

Wellspect Ltd

TERMS AND CONDITIONS FOR THE SALE AND SUPPLY OF GOODS (B2B)**1. INTERPRETATION**

- 1.1 When the following terms are used in these Conditions, the following definitions shall apply:

Buyer: the person, firm or company who purchases the Goods.

Company: Wellspect Limited, a limited company registered in England and Wales under company number 12290212 and with its registered office at Brunel Way, Stonehouse, Gloucestershire, GL10 3GB.

Conditions: the terms and conditions set out in this document.

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods.

Goods: any products to be supplied to the Buyer by the Company pursuant to a Contract.

- 1.2 The headings in these Conditions do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

- 2.1 Any Contract between the Buyer and the Company shall be subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer attempts to apply). These Conditions may only be amended where this is agreed between the parties in writing and the amendment is signed on behalf of an authorised representative of the Company.
- 2.2 The Buyer acknowledges that it has not relied on any statement or promise which is made on behalf of the Company, unless such statement or promise has been set out in the Contract.
- 2.3 Any order placed by the Buyer shall be considered to be an offer to purchase the related Goods and shall not be deemed to be accepted by the Company until the Company confirms acceptance in writing (for example by submitting an invoice to the Buyer) or the Company delivers the Goods (as set out in Condition 4.1) to the Buyer, whichever occurs first.
- 2.4 The Buyer shall be responsible for ensuring that the terms of its order are complete and accurate.
- 2.5 If at any time the Company reasonably believes that the Buyer does not, or may not, hold any certificate or permission which may be required for the purchase or distribution of the Goods, the Company may terminate the Contract and refund any monies paid to it by the Buyer, less the Company's reasonable expenses.

3. DESCRIPTION

- 3.1 The Company may make changes to the specifications of the Goods from time to time and the Company shall give notice of such changes to the Buyer as soon as reasonably practicable.
- 3.2 All samples, descriptions, specifications, and advertising issued by the Company are only issued to give an approximate idea of the Goods described in them. They shall not form part of the Contract.

4. DELIVERY

- 4.1 An order shall be deemed to be delivered when the Company dispatches the Goods from its premises to the address the Buyer provides it with or (where agreed between the parties) when the Buyer collects the Goods from the Company.
- 4.2 The Company shall contact the Buyer with an approximate delivery date (or, if not, it shall deliver the Goods within a reasonable period of time from receipt of an order). The Company shall not however be liable for any loss, damage or expense arising out of any delay in delivering the Goods.
- 4.3 If the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods because the Buyer has not provided appropriate instructions or documents:
- 4.3.1 the Goods shall be deemed to have been delivered when the Company dispatches the Goods (see Condition 4.1) and
- 4.3.2 the Company may store the Goods until the Goods are accepted for delivery by the Buyer which may potentially include a storage cost to the Buyer if delivery of Goods is not accepted within a reasonable timeframe.
- 4.4 If the Company delivers to the Buyer a quantity of Goods of up to 5% more or less than the quantity ordered by the Buyer, the Buyer shall not be entitled to reject the Goods as a result, but a pro-rata adjustment shall be made to the related invoice.
- 4.5 The Company may deliver the Goods in separate instalments. Each separate instalment shall be held to be a separate contract and will be invoiced separately by the Company. The Company shall endeavor to deliver Goods as one (1) single consignment but there may be circumstances that result in split shipments.

5. RISK/TITLE

- 5.1 Risk of the Goods shall pass to the Buyer on delivery (i.e when the Goods are dispatched as set out in Condition 4.1 above). Ownership of the Goods shall pass to the Buyer once the Company has received the full price for such Goods and any other sums which the Buyer owes the Company.
- 5.2 Until ownership of the Goods has passed to the Buyer, the Buyer shall:
- 5.2.1 hold the Goods on behalf of the Company, insuring the same at their full price.
- 5.2.2 store the Goods separately from all other goods; and
- 5.2.3 ensure that any mark or packaging that identifies the Goods is not removed or concealed.
- but the Buyer may resell or use the Goods in the ordinary course of its business
- 5.3 If before ownership in the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Condition 13.1.2, (or the Company reasonably believes that any such event is about to happen) then, provided that the Goods have not been resold, the Company may order the Buyer to return the Goods. If the Buyer fails to do this promptly the Company may enter any premises where the Goods are stored in order to recover them.

6. PRICE AND PAYMENT

- 6.1 The price for the Goods shall be the price set out in the Company's price list published at the time the Buyer's order is accepted by the Company (unless

the parties agree otherwise in writing). The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, which the Buyer shall pay in addition.

- 6.2 **Payment shall be due from the Buyer in clear funds within 30 days of the date of an invoice unless the Company agrees otherwise in writing. The Company shall be entitled to terminate any Contract if the Buyer does not pay any invoice when payment falls due.**
- 6.3 The Buyer shall make all payments due in full without any deduction.
- 6.4 If the Buyer fails to pay any sum due to the Company, and the Company choose to take up the option, the Buyer shall be liable to pay interest on such sum from the due date for payment until the date of payment at the annual rate of 5% above the base lending rate from time to time of SEB Bank (Skandinaviska Enskilda Banken). Interest shall accrue on a daily basis.
7. **QUALITY**
- 7.1 The Company warrants that the Goods shall be of satisfactory quality and be reasonably fit for purpose from delivery of the Goods until the expiry date specified on the Goods, subject to Condition 7.3.
- 7.2 Subject to Condition 7.3, if:
- 7.2.1 the Buyer gives written notice
- (i) in case of a visibly obvious defect that is observed, or should have been observed, upon delivery and acceptance of the Goods, within five (5) working days after delivery; or
 - (ii) in case of a concealed defect not possible to observe upon delivery and acceptance of the Goods, within five (5) working days, after such defect has been observed, or should reasonably have been observed
- 7.2.2 the Company is given a reasonable opportunity of examining such Goods; and
- 7.2.3 the Buyer (if asked to do so by the Company) returns such Goods to the Company at the Buyer's cost (such reasonable cost to be reimbursed in the event that the Goods are found to be defective as set out in this Condition); and the Company finds the Goods do not comply with the warranties provided in this Condition then the Company shall (at its option), repair or replace the Goods or refund the price of the Goods on a pro rata basis.
- 7.3 The Company shall not be liable for a breach of any of the warranties in this Condition if:
- 7.3.1 the Buyer makes any further use of such Goods after giving notice that the Goods are defective.
- 7.3.2 the defect arises because the Buyer failed to follow the Company's instructions as to the storage and use of the Goods and/or with good trade practice; or
- 7.3.3 the Buyer alters or repairs such Goods without the written consent of the Company.
- 7.3.4 the defect arises due to poor manual handling practice and/or plant usage error at point of unloading by the Buyer, and on the Buyer's premises.
- 7.3.5 the defect is caused by visibly clear and obvious mishandling and/or unsafe loading by either the Company's authorised 3rd party courier or

the Buyers authorised 3rd party courier that the Buyer does not either immediately report back to the Company and/or the delivery is not rejected upon arrival.

- 7.4 This Condition sets out the Company's full liability in respect of the warranties contained within it.

8. RETURNS

- 8.1 A credit note for the price of the Goods will be given to the Buyer if Goods are returned within three months of the date of the invoice relating to them and will be accepted by the Company for credit, less a 15% handling charge or £1,500 maximum.
- 8.2 Goods may not be returned by the Buyer if two (2) months have passed since the date of the invoice relating to them, subject always to Condition 7 above.
- 8.3 Any Goods which the Buyer wishes to return must:
- 8.3.1 be returned unopened with all stickers still intact and with the packaging clean and in good condition.
 - 8.3.2 have at least one year left on the expiry date; and
 - 8.3.3 be accompanied by a copy of the delivery note or invoice.

9. ADVERTISING AND PROMOTION

The Buyer shall comply with all directions and instructions given to it by the Company relating to the promotion and advertisement of the Goods.

10. TRADE MARKS

- 10.1 The Buyer shall promptly give notice in writing to the Company if it becomes aware of:
- 10.1.1 any infringement or suspected infringement of any intellectual property rights relating to the Goods; or
 - 10.1.2 any claim that any Goods or the manufacture, use, sale or disposal of any Goods infringes the rights of any third party; but shall not take any further action in respect of the above unless reasonably requested to do so by the Company.

11. PRODUCT RECALL

The Buyer shall maintain up-to-date and accurate records which shall contain sufficient information to enable any Goods or batches of Goods to be recalled immediately from the retail or wholesale markets (including batch (LOT) numbers, delivery dates and the contact details of its customers) and shall promptly provide any assistance reasonably requested from the Company to allow the Company to recall such Goods.

The Company shall in requirements with the MHRA (Medicines and Healthcare Products Regulatory Agency) notify all buyers by way of a FSN (Field Safety Notice) and work with identified buyers of any identified recalled products with the buyers for the safety of the product users.

The Company does not engage in recall charges and is not a member of the HDA (The Healthcare Distribution Association).

12. LIMITATION OF LIABILITY

- 12.1 The following provisions set out the entire financial liability of the Company to the Buyer in respect of the sale of the Goods (including any use made or resale of the Goods by the Buyer) whether in connection with any Contract or otherwise.
- 12.2 All warranties, conditions and other terms are, to the fullest extent permitted by law, excluded from each Contract unless expressly set out in the Contract.
- 12.3 Subject to Condition 12.2.
- 12.3.1 the Company's total liability arising in connection with the performance or contemplated performance of any Contract shall be limited to the price of the Contract to which the breach relates; and
- 12.3.2 the Company shall not be liable to the Buyer for any loss of profit, loss of business, or damage to the Buyer's goodwill or for any indirect loss suffered by the Buyer.

13. TERMINATION

- 13.1 The Company may terminate a Contract if:
- 13.1.1 the Buyer is in material breach of its obligations under any Contract, and the Buyer fails to remedy the same within 14 days of being notified of such breach by the Company (if it is capable of being remedied); or
- 13.1.2 if the Buyer becomes insolvent or if an order is made or a resolution is passed for the winding up of the Buyer, or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Buyer's assets or business, or if the Buyer makes any composition with its creditors or takes or suffers any similar action in consequence of any debt.
- 13.2 If a Contract is terminated because of the reason specified in Condition 13.1 above, then the Buyer shall immediately pay all sums owing to the Company.

14. GENERAL

- 14.1 The Company may assign any Contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign any Contract or any part of it without the prior written consent of the Company.
- 14.2 The Company reserves the right to defer the date of delivery or to cancel any Contract or reduce the volume of the Goods ordered by the Buyer (without liability) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes, restraints or delays affecting carriers or any inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period of more than 30 days, the Buyer shall be entitled to terminate any related Contract by giving written notice to the Company.
- 14.3 Each right or remedy of the Company under any Contract is without prejudice to any other right or remedy which the Company may have.
- 14.4 If any provision of any Contract is found by any court, tribunal or administrative body to be illegal or invalid then it shall be removed as far as is necessary and the remainder of such provision shall continue to have full force and effect.

- 14.5 Failure or delay by the Company to enforce (in full or in part) any provision of any Contract shall not be construed as a waiver of any of its rights under the Contract.
- 14.6 The parties do not intend that any term of any Contract shall be enforceable by any person that is not a party to it.
- 14.7 Each Contract is governed by English law, and the parties submit to the exclusive jurisdiction of the English courts.

15. **COMMUNICATIONS**

- 15.1 All communications between the parties relating to a Contract shall:
 - 15.1.1 be in writing.
 - 15.1.2 be addressed to that party at the address above or such other address or email address as that party may have specified to the other party in writing; and
 - 15.1.3 be delivered by hand or sent by pre-paid first-class post or email.
- 15.2 Communications shall be deemed to have been received:
 - 15.2.1 if sent by pre-paid first-class post, two business days (meaning any day excluding Saturdays, Sundays and bank and public holidays) after posting.
 - 15.2.2 if delivered by hand, on the day of delivery; or
 - 15.2.3 if sent by email on a business day prior to 4.00 pm, at the time of transmission and otherwise on the next business day.