

**NUTRABOLT® TERMS AND CONDITIONS**  
**AUTHORIZED RETAILERS**

Updated September 2024

Woodbolt Distribution, LLC d/b/a Nutrabolt, a Delaware limited liability company located at 332 Grace Lane, Austin, Texas 78746 ("Nutrabolt"), is engaged in the business of manufacturing, marketing, distributing, and selling dietary and nutritional supplements, functional foods, and related products (collectively the "Products").

The buyer is a specialty retailer whose primary business is the sale of dietary and nutritional supplements and functional food products through its brick and mortar and/or official online retail locations, or a gym/fitness chain who is engaged in the sale of dietary supplements and functional food products to its members ("Authorized Retailer").

By indicating acceptance below, or by submitting a purchase order to Nutrabolt or its Authorized Distributor, as defined herein, Authorized Retailer agrees to be bound by these Terms and Conditions, which create a binding agreement between the parties (the "Agreement"). Any additional or differing terms included, or variations made, to this Agreement by Authorized Retailer in any invoice, purchase order, or any other document sent by Authorized Retailer are void and have no effect.

**AGREEMENT**

**1. Authorized Retailer's Sale of Products.**

- 1.1 Authorized Retailer agrees that it shall purchase the Products solely from Nutrabolt or a distributor authorized by Nutrabolt to distribute its Products ("Authorized Distributor") and shall market and sell the Products in accordance with the terms and conditions and subject to the limitations of this Agreement.
- 1.2 Authorized Territory and Locations. Authorized Retailer is hereby authorized to distribute the Products only in the United States (the "Territory") through Authorized Retailer's brick and mortar and/or official, owned online retail locations (collectively the "Authorized Retailer Locations") to consumers located in and for use only in the Territory. Upon thirty (30) days written or email notice, Nutrabolt reserves the right to restrict the sale of certain Products on a prospective basis to specific states in the Territory, in which case, the foregoing definition of Territory shall be automatically amended to exclude such state with respect to such Products. Authorized Retailer specifically agrees that, it shall not market, advertise, or sell the Products:
  - (a) through Amazon, Ebay, Jet.com, Buy.com, or similar e-commerce sites or to any third party who Authorized Retailer knows or reasonably believes will sell the Products through Amazon, Ebay, Jet.com, Buy.com or similar e-commerce sites;
  - (b) outside the Territory or to anyone who Authorized Retailer knows or reasonably believes will export or sell the Products outside the Territory; or
  - (c) to any third party that Nutrabolt has indicated in writing or email is unauthorized.
- 1.3 Unauthorized Sales. Nutrabolt reserves the right at any time, to notify Authorized Retailer in writing or email to cease future sales to any specific customers and, in such event, this

Agreement will be deemed amended to include such customer(s) in Section 1.2. In the event that Authorized Retailer knowingly sells the Products in any manner prohibited by Section 1.2 (each an “Unauthorized Sale”), such occurrence shall be a material breach of this Agreement and Nutrabolt shall have the right upon written or email notice to immediately terminate this Agreement. Further, Authorized Retailer acknowledges and agrees that an Unauthorized Sale in violation of Section 1.2(a), (b), or (c) will cause Nutrabolt to incur substantial economic damages and losses in an amount that is difficult or impossible to quantify, and the parties agree that the liquidated damages listed herein represents a fair and reasonable estimate thereof. Accordingly, in addition to Nutrabolt’s right of immediate termination of this Agreement, in the event of an Unauthorized Sale, Authorized Retailer shall, upon demand, pay Nutrabolt liquidated damages as follows: (a) one hundred dollars (\$100) for each unit of the Products sold in an Unauthorized Sale as set forth in Section 1.2(a) above; (b) two hundred fifty dollars (\$250) for each unit of the Products sold in an Unauthorized Sale as set forth in Section 1.2(b) above; and (c) two hundred fifty dollars (\$250) for each unit of the Products sold in an Unauthorized Sale as set forth in Section 1.2(c) above.

- 1.4 Unilateral MAP Policy. Authorized Retailer acknowledges Nutrabolt’s unilateral Minimum Advertised Price Policy (“MAP Policy”) available for review on [terms.nutrabolt.com](http://terms.nutrabolt.com) and as may be modified by Nutrabolt from time to time and deemed effective upon posting notice to Authorized Retailer.
- 1.5 No Exclusivity. The parties acknowledge that Authorized Retailer’s appointment as an authorized retailer and all rights hereunder are non-exclusive, non-transferable, and non-assignable unless Authorized Retailer receives the express written consent of Nutrabolt otherwise.
- 1.6 Promotions. To promote fair competition for Authorized Retailers and maintain brand integrity, Authorized Retailer shall endeavor to limit a promotion of a particular product to two (2) units of such Product per customer per promotion unless otherwise expressly approved by Nutrabolt in writing.

## 2. Representations and Warranties

- 2.1 Authorized Retailer. In connection with the sale of the Products by Authorized Retailer hereunder, Authorized Retailer represents and warrants that:

- (a) It is a specialty retailer whose primary business is the sale of dietary and nutritional supplements through Authorized Retailer’s brick and mortar and/or its official, owned online retail locations or is otherwise a gym/fitness business who is engaged in the sale of dietary supplements to its members;
- (b) It shall solely purchase the Products for re-sale through Nutrabolt or an Authorized Distributor and no other party;
- (c) It shall use commercially reasonable efforts to promote the sale of the Products;
- (d) It shall not in any manner alter, modify, or change the packaging or labelling on any of the Products including but not limited to altering or removing barcodes; lot numbers; expiration dates; or copyright, trademark, or sell-by notices;
- (e) It shall not in any manner alter, modify, or tamper with the Products or directly or

indirectly engage in the manufacture, sale, or distribution of counterfeit versions of the Products;

- (f) It shall maintain any standards set forth by Nutrabolt for the storage, handling, and sale of the Products, but shall in no event store, handle, or ship the Products in a manner which is inconsistent with current Good Manufacturing Practices as set forth in 21 C.F.R. Parts 110 and 111 (“cGMP”);
- (g) It shall comply with all applicable laws and regulations for the sale of the Products and it shall maintain any and all government and/or regulatory authority approvals, certificates, licenses, and permits required in connection thereto, if any;
- (h) It shall use commercially reasonable efforts to conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill, and reputation of the Nutrabolt;
- (i) It shall avoid deceptive, misleading and unethical practices in connection with the sale of the Products;
- (j) It shall not make any statements, representations, warranties, or guarantees regarding the Products to consumers or to the trade including but not limited to the features, capabilities, efficacy of, or expected results when taking the Products, unless such statements are provided to Authorized Retailer in writing by Nutrabolt. For the avoidance of doubt, the prohibition of this Section shall include any advertisements, point of purchase displays, Product pages, or similar materials.

2.2 Nutrabolt. Nutrabolt warrants that all Products purchased from Nutrabolt, that are in original packaging: (a) are of good quality, merchantable, and fit and safe for consumer use; (b) comply with all applicable federal and state laws and regulations; and (c) are free of any patent, trademark, or copyright infringement claims. This warranty shall apply to all purchases of Products from Nutrabolt and in the event of a conflict between this Agreement and any purchase order, invoice, or other document relating to the sale of Products to Authorized Retailer, the terms of this Agreement shall control. This warranty does not extend to any Product that is modified, altered, or tampered with by Authorized Retailer or any third party, or which is not handled or stored as directed by Nutrabolt.

2.3 Warranty Policy. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 2.2 ABOVE, NUTRABOLT MAKES NO WARRANTY TO AUTHORIZED RETAILER WITH RESPECT TO THE PRODUCTS, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3. Product List; Pricing; Shipping and Delivery; Publicity; Recalls and Returns.

3.1 Product List. Neither Nutrabolt nor an Authorized Distributor shall be obligated to sell any specific Product to Authorized Retailer, which such decision shall be in the sole discretion of Nutrabolt or an Authorized Distributor and subject to availability.

3.2 Pricing. The price of the Products, including but not limited to discounts, promotions, and charge backs, will be determined in the sole discretion of Nutrabolt and shall be listed on the purchase order for the Products. Pricing with respect to the purchase of Products from an Authorized Distributor shall be upon the terms agreed upon between Authorized Retailer and Authorized Distributor.

3.3 **Shipping and Delivery.** The Products will be shipped CIP, carriage and insurance paid (Incoterms 2020), with Authorized Retailer as beneficiary under the terms of this Agreement and delivered to Authorized Retailer's destination in the United States of America, such as its warehouse, retail location, or other location as designated on the applicable purchase order. For the avoidance of doubt, the title and insured risk of loss will pass to Authorized Retailer once the goods have been delivered to the carrier arranged by Nutrabolt, at Nutrabolt's warehouse, or other Nutrabolt location. **Authorized Retailer hereby expressly acknowledges and agrees that Section 2-510 of the Uniform Commercial Code shall not apply to this Agreement.** Further, in order to maintain the integrity of the Products and to prevent any degradation or compromise of the quality or shelf life thereof, Authorized Retailer agrees that it and its designated agents will at all times store and ship the Products in a refrigerated or temperature-controlled environment not exceeding the storage conditions set forth on the Product labels, but in no event to exceed 80 degrees Fahrenheit and 65% relative humidity. Failure of Authorized Retailer (or its agents) to store or ship the Products under these conditions may result in loss or damage to the Products, which such loss or damage shall be borne solely by Authorized Retailer. In the event Authorized Retailer cannot demonstrate by documentary evidence that the Products were stored and shipped as provided herein, Authorized Retailer hereby waives any claims that the Products were defective at the time of sale to Authorized Retailer and Nutrabolt shall have no obligation to provide or offer any credit or refund or to accept any return of such Products.

3.4 **Publicity.** During the term of this Agreement, Authorized Retailer shall be permitted to promote, market, or publicize that it is an Authorized Retailer of the Products in the Territory in the Authorized Retailer Locations. Upon expiration or termination of this Agreement, Authorized Retailer shall immediately cease holding itself out as an authorized retailer of Nutrabolt products, shall immediately remove all references related thereto in the Authorized Retailer Locations or in any other locations controlled by Authorized Retailer, and for the avoidance of doubt, shall not in any way publicize that it was formerly an Authorized Retailer of the Products.

3.5 **Recall Notifications.** In addition to complying with its standard procedures for product recalls, Nutrabolt agrees that in the event of a Product recall, all Product recall notifications regarding any Products purchased by Authorized Retailer shall be sent to Authorized Retailer in accordance with Section 13 as soon as reasonably practical. The recall notice shall indicate the anticipated classification of the recall (Class I, Class II, or Class III), together with the lot or product codes as well as product description for each recalled item. The recall notification shall include specific instructions as to what actions Nutrabolt requires Authorized Retailer to perform. Nutrabolt shall reimburse or credit Authorized Retailer the actual out of pocket costs paid by Authorized Retailer for the recalled Products as well as any costs for shipping and/or destruction or disposal associated with the recall, that is done at Nutrabolt's direction.

3.6 **Order Processing and Product Returns.** Nutrabolt shall employ its commercially reasonable efforts to fill Authorized Retailer's orders promptly on acceptance but reserves the right to allot available inventories among all of its customers at its discretion. In the event that any of the Products are proved to Nutrabolt's satisfaction to have been defective at the time of Shipping to Authorized Retailer, Nutrabolt, will, in its sole discretion: (a) make the appropriate adjustment in the original sales price of such Product; (b) offer Authorized Retailer a credit equal to the Authorized Retailer's purchase price of the defective product; or (c) replace the defective Product. Except for Nutrabolt's Products that are defective at the time of sale to Authorized Retailer, Nutrabolt shall not be obligated to provide a credit,

adjustment, or replacement for any of Nutrabolt's Products that are returned to Authorized Retailer or any of Authorized Retailer's purchasers. Nutrabolt shall not be obligated to accept any Products that are returned to Authorized Retailer or any of Authorized Retailer's purchasers. The Products that are deemed defective shall be disposed of by Authorized Retailer in a manner as directed by Nutrabolt and in no event shall Authorized Retailer return or ship any Products back to Nutrabolt without Nutrabolt's express written or email approval. Authorized Retailer shall submit a signed declaration of an officer of Authorized Retailer certifying compliance with Nutrabolt's directive. In no event shall Nutrabolt be obligated to provide a credit, replacement, refund, or otherwise accept any returns of the Product purchased by Authorized Retailer from any party other than Nutrabolt directly, and any credits, replacements, refunds, or returns shall be made in Nutrabolt's sole discretion. Products purchased by Authorized Retailer through an Authorized Distributor are subject to the Authorized Distributor's product return policy.

4. **Payment Terms.** Products purchased by Authorized Retailer from Nutrabolt shall be one hundred percent (100%) pre-paid before delivery, except that on a case by case and not precedential basis, Nutrabolt may, subject to credit check and approval provide net thirty (30) terms. In the event that Nutrabolt offers or agrees to payment terms different from one hundred percent (100%) pre-paid for a particular order during the term, Authorized Retailer acknowledges and agrees that such deviation shall only be for that particular order and shall not be applied to Authorized Retailer's subsequent orders. In the event that Nutrabolt provides net thirty (30) terms, and payment is not received within thirty (30) days of Nutrabolt's invoice date, an interest charge shall be assessed on the outstanding balance owed in the amount of the lower of two percent (2%) per month or the maximum amount allowed by applicable law. In the event that Nutrabolt is successful in pursuing the collection of any payments owed hereunder, Nutrabolt shall be entitled to reimbursement of its outside attorney's fees and costs incurred in the collection of such amounts owed from Authorized Retailer which shall be paid within thirty (30) days of demand. Assessment of such interest shall not be deemed in lieu of or a waiver of any other right or remedy Nutrabolt may have hereunder or at law. Payment for the purchase of Products by Authorized Retailer from an Authorized Distributor shall be upon the terms agreed between such parties.
5. **Sales Reports.** During the term of this Agreement, if requested by Nutrabolt, Authorized Retailer shall deliver sales reports to Nutrabolt, which shall include retail point of sale information, sale price, sales volume, and such other information as is requested by Nutrabolt in order to ensure compliance with this Agreement. Authorized Retailer shall keep good and accurate books and records with respect to the purchase and sale of the Products. Nutrabolt reserves the right to audit Authorized Retailer's books and records, at any time, upon reasonable notice, to confirm the accuracy of Authorized Retailer's sales reports or compliance with the terms of this Agreement. In the event Authorized Retailer fails to provide sales reports as required herein, in addition to any other rights or remedies which may be available to Nutrabolt, Authorized Retailer acknowledges and agrees that such failure shall make Authorized Retailer ineligible to participate in any program involving Nutrabolt's contribution of promotional money ("PM" or "SPIFF") or related marketing programs of Nutrabolt, if any.
6. **Term.** This Agreement shall commence on the date first set forth above and unless terminated earlier by Nutrabolt as otherwise permitted in this Agreement, shall continue for an initial term of one (1) year. Thereafter, the term shall continue for successive one (1) year terms unless either party provides written notice to the other at least thirty (30) days prior to the expiration of the then-current term. Notwithstanding the foregoing, Nutrabolt may terminate this Agreement (a) at any time without cause on thirty (30) days advanced written notice, (b) if Authorized Retailer breaches any material provision of this Agreement which is capable of cure and the breach is not cured by Authorized Retailer within ten (10) days after Authorized Retailer's receipt of notice of such

breach, or (c) immediately, in the event that Authorized Retailer becomes insolvent, files a petition in bankruptcy, or makes an assignment for the benefit of creditors, or commits a material breach of this Agreement which is incapable of cure.

7. **Product Marketing/Coupling.** During the term, Authorized Retailer agrees to provide reasonable marketing support for the Products. It is further acknowledged and agreed that Authorized Retailer shall not market or sell the Products coupled with another product, which if used together would be in violation of the Product's suggested use, warnings, or product labelling.
8. **Relationship of the Parties.** The relationship of Nutrabolt and Authorized Retailer is that of vendor and vendee. Under no circumstances shall Authorized Retailer, its agents, or employees be deemed employees, agents, or representatives of Nutrabolt. Neither party shall have any right to enter into any contract or commitment in the name of, or on behalf of, the other, or to bind the other in any respect whatsoever.
9. **Nutrabolt's Intellectual Property.**

9.1 **Nutrabolt IP.** The Products will be marketed and sold by Authorized Retailer solely under the trademarks, copyrights, and other intellectual property belonging to Nutrabolt (the "Nutrabolt IP"). Nutrabolt IP includes all Product formulations. Authorized Retailer will not and will not authorize any third party to alter, obscure, remove, cancel, or otherwise interfere with any markings (including without limitation any trademarks, logos, trade names, or trading style of Nutrabolt) and other indications of origin that may be placed on the Products or other notices or labelling provided by Nutrabolt. Authorized Retailer acknowledges that Nutrabolt is the exclusive owner or a licensee of the trademarks, copyrights, and other intellectual property related to the Products and Authorized Retailer has no right, title, or interest whatsoever in the Nutrabolt IP or any goodwill associated therewith and that all goodwill associated with the Nutrabolt IP as and between Nutrabolt and the Authorized Retailer is owned by Nutrabolt. Furthermore, Authorized Retailer agrees not to represent in any manner that it has acquired any ownership rights in the Nutrabolt IP or its Products. Authorized Retailer shall not, neither during the term of this Agreement nor after its termination or expiration, challenge or encourage anyone to challenge Nutrabolt's rights in the Nutrabolt IP, attempt to file or register the same or similar trademarks as those owned by Nutrabolt anywhere in the world. Authorized Retailer further agrees that it will not misuse, misrepresent, or take any other actions, which will damage, derogate, detract, or adversely affect Nutrabolt's rights in the Nutrabolt IP. Authorized Retailer acknowledges that a breach of its obligations under this Section 9 will cause Nutrabolt irreparable damages which may not be compensable by monetary damages, and in the event of such breach, in addition to any other rights or remedies which Nutrabolt may have, Nutrabolt may seek and obtain emergency injunctive relief, without the necessity of posting bond (unless otherwise required by law).

9.2 **Consent to Use.** Authorized Retailer shall, during the term of this Agreement, have the right to use and display Nutrabolt's trademarks and copyrighted material in the Territory solely in connection with the marketing, sale, advertisement, and support of the Product(s) in the Territory, in accordance with the terms of this Agreement and, except as may be otherwise permitted in writing by Nutrabolt, for no other purpose whatsoever.

9.3 **Protection of Nutrabolt IP.** Authorized Retailer acknowledges and agrees that Authorized Retailer shall assist Nutrabolt in the protection of Nutrabolt's intellectual property rights with respect to the Products, and shall immediately report to Nutrabolt any actual, potential, or threatened infringements of any Nutrabolt IP by a customer of Authorized Retailer or by any other third party, or any matter involving a customer of Authorized Retailer or any

other third party which may give rise to any infringement, or any imitation of a Product of which Authorized Retailer is or may become aware. Authorized Retailer shall not initiate any protective action with respect to the Nutrabolt IP or Product without prior written authorization of Nutrabolt.

10. Authorized Retailer's Indemnification of Nutrabolt.

- 10.1 Indemnification Obligation. Authorized Retailer hereby agrees to indemnify, defend, and hold harmless Nutrabolt and any of Nutrabolt's parents, affiliates, subsidiaries, and their members, managers, shareholders, officers, directors, agents, employees, successors, and assigns (collectively, the "Nutrabolt Indemnitees") from and against any and all claims, losses, demands, actions, judgments, liabilities, expenses, and damages (including outside attorneys' fees and the costs of pursuing any insurance coverage) arising out of or relating to any alleged or actual breach of any representation or warranty of Authorized Retailer contained herein or any other term or condition of this Agreement by Authorized Retailer.
- 10.2 Limitations. Any obligation of Authorized Retailer to indemnify Nutrabolt or any Nutrabolt Indemnitee shall not extend to any claims, losses, demands, actions, judgments, liabilities, expenses and damages (including Nutrabolt Indemnitees' reasonable outside attorneys' fees) that result solely from any Nutrabolt Indemnitee's own acts of gross negligence, intentional tortious acts, misstatements of fact, or misrepresentations regarding the Products.
- 10.3 Procedure. If any claim is asserted against a Nutrabolt Indemnitee for which it is entitled to indemnification hereunder, Nutrabolt shall notify the Authorized Retailer in writing with reasonable promptness and the Authorized Retailer shall thereafter takes all steps necessary to fulfill its indemnity obligations including but not limited to employing counsel which is reasonably acceptable to Nutrabolt. The Nutrabolt Indemnitee shall have the right to be kept fully informed of the progress of such defense. In connection therewith, Nutrabolt and any applicable Nutrabolt Indemnitee shall cooperate fully to make available to the Authorized Retailer all reasonably pertinent information under Nutrabolt's or the applicable Nutrabolt Indemnitee's control. If the Authorized Retailer does not notify Nutrabolt in writing within ten (10) business days from the date of any claim notice that it will assume the entire control of such defense, Nutrabolt or the Nutrabolt Indemnitee may assume control of the defense with counsel of their choosing and Authorized Retailer shall thereafter reimburse Nutrabolt and any applicable Nutrabolt Indemnitee all of its expenses, costs, fees, and damages for such defense when they are incurred. For the avoidance of doubt, Authorized Retailer shall not be permitted to: (a) settle or (b) comprise any claim which creates any obligations or admits any liability or wrongdoing on the part of Nutrabolt without Nutrabolt's express written approval.
- 10.4 Direct Indemnification. If Nutrabolt becomes aware of any action by Authorized Retailer or Authorized Retailer's customers not involving a third-party claim for which Nutrabolt or any Nutrabolt Indemnitee may be entitled to indemnification hereunder, Nutrabolt or any Nutrabolt Indemnitee may make a claim for indemnification hereunder by giving written notice to the Authorized Retailer, which notice shall briefly explain the nature and basis of the claim. Authorized Retailer shall notify Nutrabolt or the Nutrabolt Indemnified party within ten (10) business days of receipt of the notice whether Authorized Retailer disputes the claim.

11. Confidentiality.

11.1 **Definition.** As used in this Agreement, “Confidential Information” means all information, substances, and materials which are non-public, proprietary, and/or confidential, including but not limited to data, formulas, methods, processes, specifications, information or documents regarding intellectual property, patents, patent applications, trademarks, trademark applications, service marks, service mark applications, technical developments, improvements, products, product formulas, new Product releases, plans, designs, ideas, concepts, costs, prices, payment terms, finances, manufacturing processes, marketing plans and support, promotions, personnel, customers, suppliers, research, development or know how, and any other sensitive technical or business information. The term Confidential Information shall not include information which is: (a) in or enters the public domain other than through any act of the Authorized Retailer; (b) provided to Authorized Retailer by a third-party who is not under any confidentiality obligations and otherwise has the right to disclose such information; or (c) was in Authorized Retailer’s possession prior to disclosure by or on behalf of Nutrabolt and which can be proven by documentary evidence.

11.2 **Obligations.** Authorized Retailer agrees to protect the confidentiality of Nutrabolt’s and its affiliates’ Confidential Information in the same manner, and using the same degree of care, that it uses to protect the confidentiality of its own trade secrets and Confidential Information, but in no event shall Authorized Retailer use less than a reasonable manner or reasonable degree of care.

Authorized Retailer shall not at any time disclose or permit to be disclosed to any person or company any Confidential Information relating to Nutrabolt’s business or affairs or the business or affairs of any affiliate of Nutrabolt unless otherwise required by law, a court of competent jurisdiction or regulatory body, provided that Authorized Retailer: (a) first notifies Nutrabolt (to the extent permitted by law or regulation) as soon as possible in order to give Nutrabolt the opportunity to seek any other legal remedies to maintain such information in confidence and (b) uses its best efforts to limit the disclosure and maintain confidentiality to the extent possible.

Authorized Retailer agrees to maintain the confidentiality of the contents of this Agreement, save for disclosure to Authorized Retailer’s professional advisors, auditors, insurers, or financiers or to the extent required by law or as required to give effect hereto.

11.3 **Term of Confidentiality.** All obligations of confidentiality shall continue so long as such information is Confidential Information as defined in Section 11.1.

12. **Law; Jurisdiction and Venue; Waiver of Jury Trial; Attorney’s Fees.**

12.1 **Applicable Law.** Any dispute arising out of, or in connection with, this Agreement, including without limitation, any questions regarding its existence, validity, or termination, shall be governed by, interpreted, and construed in accordance with the laws of the State of New York, without reference to any conflict of laws or choice of law rules which would otherwise result in the application of the laws of another jurisdiction.

12.2 **Jurisdiction and Venue; Waiver of Jury Trial; Attorney’s Fees.** The parties consent and agree to the sole and exclusive jurisdiction and venue of the courts located in New York, New York in connection with any claim, action, or dispute related to this Agreement. Each party hereby waives any right to assert a defense related to inconvenient forum. The parties acknowledge and agree that any controversy relating in any manner to this Agreement may involve difficult or complex issues which may be better understood by a judge rather than a jury. **Accordingly, the parties hereby knowingly, voluntarily, and intentionally**

**waive their rights to a jury trial in connection with any such litigation and consent to a trial before a judge, sitting without a jury.** In the event Nutrabolt takes any action to enforce the terms of this Agreement, in addition to any other rights and remedies, if Nutrabolt prevails, Nutrabolt shall be entitled to reimbursement of its outside attorney's fees and expenses.

- 12.3 **Class Action Waiver.** Where permitted under applicable law, Authorized Retailer and Nutrabolt agree that each may bring claims against the other only in their individual capacities and not as a plaintiff or class member in any purported class or representative action. Unless agreed in writing by the parties, no judge may consolidate more than one Authorized Retailers' claims or otherwise preside over any form of a representative or class proceeding.
13. **Notice.** Any notice to be given under this Agreement shall be in writing and given to a party at such party's address set forth above, or at such other address as a party hereafter may specify in a notice given in the manner required under this Section. All notices to Nutrabolt shall be sent to the attention of Nutrabolt's Legal Department at 332 Grace Lane, Austin, Texas 78746. Except as otherwise expressly permitted herein, any notice hereunder shall be given only by, and shall be deemed to have been received upon: (a) registered or certified mail, return receipt requested, on the date on which such notice or request is received as indicated in such return receipt or (b) delivery by a nationally recognized overnight courier, one (1) business day after deposit with such courier.
14. **Miscellaneous.**
  - 14.1 **Amendment.** Except as otherwise provided in Sections 1.3 and 1.4, this Agreement may be amended only by the mutual agreement of authorized representatives of the parties in writing.
  - 14.2 **Assignment.** Authorized Retailer may not assign this Agreement or any right or obligation herein without Nutrabolt's express written approval.
  - 14.3 **Waiver.** The waiver of a breach of any term or condition of this Agreement shall not be deemed to constitute the waiver of any further breach of such term or condition or the waiver of any other term or condition of this Agreement.
  - 14.4 **Severability.** In the event any of the provisions of this Agreement or the application of any provision to any party hereto shall be held by a court of competent jurisdiction to be unlawful or unenforceable, such provision shall be enforced to the greatest extent provided by law, and the remaining provision of this Agreement shall not be affected, impaired, or invalidated in any manner.
  - 14.5 **Insurance.** Authorized Retailer shall maintain a comprehensive general and products liability occurrence policy consistent with industry standards and shall name Nutrabolt as an additional insured. Upon the request of Nutrabolt, Authorized Retailer shall provide Nutrabolt with evidence of compliance with this Section.
  - 14.6 **Construction.** This Agreement shall be deemed to have been drafted by both parties with the assistance of counsel and each party had a full and fair opportunity to consult with counsel regarding this Agreement. No ambiguity or omission in this Agreement shall be construed or resolved against any party on the grounds that this Agreement or any of its provisions was drafted or proposed by that party.
  - 14.7 **Limitation of Liability.** IN NO EVENT SHALL NUTRABOLT BE LIABLE FOR

PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOST PROFITS, WHETHER IN CONTRACT, TORT, OR STRICT LIABILITY.

- 14.8 Survival. The provisions of Sections 1.2, 3.4, 9, 10, 11, 12, 13, and 14 shall survive the termination or expiration of this Agreement.
- 14.9 Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect to the subject matter contained herein.