

AU NATUREL (CANADA), INC.  
TERMS AND CONDITIONS OF SALE AND DISTRIBUTION

These terms and conditions of sale and distribution (the “Terms and Conditions”) constitute the terms and conditions of sale between Au Naturel (Canada), Inc., a Delaware corporation (“Company”) and the party (i) identified on the face hereof or in any separate distributor agreement or appointment letter signed by Company (“Distributor Agreement”) as a “distributor” or “customer” or (ii) who is identified as the buyer or purchaser in any order submitted to Company (“Customer”) and, together with any Distributor Agreement, constitute the entire agreement of the parties relating to the subject matter herein and supersede all prior discussions and agreements between them regarding the purchase, promotion, marketing, sale and distribution of Products. Along with any Distributor Agreement, these Terms and Conditions shall govern Customer’s purchase of products manufactured or supplied by or for Company or its affiliates (“Products”) (unless Company supplies updated terms and conditions in connection with or prior to such future transaction(s), in which case such updated terms and conditions shall govern). Any conflicting or additional terms or conditions contained in any of the Customer’s purchase orders, acknowledgments or any other document or communication to the contrary shall have no force and effect and not be binding. Customer is not an agent, partner, joint venturer or employee of Company.

**1. Terms of Sale.**

**a. Prices and Discounts.** Sales to Customer are made at such prices and at such discounts as may be established by Company from time to time and which are in effect at the time an order is placed. In the event of discrepancies between published prices (including prices in catalogues such as NutraGuide, NutraDisk, Easy Order) and prices or discount levels that appear on the order verification, the price appearing on the order verification shall be applied. Company will use commercially reasonable efforts to provide at least 60 days’ advance notice to Customer of changes to the price of Products.

**b. Term.** Unless agreed to by the parties otherwise in a Distributor Agreement, to the maximum extent permitted by applicable law, the term of the parties’ relationship is at will and may be terminated by either party upon not less than 90 days’ written notice. Upon termination of the relationship between the parties, Customer shall not be entitled to any termination or separation payment or fee of any kind from Company, nor to any fee or payment in lieu of notice.

**c. Product and Pricing Changes.** Company has the right to revise discounts and prices of Products and to reformulate, discontinue, change or introduce additional Products and/or brands that Customer is authorized to purchase. Particular ingredients within the Products, and even any specific Product, may not be available for sale or export to the Customer’s agreed upon country, region, or geographic area (the “Territory”) or into specific channels of commerce in which the Customer may distribute products (the “Distribution Channel(s)”), and Company does not guarantee that all Products are available for export to the Territory. If Company becomes aware of any such limitations or restrictions, it may, in its sole discretion, terminate Customer’s right to purchase and/or distribute such Product(s) upon written notice to Customer. Company will use commercially reasonable efforts to provide at least 60 days’ advance notice to Customer of changes to the formula or labels of Products; provided, that Company shall have no liability of any kind for its inability or failure to provide such advance notice. Except as set forth hereunder, all sales are final. Without express written consent of Company, to the maximum extent permitted by applicable law Customer may not promote, market or resell Products outside any assigned Territory or Distribution Channel(s).

**d. Sub-Distributors and E-Commerce.** To the maximum extent permitted by applicable law, unless approved by Company in writing (which permission may be withheld at the Company’s sole discretion), Customer shall not (i) appoint any sub-distributors or resellers for the sale of Products, (ii) sell or transfer any Product outside the Territory or to any person or entity that will resell the Products outside the Territory, or (iii) sell the Products on or to an online platform (including a third-party online marketplace such as Amazon) (“Third-Party Marketplace”) or to any person or entity that resells the Product on or to a Third-Party Marketplace, whether inside or outside of the Territory. Company’s consent shall not relieve Customer of its obligations under these Terms and Conditions and any Distributor Agreement, and Customer shall remain fully responsible and liable for the performance of each of its sub-distributors and their employees and agents and for their compliance with all of the terms and conditions of these Terms and Conditions and any Distributor Agreement. Nothing contained in these Terms and Conditions and any Distributor Agreement shall create any contractual relationship between Company and any sub-distributor. Customer shall require each sub-distributor to be bound by a written agreement with terms and conditions consistent with those contained herein and any Distributor Agreement, including those respecting confidentiality, intellectual property and compliance with law, including all anti-corruption laws, regulations, statutes, and orders, including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act of 2010 (together, “Anti-Corruption Laws”) and all economic sanctions, laws, regulations, statutes, and orders, including, without limitation, the economic and financial sanctions administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security of the U.S. Department of Commerce, the European Union and any relevant European Union Member State, and HM Treasury of the United Kingdom; export, import, re-export, and transfer controls; and U.S. anti-boycott requirements (together, “Trade Control Laws”).

**2. Order and Acceptance.** No order will be binding until accepted by Company. As condition to acceptance, Company may require that Customer verify an order by signing the Company's Order Verification form, without modification, submitted to the Company's headquarters. Company will have no liability for purchase orders that are not verified and accepted. Company may establish minimum Product order quantities. Once Order Verification has been received by Company, Customer may only change or cancel the order with the Company's written consent, which may require the Customer to pay a change fee or cancellation fee equal to the greater of \$350 or up to 20% of the invoice value of the order except where the order is custom or country specific, in which case the cancellation fee may equal to the entire amount of the cancelled order.

**3. Payments.** Unless a line of credit has been established in writing, full payment is due PRIOR TO SHIPPING BY COMPANY by check, wire transfer, credit card or sight Letter of Credit acceptable to Company. To establish credit, a completed credit application may be required. If credit terms are granted, Company will not be required to make any shipment until payment is made consistent with the terms hereof and may suspend shipments or order fulfillment if any prior orders have not been paid on time. All payments will be in U.S. dollars, and interest will accrue and be due and owing on any past due amounts at a rate equal to the lower of 1.5% per month (i.e., rate of 18% per year) or the highest rate legally permitted, even if not shown on the invoice. Customer will pay all of the Company's costs and expenses (including attorneys' fees, court costs and collections costs) incurred to collect any amounts owing Company.

**4. Shipping.** Products will be suitably packed for shipment in Company's standard shipping cartons and shall be delivered to Customer EXW-Ex-Works at Company's shipping dock, unless otherwise specified by Company. Customer shall be responsible for clearing the Products for export. Shipping terms may be revised upon written notice to Customer. Company shall pay for transport or credit Customer the cost of transport from its shipping dock to Customer's shipping agent located in the United States (the "Shipping Agent") for orders over \$250; Customer is responsible for any and all transport costs for orders less than \$250. If requested by Company, Customer shall pay for all export documentation, clearance and export license fees and taxes, if applicable, as well as any special packaging required for exporting the Products. Except as previously set forth, all freight, insurance and shipping expenses shall be Customer's sole responsibility. Notwithstanding the foregoing, Customer shall be responsible for all costs when orders are shipped directly to an address outside the United States, regardless of order size.

## **5. Intellectual Property.**

**a. Use.** If the parties have entered into a Distributor Agreement, Customer may indicate that it is an authorized distributor of Products in the Territory, and may advertise the Products under the trademarks, trade names and service marks that are found on the labeling of the Products or are otherwise designated by Company as being applicable to the Products (along with Company's brands, herein referred to as the "Trademarks") for the specific Products on which such Trademarks are found. Customer shall not alter or remove any Trademarks. Customer shall obtain prior written approval from Company for use of any of the Trademarks, including any of the Company brands, as part of any website domain names or URLs.

**b. Rights.** Except as specified in Paragraph 5(a) above, Customer shall not have any right, title, or interest in any Trademarks. All Customer use of Trademarks shall inure to the Company's sole benefit. All Customer use of the Trademarks will comply with the Company's usage guidelines, as specified from time-to-time. Customer shall not challenge or assist others in challenging any Trademarks or the registration thereof or attempt to register any trademarks or trade names in conflict with or confusingly similar to the Trademarks in any jurisdiction. Notwithstanding the foregoing, one or more of Company's vendors may now or in the future limit Company's rights to distribute such vendor's ingredients and/or products outside the U.S. In such event, Customer shall cooperate with such requests or demands as the Company may make in order to respond to such limitations, including ceasing to use particular names or Trademarks or even ceasing distribution of specific ingredients or Products.

**c. Assignment of Rights.** Customer shall at the request of Company, without any additional consideration to Customer, execute such documents and instruments and/or take such other actions as may be necessary or desirable to transfer to Company any right, title or interest which Customer may acquire in any Trademark, other intellectual property right, or any product Registrations (as defined in Section 21 below). To the greatest extent legally permitted, Customer hereby constitutes and appoints Company to act as Customer's attorney with full power to assign such Registrations or rights to Company.

**6. Risk of Loss and Delivery: Title.** Title and liability for loss or damage passes to Customer when Company makes the Products available for pickup by Customer at Company's dock. Company will use commercially reasonable efforts to supply Products ordered by Customer in quantities and at times requested by Customer; provided that shipping and delivery dates are approximate only. *Company shall not be liable for any loss or expense (consequential, incidental or otherwise) incurred by Customer (or any of its customers) if Company fails to meet such dates for any reason.* Customer shall pay for all freight costs if a shipment or package is refused and returned to Company.

## **7. Background Checks; Conflicts.**

**a. Background Checks.** Company may, prior to and/or after commencement of any activities under these Terms and Conditions or under any Distributor Agreement, to the greatest extent legally permitted, obtain consumer and/or investigative reports (“Background Checks”) from one or more consumer and or other reporting agencies for the background investigation about personnel who engage in promotion, marketing, advertising, sales and/or distribution activities under these Terms and Conditions or any Distributor Agreement. If so requested by Company, Customer shall obtain from each such individual written consent to a Background Check by Company, and promptly forward a copy of such consent to Company. Customer understands that these Background Checks might include, but are not limited to, a search of each individual’s criminal background, prior employment, educational background, reference checks, driving record checks, and verification of identification and Social Security number. Customer understands that these Background Checks may, if requested by Company, be renewed on an annual basis. Company acknowledges that the Background Checks contain sensitive personal data, and Company will only use and disclose such data for purposes connected with these Terms and Conditions or any Distributor Agreement. Customer understands that Company may retain such data for the duration of any Distributor Agreement and in accordance with any applicable laws or regulations.

**b. Conflicts.** Neither Customer nor its officers, directors, owners, employees, sub-distributors, representatives or agents has knowledge of any existing or potential interest in conflict with the promotion, marketing, advertising, sale and/or distribution of Product or any other aspect of these Terms and Conditions or any Distributor Agreement that would: (i) affect its performance under Terms and Conditions or any Distributor Agreement; (ii) affect any other aspect of Terms and Conditions or any Distributor Agreement; (iii) violate any law or regulation; or (iv) create any appearance of impropriety (all of which are hereinafter collectively referred to as “Conflict”). If Customer becomes aware of such Conflict during the term of Terms and Conditions or any Distributor Agreement, it will promptly bring the matter to the attention of Company, and the parties will work together to reach a mutually satisfactory resolution; if such mutually satisfactory agreement cannot be reached within a reasonable period of time (not to exceed ten (10) business days after first notice, unless mutually agreed), the Company may terminate these Terms and Conditions and any Distributor Agreement without further notice. Customer shall inform Company of any other brands that it sells and/or distributes and shall provide Company with at least annual updates or, if Distributor has entered into a Distributor Agreement, via its annual reporting requirement as outlined therein, of any additional brands Distributor may carry.

**8. Taxes.** Customer’s purchase price does not include any federal, state, provincial, local or other taxes or fees that may be applicable to the sale or shipment of the Products, all of which shall be the sole responsibility of Customer. If Company elects to pay the same on Customer’s behalf, or is otherwise required to pay the same or withhold the same, Company may either require prepayment of the same, or add such taxes or fees as a line item on its invoice or process a direct charge to Customer’s account, and in any case, upon demand, Customer shall reimburse Company for the same on the terms described in Paragraph 3 above. Alternatively, Company may increase Customer’s purchase price to such amount as to ensure that Company receives net an amount equal to the full amount required to be paid hereunder.

**9. Inspection of Products.** Customer shall inspect all Products promptly upon receipt. Any Products that fail in a material way to meet applicable specifications that are not rejected in writing within 30 calendar days of receipt shall be deemed accepted. Customer must contact Company and obtain Company’s prior written authorization before returning any Products. Customer will be responsible for all shipping charges for any Products that have been improperly rejected or returned without authorization. In no event shall Company be liable for any repair, replacement or shipment of Products which have been damaged or abused by Customer or its agents.

**10. Returns and Credits.** No Products may be returned for credit, even if properly rejected, without prior written authorization of Company. At Company’s option, a restocking fee and/or handling charge of up to 40% may be assessed on returned shipments (other than for properly rejected Products), including refused shipments. Products that have been opened or have had stickers or additional labels of any kind applied will not be accepted for return. No expired Product or Product with less than 12 months’ of shelf-life may be returned under any circumstances. No credits may be taken by Customer without the express written consent of Company. Company will not authorize credit for any Products that have been destroyed or discarded by Customer unless such action has been approved in writing by Company.

**11. Warranty and Disclaimer.** Company warrants that the Products, when shipped, contain the ingredients in the amounts specified on the labels thereof, subject to any standard deviations or overages permitted by good manufacturing practices. COMPANY HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS, THEIR FITNESS FOR ANY PURPOSE, THEIR QUALITY, OR THEIR MERCHANTABILITY. TO THE GREATEST EXTENT LEGALLY PERMITTED. IN NO EVENT WILL COMPANY BE LIABLE TO CUSTOMER OR ANY OTHER ENTITY OR PERSON FOR ANY LOST PROFITS OR INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE, AND WHETHER OR NOT CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ADDITIONALLY, IN NO EVENT SHALL COMPANY BE LIABLE FOR THE COST OF PROCUREMENT FROM THIRD PARTIES OF ANY SUBSTITUTE GOODS. TO THE GREATEST EXTENT LEGALLY PERMITTED, THE CUMULATIVE LIABILITY OF THE COMPANY FOR ANY AND

ALL CLAIMS OR DAMAGES ARISING FROM OR RELATING IN ANY WAY TO THESE TERMS AND CONDITIONS OR ANY DISTRIBUTOR AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CAUSE OF ACTION SOUNDING IN BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE, SHALL NOT EXCEED THE TOTAL CASH AMOUNT PAID BY CUSTOMER TO COMPANY DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT, ACT OR OMISSION GIVING RISE TO SUCH LIABILITY. Customer agrees to store or arrange for storage of the Products in suitable conditions, including but not limited to those special storage conditions indicated on the labels, which may require storage in a cool, dry place or refrigerated. In no event will Company accept returns or issue credits for Products deemed to have been stored in unsuitable conditions, whether damage or degradation is caused by excessive heat, humidity, light or other problem.

**12. Indemnification.** Customer shall defend, indemnify and hold Company and its affiliates, and its and their respective directors, officers, employees, representatives and agents harmless from any and all actions, suits, proceedings, awards, judgments, claims, losses, damages, fines, penalties, costs and expenses (including reasonable attorneys' fees) attributable to Customer's breach of these Terms and Conditions or any Distributor Agreement or to any negligent, grossly negligent, willful or unlawful acts or omissions of Customer, its employees, officers, agents, sub-distributors or representatives.

**13. Security Interest.** Company hereby reserves a security interest in the Products until the purchase price has been paid in full, foreclosable in accordance with applicable law.

**14. Contingencies.** Company shall not be liable for any delay in performance or for nonperformance in whole or in part caused by the occurrence of any contingency beyond the control of either Company or Company's suppliers.

**15. Requirements of Law.** Customer shall not make any representations, warranties or guarantees with respect to the specifications, features or capabilities of the Products that are inconsistent with the labeling and documentation accompanying the Products and these Terms and Conditions, including, without limitation, the disclaimer of warranties contained herein, that are contrary to the applicable law, or that are false or misleading. Customer shall be solely responsible for, and shall comply with, all laws and regulations of any state or province or country into which the Products are sold by Customer, or into which Customer knows or should know the Products will be shipped or sold by Customer or its customers, including, without limitation, those that address (i) labeling of products and disclosure of content, or required or permissible product content, (ii) import and export licenses and permits, customs charges and duty fees, (iii) marketing, sales, distribution and pricing of products, and (iv) registrations and approvals which may be required or necessary to market, sell or promote the Products.

**16. Governing Law.** The validity, construction and performance of these Terms and Conditions and any Distributor Agreement and the transactions to which they relate shall be governed by the substantive laws of the State of Utah, U.S.A., without regard to conflict of law principles that would otherwise apply the substantive law of any other jurisdiction. Except as otherwise expressly set forth in these Terms and Conditions or any Distributor Agreement, any suit, dispute, claim, demand, controversy or cause of action of every kind and nature whatsoever, known or unknown, fixed or contingent, that Company or Customer may now have or at any time in the future claim to have based in whole or in part, or arising from or that in any way is related to the negotiations, execution, interpretation or enforcement of these Terms and Conditions or any Distributor Agreement (collectively, the "Disputes") shall be exclusively, solely, completely and finally settled by submission of any such Disputes to binding arbitration under the Rules of Conciliation and Arbitration of the International Chamber of Commerce then in effect, before a single arbitrator appointed in accordance with said Rules, excepting those Disputes which would cause immediate and irreparable injury to Company, in which case Company shall be entitled to seek injunctive relief and any or all other remedies applicable at law or in equity in any court of appropriate jurisdiction. Unless the parties specifically agree otherwise in each instance, the arbitration proceedings shall take place in Salt Lake City, State of Utah, USA, and the arbitrator shall apply the substantive law of the State of Utah, USA, to all issues in dispute. All arbitration proceedings hereunder shall be conducted in English. The findings of the arbitrator shall be final and binding on the parties. Judgment on such award may be entered in any court of appropriate jurisdiction, or application may be made to that court for a judicial acceptance of the award and an order of enforcement, as the party seeking to enforce that award may elect. Notwithstanding any applicable rules of arbitration, all arbitral awards shall be in writing and shall set forth in particularly the findings of fact and conclusions of law of the arbitrator.

**17. Benefits.** The benefits and rights which accrue to Company hereunder, but not the obligations or liabilities, shall, at the option of Company, be deemed to run to and be for the benefit of any of the Company's affiliates, subsidiaries and/or parent entities.

**18. Severability.** If any provision of these Terms and Conditions or any provision of a Distributor Agreement between the parties is held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the other provisions of Terms and Conditions or the Distributor Agreement, as the case may be, shall not be affected, and there shall be deemed substituted for the provision at issue a valid, legal, and enforceable provision as similar as possible to the provision at issue.

**19. UN Convention.** The UN Convention on Contracts for the Sale of International Goods is hereby excluded from application to these Terms and Conditions and any Distributor Agreement.

**20. Language.** The language of these Terms and Conditions is expressly stipulated to be the English language, and any amendments, modifications, notices or other communications provided in connection with these Terms and Conditions shall be in English.

**21. Registrations or Notifications.** In the event registration or notification of any Product(s), trademark(s), brand(s) or domain name(s) that include any of the same ("Registration") is required, advisable or pursued, Customer shall obtain the written consent of Company prior to initiating any such process. All such Registrations shall be in the name of Company or an affiliate of Company unless applicable law requires that Customer apply for and hold the Registrations, in which case prior to proceeding, Customer must contact Company and obtain Company's prior written consent to proceed. Regardless of whether such consent is obtained, Customer agrees that if it has ever held or applied for or ever does hold or apply for and hold the Registrations solely on behalf of and as a nominee for Company, upon receipt of any such Registrations and/or related documentation, Customer shall provide copies to Company, Company shall be the beneficial owner of all such Registrations, neither Customer nor any of its officers, directors or representatives shall claim or assert any right, title or interest in such Registrations, and upon request from Company, all such Registrations shall be transferred to Company or one of its affiliates or a designee of Company's choice. Company may use Customer's import or storage facilities on any registration documentation, and is hereby authorized to undertake any other activities or actions or file any documents necessary so that the Registrations can be in the name of the Company or its designee. Customer shall bear all costs associated with Registrations which it undertakes unless Company agrees otherwise with Customer. Should Customer fail to prepare, file or sign appropriate transfer documents within thirty (30) days of request, then Company may and is hereby granted an irrevocable power of attorney, properly notarized and/or authenticated in the Territory, to act as Customer's attorney with full power to assign such registrations (and any rights therein) to Company or Company's designee. Distributor shall upon receipt provide copies of all product Registrations and related documentation to Company. Regardless of the foregoing, to the greatest extent legally permitted, the Company shall own all such product Registrations and Customer shall not claim any right, title or interest in such Product Registration. Customer shall bear all costs associated with Product Registration unless mutually agreed in writing in advance, on a case-by-case basis.

**22. Compliance with Product Approvals.** Customer shall market, advertise, promote and sell the products in conformity with: (i) required or advisable product Registrations obtained pursuant to Paragraph 21 above, and (ii) all Territory and other local regulations, laws and practices. Customer shall be solely responsible for compliance with, and shall advise Company of, any applicable laws and regulations of the Territory regarding: (i) the labeling and marketing of Products, including any translations, claims or representations made on the label or via any promotional or marketing materials whether such materials are hardcopy or electronic; (ii) required disclosures regarding Product contents; and (iii) Customer's responsibilities hereunder. Company must review and preapprove any modifications, alterations, or other changes Customer plans to make to a product label, whether via a sticker or through any other means. Customer shall be solely liable for any such modifications, alterations or other changes made to a product label, even if Company reviewed and approved such changes.

**23. Documentation.** Company will use commercially reasonable efforts to provide Customer with documentation for the purposes of product compliance and approval as defined by local government agencies and officials (see Paragraph 21 above), it being understood that in some cases such documentation may not be available and/or may be too costly to obtain or produce. Company shall have no liability of any kind for its inability or failure to provide requested or required documents.

**24. Anti-Corruption Laws and Trade Control Laws Compliance.** Customer shall take no action that is inconsistent with the Company's Code of Ethics and Anti-Corruption and Trade Controls Policy, which can be found at: [www.Nutraceutical.com/company/ethics](http://www.Nutraceutical.com/company/ethics), as amended from time to time, and in particular the requirements of Sections 1 and 2 entitled, respectively, "Compliance" and "Anti-Corruption Laws and Trade Control Laws". Failure of the Customer to fully comply with the foregoing shall be a material breach of these Terms and Conditions, and the Company shall have the right to terminate these Terms and Conditions and any Distributor Agreement upon any breach of this Paragraph 23 (which shall be determined by the Company in its sole discretion). Customer agrees to indemnify and hold harmless the Company for any such breach, consistent with Customer's obligations under Paragraph 12 above.

**25. Insurance.** Customer shall, at its own expense, secure and maintain throughout Company and Customer's relationship, and for at least three (3) years after termination of these Terms and Conditions and any Distributor Agreement, general liability insurance with reputable companies qualified to do business in the Territory in amounts commercially reasonable and consistent with the liability and risk faced by Customer and Company. Prior to commencement of distribution activities, Customer shall furnish to Company certificates and required endorsements evidencing such insurance, including designating Company as an "additional insured" under all such policies. The insurance coverages and limits maintained by Customer shall be primary to insurance coverage maintained by Company. These insurance requirements shall not in any way limit or cap Customer's indemnification or other obligations under these Terms and Conditions or any Distributor Agreement. Company reserves the right to require minimum coverage amounts based on input from its insurers and their agents and brokers.

**26. Independent Contractors.** The relationship of Company and Customer is that of independent contractors and Customer shall not be an agent or employee of Company for any purpose whatsoever. Nothing herein shall be deemed to: (i) give Customer the

power to control the activities of the Company, (ii) constitute the parties as partners, joint venturers, or co-owners, or (iii) allow Customer to create or assume any obligation on behalf of Company. All financial obligations associated with Customer's business are the sole responsibility of Customer.

**27. Miscellaneous.** Customer acknowledges and agrees that any failure on the part of Company to enforce at any time or for any period of time, any of the provisions of these Terms and Conditions or any Distributor Agreement shall not be deemed or construed to be a waiver of such provision(s) or of the right of Company thereafter to enforce each and every provision. The provisions of these Terms and Conditions or any Distributor Agreement that will not be fully performed during the term of these Terms and Conditions and any Distributor Agreement shall survive the termination of these Terms and Conditions or any Distributor Agreement to the extent applicable, including without limitation those respecting confidentiality, intellectual property, limitations of liability, insurance, indemnification, background checks, compliance with law, and payment for delivered Products. The Company's performance under these Terms and Conditions and any Distributor Agreement, including all transactions and orders accepted by Company under these Terms and Conditions and any Distributor Agreement, is subject to labor disputes, accidents, delays in manufacture or in transportation or delivery of services or materials, Acts of God, embargoes, governmental actions, curtailments or shortages of energy, utilities, materials, labor or transportation facilities, acts of war or terrorism, or any other cause beyond the reasonable control of Company, and Company shall not be liable to Customer or Customer's customers or sub-distributors for failure of the Company to perform in such circumstances. In the event of a scarcity in any of its Products for whatever cause, Company may allocate its available supply as it sees fit, regardless of the time of receipt or acceptance of orders or quantity or orders on hand. These Terms and Conditions do not grant Customer any exclusive rights to purchase, promote, market, sell or distribute the Products in any particular territory. Customer shall only distribute products within any Territory or Distribution Channel(s) authorized by the Company. If Company becomes aware that Customer is distributing products outside of any authorized Territory and/or Distribution Channel(s) then Company may terminate these Terms and Conditions, any Distributor Agreement and/or Customer's right to purchase products. Nothing herein shall limit or restrict Company's rights to (1) sell Products to any other customer or entity, including in the Customer's Territory or the Distribution Channel(s), or (2) establish Company's own purchasing, promotion, marketing, sales, and/or distribution operations in the Territory at any time, including concurrently with sales of Products hereunder.