



CLINIGEN

Clinigen Healthcare Ltd

Terms and Conditions of Business

**Clinigen Healthcare Ltd, Pitcairn House, Crown Square, First Avenue, Burton-on-Trent,
Staffordshire, DE14 2WW.**

Registered in England & Wales No. 6252720

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TERMS AND CONDITIONS OF BUSINESS

1. Definitions

In these conditions the following words have the following meanings unless the context requires otherwise:

“Contract”	means any contract between You and Us incorporating these conditions for the sale of Products and/or the provision of the Services;
“Field of Use”	means the field of use and/or application for which You have engaged Us to perform the Services as is described in Our written specification for the Services contained in the Schedule;
“Liability”	means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities;
“Products”	means any products and/or goods ordered from Us by You including without limitation pharmaceutical compounds and drugs, medical equipment and medical supplies, as more specifically detailed in the Schedule;
“Quote”	means the form completed and signed by Us and you confirming the Products and Services and other variable details specific to your order;
“Services”	means without limitation the sourcing, procurement and distribution of medicinal products, diagnostics, other health products and pharmaceutical and clinical consultancy and advisor services and/or work;
“We, Us, Our”	means Clinigen Healthcare Limited (CRN:6252720) and whose principal office is at Pitcairn House, Crown Square, First Avenue, Burton on Trent, DE14 2WW; and
“You, Your, Yourself”	means the person, organisation or other business entity whose order for Products and/or Services is accepted by Us and to whom We subsequently supply the Products and/or Services.

2. Basis of Contract and Orders

- 2.1 These conditions shall govern the agreement between You and Us to the exclusion of any other terms or conditions.
- 2.2 No oral warranties or representations shall bind Us. No variation of these conditions shall be binding on Us unless contained in the Quote or agreed in writing between You and one of Our authorised representatives. Our employees, sub-contractors and/or agents are not authorised to make any representations or warranties concerning the Products and/or Services unless confirmed by Us in writing. You acknowledge that You do not rely on any representation and/or warranty that has not been made in accordance with these conditions.
- 2.3 "Quotations" are not binding or capable of acceptance and are estimates only and (unless stated otherwise) shall be valid for a period of 28 days. Quotations may be withdrawn by Us at any time during this period by oral or written notice. We shall have the right to refuse to accept any orders placed for Products and/or Services.
- 2.4 You shall be responsible for the accuracy of an order and for giving Us any information necessary to perform the Contract.
- 2.5 The Contract between You and Us shall come into effect on Our acceptance of Your order.
- 2.6 If You approve sample Products supplied by Us then You shall have no claim in respect of, nor any right to reject, any Products provided those Products are of the same description, specification, quality and fitness for purpose as the sample.

3. Delivery

- 3.1 We will use Our reasonable commercial endeavours to ensure delivery and/or performance on the dates specified. Dates for delivery and/or performance are estimates only and are not guaranteed. Time is not of the essence in relation to such dates. They are also subject to any matter beyond Our reasonable control.
- 3.2 If Products are being delivered in instalments, each delivery shall constitute a separate and distinct contract and failure by Us to deliver, or a claim by You regarding, any instalment shall not entitle You to repudiate and/or terminate this Contract as a whole.
- 3.3 Where Services are to be performed in stages, each stage shall constitute a separate and distinct contract and failure by Us to deliver, or any claim by You in respect of, any stage shall not entitle You to repudiate and/or terminate this Contract as a whole. We shall not be required to fulfil orders for Products and/or Services in the sequence in which they are placed.

- 3.4 You have no right to reject Products and/or Services and shall have no right to rescind for late delivery and/or performance unless the due date for delivery and/or performance has passed and You have served on Us a written notice requiring the Contract to be performed giving Us not less than 28 days in which to do so and the notice has not been complied with.
- 3.5 You shall procure during normal working hours that We have free rights of access to the delivery address to deliver Products. You shall be responsible to accept delivery of Products when delivered to You. Unless otherwise agreed in writing, delivery will be made between 9.00 am and 5.30 pm on working days.
- 3.6 If You refuse to take delivery of any Products and/or to allow performance of the Services then We shall be entitled to withhold delivery and/or performance of any other Products and/or Services and to treat this Contract as repudiated by You.
- 3.7 Products notified to Us as damaged must be returned to Us within 14 days from the date of delivery. We reserve the right to ask that the Products be returned in their original boxes and or packaging and a refund or credit may be offered to You at Our discretion.
- 3.8 Products regarded by You as being short-delivered must be notified to Us within 3 days of delivery taking place. We may at our sole discretion remedy any shortfall in delivery where We consider an error in the order has occurred solely by Us.
- 3.9 If We agree that the Products are to be collected from Us then You shall collect the Products within 3 working days of being notified that the Products are ready for collection. If the Products are not collected by You within this time We may despatch the Products to You at Your expense and risk and/or store the Products at Your expense and risk until despatch and/or collection.

4. Postponement and Cancellation

- 4.1 We may comply with reasonable requests by You for postponement of delivery and/or performance but shall be under no obligation to do so. Where delivery and/or performance is postponed at Your request then You shall pay all Our costs and expenses incurred as a result including reasonable charges for storage, transportation and insurance. In addition You shall be obliged to pay for the Products and/or Services as if delivery and/or performance had not been postponed.
- 4.2 If you purport to cancel this Contract and/or refuse to accept delivery of ordered Products and/or the performance of any ordered Services You will:
- 4.2.1 You shall have no further recourse against Us under this Contract; and
- 4.2.2 indemnify and keep Us indemnified against any and all lost profits, costs (including increased administration costs and legal costs on a full indemnity basis), expenses, damages and any other loss and/or Liability suffered by Us as a result.

5. Price Payment and Credit Limit

- 5.1 The price of the Products and/or the Services shall be as quoted. Except as otherwise stated, prices are inclusive of any transport, packaging and/or insurance costs and are exclusive of any applicable VAT for which You shall additionally be liable.
- 5.2 We may increase Our prices where the increase is to take account of increases in costs, expenses and/or materials suffered by Us. You will be informed in writing by Us of any increases in prices for the Products and/or the Services as soon as practicable after we become aware of any increases in price. You may cancel without Liability any Contract in relation to which the price is to be increased provided that the notice of cancellation is received by Us before the price increase becomes effective.
- 5.3 If You do not cancel the Contract for the provision of the Products and/or Services within the specified time period then the price increase shall take effect for the Products and/or Services ordered by You.
- 5.4 Unless otherwise agreed in writing:
 - 5.4.1 Our terms of payment are net cash within 30 days from the month end of the month in which the invoice is raised.
 - 5.4.2 time for payment shall be of the essence;
 - 5.4.3 all invoices issued on a Pro-forma basis are due for immediate payment.
- 5.5 If You fail to make any payment in full on the due date We may charge You any reasonable additional administration costs and/or interest (both before and after judgment) on the amount unpaid at the rate of 8% above the base rate from time to time of Our bank. Such interest shall be compounded with monthly rests.
- 5.6 Any monies received by Us from You may be applied by Us at Our option against any additional administrative costs and/or interest charged prior to application against any principal sums due from You against which it may be applied in any order.
- 5.7 We may invoice each delivery of Products and/or stage of the Services separately and render an invoice to You any time and/or at any stage during performance of the Services.
- 5.8 You shall pay all sums due to Us without any set-off, deduction, counterclaim and/or any other withholding. Payment shall not be deemed to be made until We have received either cash or cleared funds in respect of the full amount outstanding.
- 5.9 If payment in full is not made to Us when due then We may withhold or suspend future or current deliveries of the Products and/or performance of the

Services and delivery and/or performance under any other agreement with You.

- 5.10 If any Services are cancelled or this Contract terminated or delivery and/or performance is suspended before completion of the Services We are entitled to be paid on a quantum meruit basis for that part of the Services performed. We may invoice You accordingly and such monies shall be immediately due for payment.
- 5.11 We may set a reasonable credit limit for You. We may refuse to accept orders for Products and/or Services and/or suspend or withhold delivery and/or if such Products and/or Services would result in You exceeding or you have exceeded Your credit limit.
- 5.12 We reserve the right to charge you £25.00 for each unpaid item either returned or represented at our bank or such greater sum as shall represent the cost incurred by us by reason of such dishonour or failure as aforesaid. Any outstanding account balances will become immediately due for payment.

6. Specification Intellectual Property Rights and Confidentiality

- 6.1 Specifications supplied by Us to You shall only be approximate unless stated on Our Quote or otherwise agreed in writing.
- 6.2 The quantity, quality, description and/or specification for the Products and/or the Services shall be that set out in Your order (if agreed by Us) unless otherwise agreed in writing. You are responsible for checking the order and satisfying Yourself that any specification given is accurate and adequate for the Products and/or Services.
- 6.3 If there is an error in the specification made by Us for You then, where that error is material and it has been relied upon by You, You may cancel that part of the Contract only which is affected by the error without Liability due to the cancellation in respect of that part cancelled. We shall have no Liability for errors in any specification or details supplied by You and You are solely responsible for their accuracy. We will use our best endeavours to provide final products to the same specification as proofs or samples, however, no guarantee is expressed or implied.
- 6.4 You shall not make any modification to the Products or their packaging, nor alter, remove, or tamper with any trade marks used on or in relation to the Products and/or Services. All intellectual property rights (including without limitation all patents, copyright, design rights (whether registered or unregistered), trade marks (whether registered or unregistered) skill and/or know-how and other similar rights, whether existing now and/or in the future, wherever existing in the world together with the right to apply for protection of the same):
 - 6.4.1 in the Products and/or their packaging shall be owned by the relevant manufacturer absolutely;

- 6.4.2 arising from the Services shall be owned by Us absolutely.
- 6.5 You will at Our cost and request, do all acts and/or things and execute all documents and/or deeds to give effect to clause 6.4 above and/or to assist Us in the application, registration, renewal and/or protection of such intellectual property rights.
- 6.6 We reserve absolutely all rights to be identified as the authors of any works arising and/or generated from the Services in accordance with s78(2) of the Copyright Designs and Patent Act 1988 together with any right We may have to object to the alteration and/or derogatory treatment of the copyright granted by s80 of that Act. We may utilise for the benefit of Our other clients any skill and/or know-how developed and/or acquired in the performance of the Services.
- 6.7 We grant to You a non-exclusive royalty-free licence to use within the Field of Use all intellectual property rights owned by Us which arise solely from the Services except that We shall be entitled to use such intellectual property rights inside and outside of the Field of Use for ourselves and for conducting other research and/or projects for Our other clients (provided that We shall not be able to licence any other of Our customers to use any such intellectual property rights in the Field of Use). All rights and licences not specifically and expressly granted to and conferred upon You by this Contract are for all purposes reserved to Us
- 6.8 We may terminate the licence granted under Clause 6.6 at any time with immediate effect upon notice if any of the events in Clause 8.1 occur in relation to You and/or if You use, attempt to use and/or We reasonably suspect that you intend to use the intellectual property rights (specified in Clause 6.4) arising from the Services otherwise than in accordance with this Contract.

7 Property and Risk

- 7.1 Risk in the Products shall pass to You at the time of delivery. Delivery shall be deemed to occur:
- 7.1.1 at the time when the Products arrive at the place of delivery if We deliver the Products by Our own transport or We arrange transport in accordance with a specific contractual obligation; or
- 7.1.2 after the expiration of 3 working days after You have been notified of it, if the Products are available for collection from Us in accordance with Clause 3.9.
- 7.2 We shall retain title and ownership of the Products until We have received payment in full in cash or cleared funds of all sums due and/or owing under this Contract and any other agreement between Us and You.
- 7.3 Until payment in full of the price for all Products supplied to You the Products shall be stored separately from any products or goods belonging to You or any third party and must be clearly marked and identified as being Our property.

You agree that Our employees and/or agents shall be entitled to enter Your premises to check compliance with this clause.

- 7.4 Until title in the Products has passed to You, You shall keep the Products insured for the price at which the Products were sold to You against all insurable risks and shall hold any proceeds of such policy of insurance relating to the Products on trust for Us and account to Us for any proceeds of such policy of insurance relating to the Products upon receipt of the same. Any monies received from You by Us in accordance with this clause shall not discharge Your liability to pay the price for the Products plus interest accrued in accordance with clause 5.5 but shall be set off against such liability.

8. Default

8.1 If You:-

- 8.1.1 fail to make payment to Us when due;
- 8.1.2 breach the terms of this Contract and, if capable of remedy, have not remedied the breach within 14 days of receiving notice requiring it to be remedied;
- 8.1.3 persistently breach any one or more terms of this Contract;
- 8.1.4 pledge or charge any Products which remain Our property, or cease or threaten to cease to carry on business, or propose to compound with Your creditors, apply for an interim order under Section 252 Insolvency Act 1986 or have a Bankruptcy Petition presented against You, enter into voluntary or compulsory liquidation, have a receiver, administrator or administrative receiver appointed over all or any of Your assets, or take or suffer any similar action in any jurisdiction;
- 8.1.5 appear from Your credit rating to be financially unable to meet Your obligations under the Contract; and/or
- 8.1.6 appear reasonably to Us to be about to suffer any of the above events; then We shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 8.2.

8.2 If any of the events in Clause 8.1 occurs in relation to You then:-

- 8.2.1 We may enter, without prior notice, any of Your premises (or premises of third parties with their consent) where Products owned by Us may be and repossess and dispose of or sell any Products found which are owned by Us so as to discharge any sums due to Us under this Contract or any other agreement with You;
- 8.2.2 We may require You not to re-sell or part with the possession of any Products owned by Us until You have paid in full all sums due to Us under this Contract or any other agreement;

- 8.2.3 We may withhold delivery of any undelivered Products and/or performance of any services and stop any Products in transit and/or cease any Services in progress;
- 8.2.4 We may cancel, terminate and/or suspend without Liability to You any agreement with You; and/or
- 8.2.5 All monies owed by You to Us shall forthwith become due and payable.
- 8.3 We shall have a lien over all property or goods belonging to You in Our possession in respect of all sums due from You to. Upon the termination of the Contract if monies due to Us from You have not been paid within 7 days of termination We may sell any property or goods over which We have a lien (and You agree that We may give good title for such property and/or goods) and shall apply the proceeds of sale firstly in discharging any costs or expenses of sale, secondly in repaying any interest owed by You to Us, thirdly in payment of any principal sums owed to Us and fourthly We shall account to You for the remainder (if any).

9. Replacements

- 9.1 We may either refund the price or replace free of charge any defective Products where the defect is apparent on inspection provided that the defect is notified to Us within 3 working days of delivery of such Products.
- 9.2 Any defective Products must where reasonable be returned to Us for inspection if requested by Us before We will have any Liability. If the Products shall prove to be defective then We shall reimburse You for the cost of returning the defective Products.
- 9.3 We may at Our sole discretion replace, repair free of charge, or refund the price of defective Products which are not notified to Us within the specified time limit where in Our opinion the defect would not have been ascertainable on inspection and has been notified to Us as soon as reasonably practicable.

10. Limitations On Liability and General

- 10.1 We shall have no Liability:
- 10.1.1 for any defect in the Products caused or contributed to as a result of the Products being used for display or demonstration purposes or being handled by Your customers;
- 10.1.2 for defective Products and/or Services where the defect has been caused or contributed to by You to the extent so contributed;
- 10.1.3 to You if the price for the Products and/or the Services has not been paid in full by the due date for payment;
- 10.1.4 to You for defective Products and/or Services, Products not despatched or Products damaged or lost in transit unless the event is notified to Us within the appropriate time limit set out in this Contract;

- 10.1.5 for damage, loss, liability, claims, costs or expenses caused or contributed to by Your continued use of defective Products and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to You;
- 10.1.6 to You to the extent that You are covered by any insurance policy and You shall ensure that Your insurers waive any and all rights of subrogation they have against Us;
- 10.1.7 for any
 - 10.1.7.1 consequential losses;
 - 10.1.7.2 loss of profits and/or damage to goodwill;
 - 10.1.7.3 economic and/or other similar losses;
 - 10.1.7.4 special damages and indirect losses; and/or
 - 10.7.1.5 business interruption, loss of business, contracts, opportunity and/or production.
- 10.2 You shall:
 - 10.2.1 where reasonable give Us a reasonable opportunity to remedy any matter for which We are liable before You incur any costs and/or expenses in remedying the matter Yourself. If You do not do so We shall have no Liability to You;
 - 10.2.2 where reasonable produce to Us written evidence of any claims you allege that We are liable together with written details of how the loss was caused and the steps taken by You to mitigate the loss before We have any Liability to You;
 - 10.2.3 be under a duty to mitigate any loss, damage, costs or expenses that You may suffer (including by maintaining an adequate stock of Products).
- 10.3 Our total Liability to You shall not exceed £500,000
- 10.4 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:
 - 10.4.1 Liability for breach of contract;
 - 10.4.2 Liability in tort (including negligence);
 - 10.4.3 Liability for breach of statutory duty; and
 - 10.4.4 Liability for breach of Common Law, except Clause 10.3 above which shall apply once only in respect of all the said types of Liability. All

warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.

- 10.5 Nothing in this Contract shall exclude or limit Our Liability for death or personal injury due to Our negligence or any Liability which is due to Our fraud or any other liability which it is not permitted to exclude or limit as a matter of law.
- 10.6 We do not provide any warranties, guarantees, assurances, or other certifications in respect of the Products and/or Services. We may however, where We are able, acquire for You the benefit of any warranties, guarantees, assurances, or other certifications provided by the relevant manufacturer of the Products.
- 10.7 You will indemnify and keep indemnified Us against any and all losses, proceedings, lost profits, damages, awards, expenses, costs (including increased administration costs and legal costs on a full indemnity basis), claims, actions and any other losses and/or liabilities suffered by Us and arising directly or indirectly from or due to:
- 10.7.1 any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by You; and/or
- 10.7.2 Our use of specifications, details and/or stipulations supplied by You.
- 10.8 No waiver by Us of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.
- 10.9 Either party shall have no Liability to the other for any delay in performance of this Contract (other than in relation to payment) where such delay is due to events outside the affected party's reasonable control including without limitation to acts of God, war, flood, fire, labour disputes, subcontractor delays, strikes, lock-outs, riots, civil commotion, malicious damage, explosion, governmental actions and any other similar events. If a party is affected by such events then time for performance shall be extended for a period equal to the period that such events delayed performance.
- 10.10 You shall not assign Your interest in the Contract (or any part) without Our written consent. We may assign, transfer or sub-contract all or any part of our obligations and/or interest in the Contract to any third party without notice. All third party rights are excluded and no third party shall have any right to enforce this Contract. Any right of a third party to enforce this Contract may be varied and/or extinguished by agreement between the parties to this Contract without the consent of such third party.

10.11 This Contract is governed by and interpreted in accordance with English law and the parties agree to submit to the non-exclusive jurisdiction of the English courts.