

STANDARD TERMS AND CONDITIONS – NUTRIFY

1. **Applicability.** In the absence of a Master Procurement Agreement, the terms and conditions set forth herein, along with each Contract Confirmation entered into by the parties (collectively, the “**Agreement**”), shall govern the arrangement between Nutrify, LLC (“**Buyer**”) and the seller listed on the Contract Confirmation (“**Seller**”) for the purchase and sale of conventional and organic grains and feed ingredients identified in the Contract Confirmation (the “**Goods**”). If no objection is made to this Agreement immediately, the same shall be considered final and will signify Seller’s acceptance, effective as of the date of the Contract Confirmation. No term or condition of this Agreement may be altered or superseded without written consent from Buyer’s authorized representative. Buyer hereby objects to the inclusion of any terms proposed by Seller that are different from or additional to the terms of this Agreement, including but not limited to any terms or conditions contained in Seller’s Purchase Order (“**PO**”), general terms and conditions of sale or any other document issued by Seller in connection with Buyer’s order of Goods. Buyer’s acceptance of delivery of any Goods shall not constitute acceptance of any terms proposed by Seller.

2. **Shipping Terms.** All Goods shall be delivered to the address specified in the Contract Confirmation (the “**Delivery Location**”) during Buyer’s normal business hours or as otherwise instructed by Buyer. Buyer may designate any reasonable alternate delivery points if necessary to expedite Seller’s performance of the Agreement, but Buyer shall have no obligation to do so. If Seller is arranging delivery, Seller will ensure all additional Buyer carrier requirements are followed, in addition to Buyer’s environmental, health and safety requirements, each as may be amended from time to time, as set forth at <https://www.thewengergroup.com/contact-us/>, which requirements are incorporated herein by reference. Seller warrants that its carriers are adequately insured and, in the absence of adequate insurance, agree to be jointly and severally liable for carriers retained by Seller.

3. **Price.** The price of the Goods is the price stated in the Contract Confirmation (the “**Price**”) and, unless otherwise specified, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, sales, use or excise taxes. No increase in the Price is effective without the prior written consent of Buyer’s authorized representative.

4. **Title and Risk of Loss.** Title to the Goods and the risk of loss of the Goods passes to Buyer as described in the respective National Grain & Feed Association (“**NGFA**”) Trade Rules. Buyer shall not be liable to Seller for any incidental or consequential damages.

5. **Delivery Date and Demurrage.** Seller shall schedule with Buyer mutually agreeable delivery dates a week in advance of actual delivery (the “**Delivery Date**”). Buyer shall not be responsible for demurrage charges if Seller delivers Goods following a timely notice of one (1) business day in advance of the Delivery Date by Buyer that storage space is full or otherwise unavailable and Buyer is unable to accommodate delivery of the Goods.

6. **Failure to Timely Deliver.** Timely delivery of Goods is of the essence. A delivery of Goods is untimely if all Goods on a given Contract Confirmation are not received in full within fifteen (15) days of the agreed upon Delivery Date. Upon failure by Seller to timely deliver Goods, Buyer may, in its sole discretion: (a) afford Seller additional time to fulfill the Contract Confirmation subject to Seller’s agreement to a mutually agreeable discount on the Price; (b) repurchase the product in the open market for Seller’s account,

and Seller will pay Buyer any loss and consequential or incidental damages or expenses resulting therefrom; or (c) without further obligation, cancel the Agreement in its entirety without liability or penalty to Buyer and assess a minimum penalty of \$0.20 per unfulfilled bushel.

7. **Packaging.** All Goods shall be packed for shipment according to Buyer’s instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition.

8. **Nonconforming Goods.** Upon failure by Seller to deliver Goods that conform to (a) the minimum specifications issued by Buyer, whether by written notice to Seller through the Contract Confirmation, by posting on Buyer’s webpage, or otherwise (the “**Specs**”), and (b) applicable federal, state, local and foreign food safety and labeling laws and regulations, Buyer may, in its sole discretion: (i) reject the Goods; (ii) apply discounts to the Price; (iii) repurchase the Goods in the open market for Seller’s account, and Seller will pay Buyer any loss and consequential or incidental damages or expenses resulting therefrom; (iv) require Seller, at its own cost, to promptly replace the Goods and pay for all related expenses, including, but not limited to, transportation for the return of defective or nonconforming Goods to Seller and delivery of replacement Goods to Buyer; or (v) without further obligation, cancel the Agreement or any Contract Confirmation in its entirety without liability or penalty to Buyer.

9. **Intervening Governmental Action.** Any Goods, irrespective of grade, which are prohibited entry into the United States or otherwise tagged, seized, condemned, the subject of a recall order or request or declared unfit by any state, federal or other governmental agency may not be applied to fulfill any Contract Confirmation, and ownership of such Goods will remain with Seller. Any Goods or portion thereof which are reasonably determined by Buyer to not be in compliance with the National Organic Program of the United States Department of Agriculture (“**USDA NOP**”) may not be applied to fulfill any Contract Confirmation, and ownership of such Goods will remain with Seller. Any change in the Price or other terms of any Contract Confirmation caused by government act or regulations will entitle Buyer to cancel any unshipped portion thereof without liability or penalty.

10. **Payment Terms.** Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with the Agreement. Buyer shall pay all properly invoiced amounts due to Seller in accordance with the invoice terms, except for any amounts disputed by Buyer in good faith. All payments hereunder must be in U.S. dollars.

11. **Setoff.** Without limiting any of Buyer’s remedies, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller under a Contract Confirmation or any and all other contracts or agreements between Buyer and Seller.

12. **Warranties and Representations.** (a) **General.** Seller warrants to Buyer that: (i) Seller is a merchant, as defined by the Uniform Commercial Code, for the Goods; (ii) Seller maintains valid and effective licenses, permits, authorizations, registrations and certifications necessary for the fulfillment of its obligations under this Agreement; (iii) Seller performs its activities in accordance with all legislation, regulations, rules, resolutions and/or provisions issued or required by public authorities; and (iv) all Goods which are the

subject matter of this Agreement are and will remain free and clear of any penalty, lien, trust, charge, quota, regulation or encumbrance, governmental or otherwise, of any nature whatsoever including, without limitation, the Food Security Act, at the time of sale. **(b) Delivery and Quality.** **(i)** The Goods will conform to the Specs, which are incorporated into this Agreement by reference, and will meet the minimum standards prescribed by the Contract Confirmation and all applicable federal, state, local and foreign food safety and labeling laws and regulations; **(ii)** the Goods have been free at all times of any contamination or adulteration; **(iii)** the Goods, when delivered to Buyer, will not pose any food safety or quarantine risk to Buyer or Buyer's customers and the Goods have not been shipped from any area quarantined by the United States Department of Agriculture – Animal and Plant Health Inspection Service (“USDA-APHIS”), and to the extent required, are Generally Recognized as Safe, under sections 201(s) and 409 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 301, *et seq.*) (“FFDCA”); **(iv)** in the case of imported Goods, no Goods are imported from or through countries in which African Swine Fever has been detected as of the date of the shipment, as specified by USDA-APHIS; **(v)** Goods can be fully utilized for the intended purpose; **(vi)** Goods sold are merchantable and fit for sale to U.S. and foreign customers and for the use as feed ingredients for livestock, and all Goods were sold in the condition required by the Specs and the Contract Confirmation; **(vii)** Seller has, follows and will provide copies of its Food Safety Plan, or a summary thereof, applicable to the Goods; **(viii)** the Goods are at all times handled using current Good Manufacturing Practices; **(ix)** Seller engages in adequate biosecurity protocols to control identified hazards, and will provide express written notice to Buyer of all hazards associated with each Good that is not controlled by Seller; **(x)** Seller has been and remains certified with the U.S. Food and Drug Administration; **(xi)** Buyer reserves the right to require pre-shipment testing and quality approval samples; **(xii)** Seller will provide rail or truck cleanout affidavits upon delivery; **(xiii)** no Goods shall be adulterated or misbranded within the meaning of the FFDCA and relevant regulations, or include any article or Goods which may not, under the provisions of such act, be introduced into interstate commerce; **(xiv)** Goods must have proper documentation including a Certificate of Analysis and a Bill of Lading with a valid PO number; **(xv)** in the case of imported Goods, Seller maintains an adequate Foreign Supplier Verification Program (“FSVP”), or a written program for approving, monitoring and verifying foreign suppliers of Goods originating outside of the United States, and will provide copies of all verification activities and the results thereof to Buyer for each Good; and **(xvi)** in the case of imported Goods, Seller will provide Buyer with a list of suppliers listed on Seller's FSVP who are verified by Seller periodically, but no less often than every three (3) years, and the Food Facility Registration and other relevant information of each foreign supplier. **(c) Organic Goods.** For any Goods required by the Specs to be organic, **(i)** Seller has been and remains certified under USDA NOP at all times relevant to the production, handling and sale of the Goods to Buyer; **(ii)** the Goods to be sold hereunder have been labeled as “USDA Organic” in accordance with the requirements of USDA NOP and comply with the production and handling standards of USDA NOP; **(iii)** Seller has provided Buyer with an applicable valid and current “certificate of organic operation” with respect to Seller and each of the suppliers or handlers having contact with the Goods prior to delivery; **(iv)** Seller and any supplier or handler having contact with the Goods prior to their delivery have in effect an “organic system plan” under USDA NOP, including, without limitation specific organic system plan measures designed to prevent fraud and intentional adulteration; **(v)** the Goods being sold to Buyer contain no quantities of any

substance which would exceed or violate the prohibitions set forth in the current “National List” of prohibited substances in organic production and handling maintained by USDA NOP, including, without limitation, banned pesticide and herbicide residues; **(vi)** Seller will provide Buyer in advance of delivery a written description of how the Goods will be independently monitored and documented at each transfer point from the relevant USDA NOP Certified Organic farm or growing location through delivery; **(vii)** certificates of organic operation issued pursuant to USDA NOP pertaining to the import (as applicable) and handling of the Goods of Seller and its suppliers will be provided in advance of shipment; and **(viii)** the Goods will be certified to meet “Non-GMO” (Project Verify) standards for animal feed use. **(d)** These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer and are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of noncompliance with the foregoing warranties.

13. **Indemnification.** Seller shall be responsible for and liable to Buyer, and agrees to defend and indemnify Buyer against, any direct, indirect or consequential losses, including but not limited to claims of third-parties and loss of profit, harm to reputation and all interest, penalties and legal and other professional costs and expenses incurred by or asserted against Buyer in connection with Seller's failure to deliver Goods to Buyer that conform with this Agreement, notwithstanding any prior acceptance of the Goods by Buyer or any prior acceptance by Buyer of any certifications and supporting or authenticating documentation related to the non-complying Goods.

14. **Waiver.** No provision of the Agreement may be waived or modified without written consent from Buyer's authorized representative. The waiver of any of the terms of the Agreement to be performed by Seller will not be a waiver of any subsequent failure of Seller to comply fully with or perform the same or any other term of the Agreement.

15. **Assignment.** Seller may not assign, transfer, delegate or subcontract its obligations with respect to this Agreement without the prior written consent of Buyer's authorized representative. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Seller of any of its obligations hereunder.

16. **Dispute Resolution.** Except as otherwise expressly provided for herein, this Agreement is subject to the NGFA Trade Rules in effect on the date hereof, which are incorporated herein by reference. The Agreement shall supplement the NGFA Trade Rules, provided that the Agreement shall govern in the event of any conflict. All disputes and controversies of any nature whatsoever between Buyer and Seller with respect to the Agreement must be arbitrated according to the NGFA Arbitration Rules. The decision and award determined under any arbitration will be final and binding on Seller and Buyer. Judgment upon any arbitration award may be entered and enforced in any court having jurisdiction. If, for whatever reason, the NGFA Arbitration Rules are determined to be unenforceable by a court of competent jurisdiction, the Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any other jurisdiction.