

PHILIP CHAPPER & CO. LTD - TERMS & CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATIONS

1.1 In these Conditions:

"PC & Co." means Philip Chapper & Co. Ltd and subsidiary, division or trading units of Philip Chapper & Co. Ltd;

"Buyer" means the person firm or company so described in the Order;

"Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any varied terms and conditions agreed in writing between PC & Co. and the Buyer;

"Contract" means the contract of the sale and supply of the Goods and/or the supply and performance of the Services subject to these Conditions;

"Products" means the Goods (including any instalment of the Goods or any part of them) described in the Order;

"Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is given a particular meaning by Incoterms shall have the same meaning in these Conditions, but if there is conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

"Ex works" ex works (EXW) means ex works Orbital 25 Business Park, Watford, United Kingdom;

"Order" means any written quotation of PC & Co. which is accepted by the Buyer, or any written order of the Buyer which is accepted by PC & Co. for the supply of Products or performance of Services;

"Price" means the Price of the Products and/or the charge for the Services;

"Services" means the services (if any) described in the Order;

"Specification" includes any plans, drawings, data, chemical formula or process or other technical requirements or information relating to the Products or Services agreed between the parties.

2. GENERAL BASIS OF SALE

2.1. These Conditions apply to all Contracts for sale of Products and/or performance of Services by PC & Co.

2.2. The placing of an Order by the Buyer for the Products and/or Services shall constitute acceptance of these Conditions notwithstanding any other terms and conditions subject to which any quotation by PC & Co. is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer.

2.3. No Order submitted by the Buyer shall be deemed to be accepted by PC & Co. unless and until confirmed in writing by PC & Co.'s authorised representative.

2.4. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and PC & Co.

2.5. The Buyer acknowledges that all advice, instructions or recommendations of PC & Co. rely and are dependent upon all the information and technical background given to PC & Co. by the Buyer.

2.6. Where the Buyer does not specify a particular process, PC & Co. will not be liable for any defect or failure of the process or entitle the Buyer to withhold payment.

2.7. No Order which has been accepted by PC & Co. may be cancelled by the Buyer except with the agreement in writing of PC & Co. and on terms that the Buyer shall indemnify PC & Co. in full against all loss, costs, damages, charges and expenses incurred by PC & Co. as a result of cancellation.

2.8. No order which has been accepted by PC & Co. may be changed or altered by the Buyer except with the agreement in writing of PC & Co. and payment by the Buyer of a 10% surcharge (calculated as 10% of the Price) to PC & Co.

3. PRICE OF THE GOODS

3.1. The Price shall be PC & Co.'s quoted price. The Price quoted is valid for 30 days only, unless otherwise stated, after which time they may be altered by PC & Co. without giving notice to the Buyer.

3.2. PC & Co. reserves the right, by giving notice to the Buyer at any time before delivery, to increase the Price to reflect any increase in the cost to PC & Co. which is due to any factor beyond the control of PC & Co., any change in delivery dates, quantities or the Specifications which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give PC & Co. adequate or accurate information or instructions.

3.3. Except as otherwise stated under the terms of the Order and unless otherwise agreed in writing between the Buyer and PC & Co., the Price is given by PC & Co. on an ex works basis, and where PC & Co. agrees to deliver the Products otherwise than at PC & Co.'s premises, the Buyer shall be liable to pay PC & Co.'s charges for transport, packaging and insurance.

3.4. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties on them.

3.5. The Price is exclusive of any applicable VAT, which the Buyer shall be additionally liable to pay to PC & Co.

3. Product Quality

3.3 The Products shall be marked in accordance with any applicable regulation or requirement in the UK and shall be properly packed using reasonable care and skill to take reasonable steps to minimise any damage during transport.

3.5 In the event that the MHRA recalls any Products, PC & Co. will give instructions, at the time of Product recall on the procedure for returning any Products.

4. TERMS OF PAYMENT

4.1. Unless otherwise stipulated in writing by PC & Co., payment shall be made prior to delivery of the Products pursuant to Clause 6 by payment into such PC & Co. bank account as PC & Co. may notify to the Buyer in writing.

5. DELIVERY

5.1 The Buyer shall be entitled to reject any Products which are not delivered in accordance with the Contract subject to the obligations on returns set out in Clause 8 below. The Buyer shall inspect the Products promptly after collection and in any event within three (3) working days and shall notify PC & Co. in accordance with the procedure for returns set out in Clause 7 below. Other than for Latent Defects in the Products, Buyer will not be entitled to return any Products other than in accordance with the rights under Clause 7.

5.2. Unless otherwise agreed in writing between the Buyer and PC & Co., the Products shall be delivered ex works and PC & Co. shall be under no obligation to give notice under section 32(3) of the Sale of Products Act 1979.

5.3. Any dates quoted for delivery of the Products are approximate only and PC & Co. shall not be liable for any early or late delivery of the Products however caused.

5.4. Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by PC & Co. to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

5.5. If PC & Co. fails to deliver the Products (or any instalment) PC & Co.'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 Products.

5.6. If the Buyer fails to take delivery of the Products or fails to give PC & Co. adequate delivery instructions at the time stated for delivery (otherwise than by reason of any Force Majeure or by reason of PC & Co.'s fault) then, without prejudice to any other right or remedy available to PC & Co., PC & Co. may:

5.6.1. store the Products until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

5.6.2. sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Price or charge the Buyer for any shortfall below the Price under the Contract.

5.7. Any charges quoted for delivery of the Products including transport, packaging and insurance are approximate only and PC & Co. shall not be liable for any changes to the charges quoted however caused.

6. RISK AND PROPERTY

6.1 Risk of damage to or loss to the Products shall pass to the Buyer upon Delivery. The title to the Products shall pass to the Buyer only once payment is made in full for the Products to PC & Co. Until such time as the title in the Products passes to the Buyer, the Buyer shall hold the Products to PC & Co.'s order and shall not distribute, use, destroy or dispose of the same.

7. RETURNS

7.1 In order to benefit from this returns policy the Products must since Delivery have always been stored and transported in accordance with the applicable transport and storage guidelines and not be used, unsealed, marked, over labelled, changed or interfered with.

7.2 Where the Products are returned as a result of faulty Product and/or packaging the Buyer must:

7.2.1 contact PC & Co.'s wholesale dealing department within three (3) working days of Delivery to notify PC & Co. of the defect, including details of the defect and quantity of Product affected, and request instruction for the return of such Product and/or packaging;

7.2.2 store and transport the Product in accordance with the transport and storage guidelines;

7.2.3 not mark, damage, interfere with or alter the returned Products in any way; and

7.2.4 return the Products together with its packaging with a returns form within two (2) working days of the notification.

8.4 The faulty Products and/or packaging will be forwarded to PC & Co.'s quality assurance department for investigation. Where PC & Co. determines that the Product is defective and such defect is due to PC & Co.'s handling of Product then PC & Co. will provide the Buyer with replacement Products or credit or refund in accordance with the Buyer's requirements.

9. Product Recall and Adverse Event Reporting

9.1 In order that PC & Co. can comply with its obligations under UK regulations, Buyer undertakes that it will itself, and shall procure that any registered doctor or dentist supplied with Products by Buyer (or its agent) will:

9.1.1 upon request by PC & Co., immediately cease all use and prescription of any Product and notify all persons issued or prescribed with the Products to immediately cease all use of such Products and return them to PC & Co. where it is known or reasonably suspected that such Products are defective or unsafe;

9.1.2 co-operate with PC & Co. at all times in connection with monitoring the safety and performance of the Products and recalling any Products pursuant to this.

10. WARRANTIES

10.1 The Buyer warrants to PC & Co.:

10.1.1 that the Buyer is authorised to Order Products from PC & Co. being (i) a registered doctor or dentist requiring Products for patients under his/her direct control and responsibility or (ii) a pharmacist in a hospital or (iii) a healthcare centre or (iv) a registered pharmacy or (v) a registered veterinary practitioner, or (vi) a licensed wholesale dealer who is permitted to supply to any of (i) to (iv) above;

10.1.2 that it will store and transport the Products in accordance with the notified transport and storage requirements, will immediately destroy any Product as it expires, and will act with due care not to jeopardise the safety of a patient using the Products;

11. Indemnity

11.1 The Buyer shall on demand indemnify and hold harmless PC & Co. and each of PC & Co.'s, directors, employees and agents from and against any and all losses, demands, claims, damages, costs, expenses (including consequential losses and loss of profit, reasonable legal costs and expenses and VAT thereon) and liabilities suffered or incurred, directly or indirectly, by PC & Co. in consequence of:

11.1.1 any use of the Products in breach of these Conditions or breach of applicable regulations;

12. Limitation of Liability

12.1 Nothing in these Conditions shall limit either party's liability to the other for (i) death or personal injury resulting from their negligence, (ii) fraud, or (iii) any breach of a warranty or undertaking which is implied or imposed by law and which cannot be limited or excluded by contract.

12.2 Without prejudice to clause 12.1 the aggregate liability of PC & Co. in respect of any loss or damage suffered by the Buyer and in connection with this Contract, whether in contract, tort (including negligence) or for breach of statutory duty or in any other way, shall not exceed the amount of Price actually paid by the Buyer to PC & Co. pursuant to this Contract.

12.3 Without prejudice to clause 12.1, PC & Co. shall not be liable, in contract, tort (including negligence) or for breach of statutory duty or in any other way for;

12.3.1 any loss in connection with loss of revenue, profits, contracts or business or failure to realise anticipated savings;

12.3.2 any loss of goodwill or reputation; or

12.3.3 any indirect or consequential loss suffered or incurred by the Buyer arising out of or in connection with the use by the Buyer of the Products, or any other matter under this Contract.

13. Termination

13.1 An Account may be terminated by PC & Co. giving written notice to the last known address of the Buyer such notice to be effective immediately notwithstanding that any amounts outstanding on the Account will continue to be due to PC & Co. and will be payable immediately and without further notice.

13.2. If the Buyer makes any voluntary arrangement with its creditors or becomes bankrupt or becomes subject to an administration order or goes into liquidation or PC & Co. reasonably apprehends that any of the events mentioned above is about to occur then PC & Co. shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Products have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. GENERAL

13.1. PC & Co. shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of PC & Co.'s obligations in relation to the Products, if the delay or failure was due to any cause beyond PC & Co.'s reasonable control.

13.2. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that party as its registered office or principle place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.3. 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 provision in question shall not be affected thereby.

13.4. The Contract and its performance shall be governed by the laws of England, and PC & Co. agrees to submit to the non-exclusive jurisdiction of the English court.