

TERMS AND CONDITIONS.

VitaJuwel USA, Inc.

1. ACCEPTANCE OF TERMS.

Please read the following Terms and Conditions Agreement (“TAC Agreement”) carefully. By placing an order with VitaJuwel USA, Inc. (“VitaJuwel” or “Seller”), a corporation duly organized and existing under the laws of the state of California, with its principal place of business at 5106 Holborn Way; San Ramon, CA 94582 you (hereinafter referred to as “You”, Your(s)” or “Buyer”) are deemed to accept this TAC Agreement and agree to be bound by the terms and conditions contained therein. Buyer and Seller are collectively referred to as “Parties” and each is a “Party”.

2. DEFINITION OF PRODUCT.

The term “Product” means those items for which Buyer issues to Seller a Purchase Order (as hereinafter defined) during the term of this Agreement.

3. ISSUANCE OF PURCHASE ORDERS.

Buyer may issue Purchase Orders to Seller from time to time. Each Purchase Order must contain a description of the products ordered, the quantities, the unit price and the place of delivery. Every Purchase Order issued by Buyer to Seller following the effective date of this Agreement will be governed by and be considered to include the provisions of this TAC Agreement. In the event of inconsistencies between the terms and conditions of this TAC Agreement and the terms of a Purchase Order, the terms and conditions of this TAC Agreement will prevail, except if, and only to the extent as, otherwise agreed to in writing between the Parties.

4. TERM.

The term of this TAC Agreement for purposes of Purchase Order placement commences when Buyer issues its first Purchase Order to Seller and continues for a period of one (1) year. This TAC Agreement is renewable automatically for one (1) year unless either Party at least thirty (30) days before the end of any one-year period, gives the other Party written notice of its intent not to renew.

5. CANCELLATION FOR CAUSE.

A. Either Party may cancel this TAC Agreement in the event the other Party is in default of any of the material

provisions of this TAC Agreement or is in default under any order, and the default is not cured within thirty (30) days of receipt by the other Party of written notice from the Party giving notice specifying the nature of the default and corrective action that may be taken, if any.

- B. In the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency law, Seller is entitled to cancel any order then outstanding and will receive reimbursement for the reasonable and proper cancellation charges accrued by Seller.
- C. In the event of insolvency as defined by the Uniform Commercial Code in effect in California, any act of bankruptcy, whether voluntary or involuntary, or any insolvency proceedings instituted by or against Buyer, Seller may refuse delivery of the goods covered by this TAC Agreement except for cash, including payment for all goods already delivered under the TAC Agreement, and Seller may stop delivery of goods in transit.
- D. On default by Buyer, Seller has the option of refusing to perform further under this and any other existing agreement between the Parties that Seller may elect, and Seller may rescind any agreements between the Parties and hold Buyer liable for all resulting damages and losses, or of reselling, at public or private sale, undelivered goods covered by this and any other existing agreement between the Parties that Seller may elect. Seller is not liable to Buyer for any profit on any resale, but Buyer remains liable to Seller for the difference between (1) the Agreement price of the goods, plus all expenses and charges for the account of Buyer specified in this Agreement and all expenses of storage and resale, and (2) the resale price of the goods.

6. TERMINATION AND TERMINATION CHARGES

- A. Buyer may terminate an order under a Purchase Order number in whole or in part at any time by written notice to Seller that states the extent and effective date of the termination. On receipt of the termination notice, Seller must, to the extent directed by Buyer, stop work under the order, and take any necessary

action to protect property in Seller's possession that belongs to Buyer or in which Buyer has an interest. However, Buyer shall be liable for any termination charges as outlined in this paragraph.

B. Upon receipt of a Purchase Order from Buyer, Seller shall forward to Buyer a Purchase Order Confirmation specifying the terms of delivery and payment provisions together with a request for an advance payment of no less than fifty percent (50%) of the total Purchase Order amount (exclusive of applicable taxes, shipping and handling charges), or as otherwise agreed in writing between the parties.

C. Termination charges

Buyer shall be liable to Seller for the following termination charges which are based on the total Purchase Order amount (exclusive of applicable taxes, shipping and handling expenses, unless otherwise specified):

- (i) if terminated after Seller has sent its Purchase Order Confirmation to Buyer, but before payment of the 50% advance payment: twenty-five percent (25%);
- (ii) if terminated after payment of the fifty percent (50%) advance payment, but before the Product has left Seller's facility: one hundred percent (100%) of the advance payment received by Seller from Buyer;
- (iii) if terminated after the Product has left Seller's facility: one hundred percent (100%) of the total Purchase Order amount, inclusive of applicable taxes, shipping and handling expenses.

7. PACKING, SHIPPING, PRICING, AND PAYMENT.

- A. All items must be suitably packed, marked, and shipped as designated by Buyer, or, in the absence of a designation with UPS standard ground service or a comparable service of another carrier unless otherwise specified and requested by Buyer. Buyer shall bear all shipping costs.
- B. Prices for products are to be based on Seller's latest pricelist and are ex works Seller's facility in 5106 Holborn Way; San Ramon, California according to Incoterms 2010.
- C. There will be no additional charges to Buyer for packing or handling, unless explicitly agreed to by the Parties in writing.

D. All local, state, and federal excise, sales, and use taxes, when applicable, must be stated on Seller's invoices, taken together as "TAX".

E. Seller's invoices must contain the following information: (1) purchase order number; (2) item number(s); (3) description of goods shipped; (4) quantity of goods shipped and (5) unit price applicable to the goods.

F. Payment is to be made as agreed in writing by the Parties for each order. This consent agreement will be stated on Seller's invoices as "Payment Provisions".

G. In the event that any outstanding invoice is past due for more than fourteen (14) days, interest in the amount of ten percent per annum (10% p.a.) shall be added to the then outstanding balance until paid in full.

8. RESALE

A. If Buyer purchases Product from Seller for purposes of retail, or for sale via the internet, via mail order, catalog or similar means, then Buyer agrees to inform Seller of its intended purpose and obtain Seller's prior written consent thereto, which consent shall not unreasonably be withheld.

B. Seller sets a Minimum Resale Price ("MRP") or a Manufacturer's Suggested Retail Price ("MSRP") on all Products. Buyer agrees to advertise and resell Products no lower than the MRP or the MSRP without written consent of Seller. Seller retains the right to refuse sale to repeat offending Buyer. MRP and MSRP are subject to change without notice.

9. DELIVERY AND TRANSFER OF TITLE.

A. Seller will expand its best efforts to conform to the mutually agreed delivery date or dates for products ordered pursuant to this Agreement. The mutually agreed delivery date for purposes of a purchase order placed pursuant to this Agreement will be a date that allows at the minimum, the lead time, expressed in weeks, after receipt of order. In the event of failure of delivery on the delivery date, Buyer will give Seller written notice of delinquency allowing Seller a reasonable time to cure. In no event will Seller be considered in default of its obligation under this Agreement to deliver until thirty (30) days after the notice. Unless otherwise specified in connection with a particular order placed pursuant to this Agreement, risk of any loss of or damage to the products passes from

Seller to Buyer when they leave Seller's facility, except for loss or damage from Seller's fault or negligence or failure to comply with an order. Seller may, at its sole discretion, deliver orders in more than one shipment. Any additional expenses incurred as a result of more than one shipment shall be at the expense of Seller.

- B. Seller must notify Buyer immediately of any circumstances that may cause a delay in delivery, stating the estimated period and reasons for the delay and, if requested by Buyer, Seller will use additional effort to avoid or minimize delay to the extent possible.
- C. In spite of any other provisions of this Agreement, if shipment cannot be or is not made within ninety (90) days after the date scheduled on any order, Buyer may, upon knowledge of the fact and whether or not the delay would be excusable as provided below, terminate the order by written notice to Seller and, in spite of any other provision of this Agreement, the termination will be without cost to Buyer and will discharge all obligations and liabilities of the Parties under the order except as to products delivered previously.
- D. Buyer agrees that diversion of the goods that are the subject of this transaction from the destinations identified in Buyer's Purchase Order constitutes a fundamental and material breach of this Agreement. If the goods are diverted from the intended destinations, then, in accordance with Article 2 of the California Uniform Commercial Code, the contract of sale may be voided in the sole discretion of Seller, and all right, title, and interest in the goods that passed under it will revert to Seller. In the event of a breach, Buyer is liable to Seller for all costs, fees and expenses incurred by Seller in connection with the recovery of the goods, including reasonable attorney's fees. This provision may not be waived except in writing signed by Seller.
- E. Seller retains title and all associated rights to its intellectual property, including trademarks, trade names, copyrights, and patents. Any intellectual property may not be copied, removed, disguised, or changed in any form by Buyer. This intellectual property includes, at a minimum, product packaging and associated markings, advertising or marketing materials, and manuals.

10.INSPECTION.

Seller must inspect and test all products prior to shipment to Buyer. Notwithstanding any prior payment

or inspection by Buyer, all products are subject to final inspection and acceptance by Buyer at Buyer's place of business as identified on the purchase order, or in accordance with quality control standards to be agreed upon by Buyer and Seller. Final inspection and acceptance or rejection will be made by Buyer within three (3) business days after receipt of products, and failure of Buyer to reject any product within three (3) business days after receipt constitutes acceptance. Should Buyer reject any product for failure to conform to the requirements of an order, Buyer must notify Seller of the rejection, giving detailed reasons for the rejection. Seller then has the option to refund payments already made by Buyer attended with cancellation of the order, or repair or replace the nonconforming product within ninety (90) days at Buyer's or Seller's facility. Rejected items to be returned to Seller must be shipped at Buyer's expense. Seller will refund those expenses if rejection is based on failure of Seller. Should Seller fail to act to correct any nonconforming product within ninety (90) days after written notice by Buyer, then Buyer may return nonconforming product to Seller.

11.EXCUSALBE DELAY.

Neither Party shall be liable to the other for damages for any delay arising out of causes beyond its reasonable control and without its fault or negligence.

12.WARRANTY.

- A. Seller warrants to Buyer that all products delivered under an order shall be free from defects in material and workmanship, that all products will conform to the requirements of the order including, but not limited to, the applicable description, specifications, and drawings that have been agreed to by the Parties, and, to the extent the items are not manufactured pursuant to detailed designs furnished by Buyer, that all items will be free from defects in design and suitable for the intended purposes. The warranty period extends to final acceptance by Buyer or Buyer's customer in accordance with the final acceptance test procedures as mutually agreed between Buyer and Seller, whichever occurs last.

Buyer is aware of the fact that gems are a product of nature and therefore may vary in form, shape and color. Any such variations that may appear in any of

the Product delivered to Buyer shall not constitute a defect or impairment which would entitle Buyer to reject the Product.

- B. If a defect in the goods is claimed by Buyer, Buyer must allow Seller a reasonable time to remedy the defect. Buyer will render necessary assistance to Seller and furnish adequate means for operating and testing the goods. Should the goods prove defective and the defect is not remedied, the particular part, attachment, or article that fails to conform to the warranty of this Agreement must be returned by Buyer in as good a condition as received, except for ordinary wear and tear, to the place where it was received. Buyer must immediately notify Seller of the return by registered mail addressed to VitaJuwel USA, Inc. at 5106 Holborn Way; San Ramon, CA 94582, and Seller may then, at the option of Seller, either replace the goods or rescind this Agreement so far as the goods are concerned. If any goods are returned by Buyer and the returned goods are not replaced by Seller, then Seller will refund to Buyer any money, notes, or property paid or given for the goods, or Seller must credit the account of Buyer, in a like amount, and no further claim for the defect can be made against Seller.
- C. Except as otherwise provided in this Agreement, transportation costs of returning defective Seller's products to Seller's facilities must be borne by Seller and transportation costs of returning the products to buyer must be borne by Seller.
- D. Any action on a breach of Seller's obligation under this Section must be commenced within one (1) year after the cause of action has accrued.
- E. The warranty quoted above does not apply to any of Seller's products that have been subjected to improper use, improper installation, improper repair by unauthorized service personnel, tampering, negligence, abuse, or accident. Seller is not liable for any direct, indirect, special or consequential damages resulting from the use of any of its products.
- F. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR TECHNOLOGICAL VALUE.

13.CHANGES.

As to any product, Seller reserves the right at any time to make changes in:

(1) its drawings and specifications; and (2) its methods of packaging and shipping.

14.INDEMNIFICATION.

Seller agrees to indemnify and hold harmless Buyer and its officers, agents, and employees, from and against any and all liabilities, damages, losses, costs, and expenses for injury or death of any officer, agent, or employee of Seller arising out of or in connection with products and services to be provided under this Agreement. Buyer agrees to indemnify and hold harmless Seller and its officers, agents, and employees, from and against all liabilities, damages, losses, costs, and expense for injury or death of any officer, agent, or employee of Buyer, arising out of or in connection with products and services to be provided under this Agreement. Seller and Buyer also each agree to release and waive any liability of and claim against the other, and its officers, agents, and employees, for loss of or damage to property, including loss of use arising directly or indirectly out of or in connection with the other's performance under this Agreement.

15.CONFIDENTIAL INFORMATION.

Buyer must regard as highly confidential all information developed by or communicated to it in the course of or in connection with its performance under this Agreement, and may not, without Seller's prior, express, and written approval, make any oral or written disclosure of the confidential information, either during or after the term of this Agreement, except to Buyer's employees and other authorized persons who may be designated to work with Seller in performing under this Agreement.

16.NOTICES.

All notices and other communications required or authorized under this Agreement are to be given in writing either by personal delivery or by registered mail addressed to the respective Party at the addresses indicated at the beginning of this Agreement.

17.COMPLIANCE WITH LAWS.

A. Compliance with Laws.

In performing under this Agreement, all applicable governmental laws, regulations, orders, and other rules of duly constituted authority will be followed and complied with in all respects by both Parties.

B. Export Controls.

Buyer acknowledges that Seller has informed it that U.S. law and the U.S. Export Administration Regulations (“EAR”) govern and may prohibit the re-export or other disposition of Seller’s products, spare parts, and related technical data received by Buyer or its customers without prior U.S. Government approval. Buyer therefore agrees that it, and not Seller, will be solely responsible for obtaining any and all necessary export licenses and complying with all the terms, conditions, required procedures, and documentation of any export license issued for the delivery of the products subject to this Agreement.

C. Ethical Practices.

Buyer agrees and warrants that in the performance of its obligations under this Agreement it will not take any action that will render Seller liable for a violation of the U.S. Foreign Corrupt Practices Act, which prohibits the offering, giving, or promising to offer or give, directly or indirectly, money or anything of value to any official or a government, political party, or instrumentality thereof in order to assist it or Seller in obtaining or retaining business. Violation of this section by Buyer instantly renders this Agreement null and void.

D. Antiboycott Compliance.

Buyer acknowledges that it is solely responsible for complying with the Export Administration Act provisions concerning antiboycott compliance, that is, that Buyer acknowledges that it is prohibited from taking or knowingly agreeing to take any of the actions contained in the law, in either interstate or foreign commerce of the U.S., with the intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the U.S.

18.REMEDIES.

- A. The remedies reserved in this Agreement are cumulative and in addition to any other remedies provided by law or equity. No waiver of breach of any provision of this Agreement constitutes a waiver of any other breach of the provision.
- B. Seller assumes no liability for consequential or incidental damages where the loss to Buyer is commercial.

19.ASSIGNMENT.

No assignment by either Party of any rights, including rights to moneys due or to become due under this Agreement, or delegation of any duties under this Agreement or under any orders subject to this Agreement, is binding upon the other Party until the Party’s written consent has been obtained.

20.NONWAIVER.

Any failure by either Party to enforce any provisions of this Agreement or of any order does not constitute a waiver of the provisions or prejudice the right of either Party to enforce the provision at any subsequent time.

21.HEADINGS.

Headings used in this Agreement are for the convenience of reference only and do not affect the interpretation of the Agreement.

22.PARTIAL INVALIDITY.

If any provision of this Agreement or of any order is or becomes void or unenforceable by force or operation of law, the other provisions remain valid and enforceable.

23.MODIFICATION.

Oral statements and understandings are not valid or binding, and neither this Agreement nor any order can be changed or modified except by a writing signed by both Parties.

24.APPLICABLE LAW.

The Parties agree that this Agreement is subject to the laws of the State of California and any controversies arising from any of the provisions contained therein shall be adjudicated in a court of competent jurisdiction of the State of California.

25.ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the Parties and supersedes all prior and contemporaneous agreements relating to the subject matter of this Agreement.
