

CYANOTECH CORPORATION DBA NUTREX HAWAII, INC.

AUTHORIZED RESELLER AGREEMENT

This AUTHORIZED RESELLER AGREEMENT (the “Agreement”) is made and entered into as of **[DATE:_____]** (the “Effective Date”), by and between Cyanotech Corporation and Nutrex Hawaii, Inc., a wholly owned subsidiary of Cyanotech Corporation, a Hawai’i corporation with a business address at 73-860 Makako Bay Drive, Kailua-Kona, Hawai’i 96740 (“Company”), and **[RESELLER NAME:_____]**, a **[STATE:_____]** **[ENTITY TYPE:_____]**, with a business address at **[ADDRESS:_____]** (“Reseller”).

1. Authorized Reseller Appointment.

(a) Subject to the terms, conditions, provisions, and restrictions contained in this Agreement, Company appoints Reseller as a non-exclusive independent Reseller to solicit orders and otherwise assist in obtaining orders for Company Products (defined hereinbelow) from Permitted Customers (defined in Section 2(b) below) in the Territory (defined in Section 2(c) below). By accepting this appointment and executing this Agreement, Reseller is permitted to sell certain products manufactured and/or distributed by the Company, such products referred to as “Company Products.” Subject to the terms, conditions, provisions, and restrictions contained in this Agreement, Reseller may promote and hold itself out as an “Authorized Reseller” of Company Products. Reseller agrees to adhere to the terms conditions, provisions, and restrictions contained in this Agreement at all times, in order to qualify and remain an Authorized Reseller of Company Products, to be able to offer the Company’s product warranties (made available by Company from time to time in its sole discretion), and to use the Company’s tradenames, trademarks, and other marketing collateral and / or advertising materials consistent with this Agreement.

(b) Reseller intends to sell the Company Products in connection with the following business name(s), storefront(s), brand(s), or “dba’s” **[LIST OF NAMES:_____]**.

If Reseller changes its name or begins selling Company Products under a different name, Reseller shall promptly inform the Company of such name change; provided, however, that Company shall have the right to approve any new names in its sole discretion.

(c) The parties intend that Reseller shall be an independent contractor with respect to the Company and nothing herein shall be construed to create the relationship of an employer and employee or agency between the parties. No employee, agent or subcontractor of Reseller shall be, or shall be deemed to be, an employee or agent of the Company. Reseller will be solely and entirely responsible for its acts and those of its agents, employees or subcontractors, if any. In performing its obligations under this Agreement, Reseller shall comply with all applicable federal, state, county and city laws, ordinances and regulations.

2. Resale of Company Products.

(a) Reseller may only sell Company Products to Permitted Customers (as defined hereinbelow). Any sales made to an individual or entity that is not a Permitted Customer or made on

or through a Prohibited Website (as defined below) are strictly prohibited, constitute a material breach of this Agreement, and entitle the Company to the rights and remedies provided herein.

(b) For the purposes of this Agreement, “Permitted Customers” shall mean end users or consumers of the Company Products.

(c) Reseller is permitted to sell the Company Products on its own website(s) **[ADD URL(S) HERE:_____]** or in brick and mortar stores **in the United States** (collectively the “Territory”). Except as expressly authorized by the Company in writing (such authorization to be granted or withheld in Company’s sole discretion), Reseller is not permitted to advertise, market, sell, or offer for sale Company Products on any third-party website, including, but not limited to, Amazon, eBay, and/or Walmart (each a “Prohibited Website”). The Company reserves the right, in its sole and absolute discretion, to determine that any location, including, without limitation, a website or other e-commerce platform, is not appropriate to sell Company Products, and the Company may at any time demand that Reseller remove Company Products from such locations.

(d) Reseller may not advertise, market, sell, or offer for sale Company Products (whether to a Permitted Customer or not) to persons or entities: (i) that resell, (ii) that Reseller knows or reasonably should know intends to resell, (iii) that Reseller discovers is reselling, any Company Products, or (iv) that are otherwise not Permitted Customers (each a “Prohibited Customer”).

(e) In the event Reseller discovers or becomes aware that Reseller has sold Company Products, or is informed by the Company that Reseller has sold Company Products, to a Prohibited Customer, Reseller shall: (i) immediately cease selling to such Prohibited Customer, (ii) demand that the Prohibited Customer return the Company Products, and (iii) take such other action as reasonably required by the Company.

(f) Upon request by the Company, Reseller agrees to provide the Company with accurate and up-to-date information related to its sale of Company Products and the locations from which any such sales are made.

(g) Reseller acknowledges and agrees that this Agreement is integrated with the Company Minimum Advertised Price (MAP) Policy. The MAP may be revised by Company at its sole discretion by providing no less than 30 days advance written notice.

3. **License; Trademarks; Domain Names.**

(a) Subject to the terms, conditions, provisions, and restrictions contained in this Agreement, the Company hereby grants to Reseller a non-exclusive, non-transferable, and non-sublicensable license during the term of this Agreement, solely on or in connection with the promotion, marketing, advertising, offering for sale, and sale of the Company Products in accordance with such terms, conditions, provisions, and restrictions of this Agreement to use all the Company’s trademarks, tradenames, and service marks related or connected to the Company Products, whether registered or unregistered, including registrations and applications and any registrations, which may be granted pursuant to such applications (collectively, the “Company Materials”). On the expiration or earlier termination of this Agreement or upon the Company’s request, this license shall cease and

Reseller shall promptly discontinue the display or use of any trademark, tradename, or service mark or change the manner in which it is displayed or used with regard to the Company Products (as directed by Company in its sole discretion). Other than the express licenses granted by this Section, the Company grants no right or license to Reseller, by implication, estoppel, or otherwise, to the Company Products or any intellectual property rights of the Company or its affiliates.

(b) Reseller shall not file, authorize a third party to file, or aid a third party in filing a trademark, tradename, or trade dress application for any Company Materials anywhere in the world. If Reseller violates this provision, Reseller shall promptly, and does hereby, assign the respective application or resulting registration (according to applicable law) to the Company. Reseller shall bear all costs for such assignment, and shall reimburse the Company for all costs (including attorneys' and other professionals' fees) incurred by the Company to enforce its rights in the Company Materials or to otherwise preserve or acquire rights to the Company Materials impacted by Reseller's violation of this provision.

(c) Reseller's domain name may not use or incorporate any Company Materials, a misspelling or alternate spelling of any Company Materials, or a variation of any Company Materials, nor shall Reseller's website copy or incorporate the distinctive look and feel of the Company's website or any of its affiliates' websites.

(d) Reseller agrees not to register or apply for, authorize a third party to register or apply for, or aid a third party in registering or applying for a domain name containing any Company Materials, a misspelling or alternate spelling of any Company Materials, or a variation of any Company Materials. If Reseller violates this provision, promptly upon the Company's demand, Reseller shall, and does hereby, assign or cause the assignment of the domain name (including the respective registration and / or application, as applicable) to the Company in accordance with applicable law. Reseller shall bear all costs for such assignment, and shall reimburse the Company for all costs (including attorneys' and other professionals' fees) incurred by the Company to enforce its rights in the Company Materials against Reseller or to otherwise preserve or acquire rights to the domain name (including the respective registration and / or application, as applicable) caused by Reseller's violation of this provision, including the costs associated with filing a complaint pursuant to the Uniform Domain Name Dispute Resolution Policy.

4. Reseller Sale Obligations.

(a) Reseller shall only sell Company Products in the original packaging. Removing, defacing or otherwise altering the packaging or trade dress of any Company Product, including any logos or trademarks, is strictly prohibited and shall constitute a material breach of this Agreement.

(b) Reseller shall not advertise, market, display, sell, offer for sale, or demonstrate non-Company Products together with Company Products in a manner that would create the impression that the non-Company Products are made by, endorsed by, or associated with the Company or the Company Products. Reseller shall not advertise, market, display, or use any Company Materials in a manner that could create confusion among consumers as to the source or origin of the Company Products. This includes both brick and mortar store sales as well as any online sales.

(c) Reseller shall maintain a place or places of business to perform Reseller's duties under this Agreement in a location or locations approved by the Company in its sole discretion. Reseller

shall store and maintain the Products in areas or facilities that are suited for the storage and shipment of the Company Products (at least in accordance with prevailing standards in the industry).

(d) Reseller shall abide by the Company's quality controls with respect to receiving, storing and shipping the Company Products. Such quality controls include only selling Company Products with a valid date code, storing all Company Products in a warehouse or storage facility that is suitable to maintain the integrity of the Company Products, and storing any liquid Company Products in a climate-controlled area. Specific quality controls by product line include:

Hawaiian Spirulina Products:

- Storage. All Hawaiian Spirulina products must be stored at or below room temperature. These products should not be sold after the expiration date (3 years from date of manufacture).
- Packaging. Ensure that each glass bottle is individually wrapped with protective wrapping (bubble wrap, etc.) and packaged in appropriate sized boxes to reduce damage during shipment.

BioAstin Products:

- Storage. All BioAstin products must be stored at or below room temperature. These products should not be sold after the expiration date (varies by product).
- Packaging. Ensure that each BioAstin product is packaged in the appropriate size boxes with protective packaging material to reduce damage during shipment.

(e) Promptly upon receipt of the Products, Reseller agrees to inspect the Products for damage, defects, evidence of tampering, or other non-conformances (a "Defect"). If any Defect is identified, Reseller must not offer the Product for sale and must promptly report the Defect to Company at customersupport@nutrex-hawaii.com or by phone at 1-800-453-1187.

(f) To ensure the safety and well-being of the end users of the Products, Reseller agrees to cooperate with Company with respect to any Product recall or other consumer safety information dissemination efforts.

(g) Reseller shall maintain customer service phone and email response functions to handle customer complaints, returns and other customer service functions. At Company's request, Reseller will provide any reports or other information related to such customer services.

(h) The Company may from time to time provide advertising, collateral, or other marketing materials to use in connection with the sale of Company Products. Reseller may create its own marketing materials, but any such materials must first be approved by the Company in writing in Company's sole discretion.

5. **Order and Deliveries.**

(a) Reseller shall issue all purchase orders to the Company via email or through the Company's EDI system. By placing an order, Reseller makes an offer to purchase Company Products under the following commercial terms and the terms and conditions of this Agreement, and on no other terms and conditions:

- (i) the listed Company Products to be purchased, including item number, if any;
- (ii) the quantities ordered; and
- (iii) the requested delivery date.

A minimum of twelve (12) bottles must be ordered for each purchase order.

ANY VARIATIONS MADE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT BY RESELLER IN ANY ORDER OR OTHER DOCUMENT ARE HEREBY REJECTED BY COMPANY, ARE VOID, AND HAVE NO EFFECT.

(b) Deliveries shall be made and transfer of risk of loss for shipment to Customer will be made FCA, Sellers plant or distribution center (Incoterms 2020). Title will pass when risk of loss transfers. Any time quoted for delivery is an estimate only. In the case of international shipments, deliveries will be made FCA the Company's applicable distribution center.

6. **Product Warranties.** Each Company Product sold by the Company or an Authorized Reseller comes with a limited, non-transferable consumer warranty applicable to that particular Company Product. Because the Company cannot assure that genuine Company Products are being sold if sold by unauthorized resellers or Prohibited Customers, these warranties are void for any sales not made by the Company or an Authorized Reseller. The Company Product warranties may not be changed, altered, added to, or removed without the express written consent of the Company (to be given or withheld in Company's sole discretion).

7. **Breach; Remedies; Enforcement.**

(a) If Reseller breaches this Agreement, including, without limitation, by selling Company Products to Prohibited Customers, (a "Reseller Breach"), Reseller agrees to reimburse the Company for its costs and fees, including attorneys' and other professionals' fees, incurred as a result of the Reseller Breach and in enforcing the Company's rights at law, in equity, or under this Agreement.

(b) The Company reserves the right to refuse to make additional shipments of the Company's Products to Reseller until such Reseller Breach has been cured or to terminate any agreement or arrangement between Reseller and the Company, immediately upon notice to Reseller.

(c) If Reseller breaches this Agreement by selling Company Products to a Prohibited Customer or on a Prohibited Website, Reseller agrees to take reasonable steps, including any requests of the Company, to retrieve the Company Products sold to such Prohibited Customer or to remove any listing of Company Products on such Prohibited Websites.

8. **Term and Termination.** This Agreement shall commence on the Effective Date and shall continue thereafter for a period of one year (the "Initial Term"), unless terminated earlier pursuant to the terms of this Agreement. This Agreement shall renew automatically for successive one-year periods (each a "Renewal Term") (the "Initial Term" and each "Renewal Term" referred to collectively herein as the "Term"). This Agreement may be terminated by Company (with or without cause) by delivery of thirty (30) days' advance written notice of termination to Reseller; provided, however, that this Agreement may be terminated by Reseller (with or without cause) by delivery of ninety (90) days' advance written notice of termination to Company; provided further that this Agreement may be

terminated by Company immediately by giving written notice to Reseller in the event of a Reseller Breach. In addition to, and not in lieu of the other termination rights specified herein, Company shall have the right to terminate this Agreement immediately upon written notice if there is a transfer of a majority of the capital stock of or the voting control of Reseller in a single transaction or a series of transactions, to any third party; or if there is a sale or transfer of the business and/or substantially all or all of the assets of Reseller; or if Reseller merges or consolidates with or into any third party. If Reseller has reason to believe that such a stock transfer has occurred, or will occur in the reasonably foreseeable future, or if Reseller proposes to make a transfer of its business and/or substantially all of its assets, or to enter into a merger transaction, it shall give written notice thereof to Company. Within twenty (20) business days after receiving such notice, Company shall give Reseller written notice stating whether Company approves or disapproves any such transfer or merger or any such proposed transfer or proposed merger, and, in the case of disapproval, whether Company exercises its right of termination hereunder if the transfer or merger has already occurred or will exercise its right of termination if the proposed transfer or proposed merger is subsequently made.

9. **Indemnification.** Subject to the terms and conditions of this Agreement, Reseller shall indemnify, hold harmless, and defend the Company and its parent, officers, directors, partners, members, shareholders, employees, agents, affiliates, successors, and permitted assigns against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees and the costs of enforcing any right to indemnification under this Agreement arising out of or occurring in connection with: (i) Reseller's acts or omissions as a reseller of the Company Products, including a breach of this Agreement; (ii) Reseller's advertising or representations that warrant performance of the Company Products beyond that provided by the Company's written warranty; or (iii) any failure by Reseller or its personnel to comply with any applicable laws.

10. **Confidentiality.** All non-public, confidential or proprietary information of the Company, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by the Company to Reseller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement (collectively the "Company Information") is confidential and may not be disclosed or copied unless authorized in advance by the Company in writing (such authorization to be granted or withheld in Company's sole discretion). Reseller will not use any Company Information for any purpose whatsoever other than the performance of its obligations under this Agreement. Reseller agrees to take all reasonable precautions to prevent any unauthorized disclosure of any Company Information. Upon the Company's request, Reseller shall promptly return Company Information and any and all other documents and materials received from the Company. The Company shall be entitled to injunctive relief for any violation of this Section without the requirement that it post a bond. This Section does not apply to information that is: (a) in the public domain; (b) known to Reseller at the time of disclosure; or (c) rightfully obtained by Reseller on a non-confidential basis from a third party.

11. **Miscellaneous.**

(a) The rights of the parties hereunder shall be governed by, and construed in accordance with, the laws of the state of Hawai'i without regard to conflicts of laws principles. In addition, the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded.

Each party to this Agreement irrevocably (a) submits to the exclusive jurisdiction of any court located in or serving Hawai'i County, Hawai'i], and (b) agrees that any such action or proceeding may be litigated only in such courts. Each party to this Agreement waives, to the fullest extent permitted by law, the defenses of lack of personal jurisdiction, inconvenient forum, and improper venue to the maintenance of any such action or proceeding. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as is contemplated by this section by certified or registered mail, return receipt requested, to its address set forth in the preamble to this Agreement. Any final judgment rendered against a party in any such action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law. In the event of any action or proceeding between the parties arising out of or relating to this Agreement, the prevailing party shall be entitled to recover and shall be awarded, in addition to any other relief awarded or granted, its costs and expenses (including reasonable attorneys' and professionals' fees) incurred in any such action or proceeding and any appeal in connection therewith.

(b) If any term should be determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any country in which these terms are intended to be effective, then to the extent and within that jurisdiction in which that term is illegal, invalid or unenforceable, it shall be severed and deleted from this Agreement and the remaining terms shall survive and remain in full force and effect and continue to be binding and enforceable.

(c) This Agreement together with the MAP Policy and Terms and Conditions, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. In the event of a conflict between this Agreement and either the MAP Policy or the Terms and Conditions, this Agreement shall control.

(d) This Agreement is binding on and inures to the benefit of the parties and their respective permitted successors and permitted assigns. Reseller may not assign its obligations under this Agreement without the written consent of the Company, to be granted or withheld in Company's sole discretion. This Agreement is assignable at any time by the Company upon written notice to Reseller. This Agreement shall be binding on Reseller's heirs, executors, administrators, personal representatives and permitted successors and assigns. Reseller shall not subcontract the performance of its obligations or any portion of the Agreement without the prior written consent of the Company, which consent may be granted or withheld in the sole discretion of the Company.

(e) No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(f) Both parties hereto have received independent legal advice with respect to, and neither has relied upon the other (or its advisors) in, entering into this Agreement.

(g) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. For evidentiary purposes, faxed and scanned counterparts of this Agreement shall be deemed to be originals.

IN WITNESS WHEREOF, Reseller and the Company have voluntarily signed this Agreement to be effective as of the Effective Date set forth above.

**CYANOTECH CORPORATION DBA
NUTREX HAWAII, INC. (COMPANY)**

**[COMPANY NAME] (AUTHORIZED
RESELLER)**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____