

## Terms and Conditions of Sale

### Ways to Place an Order

Call Customer Relations at 1-800-669-8877 (Office Hours: 7:00 AM – 5:00 PM, Mountain Time, Monday through Friday)

Use our convenient Fax Order Form. Fax to 1-800-767-8514. Ask your Sales Representative or call Customer Relations for more details.

Please note that Nutraceutical Corporation d/b/a Better Being Co. has established Customer Standards that each customer must meet and continue to meet in order to order its products and/or brands, which are available only to customers who meet the applicable Standards. Better Being Co. reserves the right, in its sole discretion, to determine which customers or potential customers meet the Standards, to monitor whether a customer continues to meet the Standards and to modify the Standards from time to time.

The creation of the Standards, and their administration and enforcement, shall not be deemed under any circumstances to create any legal rights in any party other than Better Being Co., or be enforceable by any party other than Better Being Co. Better Being Co. also reserve the right, in its sole discretion, to sell to any party, to refuse to sell to any party, or to cease selling to any party regardless of whether such party meets the Standards.

**1. Terms of Sale.** Customer's orders are submitted to Nutraceutical Corporation d/b/a Better Being Co. ("Company" or "Better Being Co.") with respect to products to be purchased hereunder (Products) and will be governed by these terms and conditions (Terms and Conditions). Nothing contained in any purchase order or other correspondence will in any way modify these Terms and Conditions or add any additional terms or conditions, all of which are hereby expressly rejected by Company. By placing an order or accepting Products, Customer will be deemed to have: (i) accepted and agreed to these Terms and Conditions, and (ii) certified that Customer meets and will continue to meet Better Being Co.'s Standards. These Terms and Conditions may be revised at any time by Company, and orders submitted after such revisions will be governed by the

revised Terms and Conditions. Company has the right at any time to revise the prices of the Products without notice. Such revisions will apply to all orders received thereafter.

**2. Order and Acceptance.** No order will be binding upon Company until accepted in writing by Company at Company's offices in Utah, and Company will have no liability to Customer with respect to purchase orders that are not accepted. Shipment of an order will be deemed to constitute Company's acceptance thereof. Products purchased from Company are not for sale or resale outside the United States without Company's prior written consent.

**3. Payment.** Unless credit terms have been established, Company requires payment in advance by Visa, MasterCard, American Express, Discover or C.O.D. (C.O.D. orders under \$500 will incur C.O.D. fees but may be paid with a Customer check; if equal to or greater than \$500, a credit card or a cashier's check is required). To establish credit, a completed credit application is required. Upon approval and as to orders within credit limits, terms are net 30 days from date of invoice, unless a different period is stated on the invoice. Company will not be required to make any shipment until payment is made consistent with the terms hereof. Unless otherwise agreed to by Company, all payments hereunder will be in U.S. dollars. Any amounts owing hereunder and not paid on a timely basis will bear interest at a rate of 1.5% per month, which is an annual percentage rate of 18% per annum, or at the highest rate permitted by law, whichever is lower.

Returned checks may be submitted for collection and are subject to a \$25 returned check fee. Failure to pay the invoiced amount in full on the terms specified herein will void any and all discounts given and Customer will be liable for Company's standard wholesale pricing. Customer will pay all of Company's costs and expenses (including attorneys' fees, court costs and collection costs) incurred to collect any amounts owing Company. The Company reserves the right to apply interest charges retroactively, whether or not they are shown on individual statements or invoices.

**4. Shipping.** For retailer orders, unless special promotions apply, there are no shipping charges for net orders of \$200 or more shipped by ground via

UPS or Fed Ex or other common carrier. However, Customer is responsible for shipping costs for net orders under \$200, and for the cost of special shipping arrangements (such as 2 day, 3 day and overnight delivery by Air) or packaging requested by Customer. Different pricing may apply to distributor orders or in specific cases. Subject to the foregoing, all Products will be packed in Company's standard shipping cartons and delivered to Customer F.O.B. origin, freight prepaid.

**5.Delivery.** Delivery. Shipping and delivery dates are approximate only. Company will 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 will be billed for the freight costs if a package is refused, and for a 20% restocking charge.

**6.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 will be the sole responsibility of Customer. Company may either require prepayment of such taxes or fees, or add them as a line item on its invoice, and Customer will reimburse Company for the same within 15 days of the date of the invoice. If a taxing authority later determines such taxes are owing, Customer shall promptly pay or reimburse Company for the same.

**7.Inspection of Products.** Inspection of Products. Customer will inspect all Products promptly upon receipt. Any Products that fail in a material way to meet applicable specifications must be rejected in writing within 30 calendar days of receipt of Products by Customer or they will be deemed accepted.

**8.Applicable Laws.** Except as otherwise specifically set forth herein or in any written agreement between Customer and Company, Customer shall be solely responsible for and shall comply with, at its own cost and expense, all applicable local, state, and federal laws and regulations concerning the sale of the Product and shall not sell the Product in any jurisdiction where sale of the Product is not allowed under applicable laws or regulations.

**9>Returns and Credits.** No Products may be returned for credit or refund without prior authorization of Company. A 20% restocking charge will be

assessed on shipments refused or returned within 30 days of shipment date, unless the return is for properly rejected Products. If Company decides at its sole discretion to accept a return of any Products more than 30 days after the shipment date, a 40% handling and return charge will be assessed on all such returns. No expired Products may be returned under any circumstances. Customer will be responsible for all shipping charges for any returned Products, except those that are properly rejected within 30 days and returned with prior authorization. In no event will Company be liable for replacement of Products (or for shipping charges) which have been damaged or abused by Customer or its agents, or which have additional labels or price tags applied. 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.

**10. 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 (including, but not limited to, Customer's unauthorized sale of Products outside of the United States) or to any negligent, grossly negligent, willful or unlawful acts or omissions of Customer, its employees, officers, agents, or representatives.

**11. Warranty and Disclaimer.** Customer's sole remedy for defective product shall be a refund of the purchase price. COMPANY HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, THEIR QUALITY OR THEIR MERCHANTABILITY. IN NO EVENT WILL COMPANY BE LIABLE FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES OR FOR THE COST OF PROCUREMENT FROM THIRD PARTIES OF ANY SUBSTITUTE GOODS. THE MAXIMUM LIABILITY OF COMPANY HEREUNDER SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO COMPANY.

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

**13.Contingencies.**Company will 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 either of Company or Company's suppliers.

**14.Content.**Approved wholesale customers who choose to use trademarks, artwork, photographs and trade dress found on the labeling of the Products or on Company's websites (the "Content") agree that such use is under a revocable, non-transferrable, non-sublicenseable, non-exclusive license and is only permitted in the normal course of advertising and selling the Products. Company retains the exclusive right, title and interest in and to the Content as well as, at its option, to any modifications and all use thereof shall inure to Company. All use of Content is at Customer's sole risk and Company is under no obligation to monitor any customer's use or notify customers of changes or deletions. Company expressly disclaims any representation or warranty that the Content is valid, that it complies with applicable laws and regulations or that the Content does not infringe the intellectual property rights of third parties. Company may withdraw or terminate this license at any time or may disapprove the use of the Content on or as the URL of particular website(s), in which case such customer shall immediately cease use and transfer ownership upon company's demand. All promotional and advertising materials bearing the Content shall include appropriate legal notices as established from time to time by Company, including "[Trademark] is a trademark of NutraMarks, Inc." or "[Trademark] is owned by NutraMarks, Inc." The rights accruing to Company hereunder will be deemed for the benefit of Company and its affiliates and subsidiaries.

**15.Governing Law.**The validity, construction and performance of this contract and the transactions to which it relates will be governed by the laws of the State of Utah without regard to conflict of law principles. All actions, claims of legal proceedings in any way pertaining to this contract or

such transactions will be commenced and maintained in the courts of Utah or in a federal court of the United States physically situated in Utah.

**16. Additional Terms Regarding International Sales.** To the extent that Customer is granted permission from Company, or from its subsidiary, Au Naturel, Inc., to ship any of the Products outside of the territory of the United States of America, the following additional provisions apply:

(a) With respect to Customer's purchase and sale of Products intended for shipment outside of the United States of America, these Terms and Conditions shall be deemed to be supplemented to include the Au Naturel, Inc. Terms and Conditions of Sale and Distribution found at [www.aunat.com/terms](http://www.aunat.com/terms) (the "Au Naturel Terms"), which are hereby incorporated by reference as if fully stated herein, with the following modifications to the extent that Company is the party that issues the invoice for the Products to Customer: (i) the term "Company" as used in the Au Naturel Terms shall include Better Being Co., and (ii) in the event of any conflict between these Terms and Conditions and the Au Naturel Terms, these Terms and Conditions shall prevail.

(b) Customer shall be solely responsible for and shall comply, at its own cost and expense, with all applicable laws and regulations of the United States and any jurisdiction to which the Products are shipped, including, without limitation, all laws and regulations applicable to the export of the Products from the United States, their shipment to and import into, and sale within any jurisdiction outside of the United States, and shall complete and submit all paperwork, declarations and certifications and obtain all necessary approvals required for such export, import and sale (it being understood that Company may not be able and does not commit to provide any specific or particular documentation or support, and that Company shall have no obligation to determine the legality of the importation, labeling, marketing, sale, distribution, or any other matter relating to the distribution of the Products by Customer outside of the United States of America).

(c) Customer may only sell Products outside of the United States of America after obtaining written approval from Company or from its subsidiary, Au Naturel, Inc. Company may revoke its approval at any time, and the list of Products and countries into which Customer is granted permission to sell may be modified at any time by Company.

(d) Customer shall indemnify, defend and hold harmless Company and Au Naturel, Inc. from and any against and loss, liability, fine, penalty, claim, damage or expense arising from or in connection with any breach of or failure of Customer to comply with these Terms and Conditions or the Au Naturel Terms.