

Christy Companies Terms and Conditions of Sale

1. Governing Provisions. These terms and conditions, the attendant quotation or acknowledgement, and all documents incorporated by reference therein, bind the company (or companies) which issues the quotation or acknowledgement for the provision of services ("**Services**") and/or the sale of goods ("**Products**"), to be provided hereunder by Christy Catalytics, LLC ("**Supplier**") and the buyer ("**Buyer**") and constitute the entire agreement ("**Agreement**") between Buyer and Supplier regarding such sale.

2. Acceptance. Buyer's acceptance of this offer is limited to acceptance of the express terms of this offer set forth in these terms and conditions of sale (the "**Terms**"), the attendant quotation or acknowledgement, and all documents incorporated by reference therein. Any proposal for additional or different terms or attempt by Buyer to vary any of the terms set forth in the Terms in Buyer's acceptance by purchase order or otherwise shall not operate as a rejection of this offer to sell, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Buyer without said additional or different terms.

3. Cancellation or Modification. Buyer may not terminate or modify its order except upon terms accepted in writing by Supplier. In the event of such termination or modification, Buyer shall compensate Supplier for all resultant costs and damages.

4. Price. Unless specifically stated otherwise in Supplier's quotation or acknowledgement, the terms of this section 4 apply. The prices quoted, and any applicable transportation charges, are subject to change without notice to Buyer. All prices and transportation charges are those in effect at the time the Products are shipped. Except as specifically stated in the Agreement, any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, value-added tax, duty, customs agent or broker fees, inspection or testing fee, freight costs, insurance, or any other tax, fee, or charge of any nature whatsoever imposed on, in connection with, or measured by any transaction between Supplier and Buyer shall be paid by Buyer in addition to the prices quoted or invoiced. Prices are in U.S. dollars.

5. Payment. Unless otherwise agreed to in a writing signed by Supplier, payment shall be due 30 days from the date of each invoice, without discount. Supplier reserves the right to change payment terms at any time and in its sole discretion. Any discount that Supplier expressly provides for in writing applies only to the sale price of the Products at the shipping point and does not apply to any charges made for taxes, storage, loading, transportation, or other fees or costs. Buyer shall pay a delinquency charge of the lesser of (a) 1-1/2% per month and (b) the highest rate allowed under applicable law on any amount due and unpaid more than 30 days from the date of the invoice billing such amount.

6. Delivery; Title and Risk of Loss; Quantity. Unless specifically stated otherwise in Supplier's quotation or acknowledgement, Supplier shall deliver the Products EXW (INCOTERMS 2010) Supplier's manufacturing facility or warehouse in St. Louis, Missouri, and title to risk of loss of the Products shall pass to Buyer upon such delivery by Supplier. Delivery dates are approximate. Unless expressly stated otherwise in Supplier's quotation or acknowledgement, supplier shall not be liable for any losses, damages, penalty, costs, or expenses for failure to meet any delivery date. Products will be shipped within plus or minus 10% of the order item quantity or to the nearest standard package unit. Partial deliveries shall be permitted.

7. Packaging. Supplier shall deliver the Products to the Buyer with Packaging (FIBC's, plastic bags, steel drums, cardboard boxes, etc.) in good condition. Buyer must inspect packaging upon delivery and notify Supplier in writing within five (5) days if there is non-conformance in the packaging. Supplier shall, at its option, promptly correct any non-conformance in the Packaging. All Products must be stored in a dry area away from sunlight. After receipt by the Buyer, the Supplier shall not be responsible for any failure or degradation of the packaging.

8. Limited Warranty. Supplier warrants that (a) Products manufactured by Supplier will be free of defects in workmanship or material under normal use and care until the expiration of the applicable warranty period and (b) Services will be performed in a workmanlike manner. Products are warranted for a period of one year from the date of delivery. Services are warranted for a period of 90 days after performance thereof. Products purchased by Supplier from a third party for resale to Buyer shall carry only the warranty extended by the original manufacturer, and Supplier has no liability for such resale Products beyond making a commercially reasonable effort to procure and ship such Products. If Buyer discovers any warranty defects and notifies Supplier thereof in writing during the applicable warranty period, Supplier shall, at its option, promptly correct any non-conformance in the Services, or repair or replace that portion of the Products found by Supplier to be defective, or refund the purchase price of the defective portion of the Products or Services. All replacements or repairs necessitated by inadequate maintenance, normal wear and tear, accident, misuse, improper installation, modification, repair, storage, or handling, or any other cause not the fault of Supplier are not covered by this limited warranty, and shall be at Buyer's expense. Supplier shall pay all reasonable transportation charges incurred in returning to Supplier any Products agreed in writing by Supplier to be defective and covered under the limited warranty set forth in this section; however, Buyer shall pay all transportation charges covering any Products returned to Supplier that do not prove to be defective or if any defect is not covered by warranty. Products repaired and parts replaced during the warranty period shall be in warranty for the remainder of the original warranty period. This warranty is provided by Supplier solely to the first commercial purchaser of the Products. **THE WARRANTY SET FORTH IN THIS SECTION 8 IS THE EXCLUSIVE WARRANTY AND IS PROVIDED INSTEAD OF ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED.**

9. LIMITATION OF REMEDY AND LIABILITY. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION, REPLACEMENT, OR REFUND OF PURCHASE PRICE UNDER THE LIMITED WARRANTY CLAUSE IN SECTION 8. IN NO EVENT SHALL SUPPLIER BE RESPONSIBLE OR LIABLE TO BUYER AND/OR ITS CUSTOMERS FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF REVENUE, AND COST OF CAPITAL) ARISING OUT OF THE AGREEMENT (WHETHER FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, OR OTHER FORM OF ACTION) OR ITS TERMINATION, AND IRRESPECTIVE OF WHETHER SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT, OR OTHERWISE) SHALL SUPPLIER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC PRODUCTS MANUFACTURED OR SERVICES PROVIDED BY SUPPLIER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION.

10. Limitation of Actions. In no event shall any action for any breach of the Agreement or for the breach of any warranty, or for any other loss or damage arising under the Agreement be commenced against Supplier more than 12 months after the basis for such claim could reasonably have been discovered, provided, that, in the case of Services, any such action must be brought within 12 months after completion of the Services that are the basis of the claim.

11. Quotations. All quotations by Supplier are subject to change or withdrawal without prior notice to Buyer unless otherwise specifically stated in the quotation. Quotations are subject to Supplier's approval of Buyer's credit.

12. Testing. Any test required by Buyer prior to delivery of the Products shall, unless otherwise specifically agreed to in writing by Supplier, be performed by Supplier employing standard United States Government or Supplier's usual testing practices and procedures for similar products in effect at the time such testing is performed.

13. Tooling. Buyer shall have the exclusive use of molds, dies, and tools for which Buyer pays a separate charge, but Supplier shall retain possession of and title to all such molds, dies, and tools. Supplier shall maintain the molds, dies, and tools paid for by Buyer in first class condition for so long as there are no changes in Buyer's specifications or designs, provided, however, that Supplier may destroy or otherwise dispose of any such molds, dies, or tools, or any portion thereof, after five years if, during that period, no orders are received from Buyer requiring such molds, dies, or tools, or any portion thereof.

14. Supplier Required Storage. In the event Buyer requests a delay in shipment, or whenever the Products or any parts thereof are ready for shipment and the contemplated shipment cannot be made for any cause referred to as force majeure, Supplier may, unless other agreement is made in writing with Buyer, store product or parts, and in that case the following conditions shall apply:

*All expenses incurred by Supplier in connection with the storage of Products, including demurrage, the cost of preparation for storage, storage charges, insurance, if placed, and handling charges shall be payable by Buyer upon submission of invoices therefore.

*Supplier shall make the Products available for shipment or, if required by prior agreement, ship the Products when conditions permit, and upon payment by Buyer of all amounts then due with respect to the Products.

*All payments due hereunder on the date of shipment shall automatically become due on the date of movement of the Products into storage or the issuance of a signed notice of receipt by Supplier.

*Title to and risk of loss of the Products shall pass to Buyer upon movement of the Products into storage, or if stored in Supplier's facility, upon issuance of a signed notice of receipt by Supplier.

15. Permits; Fees. Buyer shall secure and pay for all governmental licenses and permits required for the execution and completion of Services.

16. Infringement Claims. If any Products are to be manufactured to meet Buyer's specifications, requirements, or designs, Buyer shall indemnify and defend, at Buyer's sole expense, Supplier, and Supplier's affiliates and their respective directors, managers, officers, agents, employees, and representatives against any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense (including, without limitation attorney and professional fees), interest, award, judgment, fine, fee, and penalty arising out of or relating to any third party claim that the manufacture, use, marketing, sale, or distribution of such Products infringes or violates any patent, trade secret, copyright, trademark, or other proprietary rights of such third party.

17. Proprietary Information. All Supplier Information, including, without limitation, all improvements, developments, derivatives, or modifications to the Supplier Information, shall be owned exclusively by Supplier. Buyer shall protect Supplier Information from any disclosure not authorized by Supplier and shall use Supplier Information only as necessary for the performance of the Agreement. For purposes hereof, "Supplier Information" means all Supplier proprietary information, copyrights, trademarks, trade secrets, patents, inventions, developments, and other intellectual property (including, without limitation, all patent applications, know-how, designs, concepts, improvements, methods, processes, technical information, drawings, diagrams, data, mixes, formulations, mineral locations, manuals, instructions, or specifications) owned, licensed, or used by Supplier in developing, formulating, manufacturing, processing, or packaging of Products.

18. Security Interest. Buyer hereby grants to Supplier a security interest in all Products sold to Buyer hereunder and any proceeds therefrom (including accounts receivable), until payment in full has been received by Supplier for such Products. Buyer agrees to execute and deliver to Supplier any document to perfect this security interest that Supplier reasonably requests.

19. Export Shipments. Upon Buyer's request and Supplier's written agreement, Supplier shall arrange for export shipment on behalf of Buyer. Unless otherwise provided for herein, Buyer shall pay for all fees and expenses including, but not limited to, those covering preparation of consular documents, freight, storage and warehouse-to-warehouse (including war risk) insurance, upon submission of Supplier's invoices. Supplier shall apply to the United States Government for any required export license in acting on Buyer's behalf under this section. Supplier shall not be liable for any claim asserted by Buyer or any third party with respect to export shipment or Supplier's services related thereto. Other than for export licenses, Buyer shall be responsible and shall pay for timely obtaining any required authorization, such as an import license, exchange permit, or any other governmental authorization. Buyer and Supplier shall assist each other in every manner reasonably possible in securing such authorizations as may be required. Supplier shall not be liable if any authorization is delayed, denied, revoked, restricted, or not renewed. Buyer shall be required to pay for any liability arising out of such delay, denial, revocation, restriction, or non-renewal. All sales hereunder shall at all times be subject to the United States Government export control laws and regulations, and any amendments thereto. Buyer shall not make any disposition, by way of trans-shipment, re-export, diversion, or otherwise, except as said laws and regulations may expressly permit, of United States manufactured Products purchased from Supplier, other than to the country of ultimate destination specified on Buyer's order and/or declared as a country of ultimate destination on Supplier's invoice. On orders for shipments to countries other than the United States, payment on all sales shall be made through a Letter of Credit to be established by Buyer at its expense, including any bank confirmation charges, unless Supplier agrees otherwise. All Letters of Credit shall be in United States Dollars in favor of and acceptable to Supplier, shall be maintained in sufficient amounts and for the period necessary to meet all payment obligations, shall be divisible, irrevocable, issued, and confirmed by a bank located in the United States and of United States origin satisfactory to Supplier within 30 days after acceptance of any order by Supplier, and shall provide for payment upon presentation of those documents required by the letter of credit.

20. Governing Law. The laws of the State of Missouri (without giving effect to its conflicts of law principles), and not the United Nations Convention on Contracts for the International Sale of Goods, govern all matters arising out of or relating to this Agreement, including, without limitation, its interpretation, construction, validity, performance (including the details of performance), and enforcement. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed and excluded.

21. Arbitration. Any dispute arising out of or relating to the Agreement or the breach, termination, or validity hereof or thereof exclusively shall be settled by binding arbitration in accordance with the procedures set forth in this section 21. Any such arbitration shall be administered by the American Arbitration Association pursuant to its Commercial Arbitration Rules, and shall be heard by a single arbitrator. The hearing shall be held in St. Louis County, Missouri. The arbitrator shall enter a reasoned written award based on the evidence admitted and applicable law. Each party shall bear its own witness costs and attorney fees. The award of the arbitrator shall be final and binding on all parties, and judgment may be entered upon the award by any court of competent jurisdiction. The language of arbitration shall be English. Judgment on any award rendered by the arbitrator may be entered by any court of competent jurisdiction. Buyer hereby submits to the jurisdiction of any state or federal court located in the St. Louis, Missouri metropolitan area. The arbitration provision in this section 21 shall survive if the Agreement should be adjudged null and void or should be canceled or terminated for any reason.

22. Force Majeure. Supplier shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, labor trouble, unavailability of materials, explosion, accident, compliance with governmental requests, laws, regulations, orders, or actions, or unforeseen circumstances or causes beyond Supplier's reasonable control.

23. Assignment. Buyer shall not assign or transfer any of its rights under the Agreement, either voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or any other manner. For purposes of this section, "merger" refers to any merger in which Buyer participates, regardless of whether it is the surviving or disappearing corporation. For purposes of this section, a change in control is deemed an assignment. Any purported assignment of rights in violation of this section is void.

24. Successors and Assigns. The Agreement binds and benefits the parties and their respective permitted successors and assigns.

25. Subcontracting. Supplier may delegate any of its performance under the Agreement.

26. Third Party Beneficiaries. Except as specifically provided in section 16 (Infringement Claims), the Agreement does not and is not intended to confer any rights or remedies upon any person who is not a party to this Agreement.

27. Collection Fees. Buyer shall reimburse Supplier for any costs or expenses incurred by Supplier to collect amounts owed by Buyer under the Agreement or otherwise to enforce Supplier's rights under the Agreement, including, but not limited to, attorneys' fees and costs.

28. Miscellaneous. Supplier reserves the right to correct clerical or similar errors relating to price or any other term shown in the Agreement. Invalidity or unenforceability of any term or part of the Agreement shall not affect the validity or enforceability of the remainder of the Agreement. Failure of either party to insist, in any one or more instances, upon performance of any term, covenant, or condition of the Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term, covenant, or condition. Supplier's rights under the Agreement shall be in addition to any other rights Supplier may have and shall not prejudice any such right.

29. Entire Agreement. The Agreement constitutes the entire agreement between the parties with respect to the purchase of the Products and Services, and supersedes all other agreements or communications, written or oral, which may be deemed to be inconsistent with it, and may not be amended or altered except by a writing signed by Supplier.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.