

# Terms and Conditions

## STANDARD TERMS AND CONDITIONS OF SALE - "THE AGREEMENT"

**IMPORTANT:** Please read the wording of this Agreement carefully as it contains the terms and conditions ("the Terms") upon which Med-fx Ltd of 6 Perry Way, Witham, Essex CM8 3SX. ("Medfx"/ "Us"/ "We"/ "Our") contracts with ("You"/ "Your"/ "Yourself") for the purchase of the Goods.

In these Terms, the following definitions apply:

**Agreement:** the contract between Us and You for the sale and purchase of the Goods in accordance with these Terms.

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Goods:** the goods set out in the Order

**Order:** the offer by You to purchase the Goods

**Specification:** any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Supplier

**Terms:** the terms and conditions set out in this document (as may be amended from time to time by Medfx)

Orders accepted by Us are subject to the following Terms:

### 1. ORDERS

- 1.1 These Terms apply to the Agreement to the exclusion of any other terms that You seek to impose or incorporate or which are implied by trade, custom, practice or course of dealing.
- 1.2 The Order constitutes an offer by You to purchase the Goods in accordance with these Terms. You are responsible for ensuring that the terms of the Order and any applicable Specification submitted by the You are complete and accurate.
- 1.3 The Order shall only be deemed to be accepted when We indicate our acceptance, at which point the contract shall come into existence.
- 1.4 You shall make an Order by telephone, facsimile, post, email or via Electronic Prescription. (Please also refer to Our separate Terms and Conditions in relation to use of Our website)
- 1.5 All Orders which are accepted by Us shall be subject to these Terms and no contract shall be deemed to be in place until We have accepted Your Order by indicating our acceptance.
- 1.6 A hard copy prescription must be received by Us within 72 hours of the processing of the Order unless using our electronic prescription service for which no paper copy is required.
- 1.7 If an item is out of stock You will be advised within 48 working hours of Us receiving Your Order. You will be offered an alternative product if one is available or You may cancel Your Order or it can be placed on Back Order.
- 1.8 Subject to clause 6.1, an Order can only be canceled at Our discretion. On no account can cancellation be accepted for items sourced specially by Us on Your behalf which is not advertised on Our website or in Our catalogue.
- 1.9 Private Prescriptions Goods dispensed are only for the use of the patient identified in the prescription and are not for re-sale. It is your responsibility to ensure that the patient is aware that the goods are being prescribed to them directly on prescription.

### 2. PAYMENT AND PRICES

- 2.1 All prices are quoted in pounds Sterling unless We have specified Euros or such other currency as We may identify.
- 2.2 You shall pay the invoice in full in cleared funds on or before the 21st day of the month following the invoice date (the "Due Date") using one of the methods detailed on Our website or as We may notify You in writing from time to time (each a "Payment Method"). Payments made using any method of payment other than a Payment Method shall not be accepted unless We have given prior approval for such alternative method of payment in writing. Cash will never be accepted.
- 2.3 If You fail to make any payment on the Due Date in accordance with Clause 2.2 We have the right to charge interest on all outstanding balances calculated on a daily basis at the rate of 2% per annum above the current base lending rate of Barclays Bank Plc (both up to and after the date of any judgement until such time as payment is received). If You fail to make payment on the Due Date (in accordance with Clause 2.2) any discount applied to the price of the Goods will not apply and Medfx reserves the right to claim from You the full price of the Goods (without such discount) at the date of the invoice.
- 2.4 Prices quoted are exclusive of VAT and are current at the time of publishing. While every endeavour will be made to maintain them at their present low level We reserve the right to effect changes without prior notice (including, but not limited to, as a result of exchange rate variations). This applies, in particular, if Goods are specially sourced for You by Us and are not dispatched directly by Us (delivery charges will be invoiced to You by Us in this instance). Prices must be confirmed by You at the time an Order is placed.
- 2.5 If any sum of money is due from You, the same may be deducted from any sum then due or which at any time becomes due to You under this or any other Agreement between Us

and You.

- 2.6 We occasionally issue promotional flyers. Any prices quoted are valid until the promotion date advertised (subject to availability). After expiry of the date advertised or (if earlier) until the maximum availability in respect of the Goods advertised has been reached then future availability will be as advertised in the current catalogue, or on Our website, (subject to Clause 2.4).
  - 2.7 In the event that a hard copy prescription is not provided within the time prescribed in clause 1.6 We are obligated to charge You VAT in respect of the relevant Goods. We reserve the right to retrospectively invoice you for any VAT which may become due as a result of your breach of clause 1.6.
  - 2.8 Should you breach clause 1.6 We will charge you an administration fee of not less than 10% of the invoice value in the event that We correspond with you in order to obtain a hard copy prescription.
  - 2.9 We reserve the right to charge an administration fee (at a minimum of £25 per transaction) in the event that unrepresented payments are received from you. 2.10 We reserve the right at any time to correct clerical omissions and errors.
- ### 3. OWNERSHIP OF THE GOODS
- 3.1 Ownership of the Goods delivered or to be delivered by Us will only be transferred to You when We have received full payment in cleared funds in accordance with Clause 2.2 of all sums owing to Us in respect of the Goods and in respect of any other agreements between You and Us.
  - 3.2 Until payment is made as aforesaid You must store the Goods in such a way that they are clearly Our property.
  - 3.3 Until ownership has passed to You We retain full legal and beneficial title to the Goods and reserve the right at any time to require You to deliver up the Goods to Us and, if You fail to do so forthwith upon Our request, to enter upon any of Your premises or those of any third party where the Goods are stored and repossess the Goods. You will indemnify Us and hold Us harmless against all and any liabilities costs and expenses owing from or in connection with Us exercising Our rights under this Clause 3.3.
  - 3.4 You may be entitled (but only with Our prior written approval) to sell the Goods either in their original state or incorporated into other products acting as Our agents. In these circumstances the title to the Goods shall remain with Us, and You shall remain fully accountable for the proceeds of the sale thereof.

### 4. DELIVERY

- 4.1 In respect of Orders placed before 5:30pm on a Business Day, delivery will normally be made within 1 to 2 Business Days after the Order is placed, and We will normally dispatch Goods by courier or first-class post to UK mainland excluding any area separated by water ("UK Mainland") from the mainland (delivery to the Scottish Highlands and Islands may take longer). A carriage charge of £5.95 (including VAT) for a 1 to 2 working day delivery will be charged on all orders with a total invoice value lower than £550 (excluding VAT). Any orders containing temperature-controlled items will incur a cold chain delivery fee of £9.95 and are not eligible for free delivery regardless of the order threshold met. Other delivery services are available at an additional cost.
- 4.2 Freight and insurance for deliveries outside UK Mainland and for deliveries by Our suppliers to You directly, is charged extra at cost. Please contact Our Export Department for a quotation. If the Goods are subject to import duties and/or taxes for overseas orders, these costs will be solely borne by You.
- 4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall use reasonable endeavours to deliver by the date specified but We shall be under no liability whatsoever for delay in delivery or the consequence thereof however caused and You hereby waive irrevocably all Your rights and remedies (if any) in respect of any loss or damage suffered or incurred directly or indirectly as a result of any late delivery of the Goods.
- 4.4 When Goods are delivered to You, You should carefully check the courier's documentation and/or the delivery note to ensure that the number of packages due from Medfx delivered corresponds to the number of packages received from Medfx as noted on the delivery note. We will not be liable for any non-delivered packages unless such non-delivery has been noted on the courier's documentation (if applicable) and You have notified Us of the same within 48 hours of delivery.
- 4.5 If You believe that there are shortages in the number of Goods contained in the packages or if any damage has occurred to the Goods in transit, You must report these to Us within 3 working days of receipt of the Goods and this must be confirmed in writing and any damaged Goods returned to Us, within 3 days of delivery.

### 5. QUALITY

- 5.1 We warrant that on delivery the Goods shall:
- Conform in all material respects with their description
  - Be free from material defects in design, material and workmanship
  - Be fit for any purpose held out by Us
- 5.2 Subject to Clause 5.3, if:
- You give notice in writing to Us within 3 working days of discovery that some or all of the Goods do not comply with the warranty set out in Clause 5.1;
  - We are given a reasonable opportunity of examining such Goods; You (if asked to do so by Us) returns such Goods to Our place of business or to the manufacturer at Your cost; and
  - Goods which are returned to Us are accompanied by a Returned Goods Form (available from customer services) along with the original invoice invoice/ invoice number We shall, at Our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 We shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
- You make any further use of such Goods after giving notice in accordance with clause 5.2
  - The defect arises because You failed to follow Our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same
  - The defect arises as a result of Us following any drawing, design or Specification supplied by You
  - You alter or repair such Goods without Our written consent
  - The defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal storage or working conditions
  - The Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements
- 5.4 Except as provided in this clause 5 We shall have no liability to You in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Agreement.
- 5.6 Dimensions and other physical characteristics of the Goods are subject to normal commercial tolerances.
- 5.7 These Terms shall apply to any repaired or replacement Goods supplied by Us.
- 6. RETURNS**
- 6.1 As a business user/customer We will not accept returns from You other than for the reasons stated below:
- Incorrect goods have been delivered (subject to clause 4.4)
  - such products are returned in response to a product or batch recall; or
  - such products are damaged or faulty.
  - such products are being returned for repair
- 6.2 Where a return is requested subject to clause 6.1, You must notify Us either by e-mail to sales@medfx.co.uk or by telephone on telephone number 01376 391 100. We will usually arrange collection from You, under certain circumstance We may request that You return the Goods for which You will be Reimbursed. Goods returned to us must be accompanied by a Returns Advice Form (available from Customer Services or the website). A credit note cannot be issued by Us without the original invoice number.
- 6.3 Subject to clause 6.1 to 6.7, We will give credit of a sum equal to the price paid by You for the Goods plus any carriage charge paid by You to return the goods, for:
- at our sole discretion items returned to and received by Us in a resaleable condition provided they are received within 3 days of the invoice date
  - UnoDent items (not including equipment and Ultrasonic inserts) sent on a 'No Quibble' trial basis and returned within 28 days of the invoice date
  - Any item received is damaged provided We are notified and the item is returned in accordance with clause 5.5
- 6.4 Subject to clause 6.1 Goods which are required by the manufacturer to be transported and stored at 2-8c cannot be returned unless:
- incorrect goods have been delivered (subject to clause 5.4);
  - such products are returned in response to a product or batch recall; or
  - such products are damaged or faulty.
- Any Goods which are required by the manufacturer to be transported and stored at 2-8c must be returned to us within 24 hours of delivery.
- 6.5 Non-defective medicinal products which have left Our premises can only be returned if all of the following criteria are met by You to our sole satisfaction:
- goods are returned within 3 days
  - the medicinal products are in their unopened and undamaged secondary packaging and are in good condition;
  - the medicinal products have not expired and have not been recalled;
  - you can demonstrate that the medicinal products have been transported, stored and handled in compliance with their specific storage requirements; and
  - the batch number for products bearing the safety features is known and the product remains active (commissioned) on the NMVS database, the tamper evident seals are complete and that there is no reason to believe that the product has been falsified.
- 6.6 The following provisions apply to this clause 6:
- goods returned to Us must be accompanied by a Returns Advice Form (available from customer services or the website) and must include the original invoice or invoice number or a credit note will not be issued
  - you (if asked to do so by Us) return such Goods to the manufacturer
  - any returned items must be packed in a cardboard box with adequate packaging to protect product during transit and suitably labeled with Our name and address. Unpacked goods should not be handed to the carrier's driver
  - you must not under any circumstance send Us any item which is contaminated. We reserve the right to refuse to handle any items which do not have a completed Decontamination Certificate
  - any equipment item (including hand-pieces) can only be returned for credit if unused, complete and in the original packaging
  - any returned item lost, damaged or defaced in transit to Us will not be credited
- 6.7 If you have not received an acknowledgement or credit note from Us within 14 days You should notify Us.
- 6.8 If, at Our sole discretion and with no obligation on Us to do so, we agree to the return of saleable Goods to Us after 28 days from the invoice date, We reserve the right to levy a handling charge normally of, but not limited to, 25% of the invoice value for such Goods.
- 6.9 We reserve the right to charge carriage on returns where collection is arranged by Us.
- 7. COPYRIGHTS AND PATENTS**
- 7.1 Goods and material contained in Our website and Our catalogue may be the subject of patents, copyright, design, trade mark or other intellectual property rights belonging to Us and/or to third parties. We do not grant nor purport to grant to You any licence, permission or authority in respect of such rights and You acknowledge and agree to satisfy Yourself in respect of such matters. We accept no liability for Your infringement of any third party rights.
- 7.2 Reproduction in part or whole of Our catalogue or Our Website or of any of Our intellectual property rights without Our prior written consent is strictly prohibited.
- 8. LIMITATION OF LIABILITY**
- 8.1 Subject to clause 8.4 below and as otherwise expressly provided in this Agreement, all warranties, conditions or other terms whether express or implied by statute or common law or otherwise are excluded or limited to the fullest extent permitted by law. In particular other than as expressly provided in this Agreement We make no representation or warranty that the Goods are either of satisfactory or merchantable quality or fit for any purpose or that they conform to any description. You acknowledge and agree that You have relied upon Your own skill and judgement in selecting the Goods.
- 8.2 Subject to clause 8.5 We shall under no circumstances whatever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, in respect of:
- indirect or consequential loss, damages, costs or expenses including but not limited to costs of removal and re-installation of Goods
  - loss of goodwill
  - loss of business
  - loss of profits or
  - loss of use
- 8.3 Subject to clause 8.5 Our total liability to You in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price paid for the Goods.
- 8.4 Clauses 8.1 and 8.2 do not apply where You deal as a consumer to the extent that such exclusions or limitations are not permitted by law. Nothing in this Agreement shall adversely affect the consumer.
- 8.5 Nothing in these Terms shall limit Our liability in respect of death or personal injury caused by Our own negligence, fraud or fraudulent misrepresentation or any other matter in respect of which it would be unlawful for Us to exclude or restrict liability.
- 9. MISCELLANEOUS**
- 9.1 We reserve the right to discontinue any product, or make design changes to product specifications, or use different suppliers or manufacturers to those stated in Our catalogue or on Our website, without prior notice, as part of Our continuous process of product and service improvement, to improve product availability or if required to by any applicable statutory or regulatory requirements. The information contained in Our catalogue or on Our website is correct to the best of Our knowledge at time of going to press. All images are used in Our catalogue and on Our website are for illustration purposes only.
- 9.2 We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of Our rights or obligations under the Agreement. 9.3 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.
- 9.3 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.
- 9.4 Medfx operates a Quality Management System in accordance with BSENISO 9001:2000, BSENISO 14971:2001, MDD 93/42/EEC Annex V, ISO13485:2003, BSEN 1639:2004 and MDD 92/42/EEC. This incorporates a Batch/Lot Control System for traceability of all medical devices and equipment dispatched by Medfx. We would advise You to retain information supplied by Medfx in respect of the Goods including Batch/Lot No. and expiry dates.
- 9.5 If any provision of this Agreement is held by any competent authority to be invalid, illegal or unenforceable in whole or part it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part provision shall not affect the validity and enforceability of the rest of the Agreement.
- 9.6 We shall not be liable to You for any delay or failure to perform any of Our obligations hereunder which is due to causes or circumstances beyond Our reasonable control, including (without limitation) acts of civil or military authority, national emergencies, fire or flood, acts of God, war or riots, actions or omissions of third parties.
- 9.7 This Agreement including the Order is the complete and exclusive statement of the contractual relationship between the parties, which supersedes all prior proposals, understandings, agreements, or representations between the parties relating to this Agreement except in respect of any fraudulent misrepresentation made by either party.
- 9.8 We reserve the right to randomly monitor and record Our inbound and outbound calls.
- 9.9 A person who is not party to this Agreement shall not have any rights to enforce its terms.
- 9.10 No delay, neglect or forbearance on Our part in enforcing its rights against You shall be construed as a waiver or in any way prejudice any of its rights hereunder.
- 9.11 Except as set out in these Terms, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Us.
- 9.12 This Agreement shall be governed by and construed in accordance with the laws of England and Wales whose courts shall have exclusive jurisdiction in connection with any dispute arising out