

1 DEFINITIONS

In these conditions:

"Agreement" means any agreement or contract entered into for the provision of goods and/or services by Nutrifaster to the Buyer;
"Nutrifaster" means, Nutrifaster Australia Pty Ltd (ABN 30 100 370 143) of Unit 7, 62-66 Newton Road, Wetherill Park, NSW, 2164
"Buyer" means a person, firm or corporation, jointly and severally if there is more than one, acquiring goods or services from Nutrifaster;
"goods" means goods supplied by Nutrifaster to the Buyer;
"GST" means the Goods and Services tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* as amended;
"Intellectual Property" means all copyrights, patents, trademarks, designs, specifications, confidential information, manufacturing processes and all modifications, improvements and derivations (whether registrable or not) owned or licensed by Nutrifaster in respect of the goods and services;
"Price List" means the price list issued by Nutrifaster from time to time; and
"Services" means services supplied by Nutrifaster to the Buyer; and
"Terms" means these Terms and Conditions of Sale.

2 BASIS OF AGREEMENT

2.1 - Unless otherwise agreed by Nutrifaster in writing, these Terms and Conditions of sale apply exclusively to every contract for the sale of goods or services by Nutrifaster to the Buyer and cannot be varied or supplanted by any other conditions, including the Buyer's terms and conditions of purchase (if any).
 2.2 - Any written quotation provided by Nutrifaster to the Buyer concerning the proposed supply of goods or services is:
 (a) valid for 90 days;
 (b) an invitation to treat only;
 (c) subject to the Buyer offering to enter into an Agreement and accepting these Terms.
 2.3 - The Terms may include additional terms in Nutrifaster's quotation, which are not inconsistent with the Terms.
 2.4 - The Agreement is accepted by Nutrifaster when Nutrifaster confirms its acceptance of an offer from the Buyer in writing or electronic means or provides the Buyer with the goods or services.
 2.5 - Nutrifaster in its absolute discretion may refuse to accept any offer.
 2.6 - It is the Buyer's responsibility to provide Nutrifaster with its specific requirements in relation to the goods and services.
 2.7 - Nutrifaster may vary or amend these Terms by notice in writing to the Buyer at any time. Any variations or amendments will apply to orders made by the Buyer after the date of notice.

3 PRICING

3.1 - Prices quoted, whether in the Price List, by written quotation or verbally, for the supply of goods and services, exclude GST and any other taxes or duties imposed on or in relation to the goods and services. In addition to payment of the price of goods and services, the Buyer must pay any GST and any other taxes or duties imposed on the goods and services.
 3.2 - If the Buyer requests any variation to the Agreement, Nutrifaster may increase the price to account for the variation.
 3.3 - Where there is any change in the costs incurred by Nutrifaster in relation to the goods or services, Nutrifaster may vary its price for the goods or services in order to take account of any such change, by notifying the Buyer.

4 PAYMENT

4.1 - Unless otherwise agreed in writing:
 (a) Payment for the goods and/or services must be made within 30 days of the end of month in which Nutrifaster's invoice is raised (Account holders only); and
 (b) Nutrifaster reserves the right to require payment in full prior to the delivery of the goods or completion of the services.
 4.2 - Nutrifaster, at its sole discretion, may offer a discount on the price of goods (excluding freight charges) for cash payment.
 4.3 - Payment by cheque is not deemed made until the proceeds of the cheque have cleared.
 4.4 - Payment terms may be revoked or amended at the sole discretion of Nutrifaster immediately upon giving written notice to the Buyer.

5 PAYMENT DEFAULT

5.1 - If the Buyer defaults in payment by the due date of any amount payable to Nutrifaster, then all money which would become payable by the Buyer to Nutrifaster at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Buyer, and Nutrifaster may, without prejudice to any other remedy available to it:
 (a) charge the Buyer interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rates Act 1983 (Vic) plus 2 per cent for the period from the due date until the date of payment in full;
 (b) charge the Buyer for, and the Buyer must indemnify Nutrifaster from, all costs and expenses (including without limitation all legal costs, collection agency costs and expenses) incurred by it resulting from the default or in taking action to enforce compliance with the Terms or to recover any goods;
 (c) cease or suspend for such period as Nutrifaster thinks fit, supply of any further goods or services to the Buyer; and
 (d) by notice in writing to the Buyer, terminate any agreement with the Buyer so far as unperformed by Nutrifaster; without effect on the accrued rights of Nutrifaster under any agreement.
 5.2 - Clauses 5.1 (c) and (d) may also be relied upon, at the option of Nutrifaster:
 (a) where the Buyer is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or
 (b) where the Buyer is a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Buyer.

6 PASSING OF PROPERTY

6.1 - Until full payment in cleared funds is received by Nutrifaster for all goods and services supplied by it to the Buyer, as well as all other amounts owing to

Nutrifaster by the Buyer:

- (a) title and property in all goods remain vested in Nutrifaster and do not pass to the Buyer;
- (b) the Buyer must hold the goods as fiduciary bailee and agent for Nutrifaster;
- (c) the Buyer must keep the goods separate from its goods and maintain the labeling of Nutrifaster;
- (d) the Buyer is required to hold the proceeds of any sale of the goods on trust for Nutrifaster in a separate account however failure to do so will not affect the Buyer's obligation to deal with the proceeds as trustee;
- (e) Nutrifaster may without notice, enter any premises where it suspects the goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of Nutrifaster, and for this purpose the Buyer irrevocably licences Nutrifaster to enter such premises and also indemnifies Nutrifaster from and against all costs, claims, demands or actions by any party arising from such action.

7 RISK AND INSURANCE

7.1 - The risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Buyer immediately on the goods being dispatched from Nutrifaster premises.
 7.2 - The goods are sold to the Buyer on the basis that the Buyer has obtained all necessary licenses or permits under all relevant laws and regulations in relation to the goods.
 7.3 - The Buyer assumes all risk and liability for loss, damage or injury to persons or to property of the Buyer, or third parties arising out of the use or possession of any of the goods sold by Nutrifaster, whether such goods are used singularly, or in combination with other substances, or any process.

8 ACKNOWLEDGMENTS

8.1 - The Buyer acknowledges that:
 (a) it has not relied on any service involving skill and judgment, or on any advice, recommendation, information or assistance provided by Nutrifaster in relation to the goods or services or their use or application;
 (b) it has the sole responsibility of satisfying itself that the goods or services are suitable for the use of the Buyer or any contemplated use by the Buyer, whether or not such use is known by Nutrifaster; and
 (c) any description of the goods provided in a quotation or invoice is given by way of identification only and the use of such description does not constitute a contract of sale by description.
 (d) that it must provide to Nutrifaster full particulars of its requirements, including but not limited to, its ABN, order number, quantity and model number and any options required, delivery date, delivery address, insurance instructions and freight instructions, before Nutrifaster will accept any order.

9 PERFORMANCE OF AGREEMENT

9.1 - Any period or date for delivery of goods or provision of services stated by Nutrifaster is intended as an estimate only and is not a contractual commitment. Nutrifaster will use its reasonable endeavors to meet any estimated dates for delivery of the goods or completion of the services but will in no circumstances whatsoever be liable for any loss or damage suffered by the Buyer or any third party for failure to meet any estimated date.
 9.2 - A completed drivers manifest or delivery docket whether signed by the driver or by the Buyer or its employee or agent will be proof of delivery of goods invoiced.

10 DELIVERY

10.1 - Nutrifaster will nominate and coordinate a carrier on the Buyer's behalf unless otherwise instructed by the Buyer.
 10.2 - The Buyer will inform Nutrifaster of all necessary details so that Nutrifaster can affect the delivery of the goods.
 10.3 - The Buyer may nominate its own carrier, in which case it must coordinate the delivery with Nutrifaster.
 10.4 - Nutrifaster shall not be liable for the failure to deliver or complete the contract or any delays in delivering or completing the contract where such failure or delay is occasioned by Act of God, fire, accident, war, strike, lock-out, shortage of labour, lack of skilled labour, breakdown of plant, non-delivery of raw materials, difficulty in producing components or materials, delays in suppliers or sub-contractors, delays in transit, delays by the buyer, legislative governmental or other prohibitions or restrictions, or any other event of any kind whatsoever which is beyond the control of Nutrifaster, and the buyer shall have no right of cancellation of the contract but shall accept delivery of the equipment when Nutrifaster is reasonably able to deliver the equipment having regard to Nutrifaster's commitments to other customers.
 10.5 - Unless otherwise agreed in writing, the Buyer will be responsible for all costs associated with delivery, including any special packaging or required crating, freight, insurance and other charges arising from the point of despatch of the goods to the Buyer to the point of delivery.
 10.6 - The Buyer must provide reasonable and proper access to the location specified for delivery.
 10.7 - Any extra carrier charges due to difficult access, wrong or misleading instructions provided by the Buyer, or the requirement for extra personnel, will be charged to Buyer at cost plus a 10% service fee plus GST charged by Nutrifaster.
 10.8 - The obligation of Nutrifaster to deliver goods shall be satisfied by the delivery by Nutrifaster of the quantity of goods ordered or if delivery is by installments, by the delivery of the quantity of goods to be delivered in each installment (+/- 10%). The Buyer shall only be required to pay for the actual quantity of the goods delivered by Nutrifaster.
 10.9 - If Nutrifaster does not receive forwarding instructions sufficient to enable it to dispatch the goods within 14 days of notification that the goods are ready, the Buyer shall be deemed to have taken delivery of the goods from such date. The Buyer shall be liable for storage charges payable monthly on demand.

10.10 - Where it is necessary for Nutrifaster to deliver the goods in other than a fully assembled condition (which facts will be stated in the quotation), the cost and responsibility of assembly and installation will fall to the Buyer.

10.11 - The Buyer must advise Nutrifaster in writing within 3 days of receipt:

- (a) of the non arrival of any or all of the goods;
- (b) if there is damage to the goods;
- (c) that the wrong goods have been received;
- (d) that the quantity of the goods is incorrect; or
- (e) the goods do not meet specifications.

11 RETURNS

11.1 - Goods may only be returned to Nutrifaster:

- (a) if the request to return is made in writing to Nutrifaster within 3 days of delivery to site, stating reason for the requested return;
- (b) if the goods are not optioned or customised in any way or produced to a specific Buyer requirement in part or in whole;
- (c) with the prior written authority of Nutrifaster;
- (d) if the Buyer pays for all transport and handling costs to Nutrifaster's warehouse;
- (e) if the goods are accompanied by a copy of the Nutrifaster GRA provided as proof of authorisation in accordance with clause 11.1(c);
- (f) on the acceptance of the application of a restocking and handling charge, such charge being 10% of the invoice value, except where the wrong goods were delivered by Nutrifaster, in which case there will be no restocking or handling charge; and
- (g) if the goods are in an undamaged and unsoiled condition and in the original packaging, unless with the prior written consent of Nutrifaster.

12 LIABILITY

12.1 - Except as specifically set out herein, or contained in any warranty statement provided with the goods or services, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.

12.2 - Replacement or repair of the goods or resupply of the services is the absolute limit of Nutrifaster's liability howsoever arising under or in connection with the sale, use of, storage or any other dealings with the goods or service by the Buyer or any third party.

12.3 - Nutrifaster is not liable for any indirect or consequential losses or expenses suffered by the Buyer or any third party, howsoever caused, including but not limited to loss of perishables, loss of turnover, profits, business or goodwill or any liability to any other party.

12.4 - Nutrifaster will not be liable for any loss or damage suffered by the Buyer where Nutrifaster has failed to deliver goods or services or fails to meet any delivery date or cancels or suspends the supply of goods or services.

12.5 - Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

13 CANCELLATION

13.1 - If, through circumstances beyond the control of Nutrifaster, Nutrifaster is unable to affect delivery or provision of goods or services, then Nutrifaster may cancel the Buyer's order (even if it has already been accepted) by notice in writing to the Buyer.

13.2 - No purported cancellation or suspension of an order or any part thereof by the Buyer is binding on Nutrifaster after that order has been accepted.

13.3 - Nutrifaster, in its absolute discretion may review, alter or terminate the Buyer's credit limit or payment terms without notice.

13.4 - If the Buyer cancels the order after acceptance by Nutrifaster, then Nutrifaster will be entitled to damages for breach of contract. This includes, but is not limited to, compensation in accordance with Nutrifaster Order Cancellation Policy as in effect at time of Order Confirmation.

14 SPECIFICATIONS

14.1 - All specifications, drawings, illustrations descriptive matter and particulars contained in Nutrifaster's catalogues, website and marketing documents are indicative only, do not form part of this Agreement, and are not representations or warranties of any kind. Any discrepancy will not entitle the Buyer to rescind this Agreement or seek compensation or damages.

14.2 - Nutrifaster reserves the right to make minor modifications to its goods without notice to the Buyer and deliver such modified goods against any existing order, unless such right is waived by Nutrifaster in writing to the Buyer.

14.3 - The Buyer must not reverse engineer any goods provided to it by Nutrifaster.

14.4 - All drawings, descriptive matter and particulars supplied, remain Nutrifaster's property and are to be returned to Nutrifaster on demand. The Buyer must not publish or communicate any of them to any person or publish or permit them to be copied or communicate them to any other person without Nutrifaster's prior consent in writing.

15 INTELLECTUAL PROPERTY

15.1 - The Buyer acknowledges that it has no proprietary right or interest in the Intellectual Property.

15.2 - The Buyer must not register or record or attempt to register or record anywhere in the world the Intellectual Property or any part or any patents, inventions, trademarks or designs derived from or similar to the Intellectual Property or aid or abet anyone else in doing so.

15.3 - The Buyer must not at any time create, sell, manufacture or process any goods or services using or taking advantage of the Intellectual Property.

15.4 - Any Intellectual Property provided to the Buyer by Nutrifaster in connection with the goods and services remains the exclusive property of Nutrifaster and must be returned to Nutrifaster on demand and must not be copied or communicated to any third party without the express written consent of Nutrifaster.

16 WARRANTY

16.1 - Subject to clause 16.4,

16.2 - Nutrifaster limited warranty is to the original purchaser of Nutrifaster equipment, for the period (shown in Table 1), from the purchase date of the product.

(a) Nutrifaster, in its reasonable discretion if it deems necessary, will repair or replace any goods to remedy any failure due to faulty workmanship or materials, provided that the goods may have acceptable variance; and

(b) any replacement or repaired goods will only be warranted for the unexpired portion of the warranty period attached to the original goods.

(c) The following warranty exclusions apply:

- i. Any product which Nutrifaster publishes as excluded from application of this warranty; and
- ii. Any product for which the warranty period published by Nutrifaster (in advertising material or otherwise) differs from the warranty period outlined in Table 1..

16.3 - Provision of the Warranty is subject to:

- (a) the Buyer not being in breach of these Terms and Conditions of Sale or any additional Agreement as may be in place;
- (b) proof of purchase of the Equipment being directly from Nutrifaster or an authorised distributor or agent of Nutrifaster;
- (c) Nutrifaster' or its representative, at its option, having access to the goods for the purposes of inspection and verification of any claim;
- (d) the Buyer has not repaired or undertaken to repair the goods without prior authorisation from Nutrifaster nor altered the goods in any way;
- (e) service calls and on-site Warranty repair work being on the Australian mainland and within 50 kms of the service operators premises, if not, then any distance be charged to the Buyer on the excess at commercial rates;
- (f) the Buyer uses and maintains the goods in accordance with Nutrifaster' instructions and in accordance with commonly accepted operating practices;
- (g) the Buyer providing written notice within 3 days of delivery of any goods that it believes do not meet specifications or goods that are defective; and
- (h) correct storage, siting and installation of the goods in accordance with Nutrifaster' instructions.

16.4 - This Warranty does not extend and excludes:

- (a) defects or malfunctions that are the result of incorrect or poor maintenance by the Buyer;
- (b) damage or alteration to the goods arising from circumstances outside the direct control of Nutrifaster, including, without limitation, power surges, disruptions or where the goods are not used for their intended purpose;
- (c) any part the equipment which has been subject to misuse, neglect, alteration, removal of identification numbers or plates, or if changed in any manner, incorrect installation or accident that has been caused by the purchaser or its invitee;
- (d) the failure of goods that have been supplied to a Buyer's specification or design and that failure was caused by a Buyer specification or design fault;
- (e) any problem that might arise due to poor installation or siting of the goods, including but not limited to, lack of sufficient fresh air circulation or inadequate ventilation, or if the airflow within the cabinet has been adversely effected due to the product blocking the air ducts;
- (f) any problem that might arise out of the installation of remote cabinets, including but not limited to, leaks in the refrigeration system and components including TX valves, and wiring issues with controllers;
- (g) any third party equipment that the Buyer might have specified;
- (h) any installation or removal costs necessary to access or service equipment;
- (i) damage to, or breakage of, glass doors, gaskets, hinges, lights or plastic components; and
- (j) the failure of gaskets, fluorescent lights, hinges, locks, TX valves and batteries;

16.5 - The Buyer warrants to use the goods in accordance with:

- (a) any instructions provided to it by Nutrifaster from time to time;
- (b) all government and local regulations, including but not limited to all relevant environmental laws and regulations governing the storage, installation, use, handling, maintenance and disposal of the goods.
- (c) all necessary and appropriate precautions and safety measures relating to the storage, installation, use, handling and maintenance of the goods.

16.6 - Nutrifaster approved warranty work undertaken by authorised service agents are arranged during normal working hours only. (Monday – Friday, 8:00am to 5:30pm, excluding public holidays).

16.7 - In the case of goods not manufactured by Nutrifaster but are sourced from third parties and supplied by Nutrifaster, this Warranty will not operate to extend the terms of the original manufacturer of those goods.

17 PRIVACY

17.1 - Nutrifaster is bound by the Privacy Act 1988 and takes steps to ensure that all personal information obtained in connection with the Buyer will be appropriately collected, stored, used, disclosed and transferred in accordance with the National Privacy Principles. Such information may be accessed by request to Nutrifaster in accordance with the Privacy Act.

17.2 - Nutrifaster requires that the Buyer comply with the National Privacy Principles in connection with any personal information supplied to it by Nutrifaster in connection with this Agreement.

Table 1

WARRANTY COVERAGE			
TYPE OF PRODUCT	CABINETS & UNITS	PARTS & LABOUR	SERVICING LOCATION
Desmon Refrigeration	24 months	24 months	On-site
Ruby 2000/2 Juicer	24 months	12 months	Back to Base
Elmeco machines	24 months	12 months	* On-site
Zumex Juicers	24 months	12 months	* On-site
Zumoval Juicers	24 months	12 months	* On-site
Ceado Juicers	12 months	12 months	Back to Base
Tropicana machines	12 months	12 months	* On-site
Fancor dispensers	12 months	12 months	* On-site
Wheatgrass Juicers	12 months	12 months	Back to Base
Fruit Peelers	12 months	12 months	Back to Base

* On-Site warranty applies to equipment exceeding a net weight of 35Kg