

RESELLER TERMS AND CONDITIONS

The following terms and conditions apply to your purchase of products from PlantSense if you are a US reseller. By placing your order, you agree to be bound by these terms and conditions, which constitute the entire agreement between you and PlantSense regarding the products purchased ("Agreement").

1. **Ordering:** Your order is subject to acceptance by PlantSense and may be refused in whole or in part for any reason, including credit concerns, unusual volumes, or shipping addresses. Once accepted, PlantSense may make partial shipments if some items are on backorder. By placing the order you agree that PlantSense may do so and charge you for any items shipped.
2. **Pricing:** The price for each product purchased is in U.S. Dollars. This price is reflected on your order and will remain the price regardless of any subsequent price changes by PlantSense. Prices and products are subject to change without notice, at PlantSense's sole discretion. In addition to the quoted price, you will pay shipping and handling charges according to your selected shipping method plus all applicable taxes. For purposes of calculating sales tax, the location to which the product is to be shipped shall govern. You will only be charged one shipping and handling charge for each order regardless of the number of shipments.
3. **Minimum Advertised Pricing (MAP):** Reseller agrees to abide by the following PlantSense Minimum Advertised Pricing ("MAP") policies:
 - 3.1. Reseller must not disclose to any third party the MAP prices for any Product. These prices are listed on our wholesale price sheet in Attachment A and may only be adjusted by PlantSense at its sole discretion.
 - 3.2. Reseller must have a physical address and telephone number as a method of contact.
 - 3.3. If advertising Products online, Reseller must have statement on its web site that the trademark EasyBloom™ is legally owned by PlantSense, and are being used with PlantSense's permission. PlantSense trademarks that appear in any literature or text blocks must have the proper trademark symbols ™.
 - 3.4. The PlantSense pricing policies apply to all advertisements of Products in all media, including, without limitation, flyers, posters, coupons, mailers, inserts, newspapers, magazines, catalogs, mail order catalogs, television, radio, public signage, cook books, seminars, Internet or similar electronic media.
 - 3.5. MAP pricing only refers to the minimum advertised pricing. Reseller may establish its own pricing as long as it is no less than the MAP for that particular Product.
 - 3.6. Intentional and/or repeated failure to abide by PlantSense MAP policy will result in termination of this Reseller Agreement.
4. **Cancellation:** Orders may not be canceled for items available for immediate shipment. Items on backorder may be canceled up to the actual shipment date, which may differ from PlantSense's estimated shipment date.
5. **Payment:** Payment in full is due prior to shipment. PlantSense will only accept payment via credit card. Your card will not be charged until PlantSense ships product to you. On approved credit, orders placed on account shall be due thirty (30) days from invoice date. Invoices will be paid in full without right of offset. PlantSense reserves the right to change credit terms should Reseller's credit record or payment history so warrant. Past due invoices will be subject to 1.5% per month interest charge.

6. Shipping: All sales to U.S. destinations are FOB PlantSense's designated U.S. warehouse (Gilroy, CA 95020). PlantSense will ship products according to the selected shipping instructions you selected. PlantSense will attempt to ship the products within the estimated times reflected on your order but will not be liable for any failure to do so. If PlantSense learns it cannot ship within the estimated times, you will be advised via email or regular mail of the new estimated shipment date. For items on backorder, PlantSense may ship whenever the product becomes available without any notice to you.

7. Title: Title to all products passes to you upon delivery of the product to the selected carrier.

8. Software: Regardless of destination, title to software including firmware embedded or associated with products ("Software") remains with PlantSense or its licensor and does not pass to Reseller. PlantSense grants Reseller a non exclusive, non transferable license to distribute PlantSense proprietary Software and third party Software to Reseller's customers, solely for use in conjunction with the products. PlantSense makes no warranty as to the Software, which is provided on an 'AS-IS' basis. All use of the Software shall be subject to the terms and conditions of the End User License agreements accompanying the products. Reseller agrees to cooperate with PlantSense to provide information related to the Software that may be requested by any third party licensors. Reseller warrants that it will not copy, modify, translate, decompile, reverse engineer, disassemble or otherwise determine or attempt to determine source code or to create derivative works from the Software, and agrees to indemnify PlantSense against any alleged violation thereof. Reseller acknowledges that Software may be governed under U.S. export restrictions.

9. Returns and Re-Stocking: Any returns must be approved in advance by PlantSense and must comply with PlantSense's policies and procedures then in effect. Approved returns must be accompanied by a Return Material Authorization (RMA) issued in advance (if purchased from Online Store must also include a packing slip). Credit for returns complying with RMA procedures will be issued only by PlantSense to Reseller's account upon receipt and inspection of product. All returns must be in the original PlantSense packaging and contain all items provided with the product. The Reseller must prepay freight and all related Transportation Costs for all returns; risk of loss passes upon delivery to PlantSense. You are responsible for shipping charges to return items to PlantSense. Reseller shall not debit or offset its account for any returns. Non-warranty related returns must be made within 60 days of original purchase and will be assessed a 20% re-stocking fee.

10. Reseller's Responsibility: Reseller will display PlantSense products in a manner consistent with the goodwill and quality associated with the PlantSense brand. Reseller will employ personnel reasonably familiar with the operation of PlantSense products to enable purchasers to make an informed purchase decision. Reseller will only sell PlantSense products to purchasers who are buying for their own use and not for resale. Reseller will not export the products from the (50) United States nor knowingly sell them for use outside the United States. Reseller will only sell the PlantSense products under PlantSense's applicable product warranty (which may be found at www.easybloom.com) and will make no representation or warranty inconsistent with such Product Terms. Reseller will comply with all applicable, laws, rules and regulations in each relevant jurisdiction. Upon the advance written approval of PlantSense and subject to PlantSense's Trademark License Agreement and then current Branding Guidelines found at <http://www.easybloom.com/service/media.html>, Reseller may have the right to use certain trademarks, logos, and other proprietary markings of PlantSense. Reseller agrees not to adopt,

use or register any corporate name, trade name, "dba," trademark, domain name, product name, service mark or certification mark, or other designation similar to any designation or proprietary markings of PlantSense. Reseller will promptly discontinue all such use upon notice by PlantSense.

11. Limited Delivery and Product Export: PlantSense will deliver products only within the United States. Reseller shall not export, either directly or indirectly, any documentation, PlantSense products, or system incorporating such PlantSense products, and shall ensure that it fully complies with all U.S. export control related laws and regulations.

12. Proprietary Information: "Proprietary Information" means all confidential or proprietary information disclosed by one party to the other party including, without limitation, proprietary EasyBloom™ products, trade secrets, technical, business or financial information and plans, the terms of this Agreement, and any item marked as confidential by the disclosing party or that should be recognized by the receiving party as confidential under the circumstances. Proprietary Information shall not include information that the receiving party can show (a) has or becomes generally known or publicly available through no fault of the receiving party, (b) is known by or in the possession of the receiving party prior to its disclosure, as evidenced by business records, and is not subject to restriction, or (c) is lawfully obtained from a third party who has the right to make such disclosure.

PlantSense and Reseller shall each exercise due diligence to maintain in confidence and not disclose to any third party any Proprietary Information furnished by the other to it on a confidential basis and identified as such when furnished or when it can reasonably be deemed as confidential under the circumstances. Except in accordance with this Agreement, neither party shall use such Proprietary Information without permission of the party that furnished it. As used in this paragraph, "due diligence" means the same precaution and standard of care which that party uses to safeguard its own proprietary data, but in no event less than reasonable care. Upon request of the disclosing party or any termination of this Agreement, the receiving party shall promptly return or destroy all Proprietary Information of the disclosing party. The provisions of this Section 12 shall survive for five (5) years beyond the expiration, non-renewal or termination of this Agreement.

Except as expressly provided herein, this Agreement does not grant any license under any patents or other intellectual property rights owned or controlled by or licensed to PlantSense. Reseller shall not have any right to manufacture PlantSense products.

13. Limited Warranty: PlantSense warrants to Reseller (i) that it has sufficient title to products sold to Reseller for resale hereunder and (ii) that the products delivered will generally conform to the description of the product on the price list. Should PlantSense breach either of the above-described warranties, Reseller's sole and exclusive remedy shall be to return the product to PlantSense for replacement. If PlantSense is unable to provide a replacement, Reseller's alternate exclusive remedy is to receive a credit of the net purchase price paid. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

14. Indemnity: Reseller shall defend, indemnify and hold harmless PlantSense from and against any action brought against PlantSense resulting from any (1) negligent act or omission by or

willful misconduct of Reseller's employees and or agents, (2) any claim that may be brought by a current or former employee and/or agent of Reseller, (3) alteration or misuse by Reseller of any PlantSense Product, packaging, promotional literature or proprietary materials, (4) false or misleading representations about PlantSense or the Products made by Reseller, (5) Reseller's breach of the terms of this Agreement or of any representation, warranty, covenant or agreement contained herein, or (6) violation of U.S. export control requirements.

15. Limitation of Liability, Remedies: THE REMEDIES PROVIDED HEREIN ARE RESELLER'S SOLE AND EXCLUSIVE REMEDIES ARISING OUT OF OR RELATED TO THIS AGREEMENT BY PLANTSENSE. UNDER NO CIRCUMSTANCES SHALL PLANTSENSE BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THE OBLIGATIONS AND RELATIONSHIPS ESTABLISHED BY THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOST DATA EVEN IF PLANTSENSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL PLANTSENSE'S TOTAL LIABILITY TO RESELLER ARISING UNDER OR RELATED TO THIS AGREEMENT EXCEED THE SUMS PAID TO PLANTSENSE BY RESELLER FOR THE PRODUCTS INVOLVED.

16. Confidentiality; Publicity: Reseller may generally advertise that it is authorized to resell PlantSense products (subject to PlantSense's branding guidelines) and PlantSense may generally publicly disclose that Reseller is an authorized reseller. Any other public statements or releases by Reseller regarding the relationship between the parties shall require the prior written approval of PlantSense.

17. Force Majeure: if the performance of this Agreement or of any obligation hereunder (except payment of monies due) is prevented, restricted or interfered with by any other act or condition whatsoever beyond the reasonable control of the parties hereto, the party so affected, upon giving notice to the other party, shall be excused from such performance to the extent of such prevention, restrictions or interference.

18. Relationship of the Parties: The relationship of the parties under this Agreement is that of independent contractors and nothing contained herein shall be construed as creating any partnership, joint venture, franchisor-franchisee, or agency relationship between Reseller and PlantSense. Reseller shall not have authority to assume or create any obligation or make any representation of any kind on behalf of PlantSense.

19. Waiver: The waiver by either party of any provision or right under this agreement on one occasion shall not operate as a waiver of any provision or right under this agreement on any future occasion.

20. Governing Law/Venue: California law governs this Agreement without consideration to that body of law referred to as "conflicts of laws".

21. Dispute resolution; Damages: PlantSense and Reseller will attempt to settle any claim or controversy arising out of it through consultation and negotiation in good faith and a spirit of mutual cooperation. Each party hereby consents to the exclusive jurisdiction of the state and federal courts located in the state of California for any dispute which cannot be resolved through negotiation or mediation may be submitted to the courts in the state of California, and the prevailing party shall be entitled to receive reasonable out-of-pocket costs, including reasonable attorneys' fees in addition to such other relief.

22. Entire Agreement: This agreement, together with any PlantSense sales / order confirmation and, referenced attachments, constitutes the entire agreement between us on this subject, and supersedes all related conversations or documents, as well as any prior agreements. Any terms and conditions of any purchase order or other document submitted in connection with this agreement that is in addition to or conflicting with the terms herein are rejected by PlantSense, will not be binding on PlantSense, and will have no force or effect. No modification of terms of this agreement shall bind either party unless in a written instrument signed by both parties.

23. Communication: Any notice or consent required or given under this Agreement shall be (i) in writing, (ii) in English, (iii) either personally delivered or sent by fax, e-mail, or by first class airmail, and (iv) sent to the address of the receiving party as set forth in the order, or such other address as such party may from time to time designate by notice to the other party. All notices regarding disputes shall, in the case of notices to PlantSense, be sent to the attention of PlantSense's General Counsel.

Additional terms: If any provisions or portions of this agreement are found to be invalid by any court of competent jurisdiction, the remainder of this agreement shall nonetheless remain in full force and effect. The terms and conditions of Sections 4, 5, 7, 11 - 13, and 16 - 22 shall survive expiration and/or termination of this Agreement. PlantSense is not responsible for typographic errors. PlantSense reserves the right to change these terms or the prices charged at any time so please check each time you purchase.