

STANDARD TERMS OF DELIVERY AND SALE OF GOODS

Pharmacy Retailing (NZ) Limited ("the Company") shall only supply goods to you ("the Customer") on the following Standard Terms of Delivery and Sale of Goods ("Terms and Conditions").

1. Payment

1.1 All invoices are due and payable in full on the 20th of the month following the month of invoice, provided however that if any invoice or invoices remain unpaid after the due date, all of the Customer's invoices, whether due for payment or not, shall be deemed to be overdue and shall become payable on demand. The Company reserves the right to allocate payments received from the Customer to whichever outstanding invoice or invoices the Company decides. Should the Customer fail to pay any invoices by the due date, then:

- (a) the Company may require the Customer to compensate it by making payment to the Company on demand of interest (as liquidated damages) on the amount due from the due date until the date of payment at a rate of two percent (2%) per month calculated on a daily basis; and
- (b) the Customer shall pay all of the Company's costs and expenses whatsoever (including legal costs determined as between solicitor/own client and collection agents fees) which may be incurred in the recovery or attempted recovery of the overdue amounts from the Customer.

1.2 The Customer may not deduct or withhold any amount (whether by way of set-off, counterclaim or otherwise) from any payment due to the Company.

2. Prices and Delivery

2.1 Unless specified on the invoice, all prices are exclusive of Goods and Services Tax, freight costs and insurance charges, all of which the Customer must pay. Any error or omission by the Company does not waive the Customer's liability. Whilst the Company will use all reasonable endeavours to comply with the Customer's particular delivery requirements and order specifications, the Customer will not be entitled to cancel the whole or part of its order or to claim compensation by reason of the Company's failure to comply with the Customer's delivery requirements or minor variations to the goods as a result of changes to the manufacturing processes or specifications.

3. Security Interest

3.1 The Customer acknowledges that the ownership of goods delivered by the Company to them ("the Goods") is only transferred to them when they have paid all sums owing to the Company on any account whatsoever and, until such time, the Company has the right to call for or recover the Goods at its option (for which purpose the Company's employees or agents may enter any premises) and the Customer is obliged to deliver up the Goods if so directed by the Company. The Customer agrees to keep the Goods in a fiduciary capacity for the Company until such time as ownership is transferred to them.

Subject to the foregoing, the Customer may sell the Goods to a third party in the ordinary course of business. This authority is revoked immediately if:

- (a) the Customer fails to comply with these Terms and Conditions; or
- (b) the Customer is subject to any event which is in the nature of dissolution, winding up, bankruptcy, liquidation insolvency or receivership, or which generally precedes such an event; or
- (c) an event occurs, or information becomes known to the Company, which, in the Company's opinion, might materially affect the Customer's creditworthiness, the value of the Goods, the subject of the security interest, or the Customer's ability or willingness to comply with its obligations under these Terms and Conditions; or
- (d) the Company's authority to sell the Goods to the Customer is revoked by the supplier of those Goods to the Company; or
- (e) the Company notifies the Customer in writing that this authority is revoked.

The Customer must advise the Supplier immediately of any event in clauses 3.1(a)-(c) or any action by third parties affecting the Company's interest in the Goods.

If the Customer resells or uses any Goods before ownership of the Goods has passed to the Customer, the proceeds of such sale or use shall be received and held by the Customer (in whatever form) in trust for both the Customer and the Company. The Company's interest as beneficiary under that trust shall be that portion of the proceeds which does not exceed the price of the Goods that remains unpaid by the Customer. The balance of the proceeds shall be the Customer's beneficial interest under that trust.

3.2 To secure payment of the purchase price for the Goods until such amount is paid in full, the Customer grants the Company a security interest in the Goods. The Company is entitled to register a financing statement under the Personal Property Securities Act 1999 ("PPSA").

3.3 The Customer undertakes not to, nor permit another person to, give the Company a written demand requiring it to register a financing change statement or a change demand, and undertakes to promptly and at its cost do such acts and to provide such information as the Company requires to register and perfect its security interest in the Goods as a first priority interest, or such priority as they may otherwise agree. Without limitation, the Customer undertakes not to consent to, nor to enter into any agreement which permits any person to register, a security interest in the Goods which ranks in priority to the Company's security interest

3.4 The Customer acknowledges that it has waived its right to receive a copy of any verification statement, financing statement or financing change statement issued under the PPSA or any other confirmation related to any security interest created by these provisions, and agrees that, to the maximum extent permitted, it has no rights under or by reference to sections 107(2)(a), (c), (d), (e), (h) and (i), 114(1)(a), 133 and 134 of the PPSA and agrees that the Company's rights in respect of the Goods will include but not be limited by section 109 of the PPSA.

3.5 If the Customer breaches its payment obligations under these Terms and Conditions, the Company's security interest in the Goods will become immediately enforceable, the secured money will become immediately due and payable and the Company may immediately and without notice (without limitation) take possession of the Goods, suspend any payment credit arrangements offered to the Company and cancel any outstanding orders from the Customer.

4. Risk

4.1 Notwithstanding the provisions of Clause 3, the Customer accepts all risk of loss and damage to the Goods, whether caused by them or not, following delivery of the Goods.

4.2 Delivery will be considered to have been made when the Goods arrive at the Customer's premises or, if the Customer is to arrange delivery of the Goods, when the Goods are available for collection by the Customer. If the Customer fails or refuses to take delivery of the Goods, the Company may (without affecting any other rights it may have) charge the Customer for any expenses and additional costs incurred by the Company as a result.

5. Return of Goods for Credit

5.1 The Company will accept Goods for credit within 10 working days of dispatch entirely at its discretion. Any Goods which the Customer returns for credit will only be accepted if they are in the original packaging, in pristine order and condition and accompanied by documentation showing:

- the Customer's name, address and account number;
- the Company's invoice number; and
- the reason for return.

If the Company authorises the return of Goods, the Goods must be carried by its nominated carrier at the Customer's cost. The Company may at its option charge a handling fee on returned Goods.

5.2 Requests by the Customer for proof of delivery must be made to the Company within 10 working days from receipt of invoice. Details of the invoice must accompany the request.

6. Withholding Supply
6.1 The Company reserves the right, irrespective of whether or not an order has been accepted, and without notice to the Customer, to withhold supply and the Company will not be liable for loss or damage resulting directly or indirectly from such action where:
(a) the Company has insufficient Goods to fulfil the order; or
(b) the Goods ordered have been discontinued; or
(c) the Company has determined, at its absolute discretion, that credit should no longer be extended to the Customer.
7. Minimum Orders
7.1 The Company reserves the right to specify the minimum order value which the Customer must accept from time to time and to impose a surcharge should the Customer require delivery of Goods having a value less than the minimum order value.
8. Limitation of Liability - Consumer Guarantees Act 1993
8.1 Nothing in these Terms and Conditions limits any rights the Customer has under the Consumer Guarantees Act 1993 ("Act") and these Terms and Conditions must be read subject to those rights.
8.2 Where these Terms and Conditions would otherwise be subject to the Act and the Customer is acquiring the Goods and/or services supplied by the Company for business purposes, the Customer agrees that the Act will not apply.
8.3 Subject to the foregoing, the Company excludes all statutory or implied conditions and warranties to the extent permitted by law.
8.4 References to any legislation or legislative provision includes that legislation or provision as amended from time to time, and any replacement or successor legislation or provision.
8.5 To the extent permitted by law, the Company limits its liability under any condition or warranty which cannot legally be excluded to:
(a) the replacement of the Goods or the supply of equivalent Goods; or
(b) the repair of the Goods; or
(c) the payment of the costs of replacing the Goods or of acquiring equivalent Goods; or
(d) the payment of the costs of having the Goods repaired.
The Company accepts no liability for consequential, special or indirect loss or damage under any circumstances.
9. Claims
9.1 Any claims by the Customer for incorrect and short delivery of Goods or damaged Goods in transit must be made within 5 working days of the delivery, quoting delivery docket or invoice number.
9.2 No claims will be accepted for any Goods that have been damaged at the Customer's premises.
9.3 Any other claims for adjustment to any invoice for any reason apart from those set out in clause 11.1 must be made in writing within 10 working days of delivery.
10. Clerical Errors
10.1 The Company reserves the right to correct clerical errors without notification.
11. Service
11.1 Any notice or demand to be given or served pursuant to these Terms and Conditions must be in writing and must be left at or sent by pre-paid registered post to the last known postal address or actual address of the party to be notified or served, and will be deemed to be notified or served on the day so left or 48 hours after posting provided however that receipt of a facsimile of such notice or demand will be deemed to be receipt of the original and will be deemed to be notified or served on the day of receipt. Notwithstanding any contrary provision of these Terms and Conditions or statute, this clause shall take effect.
12. Privacy
12.1 The Company will collect, use, disclose and store the Customer's personal information (as that term is defined in the Privacy Act 2020) in accordance with the Privacy Act 2020 and the applicable privacy policy of the Company as amended from time available at <https://www.propharma.co.nz>
13. Entire Contract
13.1 This document constitutes the entire agreement between the Company and the Customer and supersedes and replaces any other agreement, understanding or arrangement between the parties and takes precedence over any of the Customer's terms.
13.2 If any provision of these Terms and Conditions is held to be invalid or unenforceable for whatever reason, the remaining provisions shall remain in full force and effect.
13.3 The Customer accepts these Terms and Conditions when the Customer accepts or takes delivery of the Goods supplied.
14. Government Licences
14.1 The Customer must have all appropriate licences and storage facilities required to buy and sell the Goods. The Customer further warrants that all necessary licenses are held and adhered to and all orders fully comply with licenses and all applicable laws.
14.2 Without limiting clause 14.1, the Customer must obtain and hold all licences required to purchase and/or on-sell the Goods at all times during which it purchases Goods from the Company under these Terms and Conditions.
14.3 The Customer will provide the Company with copies of all licenses immediately on request and whenever replaced.
15. Amending the Agreement
15.1 We may from time to time change the terms of this agreement. We will give you no less than thirty days' notice of any amendments and, unless detailed otherwise, all changes will be effective as at the end of the notice period.
16. Governing Law
16.1 The laws of New Zealand govern our trading and these Terms and Conditions.
16.2 The Customer agrees with the Company to submit to the non-exclusive jurisdiction of the Courts of New Zealand and agrees that any legal proceedings may be heard in those Courts.
17. Acknowledgement
17.1 The Customer acknowledges having read these Terms and Conditions and confirms it understands them.

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