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- 1 B. "Defendants" means Corporate Defendant and both Individual
- 2 Defendants, individually, collectively, or in any combination.
- 3 C. "Individual Defendants" means Daniel Wallace and Patrick Carroll.
- 4 D. "Negative Option Feature" means, in an offer or agreement to sell or
- 5 provide any good or service, a provision

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- 1 A. The date on which a consumer will be charged for, or shipped, a good or
- 2 service;
- 3 B. Any material aspect of the nature or terms of a refund, cancellation,
- 4 exchange, or repurchase policy for the good or service; or
- 5 C. Any other material fact.

6 III. 2016 ORDER SUPERSEDED IN PART

7 IT IS FURTHER ORDERED that this Order supersedes the 2016 Order,  
8 except as to the Findings and Sections IV thereof (“Prohibitions on Violating  
9 the Restore Online Shoppers’ Confidence Act,” “Monetary Judgment,” and  
10 “Additional Monetary Provisions”).

11 IV. ORDER ACKNOWLEDGMENTS

12 IT IS FURTHER ORDERED that Defendants obtain acknowledgments of  
13 receipt of this Order:

- 14 A. Each Defendant, within 7 days of entry of this Order, must submit to the
- 15 Commission an acknowledgment of receipt of this Order sworn under penalty of
- 16 perjury.
- 17 B. For 5 years after entry of this Order each Individual Defendant for any
- 18 business that such Defendant, individually or collectively with any other
- 19 Defendants, is the majority owner or controls directly or indirectly, and the
- 20 Corporate Defendant, must deliver a copy of this Order to: (1) all principals,
- 21 officers, directors, and LLC managers and members; (2) all employees having
- 22 managerial responsibilities for conduct related to the subject matter of this Order
- 23 and all agents and representatives who participate in conduct related to the subject
- 24 matter of this Order; and (3) any business entity resulting from any change in
- 25 structure as set forth in the Section titled Compliance Reporting. Delivery must
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2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, email and internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 15 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership

1 interest, and identify the name, physical address, and any internet  
2 address of the business or entity.

3 C. Each Defendant must submit to the Commission notice of the filing of any  
4 bankruptcy petition, insolvency proceeding, similar proceeding by or against  
5 such Defendant within 14 days of its filing.

6 D. Any submission to the Commission required by this Order to be sworn  
7 under penalty of perjury must be true and accurate and comply with 28 U.S.C. §  
8 1746, such as by concluding: "I declare under penalty of perjury under the laws  
9 of the United States of America that the foregoing is true and correct. Executed  
10 on: \_\_\_\_\_" and supplying the date, signatory's full name, title (if applicable), and  
11 signature.

12 E. Unless otherwise directed by a Commission representative in writing, all  
13 submissions to the Commission pursuant to this Order must be emailed to  
14 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:  
15 Associate Director for Enforcement, Bureau of Consumer Protection, Federal  
16 Trade Commission, 600 Pennsylvania Ave NW, Washington, DC 20580. The  
17 subject line must begin FTC v. NutraClick, LLCX160052.  
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19 VI. RECORDKEEPING

20 IT IS FURTHER ORDERED that Defendant must create certain records  
21 for 15 years after entry of the Order, and retain each such record for 5 years.  
22 Specifically, Defendant must create and retain the following records:

23 A. accounting records showing the revenue from all goods or services sold;

24 B. personnel records showing, for each person providing services, whether as  
25 an employee or otherwise, that person's name; addresses; telephone numbers;  
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1 job title or position; dates of service, and (if applicable) the reason for  
2 termination;

3 C. records of all consumer complaints and refund requests, whether received  
4 directly or indirectly, such as through a third party, and any response, all of which  
5 must be retrievable by date and by the consumer's name, telephone number, or  
6 billing information;

7 D. all records necessary to demonstrate compliance with each provision of  
8 this Order, including all submissions to the Commission; and

9 E. a copy of each unique advertisement or other marketing material.

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1 C. The Commission may use all other lawful means, including posing,

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