

Berrie AI Incorporated (d/b/a LiteLLM) Reseller Terms

BY EXECUTING AN ORDER FORM FROM BERRIE AI INCORPORATED, A DELAWARE CORPORATION ("COMPANY") THAT REFERENCES THESE RESELLER TERMS ("AGREEMENT") AND/OR ISSUING A PURCHASE ORDER TO COMPANY FOR COMPANY SOFTWARE OFFERINGS AND ANY ASSOCIATED SUPPORT AND/OR PROFESSIONAL SERVICES (COLLECTIVELY, "PRODUCTS") FOLLOWING RECEIPT OF AN ORDER FORM FROM COMPANY FOR THE SAME PRODUCTS, RESELLER AGREES TO AND ACCEPTS THE TERMS OF THIS AGREEMENT. THE INDIVIDUAL ACCEPTING THIS AGREEMENT ON BEHALF OF RESELLER REPRESENTS THAT THEY HAVE THE AUTHORITY TO ENTER INTO THE AGREEMENT ON BEHALF OF RESELLER. AS USED IN THIS AGREEMENT, "RESELLER" MEANS THE LEGAL ENTITY ON WHOSE BEHALF YOU ARE ENTERING INTO THIS AGREEMENT.

1. **Single Purchase Appointment.** Company hereby appoints Reseller, and Reseller hereby accepts, an independent, non-exclusive, non-transferable and non-sublicensable appointment to resell the Products expressly set forth in the Company's standard ordering document issued to Reseller (the "Order Form"), solely for use by the customer specified in the Order Form ("Customer") and solely for the Subscription Period specified in the Order Form. Reseller will not authorize nor appoint any dealers, representatives, sub-distributors, original equipment manufacturers, value-added resellers, systems integrators or other third parties, to market, promote, demonstrate, distribute, sublicense or sell the Products. Except as otherwise specified in this Section 1, Reseller will not have the right to rent, issue, auction, sublicense, sell, assign, use the Products for outsourcing purposes, or otherwise transfer the Products. Unless otherwise specified in the Order Form, Company may provide any applicable license keys, credentials or other access information directly to Customer. If Company instead provides any such information to Reseller for delivery to Customer, Reseller will promptly provide it to Customer without modification and will not provide it to any other person.

2. **Order Forms and Pricing.** Except for Customer's agreement with Company under the EULA, Reseller's purchase and resale of the Products does not create any additional contractual relationship between Company and Customer. Company may compete against Reseller, either directly or through another sales agent or third party and may sell, promote or provide the same or similar Products as those set forth in the Order Form. The Order Form becomes binding on the parties on the earlier of (a) the date that the Order Form is signed by Reseller, and (b) the date that Company accepts the Reseller's purchase order for Products referenced in the Order Form, (the "Effective Date"). Reseller will independently determine the prices and other commercial terms it charges Customer for the Products.

3. **Customer Terms.** Except as otherwise stated in this Agreement or the EULA, Company has no liability to Customer. Reseller is solely responsible for any liability arising in connection with the applicable agreement, quote or purchase order between Reseller and Customer, except to the extent such liability arises from Company's obligations directly to Customer under the EULA.

4. **Term and Termination.** This Agreement covers a single purchase by Reseller of the Company's Products for resale to Reseller's Customer and shall be effective as of the Effective Date and continues until the expiration of the Subscription Period specified in the Order Form. A party may terminate this Agreement if the other party breaches any material term of this Agreement and, to the extent the breach is capable of cure, fails to cure such breach within the 30 days following written notice of such breach. If Company terminates this Agreement under this Section 4 due to Reseller's material breach, Company may cease providing the Products to Customer or, in Company's discretion, arrange for the continued provision of the Products to Customer directly or through another reseller. In either case, all amounts outstanding under the Order Form, including any accrued usage, overage or capacity reconciliation charges and all committed fees for the remainder of the Subscription Period specified in the Order Form, will become immediately due and payable as of the date of termination, and any continued provision of the Products to Customer will not relieve Reseller of amounts accrued or otherwise payable to Company under the Order Form, provided that Company will not recover more than once for the same Products provided to Customer during the same period.

5. **Fees and Payment.** Company shall invoice, and Reseller shall pay Company, for the Products pursuant to the prices and other terms set out in the applicable Order Form. Any SGR commitments, usage or capacity limits, overage charges and end-of-term capacity reconciliation specified in the Order Form will apply, and Reseller will be responsible for all resulting fees. All pricing is in US Dollars. Except for any refund or credit Company is required to provide to Reseller in connection with Customer's rights under the EULA, all payment obligations are committed for the term specified in the Order Form and are non-cancelable, and all amounts paid are nonrefundable. Payment terms are net 30 days from the invoice date, without offsets or deductions of any kind, and payment is due in US dollars. Fees are exclusive of all applicable taxes, duties and similar governmental assessments, other than taxes based on Company's net income. Reseller is responsible for all such amounts arising from the transactions contemplated hereby and will make payments to Company without deduction or withholding, except to the extent required by applicable law. If Reseller is required by applicable law to make any deduction or withholding from a payment to Company, Reseller will increase the payment as necessary so that Company receives the amount it would have received absent such deduction or withholding. Following expiration or termination of the applicable Subscription Period, Company may reconcile Customer's actual usage through the final day of such period against the applicable usage allocations, buffers and other entitlements specified in the Order Form. Reseller will reasonably cooperate with Company in such reconciliation and, to the extent available to Reseller or reasonably obtainable from Customer, provide usage information reasonably requested by Company. If reasonably sufficient usage information is not timely provided, Company may calculate applicable additional usage or capacity charges using the best information reasonably available to Company, subject to adjustment upon receipt of supportable usage records. Reseller will be responsible for any resulting fees in accordance with the Order Form. If Customer becomes entitled under the EULA to a prorated refund or credit attributable to the unused remainder of the applicable Subscription Period, Company will provide the corresponding refund or credit to Reseller.

6. **Non-Payment.** Company may assess interest on any past due balances at the rate of 1 1/2% per month, or the maximum rate allowed by law, whichever is less. Reseller shall pay all reasonable costs and attorneys' fees incurred by Company with respect to collecting any past due balance.

7. **Reseller Covenants and Representations.** Reseller represents and warrants that it possesses and will continue to possess throughout the term of this Agreement all requisite regulatory and legal authority necessary to perform all obligations herein and to resell Products for the permitted uses in the location in which Reseller resells the Products, that its performance under this Agreement will be in compliance with all applicable laws and regulations, and that Reseller will not misrepresent the Products hereunder.

8. **Company Covenants and Representations.** Company represents and warrants that it possesses and will continue to possess throughout the term of this Agreement all requisite regulatory and legal authority necessary to perform its obligations hereunder.

9. **Terms of Service.** Reseller shall make provision of Products to Customer contingent upon Customer's agreement to the LiteLLM End User License Agreement available at <https://www.litellm.ai/eula> ("EULA"). Company may update the EULA from time to time by posting an updated version on Company's website. Any such update will apply prospectively only to Customers that agree to the updated version, and each Customer will remain subject to the version of the EULA accepted by such Customer unless and until that Customer agrees to a subsequent version. For clarity, the EULA governs the applicable Customer's use of the Products and does not impose obligations on Reseller except as expressly set forth in this Agreement. Reseller will ensure that its ordering documentation with Customer accurately reflects the Subscription Period, package tier, license limits, usage entitlements, Permitted Uses and any other limitations on Customer's use of the Products specified by Company for the applicable transaction. Reseller

shall obtain Customer's written agreement to the EULA as part of the resale process; such written agreement can be obtained by Reseller's inclusion of a specification such as "EULA: The use of the products and services provided hereunder is subject to the terms and conditions available at <https://www.litellm.ai/eula/>" to the Reseller's quote or other ordering paperwork accepted by Customer. Upon Company's reasonable request, Reseller shall promptly provide evidence of Customer's consent to the EULA. Unless otherwise specified in the Order Form, Company will provide any support included with the Products directly to Customer, and Company may communicate directly with Customer regarding the Products, support and administration of the Customer account. If Customer requests negotiation of the EULA, Reseller shall notify Company before completing the resale or providing Customer access to the Products. If Customer and Company are unable to agree upon mutually acceptable modifications to the EULA, Reseller shall not complete the resale or authorize Customer to access or use the Products, and Company will have no obligation to deliver or enable the Products for Customer.

10. Warranties/Warranty Disclaimer/Limitation of Liability.

Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPANY DOES NOT MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

Limitation of Liability. EXCEPT FOR EACH PARTY'S OBLIGATIONS UNDER SECTION 12 (CONFIDENTIALITY) AND RESELLER'S OBLIGATIONS UNDER SECTION 9 (TERMS OF SERVICE), IN NO EVENT WILL EITHER PARTY BE LIABLE OR RESPONSIBLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, LOSS OF DATA OR BUSINESS INFORMATION, OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY.

WITHOUT LIMITING THE FOREGOING AND TO THE FULLEST EXTENT PERMISSIBLE BY LAW, LIABILITY FOR ALL CLAIMS ARISING HEREUNDER, WHETHER IN TORT, NEGLIGENCE, CONTRACT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY RESELLER TO COMPANY UNDER THIS AGREEMENT AND THE APPLICABLE ORDER FORM DURING THE TWELVE MONTHS PRECEDING THE CLAIM. THE IMMEDIATELY PRECEDING SENTENCE DOES NOT APPLY TO EITHER PARTY'S INDEMNITY OBLIGATIONS HEREUNDER, SECTION 5 (FEES AND PAYMENT), SECTION 6 (NON-PAYMENT), AND RESELLER'S FAILURE TO COMPLY WITH SECTION 9 (TERMS OF SERVICE).

11. Indemnification.

Reseller Indemnification. Reseller agrees to indemnify and defend Company against all third-party claims and the resulting liabilities, costs and expenses, including reasonable attorneys' fees: (a) arising from any representations or warranties made by Reseller relating to the Products that are not authorized by Company, or (b) on account of bodily injury, death, or damage to property that results from the negligence or omission, or willful misconduct, in each case, in connection with the performance of obligations under this Agreement of Reseller, or its directors, officers, employees, or subcontractors. Reseller's obligation to indemnify Company is contingent upon Company: (i) providing Reseller prompt written notice of any claim; (ii) tendering the exclusive control of the defense of any claim to Reseller; and (iii) reasonably cooperating with Reseller in the defense of the claim, at Reseller's sole cost and expense.

Company Indemnification. Company agrees to indemnify and defend Reseller against all third-party claims and the resulting liabilities, costs and expenses, including reasonable attorneys' fees: (a) based on allegations that the Products infringe, misappropriate, or otherwise violate a third party's intellectual property or proprietary rights under the laws of a country in which such Products are actually provided to Customer, or (b) on account of bodily injury, death, or damage to property that results from the negligence or omission, or willful misconduct, in each case, in connection with the performance of obligations under this Agreement of Company, or its directors, officers, employees, or subcontractors. Reseller may not recover from Company under this Section to the extent Company has already indemnified, defended, reimbursed, or otherwise satisfied the same loss, liability, cost, or expense directly for Customer. Company's obligation to indemnify Reseller is contingent upon Reseller: (i) providing to Company prompt written notice of any claim; (ii) tendering the exclusive control of the defense of any claim to Company; and (iii) reasonably cooperating with Company in the defense of the claim, at Company's sole cost and expense. Additionally, Company's obligations under clause (a) will be subject to the same exclusions, limitations and remedies applicable to Company's intellectual property indemnification obligations under the EULA applicable to Customer.

12. Confidentiality. "Confidential Information" is non-public information that includes, but is not limited to, the terms of this Agreement, any Order Form, information concerning a party's (the "Disclosing Party") pricing terms, operations, methods of doing business, technologies, technical designs, research and development, trade secrets, software source code, algorithms, technical specifications and data, customers, personnel, financial information and other confidential or proprietary information belonging to or provided by or on behalf of the Disclosing Party, or information the party receiving such information (the "Receiving Party") should reasonably know is confidential to the Disclosing Party. The term "Confidential Information" as used in this Section does not include information that (i) was or becomes generally available to the public other than as a result of a disclosure by the Receiving Party or its directors, officers, employees, agents, contractors or advisors ("Representatives"); (ii) was or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its Representatives, provided such source is not bound by a confidentiality obligation with the Disclosing Party; (iii) was within the Receiving Party's possession prior to it being furnished to the Receiving Party by or on behalf of the Disclosing Party, provided the source of such information was not bound by a confidentiality obligation owed to the Disclosing Party with respect thereto; or (iv) was independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information. Each party agrees that it will not use, modify, copy, or disclose to any third party Confidential Information, except as needed to fulfill its obligations or exercise its rights under this Agreement, or as required by law. The Receiving Party may disclose the Disclosing Party's Confidential Information to the Receiving Party's Representatives solely as necessary to meet its obligations or exercise its rights under this Agreement. The Receiving Party will also ensure that all Representatives are aware of the confidential and/or proprietary nature of the Confidential Information and are subject to confidentiality obligations or professional duties of confidentiality no less protective than those set forth in this Agreement. The Receiving Party will take measures to protect Confidential Information at least as stringent as those measures that it takes to protect the confidentiality and security of its own confidential information of a similar nature, but in no event will the Receiving Party use less than reasonable care.

13. Ownership and Licenses. Except for the limited rights expressly granted in this Agreement, neither party transfers or otherwise licenses to the other party any technology, software, or other intellectual property rights. The parties understand and agree that access to the Products is being purchased by Reseller for resale to Customer, and this Agreement does not permit Reseller to use the Products for any other purposes.

14. Notice. All notices required under the Agreement (other than routine operational communications) must be in writing in one of the following forms: e-mail, national overnight courier or U.S. postal service, postage prepaid. Notices shall be effective upon: (i) actual delivery to the other party, if delivered by email or by national overnight courier; or (ii) five (5) business days after being mailed via U.S. postal service, postage prepaid. Company legal (Legal@berri.ai) must be copied on all notices to Company to be valid. All notices will be given using the contact information with respect to each

party set forth in the applicable Order Form or such other contact information as may be designated by a party by giving written notice to the other party pursuant to this Section.

15. Assignment, Successors. Neither party may assign, in whole or in part any right, interest or obligation under this Agreement or the Order Form to any third party, without the other party's prior written consent. Such consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either party may assign the Agreement and the Order Form to a parent, subsidiary, an acquirer of all or substantially all of the party's assets or a successor pursuant to a merger or other business combination. Subject to the preceding provisions, this Agreement and the Order Form will be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of the parties (if applicable).

16. Amendments. This Agreement may not be amended, modified or waived except in a writing signed by both parties.

17. Governing Law. This Agreement and the Order Form will be construed in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to any choice of law rule that would cause the application of the laws of another jurisdiction. The state and federal courts located in Delaware will have exclusive jurisdiction over any dispute arising out of or relating to this Agreement or the Order Form, and each party consents to personal jurisdiction and venue in such courts.

18. Severability. If any provision or portion of any provision of this Agreement or the Order Form is held to be invalid, illegal or unenforceable in any respect under any applicable law in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or portion of any provision in such jurisdiction.

19. Entire Agreement. This Agreement and the Order Form constitute the entire agreement between Company and Reseller with respect to the subject matter hereof and supersede all prior or contemporaneous agreements, representations and communications between them regarding such subject matter. For clarity, the EULA governs Customer's access to and use of the Products and is not part of the agreement between Company and Reseller, except to the extent this Agreement expressly imposes obligations on Reseller relating to the EULA. Any terms contained in any purchase order, vendor portal or other document issued or submitted by Reseller are for administrative purposes only and will have no force or effect, regardless of whether Company accepts, processes or references such document. No such terms will modify or supplement this Agreement or an Order Form unless expressly agreed to in writing by Company.

20. Conflicting Terms. If the Order Form conflicts with this Agreement, the Order Form will control with respect to the applicable transaction.

21. Force Majeure. Neither party is responsible for any failure to perform its obligations under this Agreement or the Order Form if such party is actually prevented from or delayed in performing (the "**Prevented Party**") those obligations by an event of force majeure. In any such instance, the Prevented Party must notify the other party as soon as practicable giving full particulars of the event of force majeure and the reasons that such event prevents or delays that party from performing its obligations. The Prevented Party must then use commercially reasonable efforts to mitigate the effect of the event of force majeure upon its performance of its obligations. Upon the completion or mitigation of the event of force majeure, the Prevented Party must recommence its performance as soon as reasonably practicable. As used herein, "an event of force majeure" means an event or circumstance that is beyond the reasonable control of either party, occurs without the fault or negligence of the Prevented Party, and, through the exercise of reasonable diligence, the Prevented Party was unable to prevent such event or circumstance. For clarity, an event of force majeure will not excuse any payment obligation, except to the extent such event temporarily prevents the timely transmission of payment through generally available banking or payment systems.

22. Survival. The provisions regarding warranties and disclaimers of warranties, preservation and ownership of intellectual property rights, confidential information, limitations of liability, indemnification, payments owed as of termination or expiration (including the accrual of interest on delinquent amounts), and Sections 15 (Assignment, Successors) through 24 (Export Controls) will survive the expiration or termination of this Agreement.

23. Relationship of the Parties. Nothing in this Agreement or the Order Form is intended to, nor shall it be construed to, create any agency, partnership, or joint venture relationship between the parties. Reseller has no authority to bind Company or make any representation, warranty or commitment on Company's behalf, or to modify the EULA or any terms applicable to the Products.

24. Export Controls. Reseller agrees to comply with, and shall not resell the Products to Customer or otherwise allow any third parties to access or use the Products in violation of, United States export control or economic sanctions laws and regulations including those administered by the United States Department of Commerce or U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"). Without limiting the foregoing, Reseller represents that it will not resell the Products to Customer if the Customer (a) is organized, located or ordinarily resident in a country or territory subject to comprehensive U.S. sanctions; or (b) is designated on any list of prohibited, restricted, or blocked persons maintained by the U.S. government, including OFAC's Specially Designated Nationals and Blocked Persons List; or (c) 50% or more, directly or indirectly, individually or in the aggregate, owned by one or more persons described in clause (b). Company may terminate this Agreement immediately without notice or liability, if Company reasonably determines that such termination is necessary to comply with applicable U.S. export control or economic sanctions laws.