

General Terms and Conditions

1. Definitions. "You" and "your" refer to the corporation, partnership, association, individual or other entity signing as Applicant on this Advertising Order (this "AO" or "Agreement," also sometimes referred to in supporting or amending documents as a "DAO" or "Directory Advertising Order"). "We," "us," and "our" do not include you but only refer, for both print and Internet advertising, to The Berry Company LLC, a Colorado limited liability company with offices at 3170 Kettering Blvd., Dayton, Ohio 45439 ("Berry"). Other firms, which may be unaffiliated with us, are responsible for your telephone service and the accuracy of the name and address shown in your Directory listing.

2. Your Order. If you receive this AO as confirmation of an unsigned order and do not write us to cancel within 15 days of our mailing, or if you sign this AO, you make a firm offer to us in which: (a) the individual signing this AO warrants and covenants that he or she is authorized to bind you to the terms and conditions of this AO; and (b) you apply and agree to pay for the Advertising described on this AO, as supplemented by any associated forms ("Advertising," which may include text, graphics, promotions, listings, coupons, hypertext links, web sites, e-mail, video, audio, maps or other material, facilities or features which promote or advertise your products or services). If we accept this AO, we will publish your Advertising unless: (x) in our sole judgment it does not conform to our specifications or editorial standards; (y) you have failed to pay any prior Advertising charges; or (z) we find that your credit records do not meet our requirements. Your offer, as set out in this AO, shall be considered accepted by us at our principal offices upon publication of your Advertising. We are not obligated to visit your premises for any purpose. Rates quoted for Advertising in a printed directory are only for the directory(ies) shown on the face of this order and rates for any other directory are subject to change and will be those in effect at the time of its publication. These General Terms and Conditions apply to your Advertising and any additional or subsequent services or charges arising out of, relating to or resulting from your Advertising.

3. Publication and Term. (a) PRINT. Unless otherwise noted, the initial Term of this AO shall begin on the date of first publication of the Advertising, may continue through and include the publication dates of the Directory but in any event shall end upon the replacement or discontinuance of the Directory. THEREFORE, THE PUBLICATION OF A PRINTED DIRECTORY, AND CONSEQUENTLY THE TERM OF THIS AO, MAY BE LONGER OR LESS THAN 12 MONTHS, WITHOUT FURTHER NOTICE TO YOU. We also reserve the right to make changes to printed Directories (including without limitation changes to content, layout, format, medium, scope, coverage area and number of copies printed) and to deliver them in CD or other machine readable media, all without further notice to you. (b) INTERNET. Unless otherwise noted, the initial Term of this AO shall begin on the date of first publication of the Advertising on the internet and shall end upon the publication date of the subsequent issue of the applicable printed directory. All Internet Advertising orders shall be filled utilizing your input. However, if input is not timely received, we reserve the right to fulfill and publish the Internet Advertising using suitable copy chosen by us. All Internet "search" or "network distribution" products ordered by you will be fulfilled on any of the websites of our Internet partners which may change from time to time without notice to you. We do not guarantee placement of Advertising for search products on our websites or on the websites of our Internet partners. All Internet Advertising must conform to the editorial standards of the web hosting provider.

4. Payment. We reserve the right to require partial or full payment in advance as a condition of publication or to charge you a reasonable fee for requests that exceed our customary services, including, for example, excessive content changes, protracted design development or premise visits. Otherwise, you agree to pay for your Advertising at the monthly rates reflected herein or on any Detailed Confirmation hereof, plus any applicable taxes, in accordance with the billing terms of the Telephone Company (if applicable) or by Berry. Payment obligations commence upon publication. Publication of Internet Advertising may occur prior to the publication of a printed directory. At our option we may disclose information concerning you or your account to third parties, such as credit reporting agencies, and may request and act upon information received from them.

5. Renewals. We reserve the right at our discretion, but we are not obligated, to renew your print Advertising for renewal Terms coinciding with the publication dates of the Directory. We will send you notice of renewal by U.S. Mail, containing any change in Advertising rates and the accompanying terms and conditions, and you may refuse the renewal by giving us written notice within 15 days from our mailing. Internet Advertising will be automatically renewable on a month to month basis subsequent to the initial Term, which initial Term will be coincidental with the initial Term of the applicable print directory, until such time either of the parties should request discontinuation in writing. We reserve the right to alter such term. We reserve the right, upon written notice to you at any time prior to renewal: (a) not to renew your Advertising for reasons set forth in paragraph 2 above or (b) to eliminate or modify any terms, conditions, standards, specifications, products, headings or policies (including without limitation priority placement of Advertising) affecting your Advertising.

6. Disconnects. If you terminate the telephone service associated with your Directory Advertising after its publication (or if we are unable to remove it prior to publication), we reserve the right to accelerate all charges and require immediate payment of all sums due for such Advertising for the remainder of the Term. In addition, you shall remain liable for all charges associated with an Advertisement as long as you can be reached through any telephone number, email address, or uniform resource locator ("URL") provided in such Advertisement (whether by direct connection, transfer of calls, remote call forwarding, number portability or otherwise). Disconnection, rearrangement, transfer or reassignment of telephone numbers or service activity initiated by you and associated with your Advertising after the date hereof, may result in the omission or cancellation of your Advertising. You assume the risk of such result.

7. Default. If you do not pay for your Advertising as billed we may, at our option, in addition to other rights and remedies, suspend or terminate your Advertising and declare the entire amount payable in full. In addition we may assess (a) interest at the maximum rate allowed by law until paid and (b) a late payment charge as established by us (or if billed by a telephone service provider, the rate imposed for delinquent charges, as set forth in any applicable agreements, tariffs and regulations). You also agree to pay any reasonable costs of collection, attorneys' fees and expenses of litigation that we may incur in collecting any unpaid amount. If more than one Applicant requests Advertising under this AO, all will be jointly and severally liable for all charges.

8. Proofs. If you are provided with proofs, we reserve the right to require you to return proofs of your Advertising to us, signed with your approval or corrections. Failure to return such proofs may, at our option, result in cancellation of your Advertising. We will not be responsible for errors due to proofs returned to us after our deadline.

9. Special Offerings. We may offer you the opportunity to advertise on certain special pages, covers, spines, and other special offerings ("Special Offerings") which may give you the option to renew your Advertising at the renewal rate then in effect. You may accept such an offer within 15 days from the date on which we send you notice thereof. Notwithstanding the paragraph above entitled "Disconnects," we will not relieve you of any obligation to pay for Special Offerings during any period in which your telephone service is terminated. Special Offerings may be subject to limited space availability.

10. Advertising Content. You have sole responsibility for the content of your Advertising and warrant that: (a) you are authorized and prepared to sell all products and/or services in your Advertising; (b) you have the right to use all trademarks, service marks, trade names, logos, slogans, names, information, artwork and likenesses in your Advertising; (c) you are the author of all images, text and other works of authorship to be reproduced or otherwise published in your Advertising and have the sole responsibility to register and protect the same, or you are authorized by the author of all images, text, and other works of authorship to reproduce, to prepare derivative works of, and to distribute copies of such works of authorship in your Advertising, and in turn hereby authorize us to do the same; (d) your Advertising and the publication of your Advertising will not infringe any trademark, trade name, service mark, copyright, right to publicity, right of privacy or other intellectual property right of a third party, nor will it constitute false, deceptive or unfair Advertising or disparagement under applicable law; (e) your Advertising complies with all federal, state and local laws, rules and regulations, including without limitation licensing requirements, contest rules and administrative and professional rules and regulations; and (f) any prices, discounts or product availability quoted in your Advertising shall be complete, accurate and applicable throughout its advertised duration. You agree to comply with all applicable laws, rules and regulations in accepting and fulfilling orders, to honor any special offers, prices or discounts contained in your Advertising and to assume sole responsibility for conducting any contest or drawing in connection with your Advertising.

You agree to indemnify and hold us, any involved Telephone Company, and any affiliates harmless as to any attorneys' fees, costs, expenses, losses or damages which we may sustain concerning or arising out of your Advertising or the sale or delivery of your products or services, and you authorize us to publicly disclaim any liability to third parties therefor. We reserve the continuing right, but shall not be obligated, to reject, revise or discontinue publishing your Advertising and to require you to edit or modify the same, for any reason, including but not limited to your failure to conform to our editorial standards and specifications. Our editorial standards and specifications include but are not limited to all civil and criminal laws, rules and regulations and public interest standards, as determined in our sole discretion.

11. Copyright. You grant to us a nonexclusive, royalty-free license to reproduce and to create derivative works from all or any portion of your Advertising in which you may have a copyright or other interest for our use, exploitation, publication and commercialization: (a) as provided in this AO; (b) in databases and any other compilations; (c) in other Advertising formats or media, such as the Internet; (d) for archival or back-up purposes; and (e) of derivative works created or derived from your Advertising. As to Advertising that we create for you, whether in whole or in part, and any derivative work that we create from your Advertising, you acknowledge that we are the author and assign to us any independently copyrightable contribution you might have made to the Advertising. You further acknowledge that we retain all right, title and interest, including the copyright, in such Advertising and that we do not intend for such Advertising to constitute a joint work. You must obtain prior written consent from or through us in order to reproduce our copyrighted work, to have it reproduced by others or to use our name or marks in any way.

12. Liability. You acknowledge that: (a) this is a commercial business transaction between an advertiser and a business that provides Advertising and is not a consumer transaction; (b) alternative and compelling Advertising media are available to you; (c) any errors, omissions or misplacements in Advertising cannot be corrected until the Advertising can be replaced (for print Directories, when the next issue is published); (d) any potential harm from an error, omission or misplacement is speculative in nature; (e) we do not warrant that your Advertising will result in any revenue or profit, even if Advertising rates are based upon revenue or profit; and (f) we assume no responsibility other than as contained in these General Terms and Conditions. UNLESS OTHERWISE AGREED IN WRITING, FOR MUTUAL CONSIDERATION, YOU AGREE THAT ANY LIABILITY WHICH WE MAY HAVE DUE TO ERRORS, OMISSIONS OR MISPLACEMENTS IN YOUR ADVERTISING SHALL NOT EXCEED THE AMOUNT OF CHARGES FOR THE AFFECTED ADVERTISING FROM THE TIME WE ARE NOTIFIED OF THE ERROR, OMISSION OR MISPLACEMENT UNTIL ITS CORRECTION. Any such liability shall be discharged by abatement of all Advertising charges for any complete omission, or by reduction of the applicable charges in proportion to any reduction of the value of the Advertising due to error, omission or misplacement, which value shall not, in any event, exceed the cost of the Advertising. To the extent you are ordering Internet Advertising, we will use reasonable efforts to distribute the same on the Internet via our service by means of electronic data communications technology ("Network") during the term of this AO, at our expense, pursuant to the terms contained herein. WE DO NOT WARRANT THAT THE FUNCTION OF THE NETWORK WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THERE WILL BE NO DEFECTS IN OUR NETWORK OR THE NETWORKS OF OUR INTERNET PARTNERS WHICH MAY CHANGE FROM TIME TO TIME WITHOUT NOTICE TO YOU. THE WARRANTIES AND UNDERTAKINGS CONTAINED IN THIS AO ARE IN LIEU OF ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. This limitation of liability applies to us, any authorized sales agent, any employees and any of our affiliated companies, and to any involved Telephone Company. It applies to claims in contract, tort, and strict liability or otherwise and to any loss of business, profits or additional Advertising costs which you may incur. It also applies to any special, incidental, consequential or punitive damages and to any claim against you by any third party regarding your Advertising. Notwithstanding that any damages suffered by you shall not, as provided above, exceed the amount of charges for the affected Advertising from the time of notice of any error, omission or misplacement until its correction, this limitation of liability is not a liquidated damages provision, and does not relieve you of any burden under applicable law, including without limitation, the requirement of proving the amount of damages with reasonable certainty. You agree that your Advertising is intended only for your own benefit and any benefit to others is merely incidental. Any liability due to errors, omissions or misplacement in any free Advertising is limited to, and our obligations are discharged by, correction of the error, omission or misplacement after notice to us.

13. Assignment. You may not assign, and will remain responsible for, your obligations under this AO if you transfer your telephone service or if you otherwise seek to assign it without our prior written consent. If any successor fails to pay upon billing, we reserve the right to hold you responsible for all charges. We may assign this AO in whole or in part at our sole option to a third party by notifying you in writing, whereupon we shall be relieved of all our obligations hereunder and you shall look solely to such third party for performance of this AO.

14. Limitation Period. Any claim arising out of an error in publication of Advertising or any claim arising out of the publication of the directory(ies) must be made in writing to us within 120 days of publication of the directory(ies) (print or Internet). Otherwise the claim shall be deemed waived by you.

15. Severability. If any of the provisions of this Agreement shall be invalid or unenforceable under the laws of the jurisdiction applicable to this Agreement, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and our rights shall be construed and enforced accordingly.

16. Force Majeure. We shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, terrorist act, civil or military authority, act of God, or other similar causes beyond our control ("Conditions"). If any such Condition occurs we shall give immediate notice to you and we may elect to (a) terminate this Agreement or part thereof as to Services not already received; (b) suspend this Agreement for the duration of the Condition, and obtain elsewhere Services comparable to those to be obtained under this Agreement; or (c) resume performance of this Agreement once the Condition ceases with an option to extend the period of this Agreement up to the length of time the Condition endured. Unless written notice is given within thirty (30) days after the affected party is notified of the Condition, option (c) shall be deemed selected.

17. Miscellaneous. This AO, if accepted by us, and any associated forms, which specifically incorporate these terms and conditions, constitute the entire agreement between the parties concerning all matters relating hereto, and supersede any prior discussions, agreements or understandings, and there are no promises, representations or agreements between the parties relating to the subject matter of this AO other than as set forth in this AO. We will not be bound by, and disclaim any warranty or right by you or anyone else, to rely upon, any custom or prior course of dealing, such as the location of your Advertising other than in accordance with our Priority Placement Policy (which policy is available on request), any variation in color, darkness or clarity as a result of variations in paper, ink or publishing medium, or the nature of others' Advertising or any changes which you may later request in your Advertising. This AO does not create any partnership, joint venture, employee, franchisee, agency or other similar relationship. THIS AO AND ANY ASSOCIATED FORMS SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO. ANY LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ADVERTISING WHICH FORMS THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE FILED ONLY IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, DAYTON, OR THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, OHIO; YOU HEREBY CONSENT AND SUBMIT YOURSELF TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THOSE COURTS; AND YOU HEREBY WAIVE ANY OBJECTION BASED ON THE CONVENIENCE OF THOSE EXCLUSIVE VENUES.

18. Electronic Acceptance. When and where available, you may establish acceptance of this order by electronic signature in accordance with our approved format for electronic acceptance.

19. Customer Service Questions. For print and internet Advertising please visit Berry's website at www.BerryCustomerService.com for Customer Service contact information.