

## Standard Purchase Terms and Conditions

1. **Applicability.** These standard purchase terms and conditions (the "**Terms**"; together with a purchase order, the "**Order**") are an offer by iHerb, LLC (the "**Buyer**") for the purchase of the goods specified in an Order (the "**Goods**") from the party to selling the Goods in the Purchase Order (the "**Seller**"). These Terms, together with any documents incorporated herein by reference, constitute the sole and entire agreement of the parties with respect to an Order, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of an Order. Unless agreed otherwise in a written agreement mutually executed by the parties, these Terms prevail over any terms or conditions contained in any other documentation and expressly exclude any of Seller's general terms and conditions of sale or any other document issued by Seller in connection with an Order.

Acceptance of an Order shall not obligate Buyer to purchase any minimum amount of Goods or future purchase obligations under any future Order.

2. **Acceptance.** An Order is not binding on Buyer until Seller accepts an Order in writing or starts to perform in accordance with an Order. Buyer may withdraw an Order at any time before it is accepted by Seller or Seller starts to perform.

3. **Delivery Date and Location.** Seller shall deliver the Goods in the quantities and on the date(s) specified in an Order or as otherwise agreed in writing by the parties (the "**Delivery Date**"). Timely delivery of the Goods is of the essence. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate an Order immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date. Buyer has the right to return any Goods delivered prior to the Delivery

Date at Seller's expense and Seller shall redeliver such Goods on the Delivery Date.

Unless otherwise agreed to in writing by Buyer, all Goods shall be delivered to the address specified in an Order (the "**Delivery Location**") during Buyer's normal business hours.

4. **Quantity.** If Seller delivers more or less than the quantity of Goods ordered, Buyer may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

5. **Shipping, Title, and Risk of Loss.** Seller shall give written notice of shipment to Buyer when the Goods are delivered to a carrier for transportation. Seller shall provide Buyer all shipping documents, including the commercial invoice, packing list, air waybill/bill of lading, and any other documents necessary to release the Goods to Buyer no later than one day after Seller delivers the Goods to the transportation carrier. The Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence, and any other documents pertaining to an Order. Unless a specific Order specifies otherwise and only for that particular Order, title passes to Buyer upon delivery of the Goods to the Delivery Location. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location unless specified otherwise in a specific Order and only for that particular Order.

6. **Packaging.** All Goods shall be packed for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Buyer prior written notice if it requires

Buyer to return any packaging material, which shall be made at Seller's expense.

7. **Inspection and Rejection of Nonconforming Goods.** The Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer may inspect all or a sample of the Goods and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind an Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Goods and the delivery of replacement Goods. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under an Order, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

8. **Price.** The price of the Goods is the price stated in an Order (the "Price"). If no price is included in an Order, the Price shall be the price set out in Seller's published price list in force as of the date of an Order, or such lesser price as may have been agreed upon by Buyer and Seller. Unless otherwise specified in an Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties, and fees and applicable taxes, including, but not limited to, all sales, use, or excise taxes. No increase in the Price is effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of Buyer.

9. **Payment Terms.** Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller in accordance with payment terms set forth in an Order, except for any amounts disputed by Buyer in good faith. All payments hereunder must be in US dollars. In the event of a payment dispute, Buyer shall deliver a written statement to Seller prior to the date payment is due on the disputed invoice listing all disputed items

and providing a reasonably detailed description of each disputed item. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.

10. **Warranties and Limitation of Liability.** Seller warrants to Buyer that all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications or other requirements specified by Buyer; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods with the foregoing warranties. Seller further warrants that it is in compliance with and shall comply with all applicable laws, rules, regulations and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under an Order.

Nothing in an Order shall exclude or limit (a) Seller's liability under Sections 10, 11, 14 hereof, or (b) Seller's liability for fraud, personal injury, or death caused by its negligence or willful misconduct or any other liability that cannot be limited or excluded by law.

11. **General Indemnification.** Seller will defend, indemnify, and hold Buyer, its affiliates, and its and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Buyer Indemnified Parties") harmless from any and all claims, liabilities, fines, penalties, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) (each a "Claim") arising from or relating to Seller's: breach of the Terms, negligence, or willful misconduct. Seller shall not make any settlement of any claims that might give rise to liability unless such settlement includes a full, unconditional

release of Buyer; moreover Seller may not enter into any settlement which imposes any obligation, liability, or admission of guilt on the part of Buyer without the prior written consent of Buyer.

**12. Required Insurance Coverage.**

Seller shall furnish to Buyer a valid Certificate of Insurance ("COI") before Seller ships any Goods in the Order. COIs will be issued by an insurance company with A.M. Best ratings of "A-, VI" or better. During the term of fulfilling this Order and for at least twelve months thereafter, Seller shall maintain Commercial General Liability ("CGL") insurance, including contractual liability, personal and advertising injury, broad form bodily injury and property damage, extended liability, and products liability at minimum coverage limits of:

- Commercial General Liability Insurance covering claims for personal injury, bodily injury and property damage, advertising liability, blanket contractual liability providing coverage no less broad than that of the current ISO Commercial General Liability Insurance policy occurrence policy form. Such insurance shall provide coverage for all operations including the products-completed operations. The limits of such insurance shall not be less than:  
\$2,000,000 each Occurrence  
\$4,000,000 aggregate for products-completed operations  
\$4,000,000 general aggregate limit, which shall apply separately and be reinstated annually.
- Umbrella/Excess Liability Insurance written on an occurrence basis in excess of the Commercial General Liability Insurance identified above, and which is at least as broad as each and every one of the underlying policies and shall provide limits not less than \$10,000,000. The umbrella/excess liability policies shall be written on a "drop-down" and "following form" basis, with only such exceptions as shall be expressly approved by the parties in writing. The amounts of insurance required herein may be satisfied by purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified below for these types when added to the limit for this Section.

The above coverage limitations may be met using a combination of primary and excess/umbrella policies on a following form primary or broader form.

Seller shall provide a broad form Seller's endorsement naming Buyer as an additional insured on Seller's CGL insurance policy and the endorsement must be attached to the COI. Coverage afforded to Buyer must be primary and not contributory to any other insurance or self-insurance available. All liability insurance policies will provide that the insurance company waives all rights of recovery by way of subrogation against Buyer in connection with any matter covered by such policy. Seller shall promptly notify Buyer of its intention to substantially modify its currently existing insurance coverage, including, without limitation, changes in coverage limits below the Coverage Minimums. If any of Seller's insurance policies lapse or are terminated, Seller shall cease operations with Buyer until Seller procures acceptable insurance. Seller shall provide Buyer at least thirty (30) days prior written notice of any cancellation. Seller's indemnification obligation shall not be negated or reduced by virtue of denial of insurance coverage or refusal to defend Buyer for any occurrence or event which is subject to the said indemnity obligation. In no event shall the limits of any policy be considered as limiting the liability of the Seller.

**13. Termination.** Buyer may terminate an Order, in whole or in part, at any time with or without cause for undelivered Goods by providing written notice to Seller prior to shipment. In addition to any remedies that may be provided under these Terms, Buyer may terminate an Order with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate an Order upon written notice to Seller. If Buyer terminates the Order for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted by Buyer prior to the termination.

14. **Confidential Information.** Each party agrees that it will (i) maintain all Confidential Information (as defined below) which is disclosed to or otherwise observed by such party in strict confidence and take all reasonable precautions to protect such Confidential Information, (ii) not divulge any Confidential Information to any third party, and (iii) not make or authorize any use of any Confidential Information other than for the performance of an Order, except with the prior written consent of the disclosing party or as required by law. All rights in and title to the Confidential Information shall remain in the disclosing party. For purposes hereof, "Confidential Information" means all information disclosed through any means of communication or by personal observation by or on behalf of the disclosing party to or for the benefit of the receiving party that relates to the disclosing party's Goods, projects, productions, research and development, intellectual properties, trade secrets, customers, employees, vendors, suppliers, technical know-how, policies or practices (and all creative, business and technical information relating thereto), and any other matter that the receiving party is advised or has reason to know is the confidential, trade secret or proprietary information of the disclosing party. Notwithstanding the foregoing, the term Confidential Information shall not include information which: (i) is or becomes publicly available other than as a result of a disclosure by receiving party in violation of these Terms; (ii) is or was independently developed by receiving party without the use of any Confidential Information (as defined without regard to this exception); (iii) is or becomes available to receiving party on a non-confidential basis from a source (other than disclosing party) which is not prohibited from disclosing such information to receiving party by any legal, contractual or fiduciary obligation; or (iv) is information that was already known by receiving party, so long as receiving party can demonstrate, by written records, that such information had been in receiving party's possession prior to receipt of the Confidential Information by receiving party. To the extent the receiving party is legally compelled to disclose Confidential Information, then the receiving party shall notify the disclosing party as soon as reasonably practicable.

15. **Force Majeure.** Neither party shall be liable to the other for any delay or failure in

performing its obligations under an Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event").

Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, pandemic, epidemic, war, invasion, hostilities, terrorist acts, riots, or embargoes. Notwithstanding the foregoing, Force Majeure Events expressly excludes the following: (a) any event that a party could reasonably have prevented by quality assurance, disaster recovery or other testing consistent with industry practices; and (b) any event where a party could have implemented a reasonable work around to prevent such loss, damage, delay or failure in performing its obligations hereunder. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than thirty (30) business days, Buyer may terminate an Order immediately by giving written notice to Seller.

16. **Governing Law; Venue.** These Terms, any Order, and any related documents shall be governed by and construed in accordance with the laws of the State of California. With the exception of injunctions other equitable relief for which the parties may seek remedies in court, any controversy or claim arising out of or relating to an Order or related documents, or any breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Any such arbitration shall be held in Orange County, California. The prevailing party shall be entitled to reimbursement from the non-prevailing party of all costs associated with the arbitration or court action, including the recovery of all reasonable attorneys' fees and/or arbitrator's fees and costs.

17. **Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the

addresses set forth on the face of an Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in an Order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

18. **Miscellaneous.** These Terms constitute the entire agreement of the parties hereto relating to the matters discussed herein and may be amended or modified only by a written agreement duly executed by the parties hereto. No change to an Order is binding upon Buyer unless it is in writing, specifically states that it amends such Order and is signed by an authorized representative of Buyer. Notwithstanding the above, the Buyer reserves the right at any time to issue a written change order or amendment to an Order concerning any of the following: (a) specifications and data incorporated in an Order where the Goods to be furnished are custom and specifically manufactured for the Buyer; (b) quantity; (c) methods of shipment or packaging, (d) Delivery Location, (e) Delivery

Date; or (f) any other matters affecting an Order. Seller shall not assign, transfer, delegate, or subcontract any of its rights or obligations under an Order without the prior written consent of Buyer, which may be withheld in Buyer's sole discretion. Any failure by either party to enforce the other party's strict performance of any provision of these Terms will not constitute a waiver of its right to subsequently enforce such provision or any other provision of these Terms. The rights and remedies under an Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. Nothing in these Terms shall be construed to give rise to a relationship between the parties hereto as a joint venture or partnership or other relationship other than that of independent contractors. In the event that any portion of these Terms is held invalid or unenforceable for any reason, said invalidity or unenforceability shall not affect the other portions of the Terms, and the remaining portions thereof shall remain in full force and effect. Provisions of an Order which by their nature should survive beyond the expiration or earlier termination of an Order will remain in force after such expiration or earlier including, but not limited to, Sections 10-18 of these Terms. By fulfilling any Order, Seller hereby expressly agrees to and is bound by these Terms.