

## TERMS AND CONDITIONS FOR THE ONLINE SALE OF GOODS AND SERVICES

1. **THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ IT CAREFULLY.**

**THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.**

**BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM THIS WEBSITE, YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS.**

**YOU MAY NOT ORDER OR OBTAIN PRODUCTS FROM THIS WEBSITE IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT THE OLDER OF (i) AT LEAST 18 YEARS OF AGE OR (ii) LEGAL AGE TO FORM A BINDING CONTRACT WITH US, OR (C) ARE PROHIBITED FROM ACCESSING OR USING THIS WEBSITE OR ANY OF THIS WEBSITE'S CONTENTS OR GOODS BY APPLICABLE LAW.**

These terms and conditions (these "**Terms**") apply to the purchase and sale of products through [www.pbdeals.com](http://www.pbdeals.com) (the "**Site**"). These Terms are subject to change by Elite Promotional Services, LLC (referred to as "**EPS**", "**us**", "**we**", or "**our**" as the context may require) without prior written notice at any time, in our sole discretion. The latest version of these Terms will be posted on this Site, and you should review these Terms prior to purchasing any product or services that are available through this Site. Your continued use of this Site after a posted change in these Terms will constitute your acceptance of and agreement to such changes.

These Terms are an integral part of the Website Terms of Use that apply generally to the use of our Site. You should also carefully review our Privacy Policy before placing an order for products or services through this Site (see Section 7).

2. Order Acceptance and Cancellation. You agree that your order is an offer to buy, under these Terms, all products listed in your order. All orders must be accepted by us or we will not be obligated to sell the products to you. We may choose not to accept any orders in our sole discretion. After having received your order, we will send you a confirmation e-mail with your order number and details of the items you have ordered. Acceptance of your order and the formation of the contract of sale between you and us will not take place unless and until you have received your order confirmation e-mail. You have the option to cancel your order at any time before we have sent your order confirmation e-mail by e-mailing our Customer Service Department at [support@pbdeals.com](mailto:support@pbdeals.com).

### 3. Prices and Payment Terms.

(a) All prices posted on this Site are subject to change without notice. The price charged for a product will be the price in effect at the time the order is placed and will be set out in your order confirmation e-mail. Price increases will only apply to orders placed after such changes. Posted prices do not include taxes or charges for shipping and handling. All such taxes and charges will be added to your merchandise total and will be itemized in your shopping cart and in your order confirmation e-mail. We are not responsible for pricing, typographical or other errors in any offer by us and we reserve the right to cancel any orders arising from such errors.

(b) Terms of payment are within our sole discretion and, unless otherwise agreed by us in writing, payment must be received by us before our acceptance of an order. You represent and warrant that (i) the credit card information you supply to us is true, correct and complete, (ii) you are duly authorized to use such credit card for the purchase, (iii) charges incurred by you will be honored by your credit card company, and (iv) you will pay charges incurred by you at the posted prices, including all applicable taxes, if any.

### 4. Shipments; Delivery; Title and Risk of Loss.

(a) We will arrange for shipment of the products to you. Please check the individual product page for specific delivery options. You will pay all shipping and handling charges specified during the ordering process.

(b) Title and risk of loss pass to you upon our transfer of the products to the carrier. Shipping and delivery dates are

estimates only and cannot be guaranteed. We are not liable for any delays in shipments.

5. Returns and Refunds. Items marked "Final Sale" cannot be returned. We sell these products as "Final Sale" because they have been significantly discounted. If you are concerned that you may wish to return an item, please check whether it is "Final Sale" prior to making your purchase. On all other products, we will accept a return of the products for a refund of your purchase price, less the original shipping and handling costs, provided such return is made within 30 days of shipment and provided such products must be undamaged and returned in their original undamaged packaging with original materials. To return products, you must e-mail our Returns Department at support@pbdeals.com to obtain a Return Merchandise Authorization ("**RMA**") number before shipping your product. No returns of any type will be accepted without an RMA number. RMA numbers shall only be valid for 14 days.

You are responsible for all shipping and handling charges on returned items. You bear the risk of loss during shipment. We therefore strongly recommend that you fully insure your return shipment against loss or damage and that you use a carrier that can provide you with proof of delivery for your protection. All returns are subject to a 20% restocking fee. Restocking fee shall be charged to the same credit card or other electronic payment method used to make the original purchase.

Refunds are processed within approximately 5 business days of our receipt of your merchandise. Your refund will be credited back to the same payment method used to make the original purchase on the Site.

#### 6. LIMITED WARRANTY.

THE PRODUCTS (INCLUDING ANY SOFTWARE THAT MAY BE USED IN SUCH PRODUCTS) INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THIS SITE ARE SOLD ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING BY US. EPS, AND ITS MEMBERS, MANAGERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS AND PARTNERS, INCLUDING WITHOUT LIMITATION INTENDED, PHOTOBUCKET.COM, INC., DO NOT WARRANT THAT THE PRODUCTS WILL MEET YOUR NEEDS OR EXPECTATIONS.

YOU MAY BE ELIGIBLE FOR THE MANUFACTURER'S WARRANTIES THAT APPEAR NEXT TO A PRODUCT THAT IS MADE AVAILABLE ON THE SITE OR THAT ACCOMPANIES THE PRODUCT WHEN DELIVERED TO YOU. EXCEPT FOR SUCH MANUFACTURER'S WARRANTIES, TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, EPS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE. WE DO NOT WARRANT THAT THE PRODUCTS (INCLUDING THE SOFTWARE THAT MAY BE USED IN ANY PRODUCTS) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WE WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF ANY PRODUCTS (INCLUDING THE SOFTWARE THAT MAY BE USED IN ANY PRODUCTS).

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

#### (g) Limitation of Liability.

IN NO EVENT SHALL EPS, OR ITS MEMBERS, MANAGERS, DIRECTORS, EMPLOYEES, AGENTS, OR PARTNERS, INCLUDING WITHOUT LIMITATION INTENDED, PHOTOBUCKET.COM, INC., BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE PRODUCTS AND SERVICES SOLD ON THE SITE (INCLUDING, WITHOUT LIMITATION, ANY CONTENT) (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGIN), (III) FOR YOUR RELIANCE ON ANYTHING SHOWN ON THE SITE, WHETHER IT BE A PRODUCT DESCRIPTION, PRICING OR IMAGE, OR ANY OTHER PRODUCT INFORMATION OR (IV) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) THE GREATER OF A) AMOUNTS PAID OR PAYABLE BY YOU IN CONNECTION WITH THE SERVICE; OR B) ONE-HUNDRED U.S. DOLLARS (\$100.00). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY

TO YOU.

(h) What can you do in case of a dispute with us?

The informal dispute resolution procedure detailed in Section 10 is available to you if you believe that we have not performed our obligations under this limited warranty or these Terms.

7. Privacy. We respect your privacy and are committed to protecting it. Our Privacy Policy, <http://www.pbdeals.com/privacy>, governs the processing of all personal data collected from you in connection with your purchase of products through the Site.

8. Force Majeure. We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

9. Governing Law and Jurisdiction. All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Colorado.

10. Dispute Resolution and Binding Arbitration.

**(a) YOU AND EPS ARE AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY, OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.**

**ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF PRODUCTS OR SERVICES THROUGH THE SITE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.**

(b) Any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Colorado before one arbitrator. The arbitration shall be administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the Agreement is void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction.

If you prevail on any claim that affords the prevailing party attorneys' fees, the arbitrator may award reasonable fees to you under the standards for fee shifting provided by law.

(c) You may elect to pursue your claim in small-claims court rather than arbitration if you provide us with written notice of your intention do so within 60 days of your purchase. The arbitration or small-claims court proceeding will be limited solely to your individual dispute or controversy.

(d) You agree to an arbitration on an individual basis. In any dispute, **NEITHER YOU NOR US WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.** The arbitral tribunal may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver and any challenge to the class arbitration waiver may only be raised in a court of competent jurisdiction.

If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

11. Assignment. You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Section 11 is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

12. No Waivers. The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a duly authorized representative of Elite Promotional Services, LLC.

13. No Third Party Beneficiaries. These Terms do not and are not intended to confer any rights or remedies upon any person other than you.

14. Notices.

(a) To You. We may provide any notice to you under these Terms by: (i) sending a message to the e-mail address you provide or (ii) by posting to the Site. Notices sent by e-mail will be effective when we send the e-mail and notices we provide by posting will be effective upon posting. It is your responsibility to keep your e-mail address current.

(b) To Us. To give us notice under these Terms, you must contact us by personal delivery, overnight courier or registered or certified mail to Elite Promotional Services, LLC, 2399 Blake Street, Suite 160, Denver, CO 80205. We may update the address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective 3 business days after they are sent.

15. Severability. If any provision of these Terms is invalid, illegal, void or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

16. Entire Agreement. Our order confirmation, these Terms, our Website Terms of Use and our Privacy Policy will be deemed the final and integrated agreement between you and us on the matters contained in these Terms.