, or privilege shall operate as a waiver thereof nor shall any exercise thereof preclude further exercise of any right, power or privilege. Nellson may set off the amount of any and all of claims and damages of Nellson or any other member(s) the Nellson Group against Seller, for any and all matters whether arising out of this or any other transaction between the Nellson Group and Seller, against any amount due to Seller. To be valid any notice to Nellson hereunder shall be in writing and delivered at Nellson's civic and email addresses set forth on the Purchaser Order. Any notice to Supplier hereunder will be valid if sent to any of Supplier's last known email or civic addresses, including that of any of Supplier's representatives.
27. **Assignment.** The terms and conditions of the Contract shall bind all successors and assigns of Nellson and Seller, respectively. Neither Contract nor any rights or obligations thereunder may be assigned, delegated or otherwise transferred by Seller without the prior written consent of an authorized representative of Nellson. Any attempted assignment or delegation without such consent shall be null and void. Nellson's consent to assignment shall not waive Nellson's right to recoupment and/or set-off of claims arising out of this or any other transactions of Nellson or any other member of the Nellson Group with Seller, its divisions, affiliates or subsidiaries, or to settle or to adjust matters with Seller without notice to such permitted successors and assigns.
28. **Force Majeure.** Nellson and Seller shall not be liable to the other for failing to perform hereunder if such failure is due to any act of God, labour dispute, fire or other cause that did not exist at the time of entering into the Contract so long as not caused by the negligence of such party and not within its reasonable control.

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Notwithstanding the foregoing, in the event that Seller is unable to perform for any such reason, Seller shall promptly notify Nellson of such inability and, at no additional cost to Nellson, shall immediately allocate production and deliveries of Goods first to Nellson (as opposed to Seller's other customers), and take all reasonable steps to avoid or end such inability. In such event, Nellson shall have the right to continue the delivery dates until Seller is able to perform, have all or a part of the work performed by third parties or terminate the Contract, in whole or in part, without liability or obligation whatsoever (except for amounts due and owing for conforming Goods delivered to and accepted by Nellson prior to termination).

29. **Construction; Legal Proceedings.** The Contract, except where expressly herein provided otherwise, shall be interpreted and construed in accordance with the laws of the Province of Quebec (including all federal laws applicable therein) without regard to principles of conflict of laws. The rights and obligations of Nellson and Seller under the Contract or any part thereof shall not be governed by the provisions of the *United Nations Convention on Contracts for the International Sale of Goods*. Each of Nellson and Seller irrevocably (1) agrees that any suit, action or other legal proceeding arising out of the Contract shall be brought exclusively in Quebec courts, judicial district of Montreal, (2) consents to the personal jurisdiction of such courts, and (3) waives any objection to the laying of venue in such courts and any claim as to inconvenient forum. In the event of default of any term or condition of the Contract by Seller, Seller will pay and discharge all reasonable attorney's fees and expenses incurred by Nellson in enforcing the Contract.
30. **Severability; No Agency.** If any provision of the Contract is determined to be invalid or unenforceable, Nellson may terminate the Contract or any part thereof (including the Purchase Order) without further liability or obligations to Seller. Otherwise, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.
31. **Amendments; Modifications.** No amendment or modification of the Contract or other instrument contemplated herein will be binding on Nellson unless in writing and signed by a duly authorized representative of Nellson.
32. **Language.** The Parties confirm that they have requested that the Contract and all related documents be drafted in English. *Les parties ont exigé que le contrat et tous les documents connexes soient rédigés en anglais.*