

TERMS AND CONDITIONS OF SALE FOR HEALTH INNOVATIONS (UK) LIMITED

1. INTERPRETATION

1.1 IN THESE CONDITIONS:

“**Additional Terms**” means such terms and conditions additional to these Conditions as may be relevant to the supply of the specific Goods, as notified by the Company to the Buyer as per condition 2.2;

“**Buyer**” means the party to which the Goods are supplied;

“**Company**” means Health Innovations (UK) Limited.

“**Contract**” means the contract for the sale and purchase of Goods arising from the acceptance by the Company of the Customer’s Purchase Order for Goods by whatever means of written communication;

“**Goods**” means the goods (including any instalment of the goods) the subject of the Buyer’s order;

“**Returnable Packaging**” means pallets, boxes and any other external packaging used by the Company

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

2. APPLICATION

2.1 The Company shall sell and the Buyer shall purchase the Goods subject to these Terms and Conditions. Subject to condition 2.2, any other terms, conditions or warranties, whether express or implied (e.g. any conditions which the Buyer purports to apply), will be invalid.

2.2 If the Goods requested by the Buyer are subject to Additional Terms, the Company shall communicate these to the Buyer in writing and those Additional Terms shall be deemed to be incorporated into the Contract for the supply of the relevant Goods, together with these Conditions. The Additional Terms shall prevail in the event of any inconsistency between these Conditions and any relevant Additional Terms.

2.3 No variation to these Conditions shall be binding on the Company unless in writing and signed on behalf of the Company.

2.4 On entering into any Contract with the Company, the Buyer acknowledges that it does not rely on any representations; variations or promises made by any employee or agent of the Company save for such employees which the Company may specify in writing as authorised representatives.

3. QUOTATIONS & ORDERS

3.1 All quotations provided by the Company to the Buyer for the supply of Goods:

- (a) Are based upon the cost of materials, transport, labour and utilities current at the date of quotation;
- (b) Are subject to these Terms and Conditions;
- (c) Shall only remain valid for 28 days;
- (d) Do not constitute an offer to supply goods.

3.2 The Buyer shall complete a Purchase Order and shall ensure the order details are complete and accurate.

3.3 Each written order for Goods placed by the Buyer with the Company shall constitute an offer by the Buyer to purchase Goods subject to these Terms and Conditions.

3.4 Following receipt of a Purchase Order from the Buyer, the Company shall communicate by whatever means to the Buyer whether it accepts the Buyer’s offer to purchase. No binding Contract is created until an order is accepted by the Company from an authorised representative.

3.5 Subject to condition 5.3 the Contract is binding by both parties and shall not be subject to change by the Buyer.

4. CANCELLATION

4.1 The Buyer may not cancel any order or part thereof without the express written agreement of the Company and, if the Company agrees to such cancellation, on terms that the Buyer shall indemnify the Company in full of any losses, costs, damages, charges and expenses incurred or committed to be incurred by the Company or any sub-contractor of the Company as a result of the cancellation and applies up to and after the date of cancellation where costs have been incurred which cannot reasonably be avoided.

5. PRICE OF THE GOODS

5.1 The price of the Goods shall be the price ruling at the date of delivery, save where a quotation or tender has been submitted and in such case, the specified price shall only remain open for acceptance by the Company within 28 days from the date of such quotation or tender (unless otherwise stated in writing by a duly authorised representative of the Company).

5.2 The price of the Goods shall be subject to the addition of VAT (if applicable) and other taxes (if any) and the cost of any special packaging by the Buyer.

5.3 The price of the goods will be in Pounds Sterling unless otherwise agreed in advance.

5.4 The Company reserves the right at any time prior to delivery of the Goods to revise prices listed in the quotation, Purchase Order or order acknowledgement to take account of unforeseen

increases in costs of producing or delivering the goods, including but not limited to, the cost of raw materials, labour, carriage, damages, charges and any other taxes or expenses. In such a case, the Company shall notify the Buyer as soon as is reasonably practicable and such notification shall operate as a variation of the Contract for the supply of the relevant Goods.

5.5 The Company reserves the right at any time to cease the supply of loss-making products and shall give the Buyer advance notice of such action.

6. QUANTITIES AND INSTALMENT DELIVERIES

6.1 The Company shall be deemed to have fulfilled its obligations pursuant to the supply of an order for Goods if the amount supplied on its pallets/boxes/cages closely approximates the amount ordered by the Buyer (+/-10%). In such circumstances, the Buyer shall pay for the actual quantity of Goods received. If agreed that the delivery is to be in instalments, the instalments shall be aggregated.

6.2 If the Company fails to make delivery or makes defective delivery of any one instalment such failure or defective delivery shall not nullify the contract as regards other instalments.

7. DELIVERY

7.1 Delivery shall take place on the date notified by the Company to the Buyer in the absence of an agreed delivery schedule and shall be taken to be an estimate made in good faith. Furthermore, time for dispatch or delivery shall not be of the essence unless previously agreed in writing by an authorised representative of the Company. In no circumstances shall the Company be liable for any loss or damage sustained by the Buyer as a result of failure to deliver or dispatch within such time or by such date or by consequence of any other delay howsoever caused.

7.2 Delivery shall be made to the address stated on the Purchase Order and may be to a third party at the Company's discretion.

7.3 If the Buyer (or third party receiver of the Goods) refuses to take delivery of the Goods delivered by the Company, the Company may:

- (i) terminate the Contract for those Goods with immediate effect;
- (ii) Dispose of those Goods as it may see fit; and
- (iii) Recover from the Buyer any losses or costs incurred as a result of such refusal or failure to take delivery.

7.4 If the Buyer collects the Goods delivery shall be deemed to be made at the Company's premises and the risk in the Goods shall pass to the Buyer upon

the Goods being loaded on to the Buyer's delivery vehicle.

7.5 Where the Goods are delivered using Returnable Packaging, the Buyer shall retain and keep in good condition until the Company requests the return of such packaging and the Company is entitled to invoice the Buyer for the cost of all Returnable Packaging used in a delivery unless it is returned within 28 days thereafter.

7.6 In cases where non-Returnable Packaging is used in a delivery, the Buyer shall be solely responsible for the disposal or recycling of such packaging in accordance with any regulations.

8. TERMS OF PAYMENT

8.1 Subject to any other terms of payment agreed in writing by a duly authorised representative of the Company, all accounts shall be paid in full within 30 days of the date of the Company's invoice. The Company may suspend the supply of Goods to the Buyer where any sums are overdue under the Contract until such payment in full has been received.

8.2 The Company shall be entitled to charge statutory interest on the monies owing by the Buyer under the Late Payment of Commercial Debts (Interest) Act 1998 calculated on a daily rate from the date of default until the date of settlement of monies.

8.3 The Buyer shall indemnify and hold the Company harmless against all costs (including legal costs on a full indemnity basis) howsoever incurred by the Company in the course of recovering any outstanding monies owed by the Buyer.

9. DAMAGE IN TRANSIT

9.1 Should Goods be lost or damaged in transit, the limit of the Company's liability shall be to replace or repair (at the Company's choice) of the lost or part-lost Goods. The Company shall have no liability whatsoever for loss or damage to Goods in transit unless it is informed in writing by the Buyer within 5 days of date of delivery or advice of dispatch.

10. RISK AND OWNERSHIP OF GOODS

10.1 Risk of damage to or deterioration or loss of the Goods shall pass to the Buyer at the time that the Buyer takes delivery of the Goods (or collection of the Goods, pursuant to clause 7.4).

10.2 Notwithstanding delivery and passing of risk at delivery, the Goods shall remain the sole and absolute property of the Company until such time as the Company receives payment in full of the agreed price together with the full price of any other Goods the subject of any other contract with the Company.

10.3 Until such time as the Buyer becomes the owner of the Goods (i.e. until payment is made), the Buyer acknowledges that the Buyer is in possession of the Goods solely as fiduciary agent and Bailee for the Company and that the Buyer shall properly store, protect, insure and identify as separate the Company's property. The goods must be stored in accordance with product specifications.

10.4 The Buyer's right to possession of the Goods shall cease if it fails to pay to the Company on the due date any sum payable hereunder or if the Company reasonably believes that the Buyer may be unable to do so and shall notify the Buyer accordingly.

10.5 Subject to the terms hereof, the Buyer is licensed by the Company to sell or use the Goods in the ordinary course of its business, subject to the express condition that the Buyer shall account to the Company for the entire proceeds of sale or otherwise of the Goods – including insurance proceeds – and shall hold all such proceeds thereof in trust for the Company and not mix such proceeds with other monies or pay them into an overdrawn bank account and such proceeds shall be at all times identifiable as the Company's monies and in the case of tangible proceeds be properly stored, protected and insured and if the Company has not received the proceeds of any such sale the Buyer will, upon being called upon by the Company, assign to the Company all rights against the person or persons to whom the Buyer has supplied the Goods.

10.6 In the absence of being able to determine if any of the goods are the Goods, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the manner in which they were invoiced to the Buyer and the Company shall be entitled to recover payment.

10.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where Goods may be stored in order to inspect them or – where the Buyer's right to possession has ended – to recover them.

10.8 For the avoidance of doubt, it is hereby declared that the rights in this condition are in addition to the rights afforded to the Company by sections 38-48 of the Sale of Goods Act 1979.

11. TITLE RETENTION CLAUSE

Notwithstanding delivery of the Goods to the Buyer, title to the goods shall remain vested in the Company until payment of the purchase price is fulfilled by the Buyer.

12. WARRANTY AND LIABILITY LIMITATION

12.1 The Company warrants that it possesses title to and has the right to sell the Goods and save as set out in these Conditions, all conditions and

warranties are excluded to the fullest extent permitted by law.

12.2 Subject to the conditions set out herein, the Company warrants that the Goods shall at the time of delivery conform to their specification (if any).

12.3 Except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), the Company's liability is limited as per these Conditions.

12.4 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 agreed specification shall notify the Company in writing within 7 days of delivery of the Goods.

12.5 Should any such defects be deemed by the Company to have arisen solely from the Company's faulty design, manufacture, workmanship or materials, the Company reserves the right to repair or replace such defective Goods subject to condition 12.4.

12.6 The Buyer shall not be entitled to benefit from the Company's undertaking to repair or replace the Goods if the Buyer:

(i) uses the Goods after notifying the Company of the defect;

(ii) Alters or repairs the Goods without the Company's consent; or

(iii) becomes involved in any dispute, claim or controversy involving the Goods and does not communicate this to the Company as soon as reasonably practicable.

12.7 The Company's entire liability to the Buyer in respect of any Contract, whether in contract, tort or howsoever arising, shall be limited to the price of the Goods specified in the Contract and the Company does not accept any liability for Consequential loss claims.

12.8 If a Court finds that it would not be reasonable for the Company to rely upon the exclusions or limitations contained in these Conditions it is expressly agreed that the Company's liability in respect of any claim in any event shall be limited to such sum as the Company may by reasonable steps be able to obtain under any insurance it may have which covers the Buyer's claim.

13. LICENCES AND CONSENTS

Any licences or consents required by the Buyer from any government or other authority in connection with the Goods shall be at the Buyer's expense and any failure to obtain such licence or consent

14. INTELLECTUAL PROPERTY

14.1 The Buyer acknowledges that all patents, formulations, registered designs, copyrights, registered trade marks and any other or similar

rights in the Goods (including their packaging) shall be and remain vested in the Company, unless otherwise agreed.

14.2 Where the Goods are supplied in any packaging or containers designed by the Buyer or which are marked in accordance with the Buyer's instructions/requests, the Buyer warrants that such packaging or containers will not infringe any third party's intellectual property rights and in the case of a breach of such a warranty, the Buyer undertakes to indemnify the Company against any liability, claim, damage, loss, cost or expense.

15. TERMINATION

15.1 Without prejudice to any other right or remedy it might have, the Company shall have the right to terminate a Contract by written notice to the Buyer upon:

- (i) any breach by the Buyer of any obligation under the Contract which is not capable of remedy, including a failure of the Buyer to pay in accordance with condition 8; or
- (ii) the Buyer entering into any arrangement with or for the benefit of creditors or having a receiving order made against him, or having a winding up order made or proposing to be made against the company or (in the case of an individual) becoming bankrupt or insolvent or having involvement in any action as a result of debts and the same applies to any analogous act under the applicable law of any jurisdiction.

15.2 Upon termination, any indebtedness of the Buyer to the Company shall become immediately payable and the Company shall not be under any further obligation to supply Goods to the Buyer. Moreover, the Company shall have the right to exercise any other rights it may have under this Contract or in law concerning the supplied Goods.

16. FORCE MAJEURE

16.1 The Company shall not be liable to the Buyer for any delay or prevention of performance of the Contract where such delay or prevention is beyond the reasonable control of the Company including, but not limited to, situations of war, strike, industrial dispute, lockout, fire, storm, Act of God, accident, non-availability or shortage of materials or labour, any statute, rule or law issued by any legislature or Government department (a "Force Majeure event").

16.2 Should the Company be prevented from performing its contractual obligations by reason of a Force Majeure event, it shall give the Buyer notice of this as soon as is reasonably practicable.

17. EXPORT

Where the Goods are to be exported to the Buyer:-

17.1 Unless otherwise agreed by the Company in writing, payment will be made in Pounds Sterling.

17.2 The Goods will be sold on an Ex Works basis unless otherwise agreed in writing.

18. EXCLUSION OF THIRD PARTY RIGHTS

The operation of the Contracts (Rights of Third Parties) Act 1999 is excluded from these Conditions and each Contract.

19. INVALIDITY

Should any provision of these Terms and Conditions be deemed invalid, illegal or unenforceable, this shall not affect the validity, legality or enforceability of any other provision herein.

20. LEGAL CONSTRUCTION

These Conditions and the Contract shall be construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts, unless agreed otherwise.