

STANDARD TERMS AND CONDITIONS OF SALE



HUGH HOUSE, GALPHARM
WAY, BARNSELEY, S75 3SP

1. Interpretation

1.1 In these conditions:

“Buyer” means the party who or which accepts a quotation from the Seller for the sale of the Goods or the order for the Goods or whose order for the Goods is accepted by the Seller.

“Goods” means the goods (including any instalments of the Goods or any parts of them) which the Seller is to supply in accordance with the Contract incorporating these Conditions.

“Seller” means Nield on Demand Ltd.

“Conditions” means the terms and conditions set out in this document.

“Contract” means the agreement between the Buyer and the Seller incorporating these Conditions.

“Ex-works” means that the Goods will be collected from the Seller’s premises by the Buyer or on its behalf.

“Seller’s PLOF” means the Seller’s price list and order form circulated to its customers and updated from time to time and which may include special offer or standard price literature.

1.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of the sale.

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation of the Seller which is accepted by the Buyer, or any order of the Buyer which is accepted by the Seller, subject in either case only to these Conditions, which shall govern the Contract to the exclusion of any other terms and condition subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer. The Seller deals only on these Conditions.

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.3 The Sellers employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim arising out of any such representations which is not so confirmed.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods, is guidance only, and should not be relied on unless the Seller specifically and expressly states that it may be relied on.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. Orders and Specifications.

3.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.2 The quantity, quality and description or any specification of the Goods (including any packaging specification) shall be set out in the Seller’s quotation (if accepted by the Buyer) or the Buyer’s order (if accepted by the Seller).

3.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the costs of all labour and materials used), damages, charges, and expenses (including legal expenses) incurred by the Seller as a result of cancellation.

4. **Price of the Goods**

- 4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price specified in the Seller's PLOF current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the price of the Goods shall be the Seller's quoted price. All prices quoted are valid for the duration of the effective period of the Seller's PLOF after which time they may be altered by the Seller without giving notice to the Buyer.
- 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase to the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture) any change in delivery dates, quantities or specification of the Goods which requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 Except as otherwise stated under the terms of any quotation or in any special offer literature published by the Seller and unless otherwise agreed in writing, between the Buyer and the Seller, all prices are given by the Seller on an Ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
- 4.4 The price is exclusive of any applicable Value Added Tax which the Buyer shall be additionally liable to pay to the Seller.
- 4.5 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

5. **Terms of Payment**

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after the delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any one time after the Seller has notified the Buyer that the Goods are ready for collection, or as the case may be, the Seller has tendered delivery of the Goods.
- 5.2 Save as may otherwise be agreed in writing between the Seller and the Buyer, the Buyer shall pay the price of the Goods without any deduction forthwith on the date of the Seller's invoice.
- 5.3 The Buyer shall pay the price of the Goods in accordance with the provision of Clause 5.2 notwithstanding that delivery may not have taken place and the property in the Goods may not have passed to the Buyer. The time for payment of the price shall be of essence in this Contract. Receipts for payment will be issued only upon request.
- 5.4 If the Buyer fails to make any payment on the due date, then without prejudice to any other rights or remedies available to the Seller, the Seller shall be entitled to:-
- 5.4.1 Cancel the Contract or suspend any further deliveries to the Buyer;
 - 5.4.2 Appropriate any payment made by the Buyer to such of the Goods or the Goods supplied under any other Contract between the Buyer; and the Seller as the Seller may think fit (notwithstanding any purported appropriation by the Buyer);
 - 5.4.3 Charge the Buyer interest (both before and after any judgement) on the amount unpaid at the rate of 8% per annum above the base lending rate of the Bank of England from time to time, until payment is made in full (part of a month being treated as a full month for the purpose of calculating interest); and
 - 5.4.4 Set off any credits that may be due from the Seller to the Buyer.
 - 5.4.5 Payment for Goods supplied by the Seller to the Buyer shall be made within 14 days (unless agreed otherwise) from the date of invoice.
 - 5.4.6 compensation for reasonable debt recovery costs incurred as a result of late payment.
- 5.5 The Buyer shall make payment in accordance with these Terms and Conditions to the Seller and payment to any other shall not constitute a valid discharge of the debt.

6. Delivery

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises (including premises other than those of the Seller specified by the Seller as the point of collection for the Goods) at any time after the Seller has notified the Buyer that the Goods are ready for collection (Ex-works) or, if some other place of delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence unless previously and specifically agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3 The Seller shall have the right to deliver a quantity of Goods up to 10% greater or less than the quantity specified in the Contract and the Buyer shall accept the quantity so delivered provided that the price to be paid by the Buyer to the Seller for the Goods so delivered shall be adjusted upwards or downwards (as the case may be) by the same percentage as the percentage by which the quantity of Goods delivered differs from the quantity specified in the Contract.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these conditions or any claim by the Buyer in respect of any more of the instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods set out in the Contract.
- 6.6 If the Buyer fails to take delivery of the Goods or fails to give adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:-
- 6.6.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage.
 - 6.6.2 Sell the Goods at the best price readily obtainable and (after deducting reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall.
- 6.7 Where relevant the Buyer shall be responsible for complying with any legislation governing the importation of the Goods into the Country of destination (including any Country through which the Goods may pass in transit to the Country of destination) and for the payment of any duties, taxes, levies or other payments due thereon. The Buyer shall promptly obtain all necessary import licences, clearances and other consents necessary for the purchase of the Goods.
- 6.8 The Company reserves the right to make scheduled deliveries each of a part only of the overall amount and value of goods ordered by the buyer. Where any such scheduled delivery is made the goods comprised within each delivery shall be deemed to have been sold and delivered under a separate contract for the sale of the goods the subject of such delivery and will be invoiced separately. The Buyer will pay for the goods delivered in each scheduled delivery without set off, counter claim or deduction in respect of any previous or future scheduled delivery or other goods ordered from the Company.

7. Risk and Property

- 7.1 Risk in the Goods shall pass from the Seller to the Buyer at the time of delivery. Notwithstanding delivery and the passing of risk in the Goods to the Buyer full ownership (both legal and equitable) in the Goods shall remain with the Seller until such time as the Seller has received in cash or cleared funds payment of the purchase price of the Goods and payment of the purchase price of any other Goods or services previously or subsequently supplied by the Seller to the Buyer whereupon title in the Goods shall pass to the Buyer.

- 7.2 Insofar as the Goods may be delivered to the Buyer prior to the time when title thereto passes to the Buyer as aforesaid, the Buyer shall until such time hold the Goods as the fiduciary bailee of the Seller. The Buyer shall accordingly remain liable to account to the Seller for the purchase price of the Goods or if the Buyer sells the Goods to its Customer (where the Buyer acts as fiduciary agent of the Seller thereby creating any relationship disclosed or undisclosed between the Seller and such Customer) for the proceeds of the sale thereof or part equivalent to the price at which the same were invoiced by the Seller to the Buyer.
- 7.3 The Buyer shall store the Goods separate from any other Goods of the Buyer or any third parties and shall identify the Goods as the property of the Seller. The Buyer shall not remove any identifying marks placed on the Goods by the Seller.
- 7.4 Notwithstanding the retention by the Seller of legal title to the Goods, the risk in the Goods shall pass to the Buyer on delivery and the buyer shall insure the same against loss, damage or destruction howsoever arising with a reputable insurer and shall arrange for the Seller's interest in the Goods to be noted on any such insurance policy relating to the Goods and the Buyer acknowledges the Seller's right to call for production of documentary evidence of the relevant policy of insurance so as to demonstrate compliance with this clause.
- 7.5 The Buyer may exercise its right to sell the Goods as the fiduciary agent of the Seller in the usual course of the Buyer's business but such right:-
- 7.5.1 May be revoked at the time by the Seller giving notice to that effect if the Buyer is in default for longer than 7 days in the payment of any sum whatsoever due to the Seller (whether in respect of the Goods or of any other Goods or services supplied at any time by the Seller to the Buyer or for any reason whatsoever) or if the Seller has bona fide doubts as to the solvency of the Buyer, and
- 7.5.2 Shall automatically cease if the Buyer is insolvent or a receiver, manager or administrator is appointed over the assets or undertaking of the Buyer, or any petition or order in bankruptcy against the Buyer is presented or made, or the Buyer goes into voluntary liquidation (otherwise than for the purpose of re-construction or amalgamation while solvent) or cause a meeting of, or makes any arrangements or composition with its Creditors
- 7.6 Upon determination of the Buyer's rights of sale under Clauses 7.5.1 or 7.5.2 above, the Buyer shall place the Goods at the disposal of the Seller (who shall be entitled to enter any premises of the Buyer or the Buyer's agent or customer and remove the Goods from the same premises).
- 7.7 The Buyer shall not be entitled to pledge or in any way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so, all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
- 8. Returns policy**
- 8.1 No claims for shortages or breakages can be accepted unless notified within 3 days.
- 8.2 The return of Medicinal products, in accordance with the law, must be completed within 3 days of purchase, no credit/exchange will be allowed unless this policy is strictly adhered to.
- 9. Warranties and Liability.**
- 9.1 The Seller does not manufacture goods but simply sells on to its customers goods acquired for such purposes from third party manufacturers. Accordingly, the Buyer shall only be entitled to the benefit of such warranty or guarantee in relation to the Goods as is given to the Seller by the manufacturer of the Goods.
- 9.2 Subject as expressly provided in these conditions, and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 9.3 Where the Goods are sold under a consumer transaction the statutory rights of the Buyer are not affected by these Conditions.
- 9.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not the sale is Ex-works) be notified to the Seller within 3 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable

time after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller as aforesaid accordingly, the Buyer shall not be entitled to reject the goods and the Seller shall have no liability for such defect or failure and the Buyer shall be bound to pay the price as if the goods had been delivered in accordance with the Contract.

- 9.5 Where any valid claim in respect of any of the goods which is based on any defect in the quality or condition of the goods or their failure to meet specification is notified to the Seller in accordance with these conditions, the Seller shall be entitled to replace the goods (or refund to the Buyer the price of the goods or a proportion of the price) and the Seller shall have no further liability to the Buyer.
- 9.6 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation or any implied warranty, condition or other term, or any duty at common law, or under the expressed terms of the contract, or any consequential loss or damage (whether for loss of profit or otherwise), costs expenses or other claims for consequential loss or compensation whatsoever and whether caused by negligence of the Seller, its employees or agents or otherwise which arise out of, or in connection with the supply of the goods or their use or resale by the Buyer, except as expressly provided in these conditions.
- 9.7 The Seller shall not be liable to the Buyer or be deemed to be in breach of contract by reason of any delay in performing any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:-
- 9.7.1 Act of God, flood, tempest, fire or accident, or pandemic or public health emergency;
 - 9.7.2 War or threat of war, sabotage, insurrection, civil disturbance, or requisition;
 - 9.7.3 Acts, restrictions, regulations, bylaws, prohibitions or measures of any kind on the part of the Government, whether parliamentary or local authority;
 - 9.7.4 Import or export regulations or embargoes;
 - 9.7.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 9.7.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 9.7.7 Power failure or breakdown in machinery.

10. **Insolvency of Buyer**

10.1 This clause is applied if:-

- 10.1.1 The Buyer becomes insolvent or makes any voluntary arrangement with its creditors or becomes subject to administration or (being an individual or firm) becomes bankrupt or (being a Company) goes into liquidation otherwise than for the purpose of amalgamation or reconstruction or:
- 10.1.2 An encumbrancer takes possession or a receiver is appointed in relation to any of the property or assets of the Buyer or:
- 10.1.3 The Buyer ceases, or threatens to cease carrying on business or;
- 10.1.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this clause is applied, then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement arrangement to the contrary.

11. **General**

- 11.1 Any notice or other document required to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party given the notice.
- 11.2 No waiver by the Seller of any breach of any provision of the Contract or these Conditions by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

- 11.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be affected thereby.
- 11.4 The Contract shall be governed by the Law of England and Wales and all disputes arising out of the Contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales save that the Seller may at its sole discretion institute and maintain proceedings in respect of the Contract in any country.

NB

Please be advised that we share credit information with fraud prevention agencies (who may in turn share the information with other organisations) with the purposes of fraud prevention. You may telephone us on 0161 832 5614 if you want to have details of those credit reference agencies and fraud prevention agencies from whom we obtain and with whom we record information about you.

Signed: -----Print Name: -----

Date: -----

Position in Company: -----Trading Title:-----

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