

STANDARD PURCHASE TERMS & CONDITIONS

ALL NIAGARA BOTTLING, LLC (“NIAGARA”), PURCHASES ARE EXPRESSLY CONDITIONED UPON THE STRICT ACCEPTANCE BY THE SUPPLIER OF GOODS AND/OR SERVICES (“SELLER”) OF THE STANDARD PURCHASE TERMS AND CONDITIONS SET FORTH HEREIN. SELLER ACKNOWLEDGES AND AGREES THAT THE TERMS HEREOF MAY BE DIFFERENT THAN THOSE SET FORTH IN SELLER’S QUOTATION, INVOICE, PROPOSAL OR OTHER DOCUMENTATION. THUS, IN THE EVENT SELLER DEMANDS INCLUSION OF SOME OR ALL OF ITS STANDARD TERMS AND CONDITIONS AND/OR ANY OTHER TERMS WHICH ARE NOT EXPRESSLY SET FORTH HEREIN (REGARDLESS OF WHETHER SUCH TERMS ARE ADDITIONAL, SUPPLEMENTARY, OR CONTRARY TO NIAGARA’S TERMS), SELLER SHALL NOTIFY NIAGARA IN WRITING OF PURCHASE ORDER NONACCEPTANCE WITHIN 48 HOURS OF RECEIPT OF THIS PURCHASE ORDER. SUCH NOTICE MUST BE SENT TO PAMELA CRIDLEBAUGH VIA EMAIL AND CERTIFIED MAIL AT: (1) panderson@niagarawater.com, (2) Pamela Cridlebaugh, 2560 E. Philadelphia Street, Ontario, California 91761. FAILURE TO PROVIDE NIAGARA WITH SUCH TIMELY NOTICE SHALL CONSTITUTE SELLER’S EXPRESS: (A) ACQUIESCENCE TO AND ACCEPTANCE OF NIAGARA’S STANDARD PURCHASE TERMS & CONDITIONS SET FORTH HEREIN; (B) ACKNOWLEDGEMENT THAT NIAGARA’S STANDARD PURCHASE TERMS & CONDITIONS EXCLUSIVELY GOVERN AND CONTROL THE PARTIES’ RELATIONSHIP; AND (C) RECOGNITION THAT SELLER’S OWN INVOICE TERMS AND CONDITIONS (OR ANY OTHER TERMS INCLUDED IN OR APPENDED TO ANY OF SELLER’S DOCUMENTATION, INCLUDING, WITHOUT LIMITATION, INITIAL PROPOSALS OR CONFIRMING SALES MEMORANDA, WHETHER OR NOT PROVIDED TO NIAGARA) SHALL BE OF NO FORCE OR EFFECT AND ARE HEREBY SUPERSEDED BY NIAGARA’S STANDARD PURCHASE TERMS & CONDITIONS. UNLESS THE FACE OF THE PURCHASE ORDER SPECIFIES OTHERWISE, THE FOLLOWING SHALL BE APPLICABLE AND CONTROL:

1. Acknowledgement/ Lead Times:

- a. The “Purchase Order,” which expressly includes and incorporates by reference Niagara’s Standard Purchase Terms and Conditions as set forth herein, is in confirmation of the parties’ agreement relative to the Service(s) and/or Good(s) which are the subject of the Purchase Order (the Purchase Order and these Standard Purchase Terms and Conditions are collectively referred to as the “Agreement” or “Contract”). “Goods” means all things (including specially manufactured goods) which are movable at the time of purchase including, but not limited to, parts, spare parts, equipment, machines, raw materials, ingredients, materials, commodities, textiles, cloth, merchandise, articles of trade, articles, or wares. “Services” means any economic activity offered by Seller to Niagara that employs time-based performances to bring about the desired results (e.g., equipment repair, professional skills, labor, processes, etc.).
- b. Niagara must be promptly advised in writing within 48 hours of Seller’s receipt of the Purchase Order if lead time is insufficient for any reason, or if Seller intends for any of Seller’s own invoice terms and conditions to apply to the parties’ Agreement.
- c. By failing to provide Niagara the requisite 48 hours’ written notice specified immediately above (in Section 1(b)), or by selling, delivering and/or shipping Goods or by performing Services in response to the Purchase Order, Seller agrees that the terms of the Contract shall expressly govern and control the parties’ relationship in connection therewith and shall supersede any of Seller’s own invoice terms and conditions, proposals or other documents.
- d. Due to the nature of Niagara’s business and operations, **time is of the essence** relative to **all of** Seller’s obligations (including, but not limited to, lead times and installation schedules).
- e. Unless a different time period is set forth on the face of the Purchase Order in the field/section entitled “Delivery Date”:
 - (i) all in-stock Goods shall be delivered within twenty-four

(24) hours from the time of Niagara’s submission of the Purchase Order; (ii) any Services shall be performed within twenty-four (24) hours from the time of Niagara’s submission of the Purchase Order; and (iii) all not-in-stock Goods shall be delivered within three (3) days from the time of Niagara’s submission of the Purchase Order. Throughout the term of the Agreement, Seller shall maintain a ninety-nine percent (99%) service level. For purposes of the Agreement, service level means that Purchase Orders for Goods and/or Services are completely fulfilled/performed on or before the aforementioned delivery/performance dates to Niagara’s complete satisfaction, as determined in Niagara’s sole and absolute discretion. For purposes of the Agreement, a ninety-nine percent (99%) service level shall be measured by comparing the number of Purchase Orders completely fulfilled/performed in a timely manner in any three (3) consecutive Purchase Orders to the total number of Purchase Orders submitted by Niagara. If Seller fails to maintain a ninety-nine percent (99%) service level for any three (3) consecutive Purchase Orders, Niagara shall put Seller on notice that Seller is in breach of its service level requirement. If, after receiving such notice, Seller’s service level continues to be below ninety nine percent (99%) for any other three (3) consecutive Purchase Orders, Niagara may immediately terminate the Agreement, cancel an outstanding Purchase Order in relation thereto without further notice to Seller, may withhold any payment then due and owing to Seller, and may pursue any and all remedies against Seller available to Niagara in law and equity. Seller shall be liable for any and all damages (including punitive, exemplary, special, incidental, indirect or consequential damages of any kind) plus reasonable attorney’s fees and costs suffered or incurred by Niagara.

2. Invoices:

- a. Invoices shall be submitted to Niagara immediately upon shipment of the Goods or performance of the Services. The cash discount and “net” payment periods provided for on the

face of the related Purchase Order, agreed to in writing by Niagara, or set forth herein, shall run from: (i) Niagara's receipt and approval of the Goods or the completed performance and Niagara's approval of the Services described on the face of the Purchase Order; or (ii) from the date of Niagara's receipt of Seller's invoice, whichever is later. For the purposes of determining the timeliness of Niagara's payments (including cure payments), payment shall be deemed effective on the date of postmark (as printed on the payment envelope by Niagara's electronic postal meter).

- b. Unless otherwise agreed to in writing by Niagara, payment of undisputed invoices (or undisputed portions of invoices) shall be due "Net 30" and paid thirty (30) days from Niagara's receipt of the undisputed invoice. In the event the payment of any undisputed invoice becomes overdue, Seller shall provide Pamela Criddlebaugh of Niagara with written notice of nonpayment via email and via certified mail at the email address and physical address respectively provided above. Upon Ms. Criddlebaugh's actual receipt of the certified mail notice, Niagara shall then have twenty (20) days from Niagara's receipt thereof to cure any late payment of an undisputed invoice. In the event of timely cure, Niagara shall not be deemed to be in breach of the Agreement. Invoice disputes shall be resolved pursuant to the procedures set forth in Section 6 hereof.
 - c. Extra Charges/ Change Orders: Without Niagara's prior written consent, Seller shall not add any charges of any kind to any Purchase Order or invoice. In the event that any change is required or requested after the original Purchase Order has been issued, a written change order, including revised and agreed upon price adjustment(s), must be prepared and executed by the author of the original Purchase Order and Niagara's Legal Department. In the event that a written change order is not prepared and approved by an authorized Niagara representative, Niagara shall not be held responsible for any additional costs above and beyond the original Purchase Order amount.
3. Pricing/Payments/Deductions:
 - a. The price applicable to Niagara purchase(s) shall be as set forth on the face of Niagara's Purchase Order. Unless otherwise stated on the face of the Purchase Order, the price shall include all charges, levies, deposits and taxes applicable to the production, shipment and sale of the Goods and/or Services (including all amounts for present or future sales, excise, exportation, duties and costs of customs compliance/clearance or other similar tax or fee which may be applicable to the sale of the Goods and/or Services purchased; provided, however, that Niagara shall be responsible for State Sales Tax (depending on the final destination of the particular good(s)). Seller agrees to pay all such taxes, including interest and penalties thereon. If Niagara is required to pay these taxes (other than State Sales Tax) to the taxing authority, Seller shall, within ten (10) days of Niagara's payment to the taxing authority, reimburse Niagara for the amount paid. Seller further agrees that upon invoicing Niagara for the amount owed pursuant to the Agreement, Seller shall delineate costs associated with all non-taxable items for the purpose of State Sales Tax (e.g., shipping, installation, warranty, etc.).
 - b. Unless otherwise stated on the face of the Purchase Order, the price shall include the cost of shipping the Goods DDP (Incoterms 2010), including all shipping, freight, import taxes, charges, customs, insurance, and delivery related costs, to Niagara's designated place of business. Seller hereby acknowledges that in the event the face of the Purchase Order states that Niagara is responsible for shipping costs (i.e., pursuant to FOB Point of Origin terms or otherwise), risk of loss will not pass until the Goods which are the subject hereof are delivered and secured within Niagara's facility. Under no circumstances and notwithstanding any other provision to the contrary, shall risk of loss pass until the Goods are delivered and secured within Niagara's facility.
 - c. Seller represents and warrants that the prices and payment terms under the Purchase Order are not less favorable than those currently extended to any other customer for the same or substantially similar Goods and/or Services in similar quantities or for Services of the same or like scope and to the extent no price or prices are set forth herein, Seller's price shall be the lowest market price prevailing at time of either the quotation or shipment, whichever price is lower. In no event may the Purchase Order be filled at prices higher than those last previously quoted or charged to Niagara without Niagara's written consent. In the event Seller reduces its price to third parties for similar Goods and/or Services, Seller agrees to reduce the price to Niagara accordingly, effective as of the date of the first reduction. In the event Seller does not reduce Niagara's price as described herein, Niagara shall be entitled to take a deduction equal to the amount of the original price minus the reduced price.
 - d. If Niagara has a claim against Seller resulting from the Purchase Order, the Agreement, or any other transaction, (even if said claim is associated with an unrelated project or contract) or Seller owes Niagara for any damages, rebates and/or credits, Niagara may deduct or set off disputed amounts from Seller's claims for amounts due.
4. Warranties:
 - a. By selling, delivering and/or shipping Goods or by performing Services in response to the Purchase Order, Seller agrees that the Purchase Order, these Standard Purchase Terms and Conditions, and any and all express written or oral warranties made by Seller (provided such oral warranties are not less than those warranties set forth in the Agreement), shall be the sole, final and exclusive terms of the Agreement between Niagara and Seller relative to the Goods and/or Services identified herein.
 - b. Seller's warranties, as set forth herein, shall survive delivery and shall not be deemed waived either by reason of Niagara's acceptance of Goods and/or Services, or by payment for them. No attempt by Seller to disclaim, exclude or modify the warranties contained herein, or any disclaimer of Seller's liability for any types of damages, including, without limitation, punitive, exemplary, special, incidental, indirect or consequential damages, shall be of any force or effect.
 - c. All warranties implied by California's Commercial Code, including California's implied warranties of merchantability and fitness for a particular purpose, shall apply to the Agreement, notwithstanding any other terms or disclaimers set forth in Seller's sales invoice(s) or other confirming memoranda. These warranties shall be in addition to any and all express warranties of Seller.
 - d. Seller understands, acknowledges and agrees that Niagara is

relying upon Seller's expertise and recommendation in purchasing the Goods and/or Services which are the subject of the Purchase Order and confirms that Niagara has informed Seller of its particular and general requirements (for the purposes of the California Commercial Code), including, but not limited to, those pertaining to Niagara's lightweight potable water bottles, Niagara's product and packing dimensions, and Niagara's customer demands. Seller guarantees and warrants that all Goods will be manufactured, assembled and commissioned in accordance with prevailing industry standards, and further guarantees that all Goods will be fit for their intended, particular and represented purposes, and meet the specifications of the Purchase Order. Seller acknowledges that it has reviewed Niagara's precise specifications, needs, and requirements prior to recommending the Goods and/or Services which are the subject of the Purchase Order.

- e. From time to time, Niagara's purchase of Goods and/or Services shall require Niagara's acceptance of certain product specifications (*e.g.*, bottle design) and/or layout designs. Under no circumstances shall Niagara's conduct in "signing off" on such drawings, designs or specifications waive, eliminate or modify Seller's warranties or liability hereunder. Seller agrees and acknowledges that it is the expert with regard to its Goods and/or Services in question, and that Niagara shall not be deemed to have assumed responsibility for errors and/or problems contained in or associated with such drawings, specifications or designs and/or implementation of the same.
- f. All Goods purchased hereunder shall conform to the quality specifications listed in the Purchase Order, and all applicable state and federal laws and regulations. Seller shall not change any detail of the specifications, including those in the Purchase Order, or packaging of any Goods without the prior written consent of Niagara. Niagara shall have the right to inspect any Seller facility in which the Goods are produced.
- g. Seller expressly warrants all fungible Goods for the duration of their specified shelf life, as applicable.
- h. Seller expressly warrants that, for a period of twenty-four (24) months commencing upon the later of the delivery, installation or commissioning completion date (the "Goods Warranty Start Date"), all Goods shall be free from manufacturing and design defects (whether latent or patent), and free from defects in material and workmanship (the "Goods Warranty"). In the event the face of the Purchase Order specifies that Niagara is responsible for installation, commissioning or start-up, then the Goods Warranty Start Date shall be the delivery date, as stated on the Seller's signed Proof of Delivery.
- i. Seller agrees that in the event Niagara becomes aware of a latent defect after the end of the applicable Goods Warranty period, but the defect arose during the term of the Goods Warranty, Seller shall acknowledge, accept and honor any such warranty claim.
- j. In the event defective Goods require replacement during the term of the Goods Warranty period, the replacement Goods shall be new and shall be afforded a new twenty-four (24) month Goods Warranty.
- k. In the event defective Goods require repair or remedy or if the Goods do not meet the performance guarantee(s) warranted at any time during the term of the Goods

Warranty period, the Goods Warranty period shall be extended by the number of days the Goods are out of Niagara's possession for service or repair and the Goods Warranty shall not expire until the defect has been remedied.

- l. If Seller cannot replace, repair or remedy the defective Goods within a reasonable period of time as required by Niagara's business necessity, Niagara may, in its sole discretion, (i) repair or modify said Goods and Seller shall reimburse Niagara for any and all expenses incurred, (ii) return the Goods for a full refund, or (iii) purchase said Goods from an entity other than Seller (or the OEM) and the Seller's Goods Warranty shall cover those costs. Seller's Goods Warranty shall include all costs of shipping, handling, freight, duties and 3rd party storage costs (if any), as well as all labor costs associated with warranty work. In the event Niagara sells the Goods which are the subject of the Purchase Order, Seller's Goods Warranty shall be transferable.
- m. Niagara will notify Seller of any claim of defective material or workmanship as soon as is practicable after the defect is discovered by Niagara. Promptly upon receipt of a notice of a warranty defect or damage of any kind, Seller shall replace the affected Goods with new Goods with a new Goods Warranty term pursuant to Section 4(j). Such replacement shall be made as follows: (i) the delivery to Niagara of in-stock Goods within twenty-four (24) hours, and (ii) the delivery to Niagara of any Goods that are not readily in stock (*e.g.*, requiring fabrication) within three (3) days.
- n. In the event Niagara identifies any patent nonconformity, defect or problem with the Goods at any time after the delivery of Goods from Seller, Niagara shall notify Seller of such defective Goods and Seller will either (at Niagara's discretion) replace, at no cost, any such Goods in accordance with the timeframes specified in Section 4(m) or provide Niagara a credit equal to the value of such Goods. Niagara shall have the right to dispose of any nonconforming or defective Goods after notifying Seller of the nonconformity or defect, and shall have no obligation to store such Goods for any period of time thereafter or provide Seller an opportunity to inspect such Goods prior to Niagara's disposition thereof. In the event the Seller has provided nonconforming or defective Goods, and such nonconforming or defective Goods cause Niagara to make a late delivery to Niagara's customers, the Seller shall be responsible for making Niagara whole which includes, but is not limited to, reimbursing Niagara for the costs associated with late delivery and any fines/fees charged by Niagara's customers. Additionally, Seller shall be liable for any and all other damages (including punitive, exemplary, special, incidental, indirect or consequential damages of any kind) plus reasonable attorney's fees and costs suffered or incurred by Niagara.
- o. Seller warrants that in the course of performing any Services it shall not infringe any copyright, patent, trade secret or other proprietary right of any third person and that the use, copying or other exploitation of the any deliverables by Niagara or any authorized third party shall not constitute an infringement of any copyright, patent, trade secret on the other proprietary right of any third person.
- p. Seller warrants that any and all of Seller's Services will be

- performed using new, quality materials in a professional and workmanlike manner consistent with applicable industry standards (the “Service Warranty”). This Service Warranty shall be in effect for a period of one year from the completion of the applicable Services (the “Service Warranty Period”). If, during the Service Warranty Period, Seller receives notice from Niagara of any non-conformity, issue or problem arising from the Services performed, Niagara will have the Seller, in Niagara’s sole and absolute discretion; (i) promptly re-perform any Services, at a time determined solely and absolutely by Niagara, or (ii) refund Niagara the entirety of the fees paid for the non-conforming Services. In the event re-performing the Services does not correct the non-conformity, issue or problem to Niagara’s sole satisfaction, Seller shall refund Niagara the entirety of the fees paid to Seller for said Services.
- q. Seller warrants that the Goods provided hereunder (and, as applicable, the use thereof) are hereby guaranteed to, as of the date of Niagara’s receipt: (i) not infringe any patent, copyright, trademark, proprietary or other intellectual property rights of any third party; (ii) be fungible, merchantable and fit for the intended purpose of the Agreement, (iii) not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, and will not be articles which may not be introduced into Interstate Commerce under the provisions of Section 404 and 505 of said Act, and (iv) be free of any carcass, cadaver, body parts, limbs, organs, tissue, bones, tails, teeth, skin, fur/hair, excrement, droppings, bodily fluids (including, without limitation, blood, urine, saliva, and semen), feces or similar contaminants from any human, animal, or insect. Seller further represents and warrants that it has complied, and will comply with all applicable federal, state, and local laws, codes, regulations, rules and orders, including without limitations, federal and state environment, health safety laws (including OSHA), laws restricting heavy metal content, and employment and labor laws (and all reporting requirements of those laws, which reports Seller shall make available to Niagara on request), the Fair Labor Standards Act, and Executive Orders 11246 (Sections 202 and 203) and 11701.
5. Seller to Pass Along Savings: In the event of manufacturing or other cost savings for any reason, such as from reduced component or raw materials costs, fluctuating exchange rates, reduced average industry pricing, or increased purchases of Goods by Niagara, a portion of such savings shall be passed on to Niagara, and the parties shall negotiate in good faith to determine the portion to be passed on to Niagara. If such negotiation is not successful, Niagara shall have the right to immediately terminate the Agreement without further obligation to Seller.
6. Applicable Law/ Seller’s Terms:
- a. Any dispute arising from or related to this Agreement, including the Standard Purchase Terms and Conditions, the Purchase Order or and any additions, amendments or supplements thereto, shall be governed by the laws of the State of California, without reference to or application of principles concerning conflicts of laws of any jurisdiction. Before commencing any litigation, Niagara may select to resolve said dispute through good faith negotiations between the parties, in Niagara’s sole discretion, in which case Seller shall agree to negotiate in good faith to resolve such dispute. Should the parties fail to consensually resolve their dispute and commence litigation, the parties hereby irrevocably consent to venue before the federal and state courts situated in San Bernardino County, California and each party hereby irrevocably submits to the jurisdiction of such courts.
- b. If, for any reason whatsoever, any one or more of the provisions of the Agreement shall be held or deemed to be inoperative, enforceable, or invalid as applied to any particular case or in all cases, such circumstances shall not have the effect of rendering any such provision inoperative, unenforceable, or invalid in any other case or of rendering any of the other provisions of the Agreement inoperative, unenforceable, or invalid.
- c. Seller agrees that the terms of the Agreement, in conjunction with all amendments thereto and any express written and oral warranties made by Seller, are the final, sole, entire and exclusive agreement between the parties respecting the Goods, Services and/or transaction which is the subject hereof, and that any terms set forth in Seller’s sales invoice, documents, email, credit application or other confirming sales memoranda, whether additional, supplemental or contrary to the terms set forth herein, shall be of no force or effect. Seller agrees that Niagara’s acceptance of Goods and/or Services shall not act as acceptance of Seller’s terms and conditions as set forth in Seller’s sales invoice, documents, email, credit application and/or any other confirming sales memoranda of the Seller. In the event Seller does not agree to the terms set forth herein, Seller may reject Niagara’s Purchase Order and refrain from selling such Goods and/or Services to Niagara.
- d. In the event a court of law deems that the Agreement does not constitute a valid contract pursuant to the California (or other state’s) Commercial Code, and/or a valid written memorialization of the understanding between the parties relative to the subject Goods and/or Services, then the Agreement shall be deemed to be Niagara’s offer to enter into a unilateral contract, which Seller can accept only by performance (*i.e.*, delivery of Goods and/or performance of Services). In this case, Niagara’s offer to purchase the Goods and/or Services specified herein is expressly conditioned upon Seller’s agreement to the terms and conditions set forth herein. Any terms set forth in Seller’s sales invoice, proposal, documentation, emails, credit application or other confirming sales memoranda, whether additional, supplemental or contrary to the terms set forth herein, shall be of no force or effect (either as a counter offer, rejection of Niagara’s offer, or to supplement or alter the terms of the agreement). By accepting Niagara’s offer as set forth herein by delivering Goods and/or performing Services, Seller agrees that the Purchase Order and Niagara’s Standard Purchase Terms & Conditions, in conjunction with all express written and oral warranties made by Seller, are the final, sole, entire and exclusive Agreement between the parties respecting the Goods, Services and/or transaction which is the subject hereof. No course of prior dealings between the parties and no industry custom shall be relevant to supplement or explain any term used in the Agreement.
- e. In the event Goods (as opposed to Services) dominate the Purchase Order in terms of total compensation paid, the Agreement shall serve as a written contract for the sale of

Goods pursuant to the California (or other state's) Commercial Code and all remedies, as set forth in California's Commercial Code, Article 2 (sale of Goods), including, but not limited to, remedies relative to defective and/or nonconforming Goods shall be available to Niagara and apply to this sale, notwithstanding anything set forth in Seller's invoices, proposals, documentation, emails, credit applications or other confirming sales memoranda. Seller further agrees that due to the complex nature of the Goods that may be the subject of the Agreement, Niagara shall not be deemed to have accepted the Goods (as defined in California's Commercial Code) which are the subject hereof until it has had sufficient time to ascertain the conforming nature of the same. Notwithstanding any other provision of the Agreement, nothing herein shall be deemed to limit Niagara's available legal or equitable remedies, regardless of whether Goods or Services dominate the Purchase Order in terms of total compensation paid.

f. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THE AGREEMENT.

7. Seller Representations and Obligations:

a. In the event the Purchase Order is for the purchase of equipment or machines (as opposed to consumable goods), and unless provided otherwise on the face of the Purchase Order, Seller shall fully and completely install, commission and start-up all equipment or machines which are the subject of the Purchase Order at no additional cost. For the purposes of the Purchase Order, "install, commission and start-up" shall encompass all that is necessary to achieve and maintain guaranteed and/or represented performance levels. All equipment or machines shall be OSHA compliant as installed, without further modification.

Seller represents, in conjunction with its obligations set forth herein, it shall perform Services and supply Goods which are in compliance with all applicable state laws, statutes and regulations pertaining to worker safety standards, including, but not limited to, those enforced by Cal OSHA and OSHA (including ANSI standards). All Seller service technicians, employees, subcontractors and/or agents shall abide by the aforementioned laws while performing Services pursuant to, or related to the Agreement. Seller shall defend, hold harmless and indemnify Niagara for and against any and all claims or suits arising out of or related to Seller's breach of this provision. Sellers that enter onto and/or perform any Services on Niagara's premises shall adhere to the requirements contained within "Good Manufacturing Practices for Contractors" as set forth at http://www.niagarawater.com/Resources/Documents/Good_Manufacturing_Practices_for_Contractors_060713.pdf which are hereby expressly incorporated herein by reference, and made part of the Agreement.

b. Notwithstanding any other term to the contrary herein, Seller represents and warrants that all Services performed pursuant to the Agreement and/or which are in any way related thereto, shall be at least in conformance with the prevailing standards in the industry. Seller further represents and warrants that all service personnel assigned to perform Services which are the subject of the Agreement, which are incidental to the Goods, and/or which in any way relate to the Agreement shall be qualified and appropriately

trained and instructed in order to ensure that all Seller obligations are satisfied in accordance with the Agreement.

c. In the event the Purchase Order includes any Services, Seller understands, acknowledges and agrees that any necessary tools, tarps, ladders, rigging equipment or the like shall be provided by the Seller as part of the Agreement at no additional cost to Niagara. Additionally, Seller is required to fully clean up after work is done to Niagara's full satisfaction in Niagara's sole and absolute discretion, and Seller shall be responsible for disposal of any and all installation and/or shipping material and any fees for disposal containers. Seller is expressly advised not to leave tools or other such items on site and if Seller, in its sole discretion chooses to do so, Seller does so at its own risk and hereby agrees to hold Niagara forever harmless against any and all claims for lost or stolen items.

d. All Goods that come into contact with Niagara's products (*i.e.*, bottled beverages) or which in any way relate to Niagara's products shall be food grade, and shall be safe from a consumer safety standpoint. Seller agrees that no Goods sold pursuant to the Agreement shall create a consumer safety hazard. Seller further agrees that all Goods which are the subject of the Agreement shall not be manufactured in a manner, contain any ingredient or have been subject to any chemical or other contaminate so as to cause the manufacture, sale, use, distribution, or consumption of the Goods to be unlawful, and shall comply with all Federal, State and local laws, rules, ordinance and/or regulations (including, but not limited to, Title 21 of the Federal Code of Regulations). Seller shall defend, indemnify and hold Niagara harmless from and against any and all claims or suits arising out of or related to Seller's breach of this provision.

e. All equipment, including but not limited to PLC's, variable frequency drives and other electronic devices, shall include power conditioning protection other than circuit protective components (*i.e.* fuses and circuit breakers) for all machine controls and machine control components to ensure that all such equipment, machines and data remains intact and undamaged in the event of power surges or voltage fluctuations.

f. All PLC's or other electronic display equipment must be supplied with both English and Spanish language options. Additionally, all equipment manuals, instructions, documents or otherwise shall also be available in both English and Spanish, at no additional cost to Niagara.

g. All equipment, regardless of source of power, must be new, UL-listed, and compliant with all federal, state and local statutes, laws, ordinances, safety codes, rules and regulations, including, but not limited to California Title 24 energy efficiency standards. Seller shall provide all drawings, calculations, engineering specifications and any and all other documents necessary to enable permitting and shall obtain any and all permits necessary for construction and operation of equipment that is the subject of the Purchase Order. Unless otherwise stated on the Purchase Order, price shall include permitting and installation.

h. Seller agrees that Goods and/or Services shall be made available to Niagara, at Seller's regularly listed price, unless and until Seller is no longer in business, dissolved, declared insolvent in a court of competent jurisdiction or otherwise ends its operation. This provision shall survive any

termination of the Purchase Order and shall be available in the event cancelation, dispute or otherwise.

- i. Seller acknowledges and agrees that any equipment or machines purchased shall be operated 24 hours a day, 7 days a week, 365 days a year, except during pre-planned downtime for original manufacturer recommended preventative maintenance. Notwithstanding any equipment or machine specifications to the contrary, Seller represents that all equipment or machines shall operate properly in the actual operating conditions (including but not limited to, high ambient temperatures, altitude, humidity, etc.) of the delivery destination as listed on the Purchase Order.
 - j. Seller hereby expressly represents:
 - i. In the hiring of any employee for the manufacture of supplies, performance of work, or any other activity required with respect to the Agreement, Seller, Seller's subcontractors and/or any person acting on behalf of Seller or Seller's subcontractors shall not, by reason of gender, sexual orientation, age, race, religion, or color, discriminate against any person who is qualified and available to perform the work to which the employment relates. Furthermore, neither Seller nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required with respect to the Agreement on account of gender, race, creed or color.
 - ii. Seller and its agents shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy shall contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined. Seller and its agents shall comply with any and all applicable local, state and federal labor and employment laws and any laws of the countries in which Seller does business.
 - iii. Seller shall not discriminate by reason of gender, sexual orientation, age, race, religion, or color against any subcontractor or supplier who is qualified to perform in connection with the Agreement.
 - iv. Seller and its subcontractors shall furnish all necessary employment documents and records (e.g., employee handbook and sexual harassment policy) to and permit access to their books, records, and accounts by any state entity for the purposes of investigation, to ascertain compliance with provisions of these nondiscrimination/sexual harassment clauses. If Seller or its agents do not possess documents or records reflecting the necessary information requested, Seller or its agents shall furnish, upon request, such information.
 - v. Seller shall not use slave or trafficked labor in the manufacturing or production process of any and all Goods and/or Services supplied to Niagara. All labor used in the manufacturing or production process shall comply with local, state, and federal laws of the United States and any laws of the country in which Seller does business. Slave or trafficked labor includes, but is not limited to forced labor, bonded labor, involuntary servitude, and child labor.
8. Intellectual Property:
- a. Ownership of, and all right, title, and interest in, the Deliverables (as defined in Section 15) shall vest in Niagara.
- Seller shall and, where applicable, will have its associates, employees, subcontractors, and agents, disclose and furnish promptly to Niagara any and all Deliverables originated or developed by Seller or by any of its associates, employees, subcontractors, or agents as a result of Services performed or Goods sold pursuant to the Agreement.
- b. Seller expressly acknowledges that the Deliverables are specially ordered by Niagara and shall be a "work for hire" under United States copyright laws. If a court of competent jurisdiction determines that the Deliverables are not made for hire, then Seller hereby transfers and shall be deemed to have assigned all rights, title and interest in and to the Deliverables to Niagara, including any copyright, trademark, trade secret, patent or other proprietary rights under the laws of the United States or of any other jurisdiction, and the rights to sublicense or transfer any and all rights assigned hereunder to third parties in perpetuity. Seller shall assist and cooperate with Niagara, and execute all appropriate documents, to perfect Niagara's right in the Deliverables. Seller shall acquire from its associates, employees, subcontractors or agents such assignments, rights and covenants as to assure that Niagara shall receive the rights provided for in this paragraph, it being understood that Niagara may desire to copyright, patent and/or market, in whole or in part or in conjunction with other information, the product of the Goods or Services.
 - c. Seller shall keep the Deliverables in confidence and shall use the Deliverables only for the purpose of the Agreement and for no other purpose, except upon written permission of Niagara.
 - d. Seller represents and warrants that all Deliverables created or delivered hereunder shall be original, and that it possesses all rights necessary to effectuate the transfer of rights contemplated above. However, to the extent that the Deliverables include material previously developed or copyrighted by Seller or third parties and not originated hereunder, Seller shall so notify Niagara and grant to or obtain for Niagara an unrestricted, perpetual, royalty-free license to use, make, practice, copy and create derivatives of, and create products embodying any ideas incorporated in such material. The licenses so granted shall include Niagara's right to grant sublicenses for such materials.
 - e. Seller shall defend, indemnify and hold Niagara harmless for and against any and all claims or suits arising out of or related to Seller's breach of this provision.
9. Confidentiality: Seller acknowledges and understands that Seller may come into possession of information or data which constitute trade secrets, know-how, confidential information or are otherwise considered to be secret of Niagara (hereinafter "Confidential Information"). In consideration of the receipt of such Confidential Information, Seller agrees to maintain such Confidential Information in the utmost of confidence, use such Confidential Information solely in connection with the intended business relationship established hereunder and take all measures reasonable and appropriate to protect such Confidential Information. Seller agrees to maintain the Confidential Information in confidence and shall not, nor shall it permit its employees, agents, and/or subcontractors to sell, transfer, publish, disclose, display or otherwise make accessible the documentation, or any copies thereof, or the Services, in whole or in part, to any third party, or use the documentation or Services for its own benefit or the

benefit of others. Seller recognizes and acknowledges that any breach or threatened breach of the Agreement by Seller may cause Niagara irreparable harm for which monetary damages may be inadequate. Seller agrees, therefore, that Niagara shall be entitled to an injunction or other equitable relief (with bond or other security) to restrain Seller from such breach or threatened breach. Furthermore, should Seller breach the Agreement and disclose Niagara's Confidential Information to a third party who incorporates the Confidential Information into its Goods and/or Services, Seller understands and acknowledges that Niagara's remedies shall be broad and include, without limitation, an injunction or other equitable relief (with bond or other security), recovery of monetary damages from Seller for the breach or threatened breach of the Agreement, disgorgement of any and all profits from the third party or parties who received Niagara's Confidential Information, and any other remedy at law or in equity from any breach or threatened breach of the Agreement in order to place Niagara in the position it would have been but for the breach or threatened breach of the Agreement.

10. Inspection and Acceptance: Notwithstanding any California (or other state's) Commercial Code provision to the contrary, Niagara's examination of Goods prior to contracting, and/or Niagara's refusal to perform such examination, shall not act as a waiver, limitation or exclusion of any express or implied warranty, even if such examination may have, should have, or would have revealed such defects.

11. Cancellation: Niagara shall have the right, in its sole discretion, to cancel the Purchase Order for any reason prior to delivery. Seller understands, acknowledges and agrees that no fees of any nature (including, but not limited to cancellation, restocking, or otherwise) shall be applicable and hereby waives the right to recover any such fees. In the event Seller has delivered pursuant to the Purchase Order and Niagara, in its sole and absolute discretion, is dissatisfied with Seller's performance, Niagara is entitled to reject, cancel or provide timely revocation of acceptance of the Purchase Order without penalty by so advising Seller and shall not be liable for payment. Payment of any invoice shall not be deemed a waiver of Niagara's right to reject, cancel or revoke acceptance of any Goods and/or Services performed. Seller shall bear all expenses and risks of unpacking, examining, repacking, storing, holding and/or reshipping and returning any Goods rejected (or whose acceptance is revoked) by Niagara. Timely revocation shall be one hundred eighty (180) days from delivery or discovery of non-conformance, whichever is later, or in the event that equipment is installed by Seller or a third party, one hundred eighty (180) days from the installation completion date.

Subsequently, upon Niagara's return of the Goods, and at Niagara's option, Seller shall refund to Niagara, or Niagara may offset its refund against amounts it owes to Seller, minus any design or specialty charges. Seller agrees that Niagara's exercise of any right or remedy provided in the Agreement does not preclude any other right or remedy, all of which are cumulative and not exclusive of any other that may be available to Niagara, whether provided by law, equity, statute or otherwise.

12. Indemnification:

a. Seller agrees to indemnify, defend, and hold Niagara, its affiliates, directors, associates, agents, and representatives harmless from and against any and all claims arising out of

or related to the Purchase Order, the Agreement, or the Goods and/or Services that are the subject thereof, including but not limited to: (i) any bodily injury or property damage claims, and any liability, loss, cost, expense, or other damages (including reasonable attorney fees) brought about by any injury of any kind suffered by any person or property as a result of any act, neglect, default, omission of either the Seller, Seller's agents, employees, affiliates, subcontractors, or any third party for whose actions Seller is responsible, or Niagara, Niagara's agents, employees, affiliates, subcontractors or other representatives; (ii) any negligent act, misfeasance, or nonfeasance by Seller, or Seller's agents, employees, affiliates, subcontractors, or any third party for whose actions Seller is responsible; (iii) any harm, injury, damage, or loss arising out of or in connection with the Goods or Services provided; (iv) third party consumer claims, suits, and/or demands, including costs and expenses of investigation and settlement and attorneys' fees and expenses, to the extent such claims arise from: (a) any act or omission by Seller, Seller's agents, employees, affiliates, subcontractors, or any third party for whose actions Seller is responsible, relating to or affecting the condition, quality, or character of any Goods or Services provided; or (b) trademark, copyright, trade dress, or patent infringement. Seller acknowledges and agrees that Seller must receive Niagara's express written approval prior to settling any claim or lawsuit. Niagara reserves the right at any time to control its own defense.

b. In the event of a workman's compensation claim or action (whether threatened, pending or completed, civil, criminal, arbitrational administrative or investigative) for bodily injury arising out of or related to the Goods and/or Services that are the subject of the Purchase Order ("Workman's Compensation Claim"), Niagara shall notify Seller and Seller shall forfeit any defense obligations owed to Niagara. Notwithstanding the foregoing, Niagara shall be permitted to settle any Workman's Compensation Claim and Seller shall fully indemnify Niagara for any and all damages and/or expenses (including, but not limited to, attorney's fees, witness fees, judgments, fines and amounts paid in settlement and any other amounts that Niagara becomes legally obligated to pay) because of, arising from, or in connection with any Workman's Compensation Claim.

c. In the event Seller utilizes any party ("Additional Party") regardless of that party's legal designation of contractor, subcontractor, materials supplier, agent, or otherwise, for the purpose of performing Services or providing the Goods to Niagara, Seller shall submit to Niagara written notice of (i) each Additional Party, (ii) the duties each Additional Party will undertake, (iii) the amount of compensation each Additional Party is to receive from Seller, and (iv) Seller's compensation schedule and payment terms with the Additional Party. Seller understands submitting this written notice as set forth above is a condition precedent to payment. Such written notice must be sent to Pamela Anderson Cridlebaugh via email and certified mail (1) panderson@niagarawater.com, (2) 2560 E. Philadelphia St., Ontario, CA 91761. Seller understands and agrees that all payments made by Niagara are conditioned upon Niagara's receipt of a conditional waiver and release executed by Seller and an unconditional waiver and release executed by each Additional Party. Seller agrees to defend, indemnify

- and hold Niagara harmless from any and all claims of any Additional Party for payment. Seller acknowledges and agrees that Seller shall remain, at all times, fully liable for all Additional Parties. Seller warrants that it shall ensure that Additional Parties comply with and adhere to all warranties, representations, obligations, terms and conditions contained herein.
- d. If this section is construed by a court of competent jurisdiction to require indemnification over and above that which is permitted by applicable law or public policy, the parties intend that the Agreement be judicially modified to afford Niagara the maximum indemnification allowed. This provision shall survive any purported termination of the Agreement.
- e. Seller shall indemnify, defend and hold harmless Niagara, its customers, resellers and distributors and their respective directors, officers, employees, agents, successors and assigns against and in respect of any and all losses or liabilities (including damages, costs, expenses and reasonable attorney's fees) that result from or relate to any claims, litigation, suit, action, investigation, or proceeding brought by or on behalf of any third party alleging that the exercise by Niagara or any authorized third party of any rights granted to Niagara hereunder, including, but not limited to, the Goods, Services, or Deliverables, infringe(s) any patent, copyright, trade secret or other intellectual property right of any third party.
- f. Seller shall bear all risk of loss, injury or destruction to paid stock (Goods for which Niagara has paid but Seller has not delivered to Niagara) while it is warehoused with Seller and Seller shall obtain and maintain insurance insuring the paid stock against loss, damage or destruction due to accident, theft, fire, flood, abuse or vandalism or other hazards commonly covered by extended coverage insurance. In addition, Seller shall grant Niagara a security interest in the paid stock and execute such financing statements, security documents and other instruments as Niagara shall deem appropriate to protect Niagara's ownership of the paid stock against claims of creditors of Seller and other third parties. Seller shall and hereby does indemnify, defend and hold harmless Niagara from and against the payment of any sum of money and against any expenses whatsoever, including attorney's fees and court costs, which Niagara may be called upon to pay or incur resulting from any loss or damage to the Goods while warehoused with Seller or resulting from a creditor's or other third party's claim of interest, lien or right in or to any paid stock warehoused with Seller.
- g. Should Seller receive (or become aware of) any demand, service of process, notice, action, settlement, summons, complaint or the like from or by a third party alleging that a party hereto is responsible for some injury, act, omission, breach, negligence, claim, loss, violation of law, settlement, cost, expense, obligation, liability, damage, recovery, deficiency or otherwise, including, without limitation, interest, penalties, reasonable attorney fees and costs that arises out of, results from, or in any way relates to the subject matter of the Purchase Order, the Agreement, or the Goods and/or Services that are subject thereto, then Seller shall immediately (but no later than five (5) business days after receipt, or becoming aware, of a third party claim) provide Niagara with written notice regarding each third party claim of which Seller is or becomes aware. Seller covenants and agrees that should Seller fail to provide Niagara with timely written notice regarding any third party claim, Seller hereby generally and expressly waives, relinquishes and releases, and agrees to hold harmless, Niagara from and against any and all claims capable of being asserted by Seller against Niagara in connection therewith.
13. Waiver: Niagara's delay, failure or partial exercise of any provision herein or waiver of any breach, right or remedy contained in or granted by the Agreement shall not be deemed a waiver of any breach, right or remedy unless expressly stated as such by Niagara in writing signed by an authorized representative of Niagara, and then such waiver shall be limited solely to its specific terms. A valid waiver in accordance with this provision shall not be construed as a waiver of any subsequent breach or failure of the same term or condition or a waiver of any other term, condition, right or remedy in the Agreement.
14. Insurance: During the term of the Agreement, and after its expiration or termination for as long as Seller owes any obligation to Niagara and/or any statute of limitations for any potential claim that Niagara may have against Seller remains unexpired, Seller shall maintain all insurance and/or bonds required by statute, law and the Agreement with minimum insurance limits consistent with Niagara's insurance requirements set forth at the end of this Section 14. Seller shall also require its agents or subcontractors who may enter upon Niagara's premises or conduct work associated with the Agreement to maintain the same coverage required herein. Should insurance policy limits be exhausted or should Seller or its agents or subcontractors fail to maintain the required insurance coverage, neither Seller nor any of its agents and subcontractors will in any way be relieved from liability provided for herein to Niagara should a loss occur. Seller shall furnish Niagara with a certificate evidencing the aforementioned coverage limits. Such certificate shall provide for thirty (30) days written notice to Niagara in the event of cancellation. All certificates of insurance shall name Niagara Bottling, LLC and its parents, subsidiaries, employees, agents, affiliates and assigns as an additional insured by policy endorsement (on both Seller's General Liability Policy and Automobile Liability Policy) and waive all rights of subrogation against Niagara. For any claims relating to the Agreement, the Seller's insurance shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by Niagara. Seller hereby acknowledges that naming Niagara Bottling, LLC and its parents, subsidiaries, employees, agents, affiliates and assigns as an additional insured by policy endorsement is a condition precedent to payment by Niagara. For the avoidance of doubt, Niagara will not be required to submit payment until the requirements of this provision have been met. However, failure of Niagara to demand any certificates or to identify any deficiency in the insurance provided shall not be construed as or deemed to be a waiver of the Seller's (or its agents or subcontractors) obligation to maintain such insurance. If any of the coverages are required to remain in force after termination of the Agreement, Seller shall submit additional certificates evidencing continuation of coverage until such obligation ends.
- Niagara's Minimum Insurance Requirements:

Workers' Compensation:	Statutory
Employer's Liability:	
•Per accident: Bodily Injury by Accident	\$500,000 each occurrence
•Policy limit by Disease	\$500,000 each occurrence
•Per employee: Bodily Injury by Disease	\$500,000 each occurrence
Comprehensive General Liability	\$2,000,000 each occurrence \$5,000,000 aggregate
Comprehensive Automobile Liability	\$1,000,000
Professional Liability	\$5,000,000

In addition to the general insurance requirements provided in the above table, customized insurance requirements for specific Seller-types are attached hereto and incorporated herein by this reference.

15. Seller Deliverables:

- a. "Deliverables" means the technical information, computer or other apparatus programs, specifications, art, plates, negatives, designs, drawings, records, documentation, reports, materials, concepts, plans, inventions, discoveries or adaptations, creative works, data and other knowledge, works of authorship or other creative works, ideas, know-how, knowledge or data, written, oral or otherwise expressed, developed or acquired by Seller hereunder, or by its authorized subcontractors or agents, to be delivered to Niagara, including, but not limited to, all bottle and design services work, closure molds, and blow molding equipment.
- b. Seller agrees to provide any and all drawings, schematics and/or technical information related to the Deliverables to Niagara upon request. Seller represents and warrants that it has taken all necessary actions to ensure that any and all inventions created by Seller's agents, affiliates and/or assigns are in fact the exclusive property of Seller or have been appropriately assigned to Seller through appropriate invention assignment agreements or any other such agreements, and that such agreements restrict any and all licensing and/or use of the Deliverables.
- c. Seller represents, warrants and agrees that it has not granted and will not grant to others any right of use relative to the Deliverables, and/or any other rights inconsistent with the rights granted herein. Seller agrees to execute and deliver to Niagara any requested transfers, assignments, bills of sale, and other documents as may be required to effectuate this transfer, and perform all lawful acts, including the giving of testimony, that might be necessary or desirable for obtaining, sustaining, reissuing or enforcing all intellectual property rights in the United States and throughout the world for the Deliverables, including, but not limited to, copyrights, trademarks, patents, and trade secrets. In full consideration of Seller's transfer, Niagara covenants and agrees to pay Seller's purchase price for the Deliverables as shown on the face of the Purchase Order, without further compensation.
- d. Blow Molding Equipment: To the extent Deliverables include blow molding equipment or other bottle related molds or equipment, Seller represents and hereby warrants that the bottles made by such molds or equipment shall ensure correct bottle fill volume for the bottle's designated fill height. Seller further agrees to be solely responsible for reviewing the designated preform size to ensure compliance with this provision.

e. Label and Shrink Wrap Sellers: For avoidance of doubt, all Deliverables for art, plates, negatives and/or designs prepared for Niagara by Seller or Seller's printer, lithographer, or bag, box or carton manufacturer shall be and remain the property of Niagara and in the event of termination of the Agreement by either party, Seller shall cease using such Deliverables and promptly return all such items to Niagara. It is expressly agreed and understood that these items (and shipping) are inherent in the cost of doing business, and Niagara shall not provide compensation or otherwise reimburse Seller for these items.

f. Seller shall re-perform, at Seller's sole cost, any Deliverables which Niagara deems defective or not suitable for their ordinary and intended purpose.

16. General Terms:

- a. The Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective assignees.
- b. The Agreement shall not be assignable by Seller without the prior written consent of Niagara.
- c. The Agreement is an integrated agreement, and any amendment, addendum, or revision to the Agreement shall be valid only if in writing and signed by the parties.
- d. The Agreement shall be deemed to have been mutually drafted by the parties hereto, and any ambiguity in the interpretation of the Agreement shall not be construed or interpreted against either party.
- e. In no event shall Niagara be liable for any punitive, exemplary, special, incidental, indirect or consequential damages of any kind (including, but not limited to loss of profits, loss of reputation and/or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship and/or dealings between Niagara and Seller, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence, strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise. Under no circumstances (whether in tort, contract, negligence, strict liability or otherwise) shall Niagara's liability exceed the amounts paid to Seller by Niagara under the Agreement.
- f. In the event of any dispute arising out of or related to the Agreement, the parties shall, within thirty (30) days of such dispute, meet to discuss potential amicable resolution of this dispute. During this time period where the parties are exploring resolution of the dispute, Niagara shall not be in breach due to nonpayment of any invoice. This provision shall not be interpreted to release, postpone or alter any Seller obligation set forth herein.
- g. Seller shall not print, publish, or otherwise distribute, or use any written, advertising or promotional material using the name, logo or trademarks of Niagara, or directly or indirectly identify Niagara or its products unless Niagara has furnished the material to Seller and expressly approved in writing, the use of the same.
- h. Seller hereby acknowledges, agrees and certifies that the Goods hereunder sold were produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.

- i. During the term of the Agreement (or at any time that Niagara purchases Goods and/or Services from Seller) and for a period of one (1) year after the termination of the Agreement (or for a one (1) year period after Goods and/or Services are provided by Seller), Seller, or any subsidiary of Seller, shall not directly or indirectly solicit for employment, or provide employment services to any employee of Niagara.
 - j. Seller represents and warrants that it has not made any payment other than for the Goods and/or Services tendered and hereby agrees that it will not do so in connection with the transactions contemplated by the Agreement, or in connection with any other business transactions involving Niagara. That is, Seller will not make any payment or transfer anything of value, directly or indirectly, to any person, director or employee of Niagara. It is the intent of the parties that no payments or transfers of value shall be made which have the purpose or effect (real or perceived) of bribery, acceptance of or acquiescence in kickbacks or other improper means of obtaining business.
 - k. Seller acknowledges that Niagara may maintain a copy of the Agreement or other documents in electronic form and agrees that a copy reproduced from such electronic form or by any other reliable means (for example, photocopy, image or facsimile) shall in all respects be considered equivalent to an original.
 - l. Upon request by Niagara, any duly authorized representative of Niagara shall, until three (3) years after final payment under the Agreement, have access to and right to examine directly pertinent books, papers, documents, accounts and records of Seller involving transactions related to the Agreement and to examine Seller's place of business as necessary to determine whether the terms of the Agreement are being met.
 - m. Seller shall act as an independent contractor and not as an agent or employee of Niagara and shall not subcontract its work for Niagara without Niagara's prior written consent.
 - n. In the event that Seller is unable to perform any obligation, in whole or in part, under the Agreement, Niagara shall be entitled to purchase the requisite Goods and/or Services from another available source and Seller will be liable for any additional costs incurred by Niagara.
17. In the event of storms, acts of God, riots, civil insurrection, flood, strike, war or any other force majeure event that reduces or otherwise limits Seller's production or delivery capabilities, Seller shall use best efforts to meet its commitments to Niagara in accordance with the Agreement.
18. Foreign Corrupt Practices Act. Seller is familiar with the United States Foreign Corrupt Practices Act (the "FCPA"), Mexico's Federal Anti-Corruption Law on Public Procurement (the "Ley Federal Anticorrupción en Contrataciones Públicas", or the "LFACP"), and any other applicable laws or regulations related to bribery and corrupt practices (collectively, "Global Anti-Corruption Laws"). Seller has complied, and will continue to comply, fully with the Global Anti-Corruption Laws in its business dealings involving Niagara. During the term of the Agreement, neither Seller nor any of its agents or employees has authorized, offered, or made, and will not authorize, offer, or make, payment of money or anything of value, whether directly or through a third party, to any public-sector official (no matter the rank of such person), political party, political party official, candidate for political office, employee of a state-owned or state-controlled entity, employee of a public international organization, or any commercial entity with which they are doing business in furtherance of the Agreement (each a "Covered Person") or to any close family relative (*i.e.*, parent, grandparent, spouse, child, grandchild, sibling) of a Covered Person for the purposes of improperly (a) influencing any act, decision or failure to act by any Covered Person in his or her official or professional capacity, or (b) inducing a Covered Person to use his or her influence to affect any act or decision of any government body, public international organization, or commercial entity, or (c) securing any improper advantage, in each case in connection with Seller's business dealings with Niagara. Seller agrees to maintain accurate books and records detailing its business dealings with Niagara and agrees to make such records available to Niagara or to Niagara's designee for review and analysis during the term of the Agreement and for three years after expiration of the Agreement.
19. Prison Labor. Niagara does not utilize prison labor in either its operations or the production of its products. Seller shall notify Niagara immediately if Seller either currently utilizes, or subsequently implements the utilization of, prison labor in connection with its business. Seller shall comply with all federal, state and local laws, including employment laws, governing the utilization of prison or convict labor.

NIAGARA INSURANCE REQUIREMENTS

The following insurance requirements shall be applicable for Niagara Bottling, LLC (“Niagara” Hereafter).

CARRIERS:

FINISHED GOODS CARRIER: Provides transportation of finished goods to customers or 3PL.

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$3,000,000		Niagara named as Additional insured
Cargo Liability	\$100,000		

SPRING WATER HAULER

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$3,000,000		Niagara named as Additional insured
Cargo Liability	\$100,000		

RESIN HAULER: Provides transportation of resin to Niagara facilities or 3PL storage facility.

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$3,000,000		Niagara named as Additional insured
Cargo Liability	\$100,000		

RAW MATERIAL HAULERS: Provides transportation of raw materials to Niagara Facilities or 3PL.

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$3,000,000		Niagara named as Additional insured
Cargo Liability	\$100,000		

STORAGE:

3PL: Third party provides for storage of finished product.

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
Commercial Property	\$x,xxx,xxx		Value of product stores, Niagara named as Loss Payee
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Warehouse Legal Liability	\$x,xxx,xxx		Value of product stored
Auto Liability	\$1,000,000		Niagara named as Additional insured

CO-PACKER: Third party producer of finished goods (bottler).

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
Commercial Property	\$x,xxx,xxx		Value of product stores, Niagara named as Loss Payee
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Warehouse Legal Liability	\$x,xxx,xxx		Value of product stored
Auto Liability	\$1,000,000		Niagara named as Additional insured

RE-PACKER: Third party provider for reconfiguring finished goods.

Workers Com Employers Liability	Statutory		
<ul style="list-style-type: none"> • Per acid-bodily inj by accident • Policy Limit by disease • Per empl-bodily inj by disease 	\$500,000 \$500,000 \$500,000		
Commercial Property	\$x,xxx,xxx		Value of product stores, Niagara named as Loss Payee
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Warehouse Legal Liability	\$x,xxx,xxx		Value of product stored
Auto Liability	\$1,000,000		Niagara named as Additional insured

CUSTOMER:

Customer: Purchase of product for distribution to end consumer.

Workers Com Employers Liability	Statutory		
• Per acid-bodily inj by accident	\$500,000		
• Policy Limit by disease	\$500,000		
• Per empl-bodily inj by disease	\$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$1,000,000		Niagara named as Additional insured

SERVICE PROVIDERS:

VENDOR: Provider of products.

Workers Com Employers Liability <ul style="list-style-type: none">• Per acid-bodily inj by accident• Policy Limit by disease• Per empl-bodily inj by disease	Statutory \$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$1,000,000		Niagara named as Additional insured

CONTRACTOR: Provider of services.

Workers Com Employers Liability <ul style="list-style-type: none">• Per acid-bodily inj by accident• Policy Limit by disease• Per empl-bodily inj by disease	Statutory \$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Auto Liability	\$1,000,000		Niagara named as Additional insured

CONSULTANT/PROF SERVICES: Consultants, Attorneys, access to confidential information.

Workers Com Employers Liability <ul style="list-style-type: none">• Per acid-bodily inj by accident• Policy Limit by disease• Per empl-bodily inj by disease	Statutory \$500,000 \$500,000 \$500,000		
General Liability	\$2,000,000 \$5,000,000	Occurrence Aggregate	Niagara named as Additional insured
Professional Liability Coverage (E&O)	\$5,000,000		
Auto Liability	\$1,000,000		Niagara named as Additional insured