

Website Terms of Use

Last updated April 2021

These Terms of Use (“Agreement”) govern your access to and use of the websites (like www.nuspire.com, trax.nuspire.com, myNuspire.io and other websites that reference this Agreement, collectively referred to as the “Sites”) and the services offered through the Sites (the “Services”) provided by Nuspire LLC (“Nuspire,” “Us,” or “We”). Please read this agreement carefully. By accessing or using the site, you represent and warrant that you are at least 18 years of age and you agree to be bound by this agreement. If you do not wish to be bound by this agreement or you are under 18 years of age, you may not access or use the site. If you are accessing or using the site on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind such entity to this agreement, in which case references to “You” or “Your” in this Agreement will refer to both the individual and any such company or legal entity using the Sites or any of the Services.

This Agreement hereby incorporates by this reference the [Privacy Policy](#) (“Privacy Policy”) and any additional updates, revisions, supplements, modifications and additional rules, policies, terms and conditions (collectively referred to in this Agreement as “Additional Terms”). Except as otherwise indicated, any reference herein to the “Agreement” shall include the Privacy Policy Additional Terms.

Please read the Agreement carefully. By creating an account, signing this Agreement, or continuing to use the Site and Services, you acknowledge that you have read, understood, and agree to be bound by this Agreement. You “sign” and accept this Agreement by clicking “Sign Up” or “Submit”, as applicable, on the account creation screen.

IN THE EVENT OF ANY INCONSISTENCY OR CONFLICT BETWEEN THESE TERMS OF USE AND THE PRIVACY POLICY AND/OR ANY ADDITIONAL TERMS, THE FOLLOWING ORDER OF PRECEDENCE SHALL CONTROL: (A) THESE TERMS OF USE; (B) THE PRIVACY POLICY; AND (C) ANY ADDITIONAL TERMS

User Accounts

To access certain features of the Site, you must create a user account (“Account”). You will promptly update all Account information to keep it true, accurate, and complete. You will be responsible for all activities that occur under your Account, username, and password and therefore you agree to keep your password confidential. You agree to notify us immediately of any unauthorized use of your username or password or if you believe that your password is no longer confidential. We reserve the right to require you to alter your username and/or password if we believe that your Account is no longer secure. You will not: (a) provide any false information as part of your Account information; (b) create an Account for anyone other than yourself; (c) create or use more than one Account at any given time; (d) transfer your Account to anyone else; (e) permit others to use your Account; or (f) use or access other persons’ Accounts. You agree that we shall not be responsible for any losses incurred in connection with any misuse of or failure to secure passwords, nor shall we have any responsibility whatsoever for your failure to comply with this Section.

User Content

By posting or submitting content, including materials which may contain information that personally identifies you or someone else, on the Site; sending direct mail or email solicitations and other communications to us; or submitting feedback (“User Content”), you hereby grant Nuspire an irrevocable, non-exclusive, royalty-free and fully paid, worldwide, transferable license, with the right to sublicense through multiple tiers, to reproduce, distribute, modify, publicly display, publicly perform, prepare derivative works of, transmit, and otherwise use your User Content in any manner and for any purpose. You

represent and warrant that: (a) you have the right to grant the foregoing license and to post and submit the User Content; and (b) the User Content will not infringe, misappropriate, or violate any third-party rights (including any Intellectual Property Rights). For purposes of this Agreement, the term “Intellectual Property Rights” means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, including, without limitation, moral rights and similar rights. You are solely responsible for your User Content. You must always get written permission from all persons named, identified, referred or alluded to, either explicitly or implicitly, in such User Content and, if required, provide us with such written permission upon our request. Except with respect to our service providers in their provision of services to us in connection with the Sites or the Services, we have no control over and are not responsible for any use or misuse (including any distribution) by any third party of User Content. IF YOU CHOOSE TO MAKE ANY OF YOUR PERSONALLY IDENTIFIABLE OR OTHER INFORMATION PUBLICLY AVAILABLE THROUGH THE WEBSITE OR THE SERVICES, YOU DO SO AT YOUR OWN RISK.

User Guidelines.

- (a) You represent, warrant, and agree that:
- you will comply with all applicable local, state, national, and international laws, statutes, rules, regulations, ordinances and the like, including privacy laws and intellectual property laws;
 - you will not post inappropriate, inaccurate, or objectionable content to the Site;
 - you will not bully, harass or advocate harassment of another user or person;
 - you will not solicit passwords or personally identifiable information of any kind for commercial or unlawful purposes from other users, or engage in commercial activities and/or sales such as contests, sweepstakes, barter, advertising, and pyramid schemes;
 - you will not attempt to gain unauthorized access to information, accounts, computer systems or networks retained on or connected to any server hosting the Sites or the Services through hacking, password mining or any other means;
 - you will not post content that contains “junk mail” or “chain letters”;
 - you will not post content that is obscene or that promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;
 - you will not interfere with any third party's use and enjoyment of the Sites or the Services;
 - you will not use or access the Sites or the Services in a manner that could damage, disable, overburden, or impair the server hosting the Sites or the networks connected to any server hosting the Sites;
 - you will not post or upload any virus, time bomb, worm, corrupted file, or other software routine capable of disrupting, disabling, or harming the operation of, or providing unauthorized access, to the Site or Services;
 - you will not use the Site or Services to do or promote anything that is unlawful, illegal, misleading, tortious, defamatory, or libelous;
 - you will not promote, or upload or post anything that contains, an illegal and/or unauthorized copy of another person’s copyrighted work (whether marked as such or not) or that reveals trade secrets, unless you have obtained the permission of the copyright owner to promote, upload, or post it;
 - you will not create, post, display, publish or distribute any link from your website to a page(s) of the Sites;
 - you will not remove any legal notices, credits, copyright, trademarks, trade names, logos, color schemes, service marks, slogans, other proprietary notices, or similar means of identifying products or services displayed on the Sites (collectively, the “Marks”) from the Sites or Services; and
 - you have sufficient right, title, interest in and to, the User Content and have obtained all

necessary written authorization, consents, and permissions (including any customer authorizations, if necessary) as may be required for compliance with applicable local, state, national, and international laws, statutes, rules, regulations, ordinances and the like governing the privacy and security of Personal Information, as that term is defined in our Privacy Policy, to enable you to provide the User Content to Nuspire for our intended use in accordance with the terms of this Agreement.

(b) If you violate any guideline listed above, any other user guidelines posted on the Site, or any term of this Agreement, or Nuspire believes that any of your conduct or content is offensive or illegal, violates the rights of, harms, or threatens to harm third parties, or may create liability for Nuspire or third parties, Nuspire reserves the right (but is not obligated) to investigate and take appropriate legal action in its sole discretion, including removing content from the Site, notifying the appropriate authorities regarding the source of such content, cooperating with law enforcement authorities in prosecuting users who have participated in such violations, barring you from accessing the Site, and terminating your Account. Without limiting our rights and your limitations under this Agreement, if you use, or attempt to use the Sites, the Services, the Marks or our copyrighted materials for any purposes other than its intended purposes (including without limitation by tampering, hacking, modifying or otherwise corrupting the security or functionality of the Sites or the Services), you may also be subject to civil and criminal liability.

(c) You understand that data and communications, including e-mail and other electronic communications, may be accessed by unauthorized third parties when communicated over the Internet. You agree that it is your responsibility, and not ours, to obtain and use third party software products that support encryption and other security protocols compatible with such protocols (if any) that may be used by us from time to time in connection with the Sites or the Services.

Proprietary Rights

(a) **Use of the Service.** Subject to the terms and conditions of this Agreement, Nuspire grants you during the term of this Agreement a limited, non-exclusive, non-transferable, revocable license to access and use the Site and the Services and to download any content made available by Nuspire for download through the Site, in each case solely for (i) your personal, non-commercial purposes, if you are an individual, or (ii) your internal business purposes, if you are a company or other legal entity. You will not: (a) rent, lease, loan, sell, license, timeshare, distribute, otherwise exploit, or transfer any aspect of the Site, the Services, or the content contained therein (excluding your User Content) (“Site Content”) to any third party; (b) interfere with, disrupt, alter, translate, adapt, or modify the Site, the Services, or any part thereof, or create an undue burden on the Site or the networks or services connected to the Site; (c) reproduce, modify, create derivative works of, reverse engineer, decompile, disassemble, or reverse compile the Site or the Services; or (d) introduce software or automated agents or scripts to the Site so as to produce multiple accounts, generate automated searches, requests and queries, or strip, scrape, or mine data from the Site.

(b) **Ownership.** Nuspire and its suppliers own the Site, the Services, all Site Content, and all Intellectual Property Rights relating to the foregoing. Any unauthorized reproduction, modification, distribution, transmission, display, or performance of any portion of the Site, the Services, or the Site Content is strictly prohibited. Nuspire and its suppliers reserve all rights not expressly granted under this Agreement. There are no implied licenses in this Agreement.

(c) **Feedback.** Nuspire will treat any feedback or suggestions you provide to it as non-confidential and non-proprietary. You grant Nuspire the right to use any feedback or suggestions you provide in any manner and for any purpose without any obligation to compensate you.

Use and Access Outside the United States.

The Sites are hosted in the United States and back up servers may be located outside of the United States. If you visit from the European Union or other foreign jurisdictions, please note that (i) we make no representations or warranties that the information, products or services contained on the Sites are appropriate for use or access or is available in other jurisdictions; and (ii) these jurisdictions have laws governing data collection and use that may differ from United States law. You should be aware that if you transfer Personal Information to us through the Sites or the Services, you are transferring such information to the United States and the United States does not have the same data protection laws as the European Union and some other regions. By providing Personal Information to us, you consent to the transfer of it to the United States and the use of it in accordance with the Privacy Policy.

Third Party Websites and Services

Our Site contains links to Internet sites and services maintained by third parties. These links are provided for your reference only. We do not control, operate or endorse in any respect information, products, or services on such third-party sites and are not responsible for such information, products, or services.

Many third-party sites and services have their own terms of use and privacy policies that differ from ours. This Agreement and the Privacy Policy only apply to our Site and do not apply to any other site or service.

Availability and Modification of Service

Nuspire reserves the right, from time to time, to suspend, modify, or discontinue the Site or the Services, in whole or in part, with or without notice. You agree that Nuspire will not be liable to you or to any third party for any modification, discontinuance, or suspension of the Site or the Services, in whole or in part.

Termination

Subject to this Section, this Agreement will remain in full force and effect while you use the Site, the Services, or maintain an Account. You may terminate your Account at any time and for any reason through the appropriate account management page on the Site, if available, or by sending an e-mail to info@nuspire.com. Nuspire has the right to terminate your Account, for any reason or for no reason, immediately effective upon sending notice to you at the email address you provide in your Account. You agree that we will have no liability to you for any costs, expenses, losses, damages, or liabilities arising out of or relating to our termination of your Account, your access to and use of the Site, or this Agreement. Even after this Agreement is terminated for any reason, the applicable provisions of this Agreement will remain in effect. Upon termination of your access to, and use of, the Sites or the Services, all rights granted to you under this Agreement will cease immediately, and you agree that you will immediately discontinue use of the Sites and the Services.

Warranty Disclaimer

The Services are provided for reference purposes only. They are not intended as a substitute for professional advice or judgment or to provide legal or other advice with respect to any particular circumstances. You are advised to obtain independent verification or professional advice before relying on the Services in circumstances where loss or damage may result.

While we try to maintain the timeliness, integrity and security of the Sites, we do not guarantee that the Site is or will remain updated, complete, correct or secure, or that access to the Site will be uninterrupted. The Site may include inaccuracies, errors and materials that violate or conflict with this Agreement. Additionally, third parties may make unauthorized alterations to the Website. If you become aware of any such alteration, contact us with a description of such alteration and its location on the Site.

TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NUSPIRE PROVIDES THE SITE AND SITE CONTENT "AS-

IS" AND "AS AVAILABLE" AND EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY AND NON-INFRINGEMENT. NUSPIRE MAKES NO WARRANTY THAT THE SITE OR SITE CONTENT WILL BE UNINTERRUPTED, FREE OF VIRUSES OR OTHER HARMFUL CODE, TIMELY, SECURE OR ERROR-FREE. NUSPIRE DOES NOT ASSUME ANY OBLIGATION TO MONITOR ACTIVITIES CONDUCTED ON THE SITE.

Limitation of Liability

To the extent permitted under applicable law, (a) Nuspire, its subsidiaries, affiliates, and our employees, directors, officers, shareholders, members, partners, successors, assignees, licensees, co-branding partners, agents, vendors, contractors and suppliers (the "Indemnified Parties") will not be liable to you or to any other person under any circumstances and under no legal or equitable theory, in tort (including negligence), contract, strict liability, or otherwise, for any loss of use, lost profits, or indirect, consequential, exemplary, incidental, special or punitive damages in connection with the Site, the Services, Site Content, or this Agreement, including, without limitation, damages for loss of profits, goodwill, use, data, work stoppage, accuracy of results, computer failure or malfunction, or other intangible losses (even if Nuspire has been advised of the possibility of such damages), and (b) the Indemnified Parties total cumulative liability in connection with the Site, the Services, Site Content, and this Agreement will at all times be limited to seventy five U.S. dollars (U.S. \$75). The existence of more than one claim will not enlarge this limit.

User Indemnification

You agree to indemnify and hold the Indemnified Parties and their respective successors and assigns harmless from any loss, liability, claim, demand, judgements, awards, losses, costs, or expenses, including reasonable attorney's fees, arising out of or relating to your: (a) User Content; (b) use of the Site; (c) use of the Services, (d) breach of this Agreement; (e) breach or inaccuracy of any representation or warranty made under this Agreement; or (f) violation of applicable laws or any of the rights of third parties.

User Disputes and Release

You are solely responsible for your interactions with other users. Nuspire reserves the right, but has no obligation, to monitor, or take any action Nuspire deems appropriate regarding, disputes between you and other users. To the extent permitted under applicable laws, you hereby release Nuspire from any and all claims or liability related to: (a) any content posted on the Site by you or other users; or (b) the conduct, whether online or offline, of any other user. You hereby waive California Civil Code Section 1542 (and any similar provision in any other jurisdiction) which states: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Copyright Policy

You may not post, distribute, or reproduce in any way any Nuspire copyrighted material, trademarks, or other proprietary information unless you have the right to do so. It is Nuspire's policy to, in its sole discretion, terminate the Account of any user who repeatedly infringes copyright rights of Nuspire or third parties. If you believe that your work has been copied and posted on the Site in a way that constitutes copyright infringement, please follow the requirements for appropriate notifications under the Digital Millennium Copyright Act (DMCA), 17 U.S.C. § 512. At a minimum, you must provide our Copyright Agent with the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; a description of the copyrighted work that you claim has been infringed;
- an identification of the location on the Site of the material that you claim is infringing;
- your address, telephone number, and email address;

- a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Nuspire's Copyright Agent for notice of claims of copyright infringement can be reached by writing the following: info@nuspire.com or Nuspire, Attention: Copyright Agent, 3155 Dallavo Court, Commerce, MI USA.

WE CAUTION YOU THAT UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO HEAVY CIVIL PENALTIES. THESE INCLUDE MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS FEES INCURRED BY US, BY ANY COPYRIGHT OWNER, OR OUR RELYING UPON YOUR MISREPRESENTATION. YOU MAY ALSO BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY.

We suggest that you consult your legal advisor before filing a DMCA notice or counter-notice.

Disclosures

Nuspire is located at 3155 Dallavo Court, Commerce, MI 48390 USA. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

Electronic Communications

The communications between you and Nuspire use electronic means, whether you use the Site or send us emails, or whether Nuspire posts notices on the Site or communicates with you via email. For contractual purposes, you (a) consent to receive communications from Nuspire in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Nuspire provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in hardcopy writing. The foregoing does not affect your non-waivable rights.

Governing Law; Arbitration

This Agreement, and any claim, dispute or controversy relating to this Agreement, will be governed by the laws of Michigan, without giving effect to any conflicts of laws principles that require the application of the laws of a different jurisdiction. Any action or proceeding relating to this Agreement must be brought in a federal or state court located in Oakland County, Michigan and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding, except that: (i) a party bringing an action may choose to resolve the dispute through binding non-appearance-based arbitration in accordance with the following: (a) the arbitration will be provided through a nationally- recognized alternative dispute resolution provider mutually agreed upon by the parties; (b) the arbitration will be conducted in one or more of the following manners at the option of the party initiating arbitration: telephone, online, or written submissions; (c) the arbitration will not involve any personal appearances by the parties or witnesses unless otherwise agreed by the parties; and (d) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction; and (ii) Nuspire may seek injunctive relief in any court having jurisdiction to protect its intellectual property or confidential or proprietary information.

General

The parties are independent contractors. You may not assign, transfer or sublicense any or all of your rights or obligations under this Agreement without our express prior written consent. We may assign, transfer or

sublicense any or all of our rights or obligations under this Agreement without restriction. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. All waivers by Nuspire will be effective only if in writing. Any waiver or failure by Nuspire to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. You acknowledge that the Site and Site Content may contain valuable trade secrets and proprietary information of Nuspire, that any actual or threatened breach of the section discussing content ownership of this Agreement will constitute immediate, irreparable harm to Nuspire for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. The headings of the sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. "Includes" and "including" are not limiting. This Agreement and the Privacy Policy constitute the final, complete, and exclusive agreement between the parties regarding the subject hereof and supersede all prior or contemporaneous agreements, understandings, and communication, whether written or oral. In the event of a conflict or inconsistency between the terms of this Agreement will take precedence and govern.

Changes

We may amend this Agreement or the Privacy Policy from time to time. If we make material changes to the Agreement or the Privacy Policy, we will notify you by posting the change on the Site and/or sending you an e-mail at your primary email address, as specified in your Account. Any changes to this Agreement or the Privacy Policy will be effective immediately for new users of our Site; otherwise these changes will be effective upon the earlier of thirty (30) calendar days following our dispatch of an e-mail notice to you or thirty (30) calendar days following our posting of a notice on our Site. You are responsible at all times for updating your Account to provide to us your most current e-mail address. If the last e-mail address that you have provided to us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the e-mail containing such notice will nonetheless constitute effective notice of the changes described in the notice. Continued use of our Site following notice of such changes shall indicate your acknowledgement of, and agreement to be bound by, such changes. Except as otherwise provided in this section, no amendment to this Agreement or the Privacy Policy will be valid unless in a writing hand-signed by the parties. Trademark and Copyright Notice Nuspire and other names, slogans, graphics, logos, and trade names used on the Site are the trademarks of Nuspire and may not be used without Nuspire's permission. Third-party trademarks, service marks, and trade names that may appear on the Site are the property of their respective owners.

Information or Complaints.

If you have a question or complaint regarding the Site, the Services or this Agreement, please contact us by e-mail to inquiry@nuspire.com. You may also contact us in writing by mail at Nuspire, LLC 3155 Dallavo Ct Commerce, MI 48390 Attn: Privacy. Please note that e-mail and chat communications will not necessarily be secure; accordingly you should not include personal information in your e-mail correspondence with us.