Blue Ridge Food Ventures, LLC

User Services Contract

This person or organization joins this Agreement as User of the Blue Ridge Food Ventures facility.	
Full Legal Name of Business	Legal Status of User (Check One): □ Individual □ Partnership □ Corporation □ Limited Liability Company □ Other _____
Name Authorized Representative	Title (e.g., Sole Proprietor, Partner, President, Manager)
Mailing Address	Email
Telephone	Fax

This User Services Agreement is between the User (identified above) and Blue Ridge Food Ventures, LLC, a North Carolina Limited Liability Company (also referred to here as "BRFV"), and is effective upon the date of execution shown below. User and BRFV agree to the following terms:

1. **SERVICES.** BRFV will provide User with nonexclusive access to and use of BRFV's commercial food and natural products manufacturing Facility facility ("Facilty"), subject to the terms of this Agreement.

a. **Facility.** The Facility is a shared-use facility; equipped with commercial food and natural products production and packaging equipment, dry and refrigerated storage, and other production equipment. BRFV shall maintain the Facility in a sanitary and orderly state and ensure that all equipment available to User operates to all applicable health and safety standards.

b. **Business Services**. BRFV may also provide user with the following services: advice on business development, product development, and/or packaging and label design; assistance with complying with food safety regulations, business plan development and/or accessing small business financing; training in safety and sanitation; and marketing support activities ("Business Services").

c. **User Prerequisites.** All Users of BRFV will have completed the following activities and provided appropriate documentation to the Executive Director of BRFV before User may enter and use the facility:

- Completed application form and paid application fee and deposits;
- Successfully completed the BRFV Facility Orientation & Training Program; and others as deemed necessary;
- Natural Products Manufacturers will have to complete an approved cGMP (CFR111) training;
- Natural Products Manufacturers will have to present a list of all ingredients to be used in all proposed processes and products, with documentation of its safety for use on food contact surfaces;
- Provide Proof of Product Liability Insurance, as detailed in Section 4.c, below.

d. **Authorized Products.** User must submit notification in advance, and be specifically authorized by BRFV prior to producing each food or natural product. This does not apply to caterers. If the product requires a Scheduled Process (acidified foods), a copy of the Certificate of Attendance at an approved Better Process Control School must be on file at BRFV, along with all letters of scheduled process, 2541(a)'s; and Process Production Sheets for every production..

e. **Scheduling of Use.** Because the Facility is a shared use facility, BRFV shall control the times and manner of all Users' access to and use of the Facility. User shall request use of the Facility in advance using the on-line scheduling system. BRFV will make its best efforts to create a schedule for use of the Facility that accommodates all Users' reasonable requests.

2. **PAYMENT TERMS.** User will pay BRFV rent for each hour (or part thereof) User occupies the Facility and uses the Services described in Section 1 of this Agreement according to the following terms:

a. **Fee Schedule.** The fees for various uses of the Facility and/or equipment are set out in the Fee Schedules, attached to this Agreement as Exhibit A for Food Production or A.1 for Natural Products Production. BRFV may change this fee schedule at any time and will notify users as soon as possible in advance of changes.

b. **Payment Terms – New User.** Each User will pay for Facility use on a "pay-as-you-go" basis for the 1st three months of using the Facility. BRFV will provide User with a bill after each use. Payment is due upon receipt. User may not use the Facility until all outstanding bills are paid.

c. **Payment Terms – Good Payment History**. After 3 months of on-time payments, BRFV will bill User for Facility and storage use at the end of each calendar month. Payment is due upon receipt. If User pays any bill late, BRFV may require User to pay under New User payment Terms. A Late Payment Fee may be charged for payments made more than 60 days after date of invoice.

d. **Late Payment**. User will pay a Late Payment Fee on all outstanding balances more than 60 days after the date on each invoice. The Late Payment Fee will be 1.5% per month for all past due User Fees and other invoiced expenses. Should any amount remain unpaid for more than four months, BRFV may in its discretion suspend User's rights to use the Facility under this Agreement until User's entire outstanding balance is paid in full.

3. **USER DUTIES.** User agrees to assume the following duties in its use of the Facility under this Agreement:

a. **Rental and Use Policies.** User acknowledges that User has received and read the *Schedule of Fees*, *Rental and Use Policies, which includes the BRFV Standard Operating Procedures and/or the Standard Operating Procedures for Dietary Supplements Production, as appropriate*, copies of which are attached to this Agreement as Exhibits A, B & C (C.1). BRFV reserves the right to amend any or all of these Policies at any time upon written notice to User. If User violates these Policies, BRFV may impose a fine upon User and upon repeated violation BRVF may in its discretion terminate Agreement. User agrees to comply with all of the rules and obligations set forth in the *Rental and Use Policies* as currently stated and as modified at any time in the future.

b. **Contact Information.** User promises that the identification, address and contact information stated at the beginning of this document is current and correct. User agrees to keep BRFV informed of any changes in User's legal identity, address or other contact information.

c. **Security.** BRFV is equipped with both open and individual/locked storage areas. User agrees that BRFV assumes no responsibility for the security of any equipment or supplies the User brings for their use in the facility. Individual storage areas shall be equipped with locks and keys, and will be assigned upon availability to the User upon request. User agrees to provide a key to cage locks to BRFV. If any additional locked storage is brought into the facility by the User, User shall supply a duplicate key to the Executive Director.

d. **Food, Ingredients, and Equipment Safety and Sanitation.** All Users and their employees are required to successfully complete the BRFV Facility Orientation & Training before they may use the Facility. New employees must be trained by BRFV staff during their first month of employment by the User. It is the responsibility of the User to arrange this training at the convenience of BRFV staff and their employee. Use of specialized equipment, such as, but not limited to, the equipment in the Natural Products Production Facility, the apple peeler, Robot Coupe pulper/siever, larger Robot Coupes, and the Hobart slicer, requires special training and authorization from the Executive Director. Each person using the facility must receive specific authorization before using the Facility and certain equipment.

e. **Housekeeping Policies.** User policies include but are not limited to the following**:**

1) Users will provide their own cleaning towels, cooking items, ingredients, utensils, small wares and other special items necessary to their specific production needs.

2) No equipment or items owned by BRFV shall ever leave the premises.

3) Users will strictly follow the SOP's and Equipment Cleaning Guidelines provided by BRFV before, during and after each use of the facility.

4) **If User fails to leave the facility in the proper condition, User may receive a warning and be responsible to pay the actual cost of cleaning the facility as determined by BRFV. Upon a second such failure, User shall pay a fine (set out in the *Rental and Use Policies*) and actual cleaning costs. Upon a third such failure, this Agreement shall be terminated**.

f. **Assignment.** Except for User's properly trained and authorized employees, User may not transfer or assign User's privileges under this Agreement to any third party. This includes the disclosure of the User's security entrance code. The User shall not grant access or allow a third party to operate in the Facility any time. Violation of this duty is grounds for immediate termination of this Agreement and the immediate discharge of that User from the Facility.

g. **Signs and Advertising.** No signs or advertising matter shall be painted or attached in any way on the BRFV premises.

4. **HEALTH AND SAFETY RESPONSIBILITIES.** To ensure the safety of all persons associated with the BRFV facility, User shall also comply with the following:

a. **Worker Safety.** User is exclusively responsible to ensure that User and its employees observe proper safety procedures while using the Facility. All User employees must have registered with the Executive Director and provided contact information in case of emergencies before being authorized to work at BRFV. No children under 16 are allowed in the Production Areas .

b. **Right of Inspection.** The staff of BRFV retains the right to enter and inspect operations at any time during use. The health department of Buncombe County as well as the Food & Drug Administration shall have the right to inspect without prior notice at any time deemed necessary by their organizations.

c. **Product Liability Insurance.** Each User will maintain a minimum coverage of $2,000,000 of general liability and product liability insurance, with Blue Ridge Food Ventures, LLC named as "added named insured" on each policy. Users must provide proof of insurance to the BRFV Director before User may enter and use the facility.

5. **LIMITATION OF LIABILITY.** User agrees that any and all claims involving BRFV are strictly subject to the following limitations:

a. **Business Services.** All Business Services provided by BRFV and/or any officers, staff, or other agents of BRFV are provided solely for the purpose of assisting User in the operation of its business. BRFV make no representations, warranties or guarantees that the business services provided will result in the success of the Company. User understands and acknowledges that User is solely and completely at freedom to accept or reject any business services, and that the principal(s) or owner(s) alone are in control of the Company and its success or failure. User acknowledges and agrees that BRFV and any officers, staff, trustees or other agents of BRFV are not liable to the Company or its principal(s) or owners(s) for any damages resulting from the use of or reliance upon the business services provided by BRFV.

b. **Liability.** Blue Ridge Food Ventures, LLC shall not be liable for any damage to either person or property sustained by the tenant or by any third party arising in any way out of the User's use, operation, occupancy of BRFV premises, or sale or distributing of any product manufactured on the premises. The Users covenant and agree to indemnify, defend, and hold harmless Blue Ridge Food Ventures, LLC, and its employees from all claims, costs, and liability arising from or in connection with damages, injuries to persons (including death), or property in, upon, or about the BRFV premises, or any portions thereof, or resulting from the sale, distribution, and use of any product manufactured by the User on the BRFV premises.

6. **CONFIDENTIALITY.** User and BRFV agree and acknowledge that the Facility is a shared-use facility, and may be occupied and used simultaneously by similarly situated third-party Users ("Others"). The Parties further acknowledge and agree that the conduct of User's business and the production of User's products may involve the use of recipes, techniques, formulations, sources of ingredients, financial and business records and other information that is owned and used exclusively by the User that constitute trade secrets or proprietary knowledge that must remain confidential for the protection of User's business ("Confidential Information"). User acknowledges and agrees that Others may have also have Confidential Information that applies to the conduct of their own business. User and BRFV acknowledge

and agree that User's Confidential Information may be disclosed to BRFV for the purpose of providing product authorization, training, or Business Services to User.

a. BRFV is required to report to its grantors and sponsors on the economic impact of the services it provides. Users agree to provide an estimated sales value (wholesale and/or retail) on all of the goods they produce each time they use the Facility. BRFV will treat this as Confidential Information and will provide only aggregate statistics in its reports. BRFV may also periodically survey Users for detailed information on company growth under similar terms.

b. In the course of using the Facility, User shall make reasonable efforts to not give User's Confidential Information to Others or any third party. User shall also respect that Others using the Facility may be applying their Confidential Information and shall take care not to discover Other's Confidential Information. Any spying or deliberate intrusion into Others' Confidential Information is grounds for terminating this Agreement.

c. In the course of dealing with BRFV and its officers and employees under this Agreement, User shall take care to inform BRFV whenever User is disclosing Confidential Information to BRFV. BRFV shall make all reasonable efforts to prevent disclosure of User's Confidential Information to any third party.

d. Confidential Information does *not include* information that is already known to BRFV, to the public or any third party beyond User's control, or obtained by User from an independent source or otherwise developed independently from the User. This agreement does not cover any disclosure required by applicable law or regulation.

7. **TERMINATION.** This Agreement shall continue indefinitely unless terminated as provided in this Section. User's obligations pursuant to Section 6 (Confidentiality) of this Agreement and any financial obligation to BRFV shall survive the termination of this Agreement.

a. Annual Renewal. This Agreement shall expire on June 30 of each year. The Parties may elect to renew the Agreement for additional terms of one year. BRFV may in its discretion modify the terms of this Agreement upon renewal, and may require User to execute a new version of this Agreement as a condition of renewal.

b. Voluntary Termination. This Agreement may be terminated at any time upon mutual agreement of BRFV and the User. User may terminate this Agreement at any time upon written notice to BRFV.

b. Breach or Default. User must correct any violation, breach, or failure to keep or perform any conditions of this Agreement or the *Rental and Use Policies* within three (3) days after receiving written notice of such from the Executive Director of BRFV. If more than three (3) days pass without any corrective action taken by the User, BRFV may, in its sole discretion, terminate this Agreement. This Agreement may also be terminated as provided in Sections 3.a, 3.e 5), 3.f and 6.a of this Agreement.

c. User Property. Upon termination, User shall remove all of User's property from the Facility. If User's property is not promptly removed, BRFV may enter, take possession of and remove User's property. User shall be liable to BRFV for a reasonable storage cost for any property removed in this way.

8. **MISCELLANEOUS PROVISIONS.**

a. **Jurisdiction and Venue.** Any disputes regarding this Agreement shall be resolved in the courts of Buncombe County, North Carolina, and according to the laws of North Carolina.

b. **Relationship of Parties.** This Agreement shall not be construed to form a partnership or any other business association between the Parties other than independent parties to contract. User, its officers, agents and employees are not employees or agents of BRFV.

c. **No Oral Modification.** This Agreement may only be modified in writing signed by the parties.

9. **ENJOYMENT.** This shared-use commercial Facility is a unique facility meant to be useful to and enjoyed by its Users. The Facility has been furnished to accommodate a wide variety of start-up businesses. It is necessary that all Users work collectively to make this shared-use space work for all. Cooperation will benefit everyone and will allow harmony in the entire space. It is the desire of BRFV to aid the many persons that may desire to start their business and provide a clean and workable space for all parties. We wish each User's business the greatest success with their product and with their business. May each grow and prosper and become a contributing member of our community.

This Agreement is executed this _____ day of _____, 20____, by the duly authorized representative of each party.

BLUE RIDGE FOOD VENTURES, LLC

By: _____
Mary Lou Surgi
Executive Director

_____
Legal Name of User's Business

By: _____
Signature of Business Owner/Authorized Representative

_____
Name Printed

_____
Title