

Ovidium, LLC Terms & Conditions of Sale

Parties

“Seller” means Ovidium, LLC and any of its subsidiaries, affiliates, successors, or assignees or other entity selling Products under any agreement or in response to a Purchase Order (“Order”) to which these terms and conditions apply. “Buyer” means the purchaser of such Products Seller under these terms and conditions of sale. “Wholesale Trade” means when a retailer such as Buyer buys a product from a manufacturer or distributor such as Seller for eventual resale to Consumers. “Consumer” means an individual who obtains from the Buyer, through a transaction, the Products which are used primarily for personal, family, or household purposes.

Sales

By placing an order with the Seller, Buyer is representing that it is not a Consumer, and that Buyer is in the business of purchasing Products from Seller for the purpose of Wholesale Trade. Products are sold by Seller to Buyer with the understanding that they will be used for their intended purpose. No responsibility will be accepted by the Seller for Products used or sold by Buyer to Consumers that are not used for their intended purpose or that are mis-used. It is Buyer’s responsibility to ensure that it is insured for the sale and use of Seller’s Products to Consumers.

Purchase Order

Buyer shall issue all Purchase Orders or Orders to Seller in written form via facsimile, email, US mail or any other process reasonably specified by Seller. By placing an Order, Buyer makes an offer to purchase Products under these terms and conditions, and on no other terms. Any variations made to these terms and conditions by Buyer in any Order are void and have no effect. Seller may, in its sole discretion, without liability or penalty, cancel any Purchase Order placed by Buyer and accepted by Seller. THESE TERMS AND CONDITIONS CONSTITUTE THE ONLY TERMS AND CONDITIONS UPON WHICH SELLER IS WILLING TO SELL THE PRODUCTS IDENTIFIED ON ANY BUYER ISSUED ORDER TO THE SELLER AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS CONTAINED IN ANY DOCUMENT SUBMITTED BY BUYER TO SELLER.

Prices and Payment Terms

Buyer shall purchase the Products from Seller at the prices set out in Seller’s price list in effect when the Seller accepts the Order. Seller shall issue an invoice to Buyer for all Products ordered by Buyer. Buyer shall pay all invoiced amounts due to Seller immediately upon receipt of the invoice.

Force Majeure

Seller shall be entitled to cancel or delay delivery of orders to Buyer if it is delayed, hindered or prevented through circumstances beyond its control. Such circumstances shall include, but are not limited to, acts of God, fire, explosion, vandalism, storm, flood or other similar catastrophes; any law, order, regulation, direction, action or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over either of the parties or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more said governments, or of any civil or military authority; national emergencies; insurrections; acts of terrorism; riots; wars; strikes; lock-outs, work stoppages or other labor difficulties.

Limited Warranty and Exclusion of Liability

All Products are guaranteed according to the manufacturer's warranty. Any faulty Products sold by Seller to Buyer which are still under the manufacturer's warranty must be reported in writing by Buyer to Seller and a video of the product must be sent to Seller demonstrating how the product is defective. Once the Products are received by Seller, if Seller determines in its sole discretion that the product's is defective and has not been misused by Buyer or Consumer, Seller will ship a replacement product to the Buyer with their next order or credit their account. Replacement of the Product is the sole exclusive remedy in the circumstances of a Product defect. If a Product is replaced that is still under warranty, the Buyer and/or Consumer does not receive a new warranty when it receives a replacement. Under all circumstances, Seller's aggregate liability for any claims or damages arising of or resulting from the sale of any product to Buyer shall not exceed the revenue it receives from the sale of the product which gave rise to the claim during the warranty period. Notwithstanding anything in these terms and conditions, SELLER WILL NOT BE LIABLE TO BUYER OR ANY CLAIMS MADE BY BUYER'S CUSTOMER OR CONSUMER FOR ANY INDIRECT, LIQUIDATED, INCIDENTAL, SPECIAL, EXEMPLARY, PUNATIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF REVENUE OR ANY OTHER DAMAGES CLAIMED BY BUYER'S COSTOMER OR CONSUMER.

Trademarks

During the Term of this Agreement, Buyer is authorized to use Seller's trademarks for the Products in connection with Buyer's advertisement, promotion and distribution of the Products. Buyer acknowledges that Seller owns and retains all trademarks, copyrights and other proprietary rights in the Products, and agrees that it will not at any time during or after the termination of this Agreement seek to register any trademark, trade name, copyright or other proprietary right or assert or claim any interest in or take any action which may adversely affect the validity or enforceability of any trademark, trade name, trade secret or copyright of Seller.

Proprietary Rights

Buyer agrees to use reasonable efforts to protect Seller's proprietary rights and to cooperate in Seller's efforts to protect its proprietary rights. Buyer agrees to notify Seller of any known or suspected breach of Seller's proprietary rights and to cooperate with Seller without making any charge therefore in any action by Seller to investigate or remedy an infringement of such rights.

Alteration

Neither Buyer nor its employees and agents, will, without Seller's prior written consent, alter any of the Products or remove, alter, obliterate, or may any notice or legend of Seller's copyrights, trademarks or trade secrets.

Indemnification

Seller and Buyer will defend, indemnify and hold the other harmless from any claims, suites, proceedings or actions arising out of the gross negligence or willful misconduct of itself or it's employees. All liability will be apportioned in relation to the fault of Seller, Buyer or any third-party which might be liable.

Change to these Terms and Conditions

Seller may, from time to time and in its sole discretion, modify these terms and conditions as well as any other terms and conditions of the Order. All modifications shall be effective upon their publication on Seller's website. It is Buyer's responsibility to review Seller's website for such modifications on a frequent basis. If Buyer continues to purchase or take delivery of Products from Seller following any such modification, such will be deemed acceptance of such modification by Buyer. Any modifications requested by Buyer to any of the terms and conditions of the Order must be approved in writing by Seller.

Severability and Survival

These terms and conditions are severable and if any terms and conditions or portions of any terms and conditions are stricken or declared illegal, invalid, or unenforceable for any reason whatsoever, the legality, validity or enforceability of the remaining terms and conditions will not be affected thereby.

Applicable Law

All matters relating to Buyer's purchase of the Goods will be construed in accordance with and governed by the laws of the State of Michigan.

Assignment

The Purchase Order may not be assigned or subcontracted by Seller without the Buyer's prior written consent.